

BEFORE THE
FLORIDA PUBLIC SERVICE COMMISSION

DOCKET NO. 010503-WU

In the Matter of

APPLICATION FOR INCREASE IN
WATER RATES FOR SEVEN SPRINGS
SYSTEM IN PASCO COUNTY BY
ALOHA UTILITIES, INC.

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VOLUME 4

Pages 350 through 535



PROCEEDINGS: HEARING

BEFORE: CHAIRMAN LILA A. JABER
COMMISSIONER BRAULIO L. BAEZ
COMMISSIONER MICHAEL A. PALECKI

DATE: Thursday, January 10, 2002

TIME: Commenced at 8:38 a.m.

PLACE: Clarion Hotel
5316 U. S. Highway 19 North
New Port Richey, Florida

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APPEARANCES: (As heretofore noted.)

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18
19
20
21
22
23
24
25

I N D E X

WITNESSES

NAME:	PAGE NO.
GERALD FOSTER	
Direct Examination by Mr. Jaeger	357
Prefiled Direct Testimony Inserted	360
Cross Examination by Mr. Burgess	364
Cross Examination by Mr. Wood	368
Cross Examination by Mr. Wharton	374
Redirect Examination by Mr. Jaeger	391
DAVID W. PORTER	
Direct Examination by Mr. Wharton	393
Prefiled Direct Testimony Inserted	396
Cross Examination by Mr. Wood	399
Cross Examination by Mr. Burgess	417
Cross Examination by Ms. Lytle	419
Cross Examination by Ms. Espinoza	432
Redirect Examination by Mr. Wharton	435
ROBERT C. NIXON	
Direct Examination by Mr. Deterding	440
Prefiled Direct Testimony Inserted	444
Cross Examination by Mr. Wood	456
Cross Examination by Mr. Burgess	460
Cross Examination by Ms. Espinoza	468
Redirect Examination by Mr. Deterding	472
STEPHEN G. WATFORD	
Direct Examination by Mr. Deterding	480
Prefiled Direct Testimony Inserted	486
Cross Examination by Mr. Wood	498
CERTIFICATE OF REPORTER	535

EXHIBITS

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

NUMBER:

ID. ADMTD.

1	VH-1 and VH-2		357
4	Exhibit 1 through 7 MFRs	442	480
5	Nixon Resume	456	480
6	Late-filed Exhibit 2 from 10/04/01 Nixon Deposition	472	480
7	Watford Customer Letter	478	480

P R O C E E D I N G S

(Transcript follows in sequence from Volume 3.)

CHAIRMAN JABER: Good morning. Let's reconvene the hearing. What I thought we'd do this morning before we actually take up witnesses, Mr. Jaeger, is go through the prehearing order and determine if there are preliminary matters. I saw that there are some stipulations that we could actually go ahead and approve upon a motion; right?

MR. JAEGER: Yes, Chairman. There are 18 what we call Category 1 where OPC agrees to and then there are three more Category 2 where they will not oppose or put evidence to the contrary. So we have a total of 21 stipulations in the prehearing order that I think all parties are still agreed to.

CHAIRMAN JABER: Okay. Commissioners, on page 36 and page 38 of the prehearing order the stipulations are, are stated there. If I could have a motion, I think we can get that out of the way.

COMMISSIONER PALECKI: I would move, I would move that the stipulations be approved.

COMMISSIONER BAEZ: Second.

CHAIRMAN JABER: Okay. There's been a motion and a second to approve Category 1 stipulations and Category 2 stipulations. All those in favor say aye. All opposed, nay.

(Simultaneous affirmative vote.)

1 CHAIRMAN JABER: That's approved unanimously.
2 Mr. Jaeger?

3 MR. JAEGER: Yes. Subsequent to the issuance of the
4 prehearing order I believe there was a ruling and a stipulation
5 by the parties that Dr. Whitcomb would not be taken up until
6 Friday, so that's one more stipulation.

7 And then also we have, I believe, two stipulations
8 concerning Issues 6 and 12.

9 For Issue 6 the stipulation is that the cost rate for
10 variable costs, related party debt should be the prime rate
11 plus two percent as of December 31st, 2001. And I believe all
12 parties agree to that. I'm sorry. And then for --

13 CHAIRMAN JABER: Let's make sure that there is
14 agreement on Issue 6. There's a stipulation, Mr. Wharton, and
15 it's the language that Mr. Jaeger read out?

16 MR. WHARTON: (Nods affirmatively.)

17 CHAIRMAN JABER: Okay. Next.

18 MR. JAEGER: And for Issue 12, all parties are now
19 agreed that salary expense should be reduced by \$21,268 to
20 correctly allocate the annualized salary of the utility
21 operation supervisor. Staff had disagreed with that but we are
22 now in agreement.

23 CHAIRMAN JABER: Okay. With respect to Dr. Whitcomb,
24 we will just take him up Friday as he becomes available.

25 And, Commissioners, on Issue 6 and 12?

1 COMMISSIONER PALECKI: I would move that we approve
2 both, the stipulations on both Issues 6 and 12.

3 COMMISSIONER BAEZ: Second.

4 CHAIRMAN JABER: Thank you. There's been a motion
5 and a second. All those in favor say aye. All opposed.

6 (Simultaneous affirmative vote.)

7 CHAIRMAN JABER: Okay. That's approved unanimously
8 for Issues 6 and 12, Mr. Jaeger.

9 MR. JAEGER: Okay. One other matter. Although not
10 listed in the stipulations or ruling, Aloha has agreed that
11 staff may split questioning, questioning of the utility
12 witnesses between Mr., Ms. Espinoza and myself. Basically what
13 we did, we split by issues, and the utility's witnesses go
14 across issues, and there will be limited split and we'll stick
15 straight and strictly to our issues. And --

16 CHAIRMAN JABER: I think that's common practice.
17 Upon agreement by the parties, it looks like they're nodding
18 their heads in agreement. Okay.

19 MR. JAEGER: The last thing I -- two more things. I
20 think all parties have waived opening statements, so we do not
21 have to do that. And, and I believe we're going to go with
22 Mr. Foster as the first witness today.

23 CHAIRMAN JABER: All right. Mr. Foster is first is
24 what you just said?

25 MR. JAEGER: Yes.

1 CHAIRMAN JABER: Okay. Let me take this opportunity
2 though and ask if there are other witnesses in the room, we'll
3 go ahead and swear in the witnesses that are here today.
4 Great.

5 (Witnesses collectively sworn.)

6 CHAIRMAN JABER: Mr. Foster, do you want to take the
7 stand, please?

8 MR. BURGESS: Commissioner, while he's coming up, we
9 do have two preliminary items to raise. They're very minor.
10 They are simply that there are a couple of, I'll say misprints,
11 but errors in OPC positions on issues. I can live with them
12 and simply change them in the post-hearing brief or I can note
13 them for the record, if you'd like.

14 CHAIRMAN JABER: Where are they?

15 MR. BURGESS: In response to Issue 16, OPC's position
16 speaks of an amortization expense of \$11,625. There's a
17 missing one. It should be \$111,625.

18 CHAIRMAN JABER: I think we should go ahead and note
19 that.

20 MR. BURGESS: Thank you.

21 CHAIRMAN JABER: OPC's position on Issue 16,
22 amortization expense of \$111,625 should be removed.

23 MR. BURGESS: Correct. Issue 24. OPC's position
24 refers to Issue 21B. That was in the prehearing process and
25 had been renumbered to 9B. So it should be read, "In response

1 to Issue 9B."

2 CHAIRMAN JABER: And what issue is that?

3 MR. BURGESS: That was Issue 24.

4 CHAIRMAN JABER: Oh, okay.

5 MR. BURGESS: Thank you, Commissioner.

6 CHAIRMAN JABER: Thank you. I note that we did not
7 admit into evidence last night Exhibit 1. So let the record
8 reflect that Exhibit 1, which is the composite exhibit from
9 Mr. Van Hoofnagle's testimony, is admitted into the record
10 without objection.

11 (Exhibit 1 admitted into the record.)

12 CHAIRMAN JABER: Okay. Mr. Jaeger, is Mr. Foster
13 your witness?

14 MR. JAEGER: Yes, Chairman. Are you ready to
15 proceed?

16 CHAIRMAN JABER: Yes.

17 GERALD FOSTER

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

21 DIRECT EXAMINATION

22 BY MR. JAEGER:

23 Q Mr. Foster, you were just sworn in just a minute ago,
24 weren't you?

25 A Yes.

1 Q Please state your name and business address for the
2 record.

3 A Gerald Foster, 3804 Coconut Palm Drive, Tampa,
4 Florida 33619.

5 Q And in what capacity are you employed by DEP?

6 A Environmental Specialist.

7 Q Have you prefiled direct testimony in this docket
8 consisting of five pages?

9 A Yes, I have.

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

12 A Yes, I want to make one. On page four, line 16, the
13 answer should read copper sulfide.

14 Q And also on line 17, it's, the question should be, is
15 it possible to create copper sulfide?

16 A It is sulfide.

17 Q Do you have any other corrections to make?

18 A No, I don't.

19 MR. JAEGER: Chairman, may we have Mr. Foster's
20 testimony inserted into the record as though read?

21 CHAIRMAN JABER: Yes. The prefiled direct testimony
22 of Gerald Foster shall be inserted into the record as though
23 read.

24 BY MR. JAEGER:

25 Q And, Mr. Foster, you didn't have any exhibits

1 attached to your testimony, did you?

2 A No, I don't.

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DIRECT TESTIMONY OF GERALD FOSTER

- 1
- 2 Q. Please state your name and business address.
- 3 A. Gerald B. Foster, 3804 Coconut Palm Drive, Tampa, Florida 33619.
- 4 Q. Please give a brief description of your educational background and
- 5 experience.
- 6 A. I have a B.A. in biology from the University of South Florida, and also
- 7 have 16 years of experience in the environmental health/protection field.
- 8 Q. By whom are you presently employed?
- 9 A. The Department of Environmental Protection (DEP).
- 10 Q. How long have you been employed by DEP and in what capacity.
- 11 A. I have 12-plus years with DEP in the Drinking Water Section.
- 12 Q. What are your general responsibilities at DEP?
- 13 A. Insuring that water systems comply with applicable rules and regulations
- 14 outlined in the Florida Statutes.
- 15 Q. Are you familiar with the Aloha Water system in Pasco County?
- 16 A. Yes.
- 17 Q. Are the utility's treatment facilities and distribution system for this
- 18 division sufficient to serve its present customers?
- 19 A. Yes.
- 20 Q. Does the utility maintain the required 20 psi minimum pressure throughout
- 21 their distribution system?
- 22 A. Yes.
- 23 Q. Does the utility have an adequate auxiliary power source in the event of
- 24 a power outage?
- 25 A. Yes.

1 Q. Are the utility's water wells located in compliance with applicable DEP
2 regulations?

3 A. Yes.

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

6 A. Yes.

7 Q. Has the utility established a cross-connection control program in
8 accordance with Chapter 62-550.360, Florida Administrative Code?

9 A. The utility has a cross connection control plan and the plan was reviewed
10 and accepted by DEP for rule compliance on August 18, 2000.

11 Q. Is the overall maintenance of the utility's treatment plant and
12 distribution system satisfactory?

13 A. Yes.

14 Q. Does the finished water produced by the utility meet the State and Federal
15 maximum contaminant levels for primary and secondary water quality standards?

16 A. Yes.

17 Q. Does this include the lead and copper rule?

18 A. Yes.

19 Q. Has Aloha's compliance with the lead and copper rule resulted in a
20 lessening of the monitoring requirements?

21 A. Yes

22 Q. Does the utility monitor for the organic contaminants listed in Chapter 62-
23 550, Florida Administrative Code?

24 A. Yes.

25 Q. Do recent chemical analyses of raw and finished water, when compared to DEP

1 | regulations, suggest the need for additional treatment?

2 | A. No.

3 | Q. Does the utility maintain the required chlorine residual or its equivalent
4 | throughout the distribution system?

5 | A. Yes.

6 | Q. Are the plant and distribution systems in compliance with all other
7 | provisions of Title 62, Florida Administrative Code, not previously mentioned?

8 | A. Yes.

9 | Q. Has this utility been the subject of any DEP enforcement action within the
10 | past two years?

11 | A. No, not to my knowledge.

12 | Q. Has the black substance in what is known as "black water" experienced by
13 | some Aloha customers been analyzed?

14 | A. Yes.

15 | Q. If so, what is it?

16 | A. Copper ~~sulfate~~ **sulfide**.

17 | Q. Is it possible to create copper ~~sulfate~~ **sulfide** without a source of copper?

18 | A. No.

19 | Q. Does the "black water" being formed in the customers' pipes appear to be
20 | occurring after the water flows through the meter?

21 | A. Yes.

22 | Q. If the water at the meter meets all drinking standards, does this formation
23 | of "black water" occurring after the water flows through the meter constitute
24 | a violation of federal or state drinking water standards?

25 | A. No.

1 Q. Please explain how this "black water" is formed.

2 A. Naturally occurring hydrogen sulfide in the raw water reacts with copper
3 pipes in home plumbing. Copper sulfide is created. It is the copper sulfide
4 that gives the water a black appearance.

5 Q. What steps has Aloha Utilities taken to alleviate the "black water"
6 problem?

7 A. The utility was permitted on December 12, 1995 to use a polyphosphate
8 corrosion inhibitor.

9 Q. Do any of the home treatment units at some homes on the Aloha water system
10 cause the corrosion inhibitor to be less effective?

11 A. Yes.

12 Q. Please explain how.

13 A. Home treatment units tend to remove minerals (calcium, iron, magnesium,
14 etc.) causing the water to become corrosive. The pH is lowered.

15 Q. Do you have anything further to add?

16 A. No, I do not.

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1 BY MR. JAEGER:

2 Q Could you briefly summarize your testimony?

3 A In summary, my testimony in this rate case, Aloha
4 Utilities is currently in compliance with applicable rules and
5 regulations 62-550 and 62-555, Florida Administrative Code.

6 Q Does that complete your summary?

7 A Yes.

8 MR. JAEGER: I tender the witness for cross.

9 CHAIRMAN JABER: Thank you. Public Counsel?

10 MR. BURGESS: Thank you.

11 CROSS EXAMINATION

12 BY MR. BURGESS:

13 Q Good morning, Mr. Foster.

14 A Good morning.

15 Q Mr. Foster, so at this point Aloha's water meets all
16 quality standards imposed by DEP; is that correct?

17 A Yes.

18 Q Now you've been here through the hearings; is that
19 correct?

20 A Yes.

21 Q So you've heard the testimony?

22 A Right.

23 Q And, and you've seen the samples, some of which are
24 still behind, well, actually some of which is still right there
25 on the table with you?

1 A Yes.

2 Q Do you have any reason that you wouldn't believe what
3 the customers have testified about the source of the water?

4 A I have no reason to doubt what they're saying, no.

5 Q That, in fact, some of this is, is from an ice maker
6 and some of this is from the tap at the tub and some of this is
7 from the tap at the kitchen sink?

8 A No reason to doubt what they're saying.

9 Q As you look at that, that's not water that you'd like
10 to drink, is it?

11 MR. WHARTON: Objection, Madam Chairman. I think
12 it's outside the scope.

13 CHAIRMAN JABER: Mr. Burgess?

14 MR. BURGESS: He's testifying to the water quality
15 standards and I'm trying to find out exactly what those
16 standards extend to, and the quality of water I certainly think
17 encompasses its drinkability.

18 CHAIRMAN JABER: Yeah. I would allow the question.
19 I'd also note that Staff has sponsored DEP's testimony.

20 MR. JAEGER: And we have no objection to that
21 question. I think it goes to the quality of water and I think
22 he is testifying as to the quality of the water.

23 CHAIRMAN JABER: Go ahead, Mr. Burgess.

24 MR. BURGESS: Thank you.

25 BY MR. BURGESS:

1 Q So can I, would you, would I be correct in assuming
2 that you wouldn't find that water particularly drinkable?

3 A From the way it appears now, no, I wouldn't.

4 Q So I could understand properly that water could, that
5 comes from a tap at a home could meet all DEP standards and not
6 be drinkable?

7 A Well, sir, again, my judgment is the water that is
8 tested and the results presented to me meet the state
9 standards.

10 Q Right. So they can meet the state standards and yet
11 the water that ultimately is available to the customers in the,
12 in these sources in their homes can be such that it's not
13 drinkable or at least not by, by the standards, by your
14 subjective standards of drinkability?

15 A That could be correct, yes.

16 Q Is copper piping for plumbing in homes, is that, is
17 that legal piping?

18 A I wouldn't be able to answer that. I mean, outside
19 of my realm of, you know, expertise.

20 Q Okay. Are you, are you aware of any prohibition
21 against the use of copper piping for plumbing in homes?

22 A I've just heard in meetings that Duval County has
23 outlawed copper in home buildings.

24 Q What about for this area, for the --

25 A Not for this area, no. No.

1 Q Have you been made aware of any warnings that were
2 issued against the use of copper piping by people building
3 homes in the Pasco County area?

4 A No.

5 Q So people that moved in and ended up with 30-year
6 mortgages trying to pay for homes, they weren't warned that
7 there might be a problem if they, that you're aware of, that
8 there might be a problem if they do their plumbing with copper
9 piping?

10 A I don't think that warning was made. If it was, I'm
11 not aware of it.

12 Q So as far as you know with the situation as you've
13 heard it, and it's a very difficult situation we're all trying
14 to grapple with, at this point the statement to the customers
15 that have this copper piping is, well, that's just too bad. Is
16 there any other official answer that we have to help them?

17 A I, I couldn't give you -- I wouldn't want to say
18 that's too bad or anything like that, but I just -- I wouldn't
19 want to say that, no.

20 Q Thank you, Mr. Foster. I appreciate that.

21 Is that why, is this difficulty part of what
22 underpins the legislative shift that Mr. Hoofnagle referenced
23 on page five of his testimony that the standards, that they're
24 now setting standards to assure that there are no violations at
25 the customer's tap?

1 A I'm not sure where you're going with that.

2 Q Well, if -- are you familiar with the, with -- you
3 heard Mr. Hoofnagle testify?

4 A Yes.

5 Q And are you familiar with his comment on page five,
6 line 20 of his testimony where he speaks of legislative
7 language, statutory language that would ensure that drinking
8 water standards would not be violated at the customer's tap?

9 A I'm not aware of that language. No, I'm not.

10 Q Okay. Thank you. Do you know who developed the
11 houses in which this copper piping exists that's causing the
12 problems in this, in this particular area?

13 A No, I don't.

14 Q Do you know if there's any relationship between the
15 people who developed and built these houses and sold these
16 houses and the, and the people who own or run Aloha Utilities?

17 A No. No, I don't.

18 Q Thank you, Mr. Foster. I appreciate your responses.

19 A Okay.

20 CHAIRMAN JABER: Mr. Wood, do you have any questions?

21 MR. WOOD: Yes, I do, Commissioner.

22 CROSS EXAMINATION

23 BY MR. WOOD:

24 Q Mr. Foster, the jug of water that is sitting in front
25 of you, in a previous hearing a similar type of water was

1 attested to by a Mr. Shenrock of the DEP that said that it had
2 copper sulfide and that was why it was black. The copper
3 standard being 1.31, does the copper sulfide that is in that
4 water go towards that 1.31?

5 A As far as the testing procedure goes, I'm not, that's
6 not an area of my expertise. I couldn't answer that for you.

7 Q In the water itself, if there is copper sulfide,
8 isn't that the same as having copper?

9 A Again, I'm not a chemist, so I don't think I could
10 answer that for you.

11 Q In the testing by Aloha statistically how were the
12 sample sites developed?

13 A If you're asking what --

14 MR. JAEGER: Chairman, I'm going to object to the
15 question. Excuse me. He said in the testing. There's been a
16 lot of different testings. Could you be more specific which
17 testing you're talking about?

18 MR. WOOD: The copper/lead testing.

19 MR. JAEGER: The lead/copper testing. Okay.

20 THE WITNESS: And you're asking who basically chose
21 the sample sites?

22 BY MR. WOOD:

23 Q Yes. How was it chosen?

24 A It's up to the utility to go out and choose the sites
25 based on the tiers, Tier 1, 2 and 3, as set by the EPA. Tier 1

1 being the first choice of homes that we want to see sampled.

2 Q In the last testing that was done how many Tier 1
3 homes were in there?

4 A All should be Tier 1 homes.

5 Q Should be or were they?

6 A All are Tier 1 homes.

7 Q What documentation do you have to support that?

8 A It's coming from the utility. Homes have to be built
9 by a certain year and have copper plumbing.

10 Q Does it not also say in the EPA standards that the
11 utility is to find a source of where the potential problems are
12 and select those as sample sites?

13 A The rule says you will choose Tier 1 type homes built
14 in 1982 or sooner having copper piping, and the utility
15 basically had that criteria to go and choose homes for
16 sampling.

17 Q Does that mean that the area where all the problems
18 are, the utility is exempt from testing in those areas?

19 A No.

20 Q Then why in the areas that encompass Trinity, Trinity
21 Oaks, Wyndgate, Chelsea Place and Wyndtree since 1993 there has
22 never been a sample taken?

23 A Now the utility came to the department with a
24 concern. They were having a hard time finding sample sites,
25 I'm talking within the whole distribution system, and their

1 concern was we needed to make 60 sample sites. They couldn't
2 do it. They would go out and interview potential site
3 customers and find out that there was a home softening device
4 on, which would automatically X them off of the list. And
5 there was also a set of customers that just did not want to be
6 bothered. And that was the predicament the utility brought to
7 us. We told them basically go back and continue, do the best
8 you can, we need to have 60 sites.

9 Q But the best you can, isn't that what's on the table
10 there?

11 A No. I'm talking about sample sites. I'm not talking
12 about water right now.

13 Q Okay.

14 A Okay. And they went back and got the 60 sites and
15 did the subsequent sampling.

16 Q The sample sites are basically concentrated in one
17 area. Does that really give you an indication of what the
18 whole area is like?

19 A Again, the utility came to us and said they were
20 having problems finding sampling sites. This is a result of
21 basically, you know, them going back, I think, three times
22 trying to find enough sites to make up the 60-sample site pool.

23 Q Uh-huh.

24 CHAIRMAN JABER: Mr. Foster, do they have to show you
25 documentation of their efforts? Did they show you which

1 subdivisions they sought the samples in?

2 THE WITNESS: Yes, ma'am. The year the home was
3 built and an indication of what type of plumbing was inside the
4 interior of the home.

5 COMMISSIONER PALECKI: Mr. Foster?

6 THE WITNESS: Yes.

7 COMMISSIONER PALECKI: I have a problem with DEP
8 depending on the utility to determine the sampling sites. Is
9 it possible for the DEP to canvass the area and do that itself?
10 I mean, it seems like the DEP is the one that should be
11 initiating these efforts to make sure you have a cross-sampling
12 that's truly representative instead of allowing the utility
13 that is the one being tested to determine those sites.

14 THE WITNESS: I understand. It would be nice, but
15 it's a manpower issue, I think. Not only does the DEP have to
16 check compliance with Aloha Utilities, but we also have a ton
17 of other community water systems and non-transient
18 non-community water systems that we also have to develop
19 sampling plans. It was best that the utility or the utility,
20 the water system owner come back with the sites and we would
21 look them over basically comparing them to the criteria of the
22 EPA and approve them a sampling plan at that point.

23 COMMISSIONER PALECKI: Would it be possible for a
24 utility to determine sampling sites so that problem areas were
25 not tested?

1 THE WITNESS: I'm trying to understand what you're
2 asking now.

3 COMMISSIONER PALECKI: Would it be possible for a
4 utility, and this is just a hypothetical, Aloha or some other
5 utility --

6 THE WITNESS: Okay. Uh-huh.

7 COMMISSIONER PALECKI: -- to choose sampling sites in
8 a manner to ensure that problem areas in their system are not
9 tested?

10 THE WITNESS: I guess it can be done.

11 COMMISSIONER PALECKI: Thank you.

12 BY MR. WOOD:

13 Q When is the next testing for lead and copper in the
14 Aloha area?

15 A That's not going to be until, oh, my goodness, 2000,
16 2000 -- it's either 2005 or 2006.

17 Q So we're going to go three, four years without any
18 testing and continue to have that type of water?

19 A Based on the rules of the Environmental Protection
20 Agency the sampling will be every three years.

21 Q What has the environmental agency done in order to
22 lobby the Legislature to develop rules that are more adaptable
23 to Florida than the general rules covering the USA?

24 A That I don't know.

25 Q Shouldn't there be something done? Out of your

1 office don't you, your office make recommendations to
2 Mr. Strubbs (PHONETIC) in Tallahassee?

3 A I don't know that name. And we don't make those
4 recommendations, no, sir.

5 Q If the rules are so loose that we're not going to
6 test for five years, for four years, three years, whatever it
7 is, how many homes do you feel in that area will have to be
8 replumbed in that period of time?

9 A That I don't know.

10 MR. WOOD: That's it.

11 CHAIRMAN JABER: Thank you, Mr. Wood.

12 Ms. Lytle?

13 MS. LYTLE: I have no questions for this witness.

14 CHAIRMAN JABER: Okay. Who's -- Mr. Wharton?

15 CROSS EXAMINATION

16 BY MR. WHARTON:

17 Q Good morning, Mr. Foster.

18 A Good morning.

19 Q Isn't it true that, in fact, you don't have any
20 personal knowledge where any of that water actually came from
21 that is up there by the table you're sitting at?

22 A No, I don't.

23 Q And DEP does not have any water quality parameters
24 that apply to the quality of water that comes out of an
25 individual's ice maker, does it?

1 A No, we don't.

2 Q And you don't have any water quality parameters that
3 apply to water that comes into a sink or a bathtub inside the
4 house; is that correct?

5 A Outside of the Lead and Copper Rule, no, we don't.

6 Q Isn't it true that -- well, in your opinion couldn't
7 water that was clear and odor free and drinkable be delivered
8 to an individual's house and then something occur inside the
9 house that rendered that water undrinkable?

10 A That's possible.

11 Q Okay. Sir, have you been in the Seven Springs area?

12 A Yes.

13 Q And have you ever seen black water in your visits to
14 the Seven Springs area?

15 A No, I haven't.

16 Q Okay.

17 CHAIRMAN JABER: What was the nature of your visit,
18 Mr. Foster?

19 THE WITNESS: Going around doing an inspection. I
20 was measuring chlorine residuals and I usually go right up to
21 the site of a home and take my little sample kit and measure
22 the free chlorine in the distribution system.

23 CHAIRMAN JABER: Does the utility know when you're
24 about to visit?

25 THE WITNESS: No, ma'am.

1 CHAIRMAN JABER: It's a surprise?

2 THE WITNESS: This one, the last visit I made I had
3 the utility representatives go around with me to the water
4 plants so I can gain access, and then I would end the visit and
5 I'd go around by myself and just pick random homes and do my
6 residual testing.

7 CHAIRMAN JABER: Do you recall the subdivisions you
8 were in when you did the random visits?

9 THE WITNESS: Oh, boy. One was Trinity Place,
10 another place was the new Cash and Carry on, I think it's,
11 well, it's 54 now, and one home was in, I think, the Wyndtree
12 area. I think those are the three sites that I made, stops
13 that I made.

14 CHAIRMAN JABER: And as it relates to the homes, what
15 was, the water that you tested, was it, you know, from the
16 outside on a hose or did you actually go into the --

17 THE WITNESS: No, not inside the home. Just outside
18 hose bib, remove the hose and take it straight from the bib
19 itself.

20 CHAIRMAN JABER: Uh-huh. Uh-huh. How long ago was
21 that?

22 THE WITNESS: The inspection was mid-July.

23 COMMISSIONER PALECKI: The tests --

24 THE WITNESS: And it was also -- I'm sorry. I'm
25 trying to think now. Mid-July. Mid-July, right. Uh-huh.

1 COMMISSIONER PALECKI: The tests that you did that
2 were the random tests, were they on the same day that you asked
3 the utility to admit you into the areas where you --

4 THE WITNESS: Yes, sir. Uh-huh.

5 COMMISSIONER PALECKI: So is there any way you could
6 do random tests truly at random on a day that the utility has
7 not been notified of your presence?

8 THE WITNESS: Sure. I can just drive through the
9 subdivisions and check residual chlorine.

10 COMMISSIONER PALECKI: Have you ever done that?

11 THE WITNESS: Not recently, no.

12 COMMISSIONER PALECKI: Having heard the testimony
13 from the customers yesterday, was there any testimony that gave
14 you any concern that you heard from the customers?

15 THE WITNESS: No, sir.

16 COMMISSIONER PALECKI: What about the testimony
17 regarding particulate matter that was not black water, that
18 was, you know, grit and sand is the way it was described by, by
19 witnesses, is there any test for that sort of, and did that
20 testimony give you any concern?

21 THE WITNESS: Well, looking back on a personal
22 situation with me, it was in my own home and there was some
23 construction going down, going on down the road. And I guess
24 the next morning I got up, I turned the shower on and the water
25 came out gray. And I called my utility at that time and

1 basically it was because plumbers had opened up the line and
2 got a little dirt and grit in there. They just told me to
3 flush it out real good. I did and I didn't have a problem
4 after that.

5 COMMISSIONER PALECKI: Is there any way that having
6 heard the testimony yesterday that you could increase the
7 number of random tests and I mean truly random tests that you
8 do where the utility is not put on notice at all as to your
9 testing?

10 THE WITNESS: That could be done.

11 COMMISSIONER PALECKI: I think that's something that
12 would make me feel more comfortable as a regulator if the
13 testing was actually done at truly random intervals where the
14 utility would have no notice that, that the tests would be
15 conducted that day.

16 THE WITNESS: Yes, sir.

17 COMMISSIONER PALECKI: Thank you.

18 CHAIRMAN JABER: Mr. Wharton?

19 BY MR. WHARTON:

20 Q Mr. Foster, are the current enabling statutes in the
21 rules and regulations of the Department of Environmental
22 Protection designed to protect consumers of water in the State
23 of Florida as they relate to water?

24 A Yes.

25 Q And do you believe they accomplished that purpose?

1 A Yes, I do.

2 Q Okay. Mr. Foster, as a practical matter do you
3 believe it would be possible for the utility to remove all the
4 water from its distribution system just because they knew DEP
5 was coming for an inspection?

6 A That couldn't be done, no.

7 Q Now you're not an Aloha customer; right?

8 A No, I'm not.

9 Q And you live in Hillsborough County, is that what you
10 said?

11 A Hillsborough County, yes, sir. Uh-huh.

12 Q Isn't it true that you've recently had to replace the
13 copper piping in your home with P, with PVC?

14 A CPVC plumbing, yes.

15 Q Why did you have to do that?

16 A It was raining at my house basically. We were having
17 a lot of pinhole leaks and I was just trying to figure out, I
18 thought the roof was leaking, but it wasn't the roof, it was
19 the copper piping in, going through the roof that was leaking.

20 Q And do you anticipate that the PVC will eliminate
21 that problem?

22 A I haven't had a problem. It's been almost a
23 year-and-a-half now.

24 Q Okay. Would you agree, sir, that it is actually the,
25 the federal code, the EPA's version of the Florida

1 Administrative Code that mandates that the utility pick the
2 sites for monitoring?

3 A Right. Yes, sir.

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

5 CHAIRMAN JABER: Thank you. Commissioners?

6 COMMISSIONER PALECKI: I have just a couple of
7 further questions.

8 THE WITNESS: Yes, sir.

9 COMMISSIONER PALECKI: What treatment is given the
10 water by Aloha? Is there filtering as well as treatment with
11 chlorine?

12 THE WITNESS: No, sir. There's chlorination and the
13 addition of an orthophosphate for corrosion inhibition. I'm
14 sorry.

15 COMMISSIONER PALECKI: Do you test for a level of
16 particles or particulate matter in the water? And the reason I
17 ask is, is that we did hear from more than one customer, I
18 believe there were several that testified as to grit, sand, et
19 cetera, that's in water. And, and I was wondering are there
20 utilities that use a filtering system to filter out that sort
21 of matter?

22 THE WITNESS: Some of the larger utilities, yeah, use
23 filtering systems; the City of Tampa, I'm trying to think now,
24 the Peace River Water Treatment Plant. These are very large
25 systems, they're surface water plants really. I'm trying to

1 remember any groundwater system that's filtering the water.

2 COMMISSIONER PALECKI: Is that something you'll test
3 for when you do your tests?

4 THE WITNESS: No, sir. No, it's not. No. No. We
5 just have a field kit basically for measuring residual chlorine
6 in the system.

7 COMMISSIONER PALECKI: Considering the fact that
8 customers have brought that to our attention, is that something
9 you could test for?

10 THE WITNESS: No, unless it's just an indication
11 basically what's possibly in the distribution system. It
12 wouldn't be a laboratory certified type test because it would
13 be done in the field.

14 COMMISSIONER PALECKI: Thank you.

15 THE WITNESS: Okay.

16 CHAIRMAN JABER: Mr. Foster --

17 THE WITNESS: Yes, ma'am.

18 CHAIRMAN JABER: -- one of the witnesses, the
19 customer witnesses that testified yesterday was urging us to
20 take a common sense approach, a, imposing community standards
21 on the utility as opposed to just relying on DEP or EPA
22 standards.

23 Short of the customer replacing copper piping in the
24 home is there any mechanism we can impose in your opinion that
25 would eliminate the black water situation?

1 THE WITNESS: Outside of seeing the quick fix as the
2 plastic pipe replacement, I really don't see a, an easy way of
3 doing this.

4 CHAIRMAN JABER: What would be the harder way of
5 doing it?

6 THE WITNESS: Well, the utility's thrown out and some
7 other things have been thrown out about the aeration, looking
8 at, say, some other water systems that do aeration, Pasco
9 County, and they have a hydrogen sulfide problem there, too.
10 Somehow maybe the utility may want to mimic, you know, what the
11 county is doing.

12 CHAIRMAN JABER: Do know what the county is doing?

13 THE WITNESS: Yeah. The county is basically aerating
14 the water and hitting it with chlorine. And they're also
15 controlling the pH level by use of a, a caustic soda addition.

16 CHAIRMAN JABER: And in your opinion that tri-level
17 approach that's used by the county has eliminated whatever gray
18 water, black water problem they had?

19 THE WITNESS: I've never seen a problem with black
20 water in the county. And odor complaints are, I mean, nil. We
21 don't get any. And their treatment seems to work. They do the
22 caustic soda based on some failures they had concerning the
23 Lead and Copper Rule. But they opted to do this type of
24 treatment and basically they're back into compliance again with
25 the Lead and Copper Rule.

1 CHAIRMAN JABER: So even if we impose the tri-level
2 approach that Pasco County used, we're not sure that that will
3 work for the Aloha situation because Pasco County didn't have
4 that same black water problem?

5 THE WITNESS: Yes, ma'am. That's true.

6 CHAIRMAN JABER: Now the other question that the
7 customers had was when, when will we see the change? Let's say
8 this Commission does mandate that Aloha impose the aeration
9 treatment, that they use packed tower aeration. Do you have a
10 feel in your mind for how long before there might be a
11 difference in the quality of water?

12 THE WITNESS: I couldn't even venture a guess on
13 that.

14 CHAIRMAN JABER: Okay. Have you ever in your
15 experience at DEP seen the kind of black water that the
16 customers have shown us yesterday and that you see there today?

17 THE WITNESS: No, ma'am. No.

18 CHAIRMAN JABER: Okay.

19 COMMISSIONER PALECKI: Following up on that with
20 regard to Pasco County's treatment, do they treat all of those,
21 all of their water with this three-part treatment process or is
22 it only in areas where they have the problem with the corrosive
23 issue?

24 THE WITNESS: No. No. The county has a main
25 treatment plant located in Pasco County on Little Road and

1 they've, they're basically trying to get to a more central type
2 of water system. But in the meantime they do have what we call
3 little community systems scattered all out among, over the
4 distribution system.

5 South County, I'm trying to think now, at the
6 Hernando/Pasco County line they have some small wells running
7 in the Hudson area and they all basically kick into the main
8 distribution system, the small systems and the larger plant on
9 Little Road.

10 COMMISSIONER PALECKI: So I'm not sure if your answer
11 was, yes, all of the water is treated in this three --

12 THE WITNESS: No. No. No. No. It's not.

13 COMMISSIONER PALECKI: It's not?

14 THE WITNESS: The smaller systems basically are just
15 wells being chlorinated into storage tanks and being pushed out
16 to the distribution system. Water coming from the main
17 treatment plant is aerated, hit with chlorine and the caustic
18 soda.

19 COMMISSIONER PALECKI: The reason I'm asking is
20 because we heard yesterday that some of the water that is being
21 used by the Aloha customers actually comes from Pasco County
22 and it's already been treated. And I was wondering whether
23 that water had been treated in a manner that would eliminate or
24 decrease the corrosiveness or if it, if it's water that's just
25 been simply treated.

1 THE WITNESS: I'm thinking that the, the interconnect
2 that Aloha has with the county, the water, the majority of the
3 water is coming from the main water treatment plant that has
4 the caustic soda treatment applied to it.

5 COMMISSIONER PALECKI: And do you know if the water
6 that they sell to outside companies is the same treatment as
7 the water that they provide their own customers?

8 THE WITNESS: When you say they now, you're talking
9 about the county?

10 COMMISSIONER PALECKI: I'm talking about Pasco
11 County.

12 THE WITNESS: Yes. Uh-huh.

13 COMMISSIONER PALECKI: So the water that they provide
14 to Aloha is the same water that they provide to their own
15 customers that's received this three-part treatment that's
16 designed to reduce the caustic effect of the water?

17 THE WITNESS: Yes, sir. Right.

18 COMMISSIONER PALECKI: Thank you.

19 CHAIRMAN JABER: You know, if we take our regulator
20 hat off, it defies logic that a private utility in the same
21 county that provides water has this greater problem than the
22 county does. Just I have, you know, I have to put myself in
23 the customers' shoes and realize they see from their standpoint
24 Pasco County provides water, their customers have copper pipes
25 in the homes, they don't have this black water situation. I

1 mean, that's, that's what the customer sees.

2 THE WITNESS: Yes, ma'am.

3 CHAIRMAN JABER: Help me make sense of that in my own
4 mind. Pre tri-level treatment by Pasco County --

5 THE WITNESS: Uh-huh.

6 CHAIRMAN JABER: -- you just told me they didn't have
7 a severe situation that the Aloha customers had.

8 THE WITNESS: No black water complaints from the
9 county.

10 CHAIRMAN JABER: Explain that to me.

11 THE WITNESS: I wish I had an explanation for you
12 there. It's just something that's unique to the Aloha service
13 area.

14 CHAIRMAN JABER: But do you see why the customers
15 have reached the conclusion that it must be Aloha?

16 THE WITNESS: I understand that, where they're coming
17 from. But then I fall back, put my regulator hat on again and
18 I see that the water that's basically coming from the point,
19 the entry point to the distribution system is meeting the
20 standards set by the EPA.

21 CHAIRMAN JABER: Now forget standards. I'm not
22 talking standards anymore. Now I'm just talking about the
23 color of the water.

24 THE WITNESS: Yes, ma'am. Right.

25 CHAIRMAN JABER: Because the Pasco County water met

1 standards at some point.

2 THE WITNESS: Right.

3 CHAIRMAN JABER: Just talk to me about how it becomes
4 sludge looking. Forget the DEP standards. What is it in the
5 path that that water takes that it turns into this sludge
6 looking color?

7 THE WITNESS: It would probably have to be more,
8 something going on inside the, the home. I mean, outside of me
9 as a regulator, what I've seen going in my day-to-day
10 inspections in the Aloha subdivision, I would go to the site of
11 the home and turn the faucet on. The water does not come out
12 black there. And that side of the faucet is -- I was hoping to
13 be the first point of entry into that home. The water is
14 clear. Okay?

15 When it goes through the home and people bring these
16 jugs in, I could, I just can't guess what's going on in there.
17 I mean, I've heard that it's the, it's the copper sulfide, you
18 know, that's turning the water black and --

19 CHAIRMAN JABER: I have to assume that the Pasco
20 County residents that receive water from Pasco County have
21 copper sulfide in their water.

22 THE WITNESS: But I -- I'm just not getting
23 complaints as far as that's concerned. I, I have to deal with
24 what I see coming in to me as a phone call saying, sir, I have
25 a problem with my water. Again, I don't get those calls from

1 the county.

2 And I understand what you're saying, you know, what's
3 going on in the home? I wish I could, you know, give an answer
4 and I would probably be able to solve the problem, but I just
5 don't have an answer for you.

6 COMMISSIONER PALECKI: Mr. Foster, we heard yesterday
7 that Pasco County has been using this three-part process which
8 is quite expensive. They've also been experimenting with using
9 biological purification that uses bacteria to, I guess, remove
10 some of the sulphur from the water.

11 It, it appears to me from what I heard yesterday that
12 Pasco is, is making a tremendous effort and expending
13 considerable dollars to, to reduce the corrosiveness of their
14 water. Would you say that's accurate?

15 THE WITNESS: Yes.

16 COMMISSIONER PALECKI: Is that because they're trying
17 to be responsive to the needs of their customers?

18 THE WITNESS: I would assume that would be.

19 COMMISSIONER PALECKI: Do you believe that Aloha has
20 been and is being equally responsive to the needs of their
21 customers with regard to making efforts to reduce the
22 corrosiveness of, of their water?

23 THE WITNESS: I think when the utility is posed with
24 a problem, not meeting a standard, they do all within their
25 power to correct it.

1 COMMISSIONER PALECKI: And what has Aloha done to
2 correct it?

3 THE WITNESS: Well, all I can do is look back on past
4 history. When they had a problem with the copper standard,
5 with the Lead and Copper Rule, basically we worked with the
6 utility basically to get them into compliance. And, like I
7 said before, they are in compliance now with that Lead and
8 Copper Rule standard.

9 Also yesterday you, you were referencing a biological
10 treatment that the county is using. I don't think that's
11 anything to do with the actual water treatment process. The
12 department would not allow for a utility to introduce a
13 bacteria as treatment into a water system or source.

14 I think what the doctor was talking about maybe on an
15 outshoot of that, when the water is aerated, the odor may come
16 off in the area and the homes in that sub, in the area,
17 subdivisions in that area, and they may be using some type of
18 bacteria to chomp out and kill the odor so it won't be a major
19 nuisance to the residents living around the water treatment
20 plant.

21 COMMISSIONER PALECKI: But in order to reduce the
22 corrosiveness of the water a utility would either have to,
23 would it be remove the copper sulfide or find some way to
24 neutralize the corrosiveness?

25 THE WITNESS: Those would be two of the ways to

1 approach the problem.

2 COMMISSIONER PALECKI: And those are things that have
3 been done in Pasco County?

4 THE WITNESS: Yes, sir.

5 COMMISSIONER PALECKI: Thank you.

6 CHAIRMAN JABER: I need to, it occurs to me that we
7 need to once and for all get in the record what exactly Pasco
8 County has done to treat the water, the tri-level approach. Do
9 you have a document you can provide for us in a late-filed
10 exhibit that illustrates for us exactly the approach that Pasco
11 County took?

12 THE WITNESS: I can get that to you.

13 CHAIRMAN JABER: Yeah. Let's -- Staff, it occurs to
14 me that that would be a useful document to have in the record.
15 We'll call that late-filed Exhibit 3. We referred to the
16 treatment so much. And that document is something you would
17 prepare, Mr. Foster, or something you received from the county?

18 THE WITNESS: Yes, ma'am. I would prepare it and I
19 would also probably talk to the county just to make sure there
20 hadn't been any change or anything like that to their treatment
21 process that we may not be aware of.

22 CHAIRMAN JABER: Late-filed Exhibit Number 3 will be
23 provided by Staff via Mr. Foster. Is that something you can
24 complete in two weeks?

25 THE WITNESS: Yes, ma'am.

1 CHAIRMAN JABER: Okay. And it will illustrate Pasco
2 County's tri-level treatment.

3 (Late-filed Exhibit Number 3 identified.)

4 CHAIRMAN JABER: Mr. Jaeger?

5 MR. JAEGER: Yes, I have just a couple of questions
6 on redirect.

7 REDIRECT EXAMINATION

8 BY MR. JAEGER:

9 Q The normal testing or reporting, I guess, for lead
10 and copper, is that every three years, you say?

11 A The rules start out that the testing will be every
12 six months and with good results the department will reduce
13 that every six-month testing to once a year. And if the
14 results are good for three years, then the department can
15 reduce that again to every three years.

16 Q So, but it never exceeds three years; is that
17 correct?

18 A No.

19 Q And Aloha when it exceeded -- I think it's actually
20 an action level is what it's called.

21 A Right.

22 Q It's not really a, you know -- it may be splitting
23 hairs. You know, there's talk about in compliance or in
24 violation, but it's actually they exceed an action level and
25 that's when they started with the orthophosphate; is that

1 correct?

2 A Right. Right. Uh-huh.

3 Q And there for a while they did have those six-month
4 reports or one-year reports?

5 A Right. Basically it's six-month testing just to make
6 sure that the treatment they chose would work.

7 Q Now they're back on a three-year cycle?

8 A Right.

9 Q Thank you.

10 CHAIRMAN JABER: Thank you, Mr. Foster.

11 (Witness excused.)

12 CHAIRMAN JABER: Now in terms of the order of
13 witnesses, Mr. Wharton, are we going back to Mr. Porter? Is
14 that what you've agreed on?

15 MR. JAEGER: Yes, Chairman. I think we go back to
16 the normal order until we get to some of the SWFWMD witnesses,
17 who will be tomorrow.

18 CHAIRMAN JABER: Mr. Wharton?

19 MR. WHARTON: We would call Mr. David Porter.

20 CHAIRMAN JABER: And this will just be direct
21 testimony, Mr. Wharton; right?

22 MR. WHARTON: Yes, ma'am.

23 DAVID W. PORTER

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

DIRECT EXAMINATION

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BY MR. WHARTON:

Q Mr. Porter, please state your name and professional address for the record.

A Yes. Good morning, everyone. My name is David W. Porter, PE, and my professional address is 3197 Ryan's, R-Y-A-N-S, Court, Green Cove Springs, Florida 32043.

Q And you have been previously sworn, sir?

A I have.

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

A I have.

Q Did you prepare in conjunction with our office a document referred to as the Prefiled Direct Testimony of David Porter consisting of three pages?

A I did.

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

A They would.

Q Do you have any corrections or additions to make to your testimony at this time?

A No. Huh-uh.

Q Now, Mr. Porter, you don't have any exhibits per se attached to your direct testimony, but you did prepare that portion of the MFRs which will come in through Mr. Nixon;

1 correct?

2 A I assisted Mr. Nixon in the preparation of those
3 documents, yes.

4 Q The part of the MFR that is within your expertise is
5 what you were responsible for?

6 A Correct.

7 Q Mr. Porter, will you please summarize your testimony?

8 A Yes. As I stated in my direct testimony, I was
9 retained by Aloha Utilities to provide engineering assistance
10 on this project. I did prepare the testimony as referenced by
11 Mr. Wharton. I did assist in the preparation of Schedules F1
12 through F10 in the MFRs and I do believe they're true and
13 factual.

14 I also stated that I believed in my opinion that the
15 appropriate water demand projection to be used in this case and
16 going, on a going forward basis would be 500 gallons per day
17 per ERC, and I believe that that level of water demand is
18 directly related to changes in the, that have taken place in
19 the service area regarding the types of and sizes of homes that
20 are being built and the demographics of the, the population
21 that live in those homes. And that summarizes my direct
22 testimony.

23 MR. WHARTON: We would request that Mr. Porter's
24 prefiled direct testimony be inserted in the record as though
25 read.

1 CHAIRMAN JABER: The prefiled direct testimony of
2 David W. Porter shall be inserted into the record as though
3 read.

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1 BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

2 ALOHA UTILITIES, INC.

3 DOCKET NO. 010503-WU

4 APPLICATION FOR WATER RATE INCREASE OF

5 ALOHA UTILITIES, INC. IN PASCO COUNTY

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

7 Q. Please state your name and professional address.

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

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

14 A. Yes.

15 Q. Please provide a brief resume of you training and experience
16 as it relates to this proceeding.

17 A. I hold a BSCE degree from the University of Massachusetts
18 where the emphasis of my studies was in water and wastewater
19 treatment technology. I have 29 years experience in the
20 operation, management, design, construction and
21 troubleshooting water and wastewater facilities. During that
22 time I have been employed as a treatment plant operator and
23 administrator, a design engineer, principal engineer, vice
24 president and general manager of a engineering firm that
25 specialized in the design of water and wastewater

1 facilities, principal engineer for a international water and
2 wastewater equipment manufacturing firm that provides state-
3 of-the-art equipment for high purity water systems and
4 wastewater treatment systems worldwide. For 14 years I
5 taught water and wastewater treatment technology as an
6 adjunct instructor at community colleges, universities and
7 State sponsored short schools. I have authored numerous
8 technical papers and trade magazine articles related to
9 treatment facility design, troubleshooting, operation and
10 management. I have served as the chairman of the American
11 Water Works Association's Pipeline Rehabilitation Standards
12 Committee and have served on numerous technical advisory
13 committees for the Water Environment Federation, the
14 American Water Works Association and governmental regulatory
15 agencies such as the Florida Department of Environmental
16 Regulation. I am an A Class Licensed Plant Operator in the
17 State of Florida, a Grade VII Licensed Plant Operator in the
18 Commonwealth of Massachusetts, and a Registered Professional
19 Engineer in the States of Florida and Virginia.

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

22 A. Yes.

23 Q. Is it your opinion that these schedules present true and
24 factual to the best of your knowledge, and belief?

25 A. Yes.

1 Q. In you opinion, what is the appropriate per ERC water demand
2 to be used when projecting future water system demands for
3 the Seven Springs Water System on a going-forward basis?

4 A. 500 GPD/ERC.

5 Q. Briefly, how did you arrive at opinion?

6 A. I requested that Aloha Utilities prepare a tabulation of the
7 average quantity of water demanded/customer for each
8 subdivision for the most recent 12 month period. This
9 tabulation clearly shows that the customers in the new
10 subdivisions demand an average of 500 GPD/ERC which is
11 substantially higher than those customers in the older
12 subdivisions. This higher demand is understandable; the
13 newer customer demographic is substantially different than
14 that of the older customers. New customers tend to be
15 families with children and larger homes and lots, whereas,
16 older customers tended to be retired persons with no
17 children living in their home and who had smaller homes and
18 lots. I utilized this tabulation in my analysis of the
19 per/ERC water demand appropriate for use in this case.

20 Q. Do you have anything else to add.

21 A. Not at this time.

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1 MR. WHARTON: We would tender the witness for
2 cross-examination.

3 CHAIRMAN JABER: Thank you, Mr. Wharton.
4 Public Counsel?

5 MR. BURGESS: Thank you. Mr. Porter --

6 CHAIRMAN JABER: Mr. Burgess, let me just ask you,
7 Mr. Wood is here. It seems to me that Mr. Wood should go first
8 --

9 MR. BURGESS: I think that's --

10 CHAIRMAN JABER: -- as it relates to
11 cross-examination.

12 MR. BURGESS: I agree, Commissioner.

13 MR. WOOD: Thank you, Commissioner.

14 CROSS EXAMINATION

15 BY MR. WOOD:

16 Q You referenced demographics. How was, how did you
17 arrive at the demographics of the area and what did you compare
18 it to?

19 A Okay. Good morning, Mr. Wood.

20 CHAIRMAN JABER: Mr. Wood, bring that microphone
21 right up to you so the court reporter can hear you.

22 THE WITNESS: Okay. Again, good morning, Mr. Wood.

23 BY MR. WOOD:

24 Q Good morning.

25 A The demographic information that I referenced was

1 based on -- first of all, when I use the word "demographic" or
2 "demographics," we're talking about a myriad of things. It's
3 the size of the homes, it's the types of people that live in
4 those homes, the size of the families that live in the homes,
5 and that information can be obtained a number of ways.

6 One way is to look at the literature provided by the
7 home builders in that area, to look at the numbers of schools
8 and facilities related to certain groups of people like
9 families that are being built in the area, to interview and
10 talk with the folks at the utility that deal with those
11 customers on a daily basis by hooking up their connections or
12 when the people come in to sign up for service or come in to
13 pay their bills. Certainly all of those things were looked at.

14 And the information is freely available on the
15 Internet regarding what the builders are claiming or who
16 they're targeting in that area. A number of the communities
17 have put out documents on the web sites and have them available
18 in their sales offices targeting the family type consumer as
19 opposed to retirement community oriented folks that have been
20 previously connecting to Aloha system.

21 There have been a number of new schools built in that
22 area. There's been a very, there's been a very large junior
23 high school and high school complex just recently constructed
24 within the service area. There's been a college constructed in
25 this service area. There are a number of other elementary

1 schools that have been constructed and are being constructed
2 and are targeted for construction.

3 There's a YMCA targeting young folks. There's a
4 number of playgrounds that have been built and playgrounds that
5 are planned. And if you look at the builders' layouts for the
6 developments that they're planning, they're all touting the
7 fact that they are constructing schools and playgrounds and
8 facilities for families. Their literature all states that
9 they're looking for families and it's an ideal family
10 environment. And, again, the fact that Pasco County has seen
11 fit to built multi-million dollar schools in that area to
12 service teen-agers and children of that age. Those are some of
13 the major factors.

14 So all of those things went into account, were taken
15 into account and those are why we believe that the demographics
16 are changing in that area.

17 Q Have you personally ever traveled through any of
18 those areas?

19 A Yes, I have.

20 Q And checked out the statistics that you're quoting?

21 A I've certainly never canvassed home to home. The
22 cost of that would be excessive and would greatly increase the
23 rate case expense.

24 Again, you know, I do travel that area quite
25 frequently. I'm in the service area quite a lot, I do serve

1 Aloha in a number of ways as their utility engineer, and I've
2 certainly seen the numbers of school children over the last six
3 years standing at bus stops increase dramatically especially in
4 that service area. And, again, I would have to say that Aloha
5 Utility themselves, Mr. Watford and his staff, are intimately
6 familiar, they all live in that area, they have all lived there
7 for a very long time, and they deal with the builders and with
8 the school departments and with the customers themselves on a
9 daily basis. I think they're well familiar with what the
10 changes are in their service area.

11 Q I live in that area that you're talking about. Do
12 you know how many children under 16 years old live in my
13 subdivision?

14 A Sir, I have never done a headcount. No.

15 Q For your information, it's two; one grade schooler
16 and one high schooler. That's in 96 homes.

17 A Again --

18 CHAIRMAN JABER: Mr. Wood, at this point you're the
19 Intervenor, so you have to make sure that the statements you
20 make are in the form of questions and ask him if he agrees.

21 MR. WOOD: I understand. I understand.

22 THE WITNESS: I guess in response all I can say,
23 Mr. Wood, is, again, you're talking about a very limited number
24 of homes, 96 homes in one portion, in one portion of a
25 subdivision.

1 BY MR. WOOD:

2 Q Uh-huh.

3 A And what we're talking about here are the
4 subdivisions that are being built, again, today and we're
5 looking toward the future, looking at the homes that are being
6 constructed today and, again, looking at those types of folks
7 that are going to come and inhabit those homes in the future,
8 what water use they will have.

9 And, again, if you look at the brochures, the
10 information on the Internet, the activity of the school boards,
11 the YMCAs, the colleges, the numbers of parks and things that
12 are being constructed for families, one can only conclude that
13 that's the case. I have no idea why Pasco County would build
14 these schools if there weren't going to be children to inhabit
15 them.

16 Q Where do you think all of the children come from that
17 go to those Pasco County schools?

18 A I'm not sure I understand the question.

19 Q What area do you think all of those children come
20 from that go to the Pasco County schools? Is it the Aloha
21 service area?

22 A Oh, I'm sure that the schools themselves are
23 constructed, as many school districts are, that students come
24 from a number of different areas that go to any school. But,
25 likewise, I'm sure if that's the case, children from the Aloha

1 service area go to other schools as well.

2 Q Do you think that the -- I'll rephrase that.

3 What area are you comparing the demographics to, the
4 change in demographics?

5 A Well, again, I guess in order to answer that question
6 I have to start back a step and I have to answer the question
7 like this. What are you trying to accomplish in doing that
8 analysis?

9 What's trying to be looked or what is being looked at
10 when you do that type of analysis is you're trying to determine
11 what the likelihood of the water use of the customers is going
12 to be for this case and on an ongoing basis because that's what
13 Aloha is going to experience.

14 Now in the past, many years ago when Aloha was first,
15 when Aloha was first, service area first began, the types of
16 homes that were constructed were very, very small homes typical
17 of what was going on in Florida those days, 30 years ago. They
18 were the very small, maybe 900 or less square foot homes that
19 catered largely and wholly, more than likely, to the retirement
20 community where there might be one person or two people living
21 in the home. And, again, their water use needs were very
22 minimal because the size of the lots were very minimal and the
23 amount of -- there weren't pools, there weren't irrigation
24 demands being put on the system. So those users used very
25 small quantities of water. And those homes still exist in the

1 system today and there are very many of them. They form the
2 basis of the Aloha service area.

3 As time went on, as it does in all the service areas
4 here in Florida, the system matured. And as the system matured
5 and the area grew in its appeal to folks coming from other
6 areas the level of the construction or the type of construction
7 started to change. And as time went on the next group of
8 houses began to be built, and those were those homes, what
9 we're calling now the mid homes. And those homes were on
10 little bit larger lots, more or larger-sized homes, some with
11 pools and many of them, but not all, had irrigation demands
12 that were put on the system.

13 The first users used very little water. The second
14 group of people were, again, largely retired folks and they'd
15 use more water but not a tremendous amount but more than the
16 first group. And now what's happened because the area is a
17 very nice area, it's a very beautiful place to live and people
18 find it very desirable and the amount of property that's
19 available for development has shrunk so, therefore, the cost of
20 the property in that area has gone up dramatically. What could
21 be bought, you know, 30 years ago for \$10,000, now the homes
22 are going for as much as \$400,000 in that area. And when you
23 start talking about that level of change, you're talking about
24 a different type of customer for Aloha's system. Those folks
25 primarily do have pools, they have families and they also have

1 large lawns and many of them are of the high class turf variety
2 that requires a tremendous amount of water to keep it alive.

3 And, you know, a lot of these things the Water
4 Management District talked about when they talked about their
5 water restrictions. That's the reason why they were doing it.
6 They were doing it because a lot of the grasses that were built
7 during a good period of time for the last ten years were those
8 that really did require a tremendous amount of water. And
9 that's why they're backing off and asking people to go to
10 systems that don't require as much water and don't require as
11 much of the landscape xeriscaping and things of that nature.
12 But a lot of these homes were built with all of the amenities
13 and those users use a tremendous amount of water compared to
14 those initial people.

15 So there's a reason why this is being done; because
16 as Aloha, like I said, has grown and matured with the
17 developments in that area the types of water that's being used
18 or the amount of water that's being used by the customers has
19 also changed, and to not take that into account would be a
20 serious mistake.

21 As an engineer, when we design systems, that's one of
22 the very first things we need to design and you can see why.
23 If we were to assume that you had a large, you know, let's
24 assume that we didn't take that into account for a moment, we
25 had a large number of users that used very little water, we had

1 a medium group of people that used a considerable amount but
2 not a tremendous amount, and then we had a small group that
3 used a lot, but from now on every single customer is going to
4 fit in the third group. There aren't going to be anymore of
5 those first group. There's no more property to be built out
6 there, there's no more homes to be built of that type. And the
7 cost is so great you wouldn't build any of those.

8 The medium group, there's none of those left or very
9 few. There's a handful. But all, all of the new customers are
10 going to come from the third group, all of them.

11 If you were to take an average use of all those water
12 users, all of the large group of small users, the medium group
13 and this very small number of the large group, you would get a
14 very distorted picture of the demand of water for the, for
15 what's going to happen from now on. And if I designed a water
16 system based on that average, you would find very quickly that
17 the utility would run out of water and then I'd get sued. So
18 an engineer doesn't do that.

19 An engineer has to look at what am I going to deal
20 with today and what am I going to deal with in the future? Now
21 if I knew, and I do know that the new homes are not being built
22 in the old subdivisions, they're not being built in the middle
23 subdivisions, they're all going to be built in the new
24 subdivisions, and I could determine using Aloha's data that
25 shows customer water demand, it shows how much they billed for

1 those particular customers. I know how many customers there
2 are, and they're using substantially more water than the
3 average of all the customers. First of all, it makes sense,
4 but, secondly, if I knew that was the case, then I would be
5 remiss in not using that new number because that is what the
6 system is going to see, Mr. Wood.

7 And unfortunately that would be a great disbenefit to
8 the customers because if I was to do that and build that
9 system, first of all, you would have to build another system
10 very quickly and you'd have to pay for it twice.

11 But, secondly, you would experience pressure problems
12 and all kinds of other problems associated with a system that's
13 too small very quickly. So it is very important from an
14 engineer standpoint to do that analysis that I just talked
15 about and that's what was done in this case.

16 Q In 1990 what was the average gallons per day used per
17 household?

18 A 1990?

19 Q Yes, sir.

20 A I'm not sure I have that number, but let me look back
21 how far --

22 (Pause.)

23 To be honest with you, Mr. Wood, I do not have that
24 data from 1990. However, I can tell you -- and I'm looking for
25 a particular figure, if you'll bear with me just for a moment.

1 I guess it's here.

2 I can tell you that in 1995 on, I have that data with
3 me, 1995 the average use in the system overall for all of those
4 customer groups taken together was approximately 246 gallons
5 per ERC per day, 1995.

6 In 1996 it had risen to 260. In 1997 it had risen
7 again to 265. In 1998 it had risen -- it stayed approximately
8 equal, 263. Approximately the same. In 1999 it increased
9 dramatically to 276. In the year 2000 it stayed about the same
10 again, 276. In the year -- and those are the, the data points
11 that we have to this date.

12 Now one might ask why would that be true, why would
13 you --

14 CHAIRMAN JABER: Mr. Porter?

15 THE WITNESS: Yes.

16 CHAIRMAN JABER: Let's wait for the questions. Your
17 attorney is going to get to redirect you.

18 THE WITNESS: I'm sorry, Commissioner. I was trying
19 to answer his question. I think -- go ahead.

20 CHAIRMAN JABER: His question was what was the number
21 for 1990.

22 THE WITNESS: Okay.

23 CHAIRMAN JABER: Go ahead, Mr. Wood.

24 BY MR. WOOD:

25 Q You just said that you felt that it was going to go

1 to 500 gallons per connection.

2 A Yes, sir.

3 Q Why would between 2000, 2001 and 2002 would you
4 project that it's going to double?

5 A Okay. That was the answer. Okay. I think there's
6 somewhat of a misconception regarding what I'm trying to say,
7 so let me start again by saying the numbers that I just
8 provided you from 1995 to the Year 2000 were the average water
9 usage per ERC for the entire system. Those are for all those
10 customer groups, the large number of older homes, the smaller
11 number of medium-sized homes and the very small number of very
12 large homes.

13 Now taken together, if you take all of those groups
14 together and you develop an average, those are the numbers you
15 just heard.

16 What I'm saying to you is, and this makes very good
17 logical sense if one thinks about it, if you knew that all
18 customers from this day forward were going to be of a specific
19 group, one of those three, if they were all going to be of the
20 first group, I would tell you a number very small. If I
21 thought they were all going to be built of the medium group, I
22 would give you a medium-sized number. Kind of sounds like
23 Goldilocks. If I thought it was going to be all in the third
24 group, which it is, then I would have to give you a number that
25 is representative of that group.

1 And what I'm telling you is if you look at the data
2 for that group of individuals, those people that are living in
3 the subdivisions that were built within the last ten years, the
4 average for, for a one-year period from the middle of ninety,
5 1999 to the middle of 2000, the use for those customers was 500
6 gallons per customer per day.

7 Now we also looked at a longer period of time because
8 in the progression of this case questions were asked, well,
9 what happened previously? So we went back and looked from
10 1995, from this period for that same group of customers, from
11 1995 to 2000 what was their water use. It actually was more.
12 It was 511. So that group of customers that live in those
13 subdivisions where there are available lots to be developed,
14 and that is the only place there are large numbers of available
15 lots to be developed, those customers used 500 gallons or more
16 per ERC per day.

17 So what I'm saying to you, Mr. Wood, is I do not
18 project that the average for the system is going to increase to
19 500. I'm saying for those customers that are going to be put
20 on the system from now on it's 500.

21 Now let me say one thing. The data shows that
22 happening. If you assume that those subdivisions, those
23 smaller units have been built up for some time, which they
24 have, and that the majority of the medium-sized groups have
25 been built up for some time, which they have, and that you've

1 really been only adding these new people, then that would
2 clearly explain why that number keeps going up each year, why
3 the average number goes up.

4 And I think you have to understand if there's a small
5 number of people being added relative to the size of the total
6 population of ERCs and that number continues to rise each year,
7 then there's a good possibility that those new people are using
8 a lot of water because their total for that small group has to
9 increase the total amount quite a bit to see an increase every
10 year of the entire base. And, Mr. Wood, that is why we're
11 projecting 500.

12 COMMISSIONER PALECKI: Mr. Porter, the point you're
13 making, wouldn't that support Representative Fasano's position
14 that impact fees need to be increased so that the cause of the
15 problem is actually, which is the new construction, the bigger
16 homes, that they're actually paying their fair share?

17 THE WITNESS: Well, first of all, I can't address
18 that. I mean, that's not my area of expertise. I'm an
19 engineer. I can tell you why I believe the trends are
20 happening the way they are regarding impact fees and things of
21 that sort. That's not my bailiwick, I'm afraid, and I really
22 couldn't answer that question.

23 COMMISSIONER PALECKI: But just can you make a
24 logical connection? And I think you're making a very eloquent
25 case that these newer homes that are being built now, they're

1 much larger users. And doesn't it just through common sense
2 connect that those larger users need to pay for the increased
3 pressure that they're putting on the system and on the aquifer?

4 THE WITNESS: Well, again, I'm sorry, but I don't
5 have that expertise. All I can say to you is subject to -- I
6 mean, that's not my area of expertise. But I can say to you
7 this, the rates that the utility are proposing are a tiered
8 system so that the larger users will pay more. Those that use
9 more water will pay more in this system based on rates. So the
10 more they use, the more they're going to pay. And that's the
11 way that's going to be set up.

12 So I think by recognizing what they're trying to do
13 in rates, this time I think Aloha is taking that into account
14 and saying the big users are going to pay more because their
15 rate is going to be substantially higher once they get above
16 that first level. So to the best of my knowledge that's what's
17 happening.

18 COMMISSIONER PALECKI: Thank you.

19 THE WITNESS: You're welcome.

20 BY MR. WOOD:

21 Q In your model that you've just been discussing, where
22 did you include, in what category, the apartments that are
23 being built on Mitchell Boulevard?

24 A Again, directly taken into a model it wasn't taken
25 into effect at all. First of all, what we were doing, again,

1 Mr. Wood, was looking at the large group of possible
2 connections. And when you take a look at the large group of
3 possible connections, those are those users that are
4 identified -- well, I will identify them in rebuttal if I don't
5 identify them here -- that are still left with lots to be
6 constructed. And those are those that are in that service area
7 or in those service areas where they're the larger users.

8 Q What would you consider a large number of lots?

9 A Well, going forward Aloha is projecting 473 lots, I
10 believe it is, per year. And in order to service 473 lots in a
11 given year, in a given year, then you have to have a
12 considerable number of lots available.

13 Q Are all those lots considered to be big lots?

14 A Yes, sir. Well, by big -- it's not so much big lots
15 but big users. Yes, sir, I am.

16 Q How do you classify a big user?

17 A Well, it's someone who's using 500 gallons per day
18 per ERC.

19 Q Okay. What, what type of person is involved in that?
20 What -- you know, are these retirees, are these families with
21 eight and ten kids?

22 A Mr. Wood, it's possible for a retired couple, it is
23 possible for them to certainly use that quantity of water. And
24 the way that can happen is if they have a very large lot where
25 they have some of the Floritan (PHONETIC) grasses or things of

1 that sort that require a lot of water for irrigation or if they
2 have a swimming pool or all of, all of it taken together, they
3 can certainly get there.

4 But I will tell you that probably the majority of the
5 cases we're talking about are those that are, that fit that
6 criteria and some of them are also going to be those with
7 families. So it's all of the above.

8 But, again, one of the ways to even out or to come to
9 a conclusion based on what the water use should be is to take
10 the entire group, that's to take the entire group of all of
11 those subdivisions, all of the subdivisions built in the last
12 ten years, all of them, take all of those customers, which is a
13 considerable number, to try to come up with an average and then
14 say, okay, what water did they use?

15 Now I can tell you if you do a different analysis, I
16 could have come back with a much larger number. And the reason
17 I say that is if you look at -- out of those subdivisions,
18 there are 12, that were built in the last ten years that we
19 looked at in this analysis, because those were, that's what's
20 been built in the last ten years, that was where the number
21 came out to be 500.

22 Now some of those subdivisions, a large portion of
23 them, they're built out. So what's left are three or four of
24 the subdivisions of the 12 and the new subdivisions being built
25 in that same area.

1 MR. BURGESS: Commissioner, I'm going to object.
2 This is information that is well beyond his direct. I thought
3 we were trying to differentiate, and I know there's some
4 difficulty differentiating between direct and rebuttal, but
5 this is even beyond the rebuttal. And so I'm going to object.
6 He's going into this information that was not presented in
7 direct.

8 CHAIRMAN JABER: Mr. Wharton?

9 MR. WHARTON: Chairman Jaber, first of all, it's
10 unusual to object to the response. You had also made a
11 distinction earlier today, and I'm, I'm willing to go either
12 way on it, but that it was the Staff's witness and we're not
13 objecting. And you had also indicated that you were going to
14 allow some latitude to the extent those issues, the rebuttal
15 and the direct did intersect.

16 CHAIRMAN JABER: Uh-huh. Mr. Wood, let's make sure
17 that we're asking the questions directly out of the testimony
18 so that the witness doesn't deviate too much farther from the
19 testimony.

20 I think what Mr. Porter is also trying to do,
21 Mr. Wood, is engage in dialogue so that you understand the
22 philosophy that he used and, and the information related to his
23 testimony, which is why I've given him a little bit of
24 latitude. I think that's what's going on here.

25 But, Mr. Porter --

1 THE WITNESS: Yes, ma'am.

2 CHAIRMAN JABER: -- to make this go smoother you
3 really need to just answer Mr. Wood's question, wait on
4 redirect for your attorney to ask you additional questions
5 related to the specific question that Mr. Wood asked you. I
6 know that you're trying to use this as an opportunity to work
7 with Mr. Wood on his concerns, but there's a time and place for
8 that and this isn't it.

9 THE WITNESS: Okay, ma'am. I've been, quite frankly,
10 have been trying to limit it.

11 CHAIRMAN JABER: I know.

12 THE WITNESS: Unfortunately it's a very complex
13 issue.

14 CHAIRMAN JABER: I know. But we need to stay
15 focused.

16 THE WITNESS: Okay. Thank you.

17 MR. WOOD: That's it.

18 CHAIRMAN JABER: Thank you, sir. Mr. Burgess?

19 CROSS EXAMINATION

20 BY MR. BURGESS:

21 Q Mr. Porter, now I understand correctly that in your
22 projection as you initially projected, setting aside for the
23 time being other compilations that you did in your rebuttal
24 testimony, that you used actual Year 2000 usage and added for
25 one year's growth and anticipated usage; is that correct?

1 A That's correct.

2 Q Okay. So with regard to coming up with Year 2001 as
3 being a representative test year, if the Year 2000, say, for
4 example, was unusually low usage, then that would skew the
5 results for 2001, would it not?

6 A If I were to believe that the Year 2000 data was not
7 representative, I wouldn't have used that, that model.

8 Q Correct. And you actually examined that because it's
9 important that it be representative, is it not?

10 A Yes.

11 Q Now with regard to that which you added which you've
12 explained in response to Mr. Wood's questions, you added at a
13 rate of 500 gallons per day per ERC; is that right?

14 A That's correct.

15 Q Will you explain what the difference between an ERC
16 and a single family residence is?

17 A For the purposes of this analysis I assumed they were
18 equal.

19 Q They are the same, they're one and the same for this?

20 A Uh-huh.

21 Q When you calculated the 500 gallons per day based on
22 the housing developments that were begun within the last ten
23 years, you used a simple average to calculate that; is that
24 correct?

25 A Again, I'm not sure if I understand your question.

1 Q Okay. Let me back up. In order to do that you began
2 with an average of gallons per day per ERC for each of the
3 housing developments that had been begun within the last ten
4 years; is that correct?

5 A That is correct.

6 Q And then you took an average of those numbers. How
7 many data points was that? How many housing developments was
8 it?

9 A Twelve.

10 Q Twelve. And when you took the average of that that
11 resulted in the 500 gallons per day or approximately
12 500 gallons per day that you used for the growth --

13 A Uh-huh.

14 Q -- did you use a weighted average or a simple
15 average?

16 A I thought it was important to use the simple average
17 of those values because --

18 Q Thank you, Mr. Porter.

19 A Okay.

20 CHAIRMAN JABER: Ms. Lytle?

21 CROSS EXAMINATION

22 BY MS. LYTLE:

23 Q Yes. I have a few questions for you, Mr. Porter.
24 How are you this morning?

25 A Very fine. Good morning.

1 Q Would you agree that it's necessary for Aloha to come
2 into compliance with its water use permit from the district as
3 soon as possible?

4 A I believe that, yes.

5 Q Would the purchase of water from Pasco County allow
6 Aloha Utilities to comply with its water use permit?

7 A Yes.

8 Q Would you agree that at least in the short-term Aloha
9 has no alternative source of water to replace excessive
10 groundwater withdrawals?

11 A Yes.

12 Q Are you aware that Aloha Utility's service area is
13 located within the Northern Tampa Bay Water Use Caution Area?

14 A I am.

15 Q And is that an area where the water resource is under
16 stress from excessive groundwater withdrawals?

17 A Yes.

18 Q Would you agree that conservation programs such as
19 education, water audits and provision of water conservation
20 devices have the potential to reduce water use?

21 A Yes.

22 Q Would you agree that there is benefit to the public
23 and the environment in reducing water use in a stressed area?

24 A Absolutely.

25 Q Would you also agree that, given your analysis that

1 water use in the area is increasing, that additional water
2 conservation measures are particularly important?

3 A Absolutely.

4 CHAIRMAN JABER: Ms. Lytle, let me interrupt you for
5 just a minute.

6 MS. LYTLE: Okay.

7 CHAIRMAN JABER: Has anyone in this case done an
8 analysis of how much water is used because the customers are
9 running their faucets to eliminate the black water or the gray
10 water? Is that, is there a way to capture that information?

11 THE WITNESS: If you look in my rebuttal testimony,
12 which I don't think anybody wants me to talk about right now,
13 but in my rebuttal testimony I did make a quick analysis of
14 what I thought, you know, based on the testimony that I not
15 only heard here today but, you know, the water quality docket
16 lasted for five and six years and we heard a number of
17 customers testify and I personally have been to many, many,
18 many customers' homes.

19 CHAIRMAN JABER: Uh-huh.

20 THE WITNESS: And based on what they told me and what
21 the frequency of the events are and so forth, I gave testimony
22 on that in my rebuttal.

23 CHAIRMAN JABER: Okay. Now that information, that --

24 THE WITNESS: Yes, ma'am.

25 CHAIRMAN JABER: That percentage or analysis, how

1 would that factor into your planning, you know, for demographic
2 purposes? Because it seems to me that if we can solve
3 collectively the black water problem, that we should see water
4 usage go down.

5 THE WITNESS: Well, I think others will try to make
6 that case. I can tell you in my opinion that's not correct for
7 a couple of reasons. If you'd like me to, I'll tell you about
8 it now.

9 CHAIRMAN JABER: Actually I would.

10 THE WITNESS: Okay. First of all, in my analysis I
11 believe I came up with eight-and-a-half gallons per ERC per day
12 or per customer per day is what I thought the average was going
13 to be over a long period of time at the worst case, those
14 people that are effected. That's number one.

15 Number two, the numbers of people that are affected
16 is relatively small compared to the whole. I mean, I realize
17 every single customer that has the problem, that that's a
18 serious problem for them and I don't mean to minimize it
19 because I'm not. But I'm just saying relative to the whole
20 that's a very small amount of people.

21 CHAIRMAN JABER: Uh-huh.

22 THE WITNESS: So the effect is very small, also.
23 Another complicating factor to that scenario is that the new
24 homes being constructed, the majority of them are not being
25 built with copper pipe. They're being built with PVC. So I

1 don't expect that problem with those customers and the flushing
2 and so forth that they claim that they have to accomplish.

3 And there's a fourth one, if I can remember off the
4 top of my head. The other one is that we looked individually
5 at one of the subdivisions that have substantial numbers of
6 lots that also include reuse, so they're not watering their
7 lawns, and they came up with numbers that were 500 and greater
8 for that subdivision. And they have largely, I believe, all
9 PVC pipe, I believe. I'm subject to check on that.

10 So I don't believe that the effect of the black water
11 problem as far as the amount of water that's being used is
12 substantial and really even enters into the picture.

13 COMMISSIONER PALECKI: Mr. Porter, following up on
14 that, what about the individual customers that you've referred
15 to that, that are, you know, there aren't that many of them,
16 but is it fair to those customers to charge them a great deal
17 more for the water if they're required to run their faucet for
18 many, many gallons before they can actually get usable product
19 on a pure fairness basis?

20 THE WITNESS: Okay. Again, Mr. Palecki, I can, I can
21 address that, if you'd like, and I'll do so.

22 COMMISSIONER PALECKI: Yes. I would like to hear
23 you.

24 THE WITNESS: In the way that you asked the question,
25 and please correct me if I'm wrong, I think when you're trying

1 to judge fairness, what you're saying is somehow that that
2 customer is being burdened by the utility system and,
3 therefore, is it fair that they should have to pay more for
4 water like all the customers, all the other customers will have
5 to do because somehow they're burdened and they're somehow
6 burdened by the utility? That's what I have to infer you mean.
7 Because if the utility is not placing the burden on the
8 customer, then the answer is automatically, yes, they should
9 pay. Because what goes on in their home or what happens to
10 them that is not the fault of the utility really shouldn't
11 enter into it. This is a question of the utility having to pay
12 for more water and, therefore, the customer has to pay for more
13 water. And all the other customers are going to have to pay
14 for the water, so why should one single group that's having a
15 personal problem not have to pay for the water? That's the way
16 I'm looking at it.

17 Now, so that goes back to the question then is the
18 utility placing this burden on the customer? Now let me say
19 first, again, one more time, and I've said this in, you know,
20 I'm sorry, but Mr. Baez and Mr. Palecki, you really don't have
21 the five years' worth of history in this thing and I understand
22 that, so I'm going to try to as much as I can and you'll allow
23 me to, I'll try to give you the information I can along the
24 way. Okay?

25 I have never said in the testimony in the many times

1 that I've testified in this case that I thought the customers
2 did anything wrong. I don't believe they do. I know for a
3 fact the utility doesn't because they've said so in testimony
4 many times. No one is blaming the customers. And I know a
5 number of customers are emotional about this. I would be, if
6 it was me. I promise you if this was me and I had that
7 problem, I would be emotional about it. And I know a lot of
8 the customers that came up yesterday will give you the
9 impression that they felt they were being blamed for the
10 problem, that it's my fault, that's what the utility keeps
11 saying, it's my fault. The utility has never blamed the
12 customer. I have never certainly blamed the customer. And I
13 think it's an unfortunate situation and I think it's very real
14 and I think those customers have a very serious problem that
15 needs to be dealt with.

16 So, but do I believe the utility is somehow burdening
17 those customers? I do not because the utility has a very
18 strict set of standards, as you talked, as you heard from DEP
19 witnesses, that they have to comply with and they do comply
20 with those. They comply with them wholeheartedly. As a matter
21 of fact, they comply, not only comply but in most cases are
22 much better than the standards require them to be, much better.
23 Not some better but much better.

24 So the quality of the water that's provided to those
25 customers before it enters their home meets the standards, and

1 you've heard that not only from me but from the DEP, it's been
2 testified to by numerous other people in previous cases. The
3 situation has always been the same; they comply with all the
4 rules.

5 But another group of testimony you may not, you
6 hadn't heard is that numbers, large numbers of people in the
7 last case, not only witnesses for the utility but witnesses
8 even for the, for other people in this case and citizens
9 themselves, have, on numerous occasions have said the water
10 coming into my house is clean, odor free, tasteless, beats all
11 the standards, nice looking water, but then I get this in my
12 tap and they hold up the bottles. And that is absolutely true
13 in some cases. I've been to their house and seen it. So
14 they're not lying to you. I have seen it.

15 So the utility is meeting all the rules, they are
16 providing treatment that is no different in most cases than
17 many, many, many utilities in this state and many others.
18 They're providing treatment that is, that meets all the
19 requirements of the DEP. The water meets all the requirements
20 of DEP and the water going into the homes has never once been
21 shown to be anything but clean, odor free and meets all the
22 requirements, never, by anyone.

23 So then you have to ask, and you've asked that
24 question earlier this morning of the DEP witness, well, how in
25 the heck then can you, how can you do, how can you say that?

1 If it meets all the requirements and it's nice and clean and
2 clear and I can hold up this jug, how does that make sense?

3 In the last case I used an analogy and I'll try to
4 use it here for what it's worth. I'm a farm kid, I grew up on
5 a farm and we had dairy cattle. And if you take nice,
6 wholesome milk from the cow and you put it in a lead bucket and
7 you let it sit for a day and then you measure the amount of
8 lead in that milk the next day and it's full of lead, you don't
9 blame the cow, you look at the bucket. And this is really
10 what's going on here.

11 What we're saying is the water as it's provided by
12 Aloha meets all the rules; it's good, wholesome quality water.
13 When it gets into the home, unfortunately for some customers,
14 and it's a small number relative to the whole, there's a
15 reaction that takes place in their home, inside their home
16 that's unique to them that creates this problem with the black
17 water.

18 Now one thing that didn't come out in the testimony
19 and you may not have heard before that may give you some
20 feeling for what's going on here, the water that's supplied to
21 the customers of Aloha is in what's called a looped system. So
22 the water that this person gets over here and that person gets
23 over there is essentially the same water. And at any given
24 time depending upon the demands of the system the water can mix
25 all over the place in that system. There's not one pipe going

1 to this guy from this well or one pipe from that well. The
2 pipes are all connected in a loop. Now I grant you that the
3 relative proportions of the water can change, but it changes
4 all the time because of the demands on the system. More people
5 draw over here, more water goes that way, and more people
6 demand over there and more water goes over that way, but it's
7 in a big loop. So nobody gets -- you know, Aloha doesn't have
8 a couple of valves that says, okay, give those people that
9 water and give those people that water. It doesn't work that
10 way.

11 But the other thing is when it gets on a person's
12 street, in a particular street there's a line, and then, as you
13 heard one customer say yesterday, well, we both get our water
14 from the same line. It comes off and we've got a meter on each
15 line. That's called a Y. And it is not uncommon -- and there
16 was lots of testimony in the last case where customers would
17 say I've got the problem but my neighbor doesn't. And it was
18 on that very same line, on the very same subline so that the
19 main line going down the street was here, a line comes out
20 perpendicular from that line, splits off into two pieces, this
21 house gets one-half of the water, this house gets the other
22 half. This guy had the problem and this one didn't and never
23 has.

24 Now the only thing that's common to both of those
25 homes, the only thing is the water. What happens inside the

1 homes is what's different.

2 And as Commissioner Jaber said, largely through the
3 efforts of this Commission, and we thank you for that, is that
4 an interagency study group was put together that largely was
5 made up of regulatory folks from the State of Florida and other
6 academics and things of that nature. The private utility did
7 not participate other than to sit and listen. And that group
8 identified a myriad of things that could contribute to the
9 problem within the home that make it a unique problem to that
10 home. And that explains why some homes have the problem and
11 some homes do not. So I will say to you without going into the
12 entire five years' worth of information because it's
13 voluminous, and I can, if you'd like, I mean, I can spend the
14 whole day telling you about this.

15 CHAIRMAN JABER: No. We'd much rather that you not.

16 THE WITNESS: But I can tell you that I am
17 absolutely, thoroughly convinced, as was the DEP witnesses that
18 spoke to you today, that this problem is occurring in some of
19 the customers' homes and it is not their fault. But it is, the
20 reality is there's a number of conditions such as customers
21 having on-site water treatment systems and large hot water
22 systems and periodic use of the systems and, you know, a large
23 number of things that can contribute to why one home would have
24 the problem and other homes do not.

25 And I need to turn it around. There was a question

1 you asked earlier, you know, why --

2 CHAIRMAN JABER: Can you remember it?

3 THE WITNESS: No. But I, but I can -- but, I mean, a
4 question you did ask earlier of Mr. Foster was, well, gee, you
5 know, how do you explain this?

6 CHAIRMAN JABER: No. See, I knew you couldn't
7 remember the question.

8 THE WITNESS: I can't.

9 CHAIRMAN JABER: Commissioner Palecki's question was
10 from a fairness standpoint how is it fair to assess those
11 customers that are, that are having the black water?

12 THE WITNESS: Okay. I was kidding.

13 CHAIRMAN JABER: And I think that your answer --

14 THE WITNESS: I was kidding.

15 CHAIRMAN JABER: Let me, let me state your answer so
16 we can move on. You need to agree.

17 THE WITNESS: Okay.

18 CHAIRMAN JABER: And, Commissioner, I don't mean to
19 cut you off. But we need to move on, so let me cut you off.

20 Your answer was that question, inherent in the
21 question was that somehow the utility was burdening the
22 customer and you disagree with that.

23 THE WITNESS: I do.

24 CHAIRMAN JABER: Okay. Commissioner Palecki, did you
25 have follow-up?

1 COMMISSIONER PALECKI: I just have one follow-up.

2 THE WITNESS: Certainly.

3 COMMISSIONER PALECKI: There are things that can be
4 done in order to alleviate or perhaps eliminate the black water
5 problem; correct?

6 THE WITNESS: Well, again, that's a matter of
7 professional opinion amongst professionals. I believe there
8 are things that can be done at a cost that would perhaps assist
9 in -- and I am not sure you can ever fix the problems for the
10 homes that have the problem. I'm one of those people that
11 believes it probably is not fixable in the homes that have the
12 problem. I've said that in the case last time. If anything,
13 it can be lessened. I don't think it can be fixed. And I
14 think Mr. Van Hoofnagle said the same thing. He is not sure if
15 it can be fixed. I think it can be minimized in some of the
16 homes.

17 I think Aloha has already put into place things that
18 prevent it to the greatest extent they can in the new homes
19 where those homes don't take out the very thing that was put in
20 the water to protect them. And unfortunately when you put a
21 home treatment system on your, on your, in your home, you've
22 defeated the purpose of the corrosion control program that
23 Aloha or you heard Mr. Foster speak about. When you put the
24 home treatment system on, you've just inactivated the ability
25 of the utility to help you.

1 But for those homes that don't have a home treatment
2 system or don't somehow change the water quality inside their
3 home with on-site systems, I think Aloha has already done that.
4 They've already done what they can to protect new users. For
5 those users that have the problem, I don't know that there's a
6 way to eliminate it. There could be a way to help lessen it
7 and probably is, but -- so the answer is, yes, there's probably
8 a way to lessen it. But those, the ways to handle that are
9 going to be very expensive no matter how you do it.

10 COMMISSIONER PALECKI: Thank you.

11 THE WITNESS: You're welcome, sir.

12 CHAIRMAN JABER: Ms. Lytle?

13 MS. LYTLE: I have no further questions. Thank you.

14 CHAIRMAN JABER: Thank you. Mr. Wharton?

15 MR. WHARTON: It was, Ms. Lytle, I think.

16 CHAIRMAN JABER: Oh, I'm sorry. Go ahead. Go ahead,
17 Ms. Espinoza.

18 CROSS EXAMINATION

19 BY MS. ESPINOZA:

20 Q Good morning, Mr. Porter.

21 A Good morning.

22 Q Going back to your consumption projection, isn't it
23 true that your 500 gallon per day per ERC consumption
24 projection is based on an analysis of data for residential
25 customers only?

1 A Yes.

2 Q So to be clear, you did not include general service
3 consumption in your analysis; correct?

4 A Correct.

5 Q Okay. Now you used 473 additional ERCs times
6 500 gallons per day per ERC to arrive at your projected
7 additional consumption in 2001; correct?

8 A Correct.

9 Q And you would agree that new customers come online
10 throughout the year; correct?

11 A Yes.

12 Q But your calculation assumes that all new customers
13 will be online on January 1st; isn't that true?

14 A Well, again, I guess that's a question of semantics.
15 I mean, there's, if I had done the projection for 2000, I think
16 the answer would have been -- well, you're assuming all the
17 2000 customers came on in 2000; correct? The answer is there's
18 always new customers being put on the system, so the answer is
19 there's new customers being put on the system at all times.

20 Q My question was directly related to your calculation
21 whether it assumes that, in your calculation whether it assumes
22 that all new customers would be online on January 1st?

23 A Let me think about that one for a moment.

24 CHAIRMAN JABER: I would note that it calls for a yes
25 or no answer.

1 THE WITNESS: I know. I'm trying to think if it's
2 yes or no.

3 I guess we've assumed that the projected number of
4 ERCs will be put online in the Year 2000 or 2001. Excuse me.

5 CHAIRMAN JABER: That would be a yes? That would be
6 a yes?

7 THE WITNESS: Well, I don't do the financial portion
8 of the, of the ERC, of the filing, so I'm not really sure how
9 they replied. All I was asked was in the Year 2001 what do you
10 believe that the amount of water is going to be consumed by the
11 customers is, and that's what I provided. So how it was
12 actually derived, how anything else was derived in the MFRs,
13 I'm afraid you have to ask Mr. Nixon.

14 BY MS. ESPINOZA:

15 Q If your calculation had reflected customers coming
16 online evenly in 2001, then your projected additional 2001
17 consumption would be only half of what is shown in the filing
18 on Schedule G9; correct?

19 A I'm afraid you're going to have to elaborate. I'm
20 not sure if I understand your question.

21 Q Okay. I'm referring to Schedule G9 of the MFRs which
22 was prepared by you.

23 A Uh-huh.

24 Q In relation to my previous question, if your
25 calculation had reflected customers coming online evenly in

1 2001, then my question is would your projected additional 2001
2 consumption be only half of what is shown on your filing in G9?

3 A No. I believe my projected consumption for 2001 is
4 based on the entire year.

5 MS. ESPINOZA: Okay. Thank you, Mr. Porter.

6 CHAIRMAN JABER: Staff, you're done?

7 MS. ESPINOZA: Yes. Thank you.

8 CHAIRMAN JABER: Mr. Wharton?

9 MR. WHARTON: Just one second, please, Madam
10 Chairman.

11 CHAIRMAN JABER: Okay.

12 REDIRECT EXAMINATION

13 BY MR. WHARTON:

14 Q Mr. Porter, why did you feel that it was important to
15 use a simple average in your calculation?

16 A Gee, I'm glad you asked.

17 What we were trying to accomplish by using those
18 numbers and then using a simple average of those 12
19 subdivisions -- and, first of all, I don't like the name, the
20 word "simple." It's the average. It's the computation of the
21 average value of those 12 subdivisions' average, actual water
22 use per ERC for that period.

23 And the reason we used that is because the range of
24 the values from one subdivision to the next was really quite
25 great of those 12. It can range anywhere from a smaller number

1 than 500 to much larger than 500. Some of the subdivisions use
2 considerably more than 500 gallons per ERC per day.

3 Now if we were to take into account just those
4 subdivisions, just the subdivisions that we knew there was lots
5 in, which I could have tried to make the case for that. I
6 could have said, well, you know, those are the 12 most recent
7 in the last ten years, but of those there's only three that
8 really have any lots left, the rest aren't going to have any
9 built, and those are the most recent, then that number would
10 have been substantially greater. As a matter of fact, it would
11 have been 593. But I didn't think that was really a fair way
12 to look at it because it just didn't seem right to me at the
13 time.

14 So what I did was I took an average that tried to
15 smooth the data, to smooth the uncertainty of the data by
16 taking an average of all of them, all of the 12, and that
17 brought the number down from 593 to 500. And then we used, we
18 decided amongst ourselves to use that data point. But it
19 certainly could have been greater.

20 Q Mr. Porter, you talked about the types of marketing
21 efforts that are occurring in the service area; is that
22 correct?

23 A Yes, sir.

24 Q Are -- is an example of that type of current
25 marketing the article that is an exhibit to Mr. Watford's

1 testimony?

2 A Yes, sir, it is.

3 Q Mr. Porter, you talked a little bit about the water
4 chemistry, and I know we're getting a little ahead of
5 ourselves, but I want to ask a question for the purposes of
6 some of the questions the Commissioners have asked.

7 I've heard the Commissioners ask a couple of times
8 about reducing copper sulfides in the water. Are there any
9 copper sulfides in Aloha's water?

10 A Oh, none whatsoever. As a matter of fact, Van
11 Hoofnagle, the witness Hoofnagle said that to the best of his
12 knowledge there was no copper in the distribution or the wells,
13 the production system. And I can tell you that that's
14 absolutely correct. He's right, there is none.

15 So without, with the absence of copper there's no way
16 to have copper sulfide in Aloha's water prior to the home.

17 Q Do you know whether or not Aloha has any objection
18 whatsoever to increasing their impact fees?

19 A None that I'm aware of, no.

20 Q Mr. Porter, won't packed tower or MIEX at least help
21 some with the black water problem?

22 A Yes. That's what I said. I don't, you know -- I
23 think the Commissioner asked me could I eliminate it or at
24 least that's the way I interpreted the question. And I think
25 you have to be careful to say, yes, I believe it will. I don't

1 know that, I can't promise it will eliminate it; however, it
2 will help it, yes.

3 Q Mr. Porter, would you agree that based on your long
4 association with Aloha that they would be delighted to find a
5 solution to the black water problem that the Commission and
6 OPC's engineers and Aloha's engineers all agreed was a
7 solution?

8 A Absolutely, beyond a shadow of a doubt.

9 Q And if that, if that happened, do you think that
10 Aloha would immediately undertake steps to place that solution
11 into operation?

12 A Yeah. I've been talking to Mr. Watford. He'd be
13 overjoyed to get started on a final solution.

14 Q Now Aloha has actually had a study done by you,
15 correct --

16 A Correct.

17 Q -- four or five years ago about packed tower?

18 A Yes, sir.

19 Q And that was something that Aloha had offered to the
20 Commission that if the Commission was in agreement that that
21 was the solution, Aloha would go ahead and implement that
22 solution.

23 A Yes. As a matter of fact, I remember there being a
24 letter sometime in 1998 that Mr. Watford passed to the Public
25 Service Commission wholeheartedly offering to immediately build

1 the packed tower aeration system if the Commission would agree.

2 Q Do you know whether or not there's another docket
3 that's open right now that is specifically looking at this
4 impact fee question?

5 A Yes.

6 Q Yes, there is or, yes, you know?

7 A I believe, yes, there is.

8 MR. WHARTON: Okay. That's all the questions we
9 have.

10 CHAIRMAN JABER: Thank you, Mr. Wharton. Thank you,
11 Mr. Porter.

12 THE WITNESS: You're very welcome.

13 (Witness excused.)

14 CHAIRMAN JABER: We're going to take a ten-minute
15 break so that the court reporter can relax her fingers.

16 (Brief recess.)

17 CHAIRMAN JABER: Let's go ahead and get started.
18 Mr. Deterding, you want to call Mr. Nixon?

19 MR. DETERDING: Yes, Madam Chairman. We call Robert
20 C. Nixon to the stand.

21 CHAIRMAN JABER: Good morning.

22 THE WITNESS: Good morning.

23 ROBERT C. NIXON

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

DIRECT EXAMINATION

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BY MR. DETERDING:

Q Mr. Nixon, please state your name and employment address for the record.

A Robert C. Nixon, CPA. My business address is 2560 Gulf-To-Bay Boulevard, Suite 200, Clearwater, Florida.

Q And, Mr. Nixon, were you here yesterday during the swearing in or this morning during swearing in? Did you get sworn in?

A Yes. I was sworn in this morning.

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

A Yes.

Q And did you prepare in conjunction with my office and the utility a document referred to as your Prefiled Direct Testimony of Robert C. Nixon?

A Yes.

Q And that consists of 12 pages, does it not?

A There's 12 pages of testimony and then three pages of a resume attached to it for a total of 15.

Q Okay. If I ask you those same questions contained in that testimony here today, would your answers be the same?

A Yes.

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

1 A No.

2 Q Did you prepare in conjunction with that testimony
3 and with the filing of this case a series of exhibits including
4 all the financial rate and engineering schedules of the, called
5 the MFRs?

6 A Yes.

7 Q And you're sponsoring those today as part of your
8 testimony?

9 A Yes.

10 Q Do you have any changes or corrections to make to
11 those exhibits?

12 A No.

13 MR. DETERDING: Commissioners, I would request that
14 Mr. Nixon's Exhibits 1 through 7 be marked for identification.

15 CHAIRMAN JABER: Now Exhibits 1 through 7,
16 Mr. Deterding, are the portions of the MFRs; right?

17 MR. DETERDING: They are, they are all of the
18 attachments to the pleading, Madam Chairman.

19 CHAIRMAN JABER: All right. But they won't cover all
20 of the MFRs in this case; correct?

21 MR. DETERDING: No. They are all of the MFRs.

22 CHAIRMAN JABER: Great. Okay. Composite Exhibit
23 Number 4 will be Exhibits RCN-1 through RCN-7; is that correct,
24 Mr. Deterding?

25 MR. DETERDING: Commissioner, I'm not sure whether

1 they were all referenced as RCN because what we chose to do
2 rather than split the MFRs up, which Mr. Nixon, I believe, in
3 his original filing had just referenced the financial ones, so
4 we decided for the ease of everyone that we would just take all
5 the MFRs and have him sponsor them and I believe everybody
6 agreed to that.

7 CHAIRMAN JABER: Okay. So I'm just looking for a
8 short title. If I call it Exhibits 1 through 7, everyone will
9 understand?

10 MR. DETERDING: I believe so.

11 CHAIRMAN JABER: Okay. Composite Exhibit 4 will be
12 Exhibits 1 through 7.

13 (Exhibit 4 marked for identification.)

14 BY MR. DETERDING:

15 Q Mr. Nixon, will you please give us a short summary of
16 your direct testimony?

17 A In my direct testimony I discuss each of the exhibits
18 which comprise the MFRs, explain the types of information that
19 is in the exhibits. I give some assurance to the Commission
20 why I believe the information is a reliable starting point for
21 setting rates in this case, and that's about it.

22 MR. DETERDING: We tender the witness for cross.

23 CHAIRMAN JABER: The -- let me just say for the
24 record the Prefiled Direct Testimony of Robert C. Nixon shall
25 be inserted into the record as though read.

1 CHAIRMAN JABER: Mr. Deterding, the only exhibit list
2 I have is the one in the prehearing order.

3 MR. DETERDING: Yes, ma'am.

4 CHAIRMAN JABER: So in an effort to make sure I've
5 covered everything, Schedules F1 through F10 are part of what
6 we just called Composite Exhibit 4.

7 MR. DETERDING: Correct.

8 CHAIRMAN JABER: Okay. And then Mr. Nixon's resume
9 is also part of Exhibits 1 through 7?

10 MR. DETERDING: Bob has an interesting way of putting
11 that at the back of his testimony. I, I -- it is not part of
12 the MFRs but we can make it part of that rather than part of
13 the testimony, keep it out of the transcript. I think that
14 would probably be the wise way to do it.

15 CHAIRMAN JABER: It's a better way of handling it?
16 Okay. Let's call Exhibit 5 then --

17 MR. DETERDING: Okay.

18 CHAIRMAN JABER: -- Mr. Nixon's resume which can be
19 found at page 13 through 15 of the prefiled testimony.

20 MR. DETERDING: Thank you.

21 CHAIRMAN JABER: Thank you.

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1 BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

2 ALOHA UTILITIES, INC.

3 SEVEN SPRINGS DIVISION

4 DOCKET NO. 010503-WU

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

- 6 Q. Please state your name and professional address.
- 7 A. Robert C. Nixon, C.P.A., a partner in the accounting firm
8 of Cronin, Jackson, Nixon & Wilson, P.A., 2560 Gulf-To-Bay
9 Boulevard, Suite 200, Clearwater, Florida 33765.
- 10 Q. Have you been retained by Aloha Utilities, Inc. to provide
11 documentary information and testimony in that company's
12 application for increased rates for its Seven Springs
13 Water Division?
- 14 A. Yes.
- 15 Q. Will you please provide a brief resume of your training
16 and experience as it relates to this proceeding?
- 17 A. Attached to this testimony is a brief resume of my
18 education and training. The resume also includes a
19 listing of the companies I have represented in rate and
20 other proceedings before the Florida Public Service
21 Commission (PSC).
- 22 Q. Did you provide schedules and other documentary evidence
23 which were employed by the Commission in each of those
24 cases listed on your resume in setting the rates and
25 charges found by the Commission in those Orders?

1 A. Yes, I did.

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

6 A. Yes. Those documents are the Financial, Rate, and
7 Engineering schedules required as Minimum Filing
8 Requirements (MFRs) by the provisions of Rule 25-30.436,
9 .437, .440, and .4415, Florida Administrative Code, and
10 filed in this case as Exhibits 1, 2, 3. Volumes I and II,
11 (Financial and Billing analysis), comprise Exhibits 1 and
12 2, respectively. The additional Engineering information
13 in Exhibit 3 consists of Volumes I, II(a), II(b), and
14 Volume III.

15 Q. Briefly describe the types of information contained in
16 those exhibits.

17 A. Exhibit 1 contains summary schedules in Sections A through
18 G of rate base, operating income, cost of capital, and
19 related supporting schedules for the historic year ended
20 December 31, 2000, and the projected year ending December
21 31, 2001. Based on these key schedules, the proposed
22 interim and final rates were developed using the historic
23 and projected test year billing determinates (Schedule E-
24 13). Section F includes a section of engineering
25 information containing summaries of plant operating data,

1 used and useful analysis, and customer growth using linear
2 regression. Section G contains detailed statements and
3 schedules related to the projected data for the months
4 July 2001, through December 31, 2001. The information for
5 the projected test year consists of six-months of actual
6 data and six-months of projected data.

7 Exhibit 2 contains the Consolidated Billing Analysis
8 for the Historic Test Year ended December 31, 2000.

9 Exhibit 3 contains the Supplemental Engineering
10 Information required by Rule 25-30.440, in the volumes
11 noted above.

12 Q. What is the general nature of the information contained in
13 those exhibits?

14 A. The information in those exhibits is divisible in two
15 broad categories: historic and projected. The historic
16 information is derived directly from the books and records
17 of the company. The projected information contains
18 management's best estimate of revenue, expenses, capital,
19 and capital additions for the six-months ending December
20 31, 2001.

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

23 A. The PSC's rules for rate case filings, and its policies in
24 implementing those rules, do not require that the
25 schedules specified by the requirements be audited. Some

1 of the information required by the PSC's rules is based on
2 estimates, assumptions, and projected data; therefore,
3 such information cannot be audited in accordance with
4 Generally Accepted Auditing Standards or presented in
5 accordance with Generally Accepted Accounting Principles.

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

15 Q. Is that the reason for the letter from your accounting
16 firm dated August 7, 2001, and found behind the Index of
17 Exhibit No. 1?

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

22 Q. If that is the case, then upon what basis can you advise
23 the Commission that the information presented in the
24 documents filed as Exhibits No. 1, 2, and 3 is reliable
25 information, which the Commission may employ in setting

1 rates for the Seven Springs Water Division of Aloha
2 Utilities, Inc.?

3 A. The Commission recently completed a rate investigation of
4 Aloha, including the Seven Springs Water Division, based
5 on the test year ended December 31, 2000 (Docket No.
6 000737). The related Commission audit was based on the
7 year ended December 31, 1999. In addition, Aloha was also
8 audited for the years ended December 31, 1997 and 1998, in
9 Dockets No. 970536-WS and 980245-WS. Docket 000737 is
10 expected to be closed shortly, based on the findings in
11 Order No. PSC-01-1374-PAA-WS, issued June 27, 2001. As a
12 result, reliable balances for the various rate base
13 accounts were established and carried forward into the
14 projected test year. Also, certain issues related to
15 operating expenses were settled. The audit confirmed that
16 the company keeps its books and records in accordance with
17 the Class A Uniform System of Accounts, and the Commission
18 adjustments arising from the Dockets noted above have been
19 booked by the Company. As a result, I am confident the
20 Commission can rely on the information filed in this case
21 in setting rates.

22 Q. Why is this filing necessary, when the Commission recently
23 issued an Order on the Historic 2000 Test Year in this
24 proceeding?

25 A. Aloha was left with no alternative, after the Commission

1 refused to consider the additional cost of purchased water
2 from Pasco County, required by the Southwest Florida Water
3 Management District (SWFWMD), in a Limited Proceeding
4 (Docket No. 010168-WU). This rate case is necessary to
5 recover additional purchased water costs from Pasco
6 County. The increase in costs will result from a
7 reduction in the amount of water pumped from Aloha's wells
8 to the level allowed by its Consumptive Use Permit (CUP).
9 Also, SWFWMD has ordered Aloha to change its rate
10 structure and implement conservation-based rates, which
11 will result in reduction in water consumption by its
12 customers.

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

16 A. The answer to your question is "yes" and "no." First, it
17 is not an accountant's function to provide information on
18 that basis, since the terms "true" and "correct" represent
19 the assertion of an absolute statement. In a water
20 utility rate application such as this, there are literally
21 thousands of numbers which are extracted from the books
22 and records of the utility company, by me and personnel of
23 my firm, and many more thousands for the 24 months of 13-
24 month average actual and projected data in this case. I
25 believe them to be reliable and accurate, however, there

1 are almost always slight differences in numbers that occur
2 from transposition errors and input errors, together with
3 any differences of opinion on policy matters that may
4 arise between our firm and the Commission Staff. The
5 information we have prepared and set forth in Exhibit Nos.
6 1, 2, and 3 will, in all likelihood, produce questions,
7 some of which will become issues in this case before it is
8 concluded. At the time of preparing this information,
9 there were, of course, no issues, merely the
10 straightforward presentation of facts and information, as
11 set forth on schedules in conformity with the rule on
12 Minimum Filing Requirements.

13 Q. Although no formal issues have been established at this
14 point in the rate case, what matters do you believe will
15 constitute the major issues in this case?

16 A. I believe there are three: The amount and cost of
17 purchased water from Pasco County; the payroll expense
18 related to a recently implemented change in salary
19 structure and proposed new employees; and the conservation
20 rate structure.

21 Q. Briefly discuss each of these as they relate to the
22 information in the MFR's.

23 A. The amount of water to be purchased from Pasco County was
24 based on the projected total water supply needs for 2001,
25 less supply from Aloha's own wells, based on maximum daily

1 withdrawals permitted by its CUP. The remainder was
2 presumed to be purchased from Pasco County, after a 5%
3 reduction for repression due to conservation rates. The
4 current Pasco County bulk rate of \$2.20 per thousand
5 gallons was used to determine the total projected
6 purchases from the County. It should be noted that Pasco
7 County is currently considering new rates. If a change to
8 the bulk rate occurs before the conclusion of this
9 proceeding, the new rate should be used. See Schedule G-9
10 Exhibit 1 for detailed computations of water supply needed
11 for 2001, and the amount and cost of water to be purchased
12 from Pasco County.

13 Q. How was the total 2001 water supply need determined?

14 A. Additional water needed for new customers was determined
15 by the Company's engineer, David W. Porter, P.E., and
16 added to the historic 2000 water needs. The calculation
17 was based on new customers using 500 GPD, representing
18 higher usage than has historically been the case for the
19 average Aloha customer. This recognizes the demographic
20 shift in the type of new customer Aloha will add to its
21 system in 2001. Again, the detailed calculation is shown
22 on Schedule G-9.

23 Q. Please discuss the second matter likely to be an issue.

24 A. As noted above, this relates to salaries and payroll
25 expense. Aloha has operated without sufficient staff and

1 historically has had salary scales which have led to
2 continuing high employee turnover. Aloha competes with
3 Pasco County for qualified employees. As a result, Aloha
4 obtained a copy of a study conducted by Pasco County to
5 address utility employee compensation and the Management
6 of Aloha implemented a new wage and salary scale based on
7 the study effective July 9, 2001. The salaries and wages
8 implemented on that date were used to project such
9 expenses and benefits for the period July through December
10 2001. Such salaries were annualized as an adjustment on
11 Schedule B-3(A) of Exhibit 1. In addition, the Company is
12 in the process of filling certain open positions, for
13 which proforma recognition is requested. Aloha believes
14 the new salary and wage scales will make it competitive
15 with Pasco County to reduce turnover. The new employees
16 will provide the staff necessary to provide quality
17 service. See Schedule G-8 for a detailed listing of each
18 employee and position, description of duties, and salary
19 before and after implementation of the new wage scale.

20 Q. Please discuss conservation rates.

21 A. Aloha is required to implement a conservation rate
22 structure by SWFWMD, as noted above. To achieve this
23 mandate, SWFWMD held a workshop and provided Aloha and all
24 other companies in the District with a water rate model
25 which predicts the price elasticity of water to achieve

1 the conservation effects desired by the District. The
2 model was developed and paid for by SWFWMD at a
3 substantial investment of taxpayer dollars. Aloha
4 believes it is expected to use this model to develop rates
5 acceptable to the District. The Company is proposing a
6 base facility charge and two tiered inclining block
7 gallonage charge rate structure. The top of the first
8 block is 10,000 gallons, which is the maximum level
9 charged for sewer service, and represents approximately
10 68% of Historic Test Year water consumption. The proposed
11 rates consist of a \$9.23 base facility charge and
12 gallonage charges of \$2.24 and \$2.81 for the respective
13 blocks.

14 The proposed base charges recover approximately 35% of
15 the requested revenue requirement, with the balance
16 recovered in gallonage revenue from the first block.
17 Usage in the first block after implementation of the
18 conservation rates is expected to then represent
19 approximately 82.5% of total residential usage. The
20 SWFWMD model was used to model the proposed rates and
21 determine the conservation effect. The model predicts
22 that the proposed rates should result in conservation
23 savings that reduce the revenue requirement to
24 approximately \$2,703,000, equating to a cost savings of
25 approximately \$289,000. If and when the savings occur,

1 Aloha proposes to use the savings for water conservation
2 programs in cooperation with SWFWMD.

3 Q. I notice on Schedule B-10 of Exhibit 1 you have estimated
4 total cost of this rate case to be \$446,500 and amortized
5 over a 4-year period. Would you please explain to the
6 Commission the source of that estimate?

7 A. Yes. At the time of preparation of that information, we
8 estimated the cost of this case based on information
9 provided, in part, by Rose, Sundstrom & Bentley, David
10 Porter, P.E., and our experience in the many Aloha
11 proceedings before the Commission since 1995. We will
12 provide the Commission with the company's actual and
13 estimated rate case expense, with support, as close to the
14 finalization of this case as possible, in accordance with
15 normal Commission practices.

16 Q. For the test year ended December 31, 2001, would you
17 please summarize the rate base, rate of return, operating
18 income, and operating revenue required by the Seven
19 Springs Water Division of Aloha Utilities, Inc. to realize
20 a fair rate of return on investment?

21 A. Yes. These are summarized as follows:

22	Rate Base	<u>\$ 1,821,490</u>
23	Rate of Return	<u>9.07%</u>
24	Operating Income	<u>\$ 165,209</u>
25	Operating Revenue	<u>\$ 3,044,811</u>

- 1 Q. Do you have anything further to add at this time?
- 2 A. No.

1 (Exhibit Number 5 marked for identification.)

2 CHAIRMAN JABER: Mr. Wood, would you like to start
3 with the cross-examination?

4 CROSS EXAMINATION

5 BY MR. WOOD:

6 Q In your submitting of the data in the prefiled for
7 the MFR you stated that you do not, you did not attest to the
8 accuracy of the data, only that it met the MFR. Is that your
9 position today?

10 A I think what I said in my testimony was that we did
11 not audit the information in the MFRs in accordance with
12 generally accepted auditing standards. To do so would result
13 in a prohibitively high cost to file a rate case.

14 What I said is that we compiled the information from
15 the books and records of the company and that I believed that
16 that information was accurate since it incorporated the results
17 of the previous two Commission audits. And on that basis I
18 thought the data in the MFRs was sufficient and a good basis
19 for the Commission to set rates in this case.

20 Q So, in other words, everything that you did there was
21 based on trust?

22 A Trust, but it's, it was not a blind trust. My firm
23 has worked for Aloha since the early 1980s, I believe. We do
24 provide audited financial statements, we do audit the books and
25 records of Aloha, and so I was, I was very comfortable with the

1 accuracy of the information out of the books and records of
2 Aloha.

3 Q When you prepare a statement the magnitude of this,
4 don't you think it would be prudent that you do an audit?

5 A I don't think I could agree with that, Mr. Wood. An
6 audit would cost an awful lot of money to audit all this
7 information, the stack of information here on the table that
8 comprises the minimum filing requirements.

9 In addition to that, the Commission would have to
10 conduct its own audit anyway to verify the accuracy of the
11 information in Aloha's books and records. And given the fact
12 that the Commission conducts its own audit and the fact that
13 they had conducted two previous audits together with the fact
14 that my firm does a financial audit and has done a financial
15 audit for the past two years, I was very comfortable. So, no,
16 I don't think it would be prudent to go through another audit
17 of all the information in the MFRs.

18 Q But if I remember the price tag correctly, didn't,
19 wasn't there already an awful lot of money spent and how much
20 more would be involved in doing the audit?

21 A I can't put a dollar figure on it. When you do a, an
22 audit on a certified basis, which is what I believe you're
23 speaking of, you have to do statistical testing of accounts,
24 send out confirmations to banks and suppliers, you have to test
25 the revenues, test expenses. As I said, this, this has been

1 done for the company as a whole the past two years by my firm.
2 So I'm comfortable with the underlying data and would see no
3 reason to do another audit at this time to file the MFRs.

4 Q In the audit or in the MFR you've got there you also
5 have projected numbers. Those projected numbers, how accurate
6 do you attest to them?

7 A I think they're, they're fairly accurate.
8 Accountants can disagree as to whether the methodology for a
9 particular projection is, is appropriate or not. We tried to
10 lay out in some detail exactly what the basis was for each and
11 every projection we made in the MFRs. We have a separate
12 section in the MFRs where we, we, we describe exactly what we
13 did. Projected data is really not susceptible to audit other
14 than trying to evaluate the reasonableness of the assumptions
15 and so forth that are used.

16 Q Other than filling out the forms for the minimum
17 filing requirements, why couldn't just an ordinary person sit
18 down and copy all that information out of the books and why do
19 we need, why did they need you?

20 A Well, if we go through this again, maybe I can hire
21 you to come down and help us. But it's a very time intensive
22 and exhaustive exercise to extract numbers out of the accounts
23 for, in this case, 24 months of data to make projections. It's
24 really a time intensive endeavor.

25 Q And based on your effort what did the customers

1 receive?

2 A I think the customers as well as the Commission
3 received a document that could be reviewed and critiqued and
4 serve as a basis for determining whether this rate increase
5 that was requested was appropriate. Without these kinds of
6 documents I don't think anyone would know.

7 Q But isn't it true there's no ascertaining the
8 accuracy of the documents?

9 A I think I answered that before. I think there, there
10 is. Not, not only have we done a financial audit of Aloha's
11 books for the past two years as a whole, but the Commission has
12 conducted three audits. And we, we did our best to
13 incorporate, to incorporate the adjustments that the Commission
14 had recommended as a result of those prior audits.

15 Q Why wouldn't you stamp on the MFR then that it's
16 certified by your company for accuracy?

17 A Because we didn't do an audit of the information in
18 the MFR.

19 Q So then we don't know whether the information is
20 accurate or not; is that correct?

21 A Well, I think you do. I think if you trust the work
22 done by the Commission's auditors, they spent a number of weeks
23 at the utility's offices, they went through the books and
24 records with a fine-tooth comb. They came up with some, some
25 changes which Aloha agreed to. And I think we're at the point

1 now that with those changes that they proposed as a result of
2 their audit, we, we have numbers that serve as a basis that
3 everyone in this proceeding can rely on.

4 Q Would you and your company today stamp that file as
5 being totally accurate and stand behind it?

6 A Not unless I did an audit.

7 Q Then why should we take that book on faith?

8 A I can see I'm not going to convince you that there's,
9 that there's any basis for, for assurance on these numbers. So
10 if you can't accept the Commission's audits, if you can't
11 accept the fact that the numbers for this year were subject to
12 a financial audit by my firm, I don't think I can convince you.

13 Q You're probably correct on that. Because until I see
14 where you are certifying it, I don't think it's accurate.

15 CHAIRMAN JABER: Mr. Wood, remember, you don't want
16 to testify. You want to ask questions.

17 MR. WOOD: Yes, I realize. I'm sorry, ma'am.

18 CHAIRMAN JABER: And then just also though for your
19 benefit and for your information there is a Staff witness, his
20 name is Vincent Aldridge, that will be testifying on the
21 Staff's audit as well.

22 MR. WOOD: Yeah. I have no more questions.

23 CHAIRMAN JABER: Thank you, sir. Mr. Burgess?

24 CROSS EXAMINATION

25 BY MR. BURGESS:

1 Q Mr. Nixon, would you tell me how outside legal cost
2 is calculated for purposes of the test year?

3 A Outside legal costs for this case?

4 Q Not rate case expense but legal costs associated with
5 a contractual legal arrangement.

6 A Normal routine and recurring legal costs that can be
7 expensed are reported in, I believe it's account 632. And
8 those, those numbers came right out of the general ledger of
9 the company. We've been working with Aloha to try to improve
10 the, the coding of invoices and so forth. I believe there have
11 been a lot of improvements, though I, there weren't a lot,
12 there weren't any legal, accounting or engineering invoices
13 that I'm aware of in the test year that, that were not eligible
14 for any other treatment except expense. And those that related
15 to other dockets and so forth, other proceedings, those, those
16 were deferred.

17 Q Did you remove any from the standpoint of the actuals
18 for the purpose of building it up for the projected test year?

19 A I'm not sure I understand. What you do you mean
20 remove?

21 Q Did you look at any of the expenses in this account
22 620 and determine that it was improper to pass on to the
23 ratepayers because of the nature of the expense incurred?

24 A We, we did look at all the, the invoices for legal
25 expense. We reviewed our own invoices for accounting expense

1 for the Year 2000 and we, we projected 2001 based on the same
2 level as incurred in 2000. So we didn't, didn't make any
3 increase.

4 Q Do you, do you remember whether within the amount of
5 the actuals that you used there was an amount for obtaining,
6 for pursuing public records requests on the Public Counsel's
7 Office or the Public Service Commission or Representative
8 Fasano's office?

9 A Not, not that I'm aware of.

10 Q So did you -- you did not remove any that would be
11 associated with, with those particular pursuits?

12 A Well, I guess I'm having trouble because I, with your
13 question. I'm not sure. I don't remember seeing any, any
14 invoices that had that information, those types of services in
15 them, so.

16 Q So if they were billed to the company, they were not
17 removed for purposes of establishing rates?

18 A Well, hypothetically if they were, I'm not sure
19 they're even in there.

20 Q Did you remove any costs for newsletters?

21 A Again, if there were legal expenses related to --

22 Q I apologize. I am moving on from legal expenses and
23 am not asking any further questions about legal expenses. I'm
24 asking specifically about costs associated with the newsletters
25 that are distributed to the customers.

1 A Okay.

2 Q Did you remove any costs associated with newsletters
3 that were distributed to the customers?

4 A No, I didn't.

5 Q Did you check the newsletters that were distributed
6 for content to determine whether there was anything that
7 perhaps should not be paid for by the customers?

8 A No, we didn't.

9 Q I understand that you were not able to attend all of
10 the hearings yesterday, but you were here for some of the
11 testimony that was delivered; am I correct?

12 A Yes, I was, I was here for part of the day.

13 Q Did you hear testimony about, from certain customers
14 about their belief that some newsletters distributed by Aloha
15 contained what they termed to be intimidation?

16 A No. I must have been on my way home. I didn't hear
17 that.

18 Q Do you believe that the Public Service Commission
19 should remove costs associated with distribution of information
20 that it determines to be improper?

21 A Well, the premise of your question, if it, if the
22 Commission determines that that information in the newsletter
23 was improper, I, I would assume so.

24 Q And you would agree that in order to determine
25 whether it's improper or not, that one would have to examine

1 the newsletters for content?

2 A Yes.

3 Q But you didn't, you did not engage in this particular
4 pursuit?

5 A No.

6 Q What about the -- can you think of anything that you
7 would remove from the costs that you would pass on to customers
8 because of improper content from communication from a utility
9 to its customers?

10 A Not really. I'd have, I'd really have to be shown
11 that Aloha, in fact, sent a newsletter out that amounted to
12 intimidation. I don't believe that for a, for a moment. But
13 one of the, one of the reasons Aloha switched its method of
14 billing to an envelope billing system was, was to increase its
15 level of communication through bill stuffers and so forth with
16 its customers. And as far as I know the company has been
17 trying to do that to improve its customer relations.

18 Q And would you agree with the availability of
19 improving those customer relations comes the responsibility in
20 the type of information that's distributed?

21 A Oh, certainly.

22 Q Would you think that providing legal advice to the
23 customers who are represented in a particular case is proper
24 information to be distributed?

25 A Ask that again, please.

1 Q Would you consider as proper information to be
2 distributed to the customers to include legal advice on matters
3 on which the customers are represented by legal counsel?

4 MR. DETERDING: Commission, I'm going to object.
5 He's provided no foundation that there's anything of that
6 nature going on here. We've had several references to a
7 newsletter that Mr. Nixon doesn't even have in front of him and
8 he has indicated that he doesn't know anything about the
9 specifics of it. If Mr. Burgess wants to question him about a
10 newsletter, he's certainly welcome to do so, but I think he
11 really needs to put in front of him or at least establish that
12 Mr. Nixon believes that there is such a newsletter that calls
13 for legal advice.

14 CHAIRMAN JABER: Mr. Burgess, the objection is you
15 have not provided the proper foundation.

16 MR. BURGESS: Right. And what I would suggest is
17 that the testimony of Representative Fasano yesterday gave
18 direct quotes from the newsletter in question and, if
19 Mr. Deterding had a problem with that, he could have
20 cross-examined Mr. Fasano. That's why I asked Mr. Nixon if he
21 was aware of the testimony and now I'm asking him generally
22 speaking does he think that this is, would be proper
23 information to pass on. And I'm simply asking him is the
24 distribution of legal, regardless of this particular newsletter
25 or any other, does he think it's proper for the customers to

1 pay for information to themselves that amounts to legal advice
2 on a matter on which they are represented by counsel. So it's
3 a question as, as to regulatory philosophy.

4 CHAIRMAN JABER: Well, as it relates to the testimony
5 by Mr. Fasano, I think you need to lay the proper foundation.

6 With respect to a hypothetical, you need, is there
7 something you can pass out? Do you have a copy of the letter
8 as an example that you'd like to use?

9 MR. BURGESS: I do not have with me a copy of the
10 letter. As I understood it, it was read into the record. So
11 it is a part of the record, so it's not something that has not
12 been established in evidence.

13 MR. DETERDING: I disagree with that wholeheartedly.
14 The newsletter is at least a full page long of relatively small
15 type and it was not read into the record. Mr. Fasano quoted a
16 sentence out of it.

17 MR. BURGESS: That's correct.

18 CHAIRMAN JABER: Yeah. It's my, it's my recollection
19 the letter was not identified yesterday separately and the
20 entirety of it is not in the record. Rephrase your question.
21 Rephrase your question.

22 BY MR. BURGESS:

23 Q Mr. Nixon, is there anything upon which you believe
24 that the customer should not be required to bear the full
25 expense in the distribution of information from a utility to

1 its customers?

2 A Well, as a preface I would say I, I am sitting here
3 totally in the dark as to what you're talking about.

4 CHAIRMAN JABER: Well, Mr. Nixon, let me try to help
5 you out here. Set the letter aside that Representative Fasano
6 referred to, set that aside for a moment. You would agree that
7 if there is any correspondence at all that the Commission found
8 was an inappropriate correspondence to send from the company to
9 the customers, that that should be removed from rate case
10 expense?

11 THE WITNESS: I think I answered that, that I agreed
12 with that. I'm just not aware of anything. I was not here
13 when Mr. Fasano --

14 CHAIRMAN JABER: No. Remember, I want you to set
15 aside the allegations made by Representative Fasano. I think
16 that's the difficulty that Mr. Burgess is having in getting a
17 response to his question.

18 Generically speaking, if there's any correspondence
19 between the utility and the customers that this Commission
20 finds inappropriate, you would agree that the expense
21 associated with that to the degree it's in rate case expense
22 should be removed from rate case expense?

23 THE WITNESS: Yes. I think I said yes to that
24 before. Generally the types of communications expenses the
25 Commission has disallowed in other cases are, you know,

1 self-serving kinds of things. It's frequently an issue in
2 electric cases. I'm not so sure about telephone anymore. But
3 where the purpose of the communication is image building as
4 opposed to informing the customer, I mean, those kinds of
5 expenses have always been removed by the Commission. I, I just
6 have a hard time sitting here believing that, that anything
7 communicated by Aloha to its customers was really
8 inappropriate.

9 BY MR. BURGESS:

10 Q Would you agree -- did you hear any testimony from
11 any customers who voiced the opinion that they thought it was
12 entirely inappropriate?

13 A I didn't, I didn't hear any of that type of
14 testimony.

15 MR. BURGESS: Thank you, Mr. Nixon. That's all I
16 have. Thank you, Chairman.

17 CHAIRMAN JABER: Thank you, Mr. Burgess.

18 MS. LYTLE: I have no questions for this witness.
19 Thanks.

20 CHAIRMAN JABER: Thank you, Ms. Lytle. Mr. -- no,
21 Staff.

22 CROSS EXAMINATION

23 BY MS. ESPINOZA:

24 Q Good morning, Mr. Nixon.

25 A Good morning.

1 Q I hope you're feeling better today.

2 Staff is going to hand you a document which we will
3 get to in a moment. Right now if you could refer to MFR
4 Schedule E10.

5 (Pause.)

6 Are you ready?

7 A Yes.

8 Q With regard to the proposed charges on that schedule,
9 is it correct that these charges were based on the packed tower
10 aeration process or method?

11 A Yes. Those proposed charges were the, were the ones
12 we proposed in Docket Number 991643. I see that's probably a,
13 may be a wrong docket number, a typo down there. But it is the
14 service availability case docket that's open.

15 Q Thank you. And, Mr. Nixon, isn't it true that aside
16 from the current case the only other case in which you've
17 designed inclining block rates was for Little Sumpter
18 Utilities?

19 A That's true.

20 Q And in that case the revenue requirement was
21 recovered through a combination of the base facility charge
22 plus the gallons sold in the first usage block; correct?

23 A Yes.

24 Q Okay. And the revenues generated from the sale of
25 water in the second block were used for conservation program

1 expenses for that utility; correct?

2 A Yes.

3 Q With specific reference to revenue recovery through
4 the base facility charge and usage blocks, the revenue recovery
5 methodology in the Little Sumpter case is comparable to what
6 Aloha has proposed in this case; correct?

7 A Yes.

8 Q Mr. Nixon, would you agree that Little Sumpter was an
9 original certificate case, a case for a brand new start-up
10 utility?

11 A Yes.

12 Q And whereas Aloha's current case represents a request
13 for a rate increase?

14 A Yes.

15 Q And would you also agree that revenue requirements in
16 original certificate cases are not calculated in the same way
17 as revenue requirements in rate cases?

18 A Yes.

19 Q And you're not aware of another rate case that's been
20 brought before this Commission which proposed a method of
21 conservation program cost recovery in a manner similar to what
22 Aloha is proposing?

23 A I'm not really sure how to answer that question. I
24 think indirectly I did have a chance to read the Pembroke
25 Utilities case, which was an order issued where inclining block

1 rates were set and that company was a small Class B company.
2 And although the, the facts are different, in that case the
3 water system was overearning by, I believe, the best of my
4 memory about \$40,000 a year. The Commission declined to, to
5 reduce the rates and I believe directed that those revenues be
6 used for conservation programs. So although there's
7 differences between that and what we, we propose, there are
8 some similarities, I think.

9 Q And that would be the only other rate case that
10 you're aware of in that regard?

11 A Yes. I think, yeah. Unfortunately or maybe
12 fortunately inclining block rates are something fairly new, at
13 least to me. I know the concept has been around for a while,
14 but the Commission traditionally has stuck with the base
15 facility charge and gallonage charge rate structure and this,
16 this is a, a new area where I'm sure we're all going to get a
17 lot more experience in going forward.

18 Q Thank you. And now with respect to the document that
19 you were handed, do you recognize this document as revised MFR
20 Schedule E14 that was provided to Staff as a late-filed
21 exhibit, I believe Number 2, to your October 4th deposition?

22 A Yes.

23 MS. ESPINOZA: Madam Chairman, may I please have this
24 document marked as Exhibit Number 6?

25 CHAIRMAN JABER: Exhibit Number 6 will be late-filed

1 Exhibit Number 2 from the Nixon deposition.

2 (Exhibit Number 6 marked for identification.)

3 MS. ESPINOZA: Thank you, Mr. Nixon. That's all I
4 have.

5 CHAIRMAN JABER: Mr. Deterding, redirect?

6 MR. DETERDING: Yes. Just a moment.

7 CHAIRMAN JABER: Okay.

8 MR. DETERDING: Commissioners, I don't know how you
9 want to handle this. I would like to reference an exhibit that
10 is an attachment to Mr. Nixon's rebuttal in order to do some
11 redirect on some issues that were raised by Mr. Burgess. Do
12 you want to identify it now or can I just reference it by title
13 and we'll, we'll get to the admission of it with his rebuttal
14 testimony? Would that be --

15 CHAIRMAN JABER: My preference would be that you just
16 reference it, that it's part of his prefiled rebuttal exhibit.

17 REDIRECT EXAMINATION

18 BY MR. DETERDING:

19 Q Mr. Nixon, I apologize. Do you have your rebuttal
20 exhibits with you so you can reference something from them?

21 A Yes, I do.

22 Q Did you include as, as an exhibit to your rebuttal
23 testimony the review of Aloha Utilities' customer service
24 operations dated March 2001 performed by the Public Service
25 Commission Staff?

1 A Yes.

2 Q I apologize. I don't have in front of me what
3 exhibit number that is to your rebuttal so that everyone can
4 reference it.

5 A It was RCN-9.

6 Q Nine. Okay. Would you briefly explain what this is?
7 I mean, I don't want you to get into any great detail, but just
8 what, what the alleged purpose of this --

9 MR. BURGESS: Commissioner, I understand that we're
10 early in this line of questioning and I understand there may be
11 a tie-in, but I'm going to say that I don't see it and it looks
12 to me like we are clearly going into rebuttal testimony. So I
13 guess I'll enter an objection now and then wait and see where
14 we go with this. But I don't see it tying into either of the
15 two issues that I raised.

16 MR. DETERDING: Well, and I can clearly show that
17 connection. Mr. Burgess questioned him about the
18 appropriateness of, of information in the newsletters and I
19 certainly intend to also put in as an exhibit on the redirect
20 with this witness a copy of the newsletter that's been referred
21 to. Since it's being referred to so often, I want to get it in
22 the record. And I'm just going to have Mr. Nixon sponsor it as
23 well as an excerpt from this management audit that deals with
24 communications with customers. That's the purpose of this.

25 CHAIRMAN JABER: Okay. Mr. Deterding, I would just

1 caution you to limit your redirect to the removal from rate
2 case expense of costs associated with any inappropriate
3 correspondence.

4 But let me also ask the two of you if you could reach
5 a stipulation that the newsletter just become an exhibit. Can
6 we, can we eliminate some questions that way as well,
7 Mr. Deterding?

8 MR. DETERDING: All I'm going to ask him is a couple
9 of question about it here, so.

10 CHAIRMAN JABER: All right. But you do want the
11 newsletter to become an exhibit?

12 MR. DETERDING: Absolutely. Absolutely.

13 CHAIRMAN JABER: All right. Can we go ahead and --

14 MR. BURGESS: I stipulate to it. I would object,
15 depending on what the questions are, to his asking questions on
16 something that becomes an exhibit on redirect that he objected
17 to my asking questions and limited the scope of my
18 cross-examination because it was not in the record.

19 MR. DETERDING: Well --

20 CHAIRMAN JABER: Wait a minute. Just remember though
21 the nature of his objection was one of foundation. And if you
22 had the letter and laid the appropriate foundation, I would
23 have allowed questions related to the letter. So I want to
24 keep those objections straight.

25 Go ahead and ask your questions. You've been

1 cautioned to keep the questions related to the removal from
2 rate case expense.

3 MR. DETERDING: Okay.

4 CHAIRMAN JABER: Go ahead.

5 BY MR. DETERDING:

6 Q Mr. Nixon, I don't want to get too deep into this.
7 Would you turn to page 27 of that exhibit, that management
8 audit as I believe it's referred to?

9 A Okay.

10 Q Would you read Issue 4?

11 A "Aloha does not proactively furnish a periodic means
12 of customer communication."

13 Q Okay. And would you read the conclusion under Issue
14 4 of that management audit?

15 A "Aloha should educate and inform customers about
16 current issues and how the company plans to deal with them.
17 The company needs to be proactive in its approach to customer
18 education; therefore, Aloha is encouraged to select a means to
19 periodically communicate with its customers regarding topics
20 such as service issues, future improvements and planned
21 changes. Aloha should consider bill and search, a newsletter
22 or other periodic means of customer communication.

23 "Communication and a successful marketing campaign
24 which expresses the positive side of Aloha's future plans are
25 critical. This can be accomplished when Aloha drafts its long

1 and short-term plans. Part of these plans should include a
2 marketing plan and within that a corporate communications
3 business policy."

4 Q Okay. And from that do you believe that the
5 management audit is suggesting that the utility should be
6 utilizing a newsletter?

7 A Yes.

8 (Pause.)

9 Q Mr. Nixon, I want you to briefly review that
10 newsletter and then I'll point you to the specific portions I'm
11 concerned with.

12 MR. BURGESS: Commissioner, while he's doing that, I
13 for the record need to renew my objection. Foundation or no, I
14 was prohibited from asking certain specific questions with
15 regard to this newsletter. That means my cross-examination did
16 not engage this as part of its scope. So any questions
17 specific to this newsletter at this point are beyond the scope
18 of my cross.

19 CHAIRMAN JABER: Mr. Deterding, your response.

20 MR. DETERDING: Well, Commissioner, Madam Chairman,
21 he asked about the newsletter and he asked about the newsletter
22 providing legal advice, and the fact that he didn't want to put
23 that in evidence I don't think is my fault. I believe it's
24 important that this Commission understand what is involved in
25 the newsletter he's referring to and proposing to have excluded

1 because it renders, gives legal advice.

2 CHAIRMAN JABER: I'm going to sustain the objection
3 and here's why. I didn't allow Mr. Burgess to ask the
4 questions. I agreed with you. I actually sustained your
5 objection that he didn't lay the appropriate foundation. So I
6 did not allow him to ask questions on the newsletter.

7 What I did allow him to do is rephrase the question
8 and ask a general question related to inappropriate
9 correspondence being removed from rate case expense.

10 MR. DETERDING: Okay.

11 CHAIRMAN JABER: The objection is sustained.

12 That brings me back to though my question to both of
13 you: Do you want the newsletter to be a stipulated exhibit?
14 And I will note that the management audit that you refer to can
15 be cross-examined again in rebuttal. It's a rebuttal exhibit.

16 MR. BURGESS: Commissioner, we do stipulate to the
17 entry of it and really to a large extent I'm afraid perhaps
18 I've been part of causing an unnecessary problem. I intend to
19 ask Mr. Watford questions about it and this is Mr. Watford's
20 newsletter. So, I mean, Mr. Nixon, who was unfamiliar with it,
21 it was probably inadvisable for me to ask anything other than
22 whether it had been included as part of the expense package.

23 CHAIRMAN JABER: All right. Well, Mr. Deterding, I
24 think as it relates to Mr. Nixon I want to limit the redirect
25 appropriately to where the direct was. And the direct was

1 limited to inappropriate correspondence being removed, the
2 costs associated with that being removed from rate case
3 expense. I did not allow specific questions about the
4 newsletter.

5 MR. DETERDING: Okay. But his question was about
6 those providing legal advice to customers of the utility
7 represented by counsel. And the only --

8 CHAIRMAN JABER: But I didn't allow that. I didn't
9 allow that question. I didn't allow Mr. Burgess to ask that
10 question and Mr. Nixon did not answer.

11 MR. DETERDING: I apologize. I thought he did.

12 CHAIRMAN JABER: No.

13 MR. DETERDING: Okay. Well, do we want to mark this
14 as an exhibit?

15 CHAIRMAN JABER: If you all have reached a
16 stipulation -- I'll tell you, it's my, I'm very interested in
17 having this newsletter as an exhibit.

18 MR. DETERDING: Well, if we are going to question
19 Mr. Watford about it, we might as well.

20 CHAIRMAN JABER: Okay. Thank you. Let's make this
21 stipulated Exhibit 7. It will be -- there's no date on it.
22 How about we call it Watford customer letter.

23 (Exhibit Number 7 marked for identification.)

24 MR. DETERDING: And, and Commissioner, I'm willing to
25 stop trying to make any type of reference to or questions of

1 this witness about this newsletter, if I get to ask those
2 questions, if we are going to get an opportunity to ask those
3 questions of Mr. Watford, who prepared it. But I, if that is
4 not the case, then I believe I have a right to make some
5 specific questions of Mr. Nixon in reference to that. So if
6 that's the intent --

7 CHAIRMAN JABER: Well, let's see. Mr. Burgess just
8 represented that he's got cross-examination questions to
9 Mr. Watford of this letter.

10 MR. DETERDING: Okay.

11 CHAIRMAN JABER: And Mr. Burgess is a, I would like
12 to think an attorney we can hold to his word.

13 MR. DETERDING: Okay.

14 CHAIRMAN JABER: So when he, when he asks those
15 questions, you'll get to redirect Mr. Watford.

16 MR. DETERDING: Okay. Thank you very much.

17 BY MR. DETERDING:

18 Q Mr. Nixon, if -- all right. Let me ask a couple of
19 generic questions.

20 Do you believe that a newsletter that discusses many
21 issues, even if it is determined a sentence within a two-page
22 newsletter is inappropriate, that that means that the cost of
23 the entire newsletter is inappropriate?

24 A No.

25 Q If two to four customers out of a 12,000 customer

1 utility suggest that they were offended by a newsletter or a
2 piece of a newsletter, do you believe that is a basis for
3 throwing that out of operating costs?

4 A No.

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

6 CHAIRMAN JABER: Thank you, Mr. Deterding. Let's
7 admit Exhibits --

8 MR. DETERDING: Yes. We'd like to move Exhibit 4, 5
9 and 7.

10 CHAIRMAN JABER: Sure. Without objection Exhibits 4,
11 5 and 7 are admitted into the record.

12 (Exhibits 4, 5 and 7 admitted into the record.)

13 CHAIRMAN JABER: Staff?

14 MS. ESPINOZA: And we would move Exhibit Number 6.

15 CHAIRMAN JABER: Without objection Exhibit Number 6
16 is admitted into the record.

17 (Exhibit Number 6 admitted into the record.)

18 CHAIRMAN JABER: Thank you, Mr. Nixon.

19 (Witness excused.)

20 CHAIRMAN JABER: That brings us to Mr. Watford.

21 MR. DETERDING: Yes. We call Stephen Watford.

22 STEPHEN G. WATFORD

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

25 DIRECT EXAMINATION

1 BY MR. DETERDING:

2 Q Mr. Watford, please state your name and employment
3 address.

4 A Stephen Watford, 6915 Perrine Ranch Road, New Port
5 Richey, Florida.

6 Q And have you been sworn in this proceeding?

7 A Yes, I have.

8 Q Are you employed by Aloha Utilities, Inc.?

9 A Yes, I am.

10 Q In what capacity?

11 A I'm the president there.

12 Q How long have you been employed by Aloha Utilities?

13 A 25 years, I believe.

14 Q Did you prepare in conjunction with my office a
15 document referred to as the Prefiled Direct Testimony of Steven
16 G. Watford?

17 A Yes, I did.

18 Q And that consists of 12 pages; correct?

19 A Yes, it does.

20 Q If I asked you the questions contained within that
21 testimony here today, would your answers be the same?

22 A Yes, they would.

23 Q Do you have any corrections or changes to make to
24 that testimony?

25 A No, I do not.

1 Q And I believe you had no exhibits to your direct?

2 A Not to the direct, no.

3 Q Okay. Would you please provide a summary of your
4 direct testimony?

5 A Yes. My direct testimony covers several issues.

6 The big issue in this case, of course, is the cost of
7 water being purchased from Pasco County, the implementation of
8 an inclining block rate structure, cost of royalties for water
9 that we purchased from a related party and changes that have
10 been made to our salary structure to try to make salaries
11 competitive where we can eliminate the high turnover rate that
12 we had been experiencing.

13 The, the salary structure issue was something that we
14 revisited at the beginning of this year. Due to the very high
15 turnover rate that we have been experiencing at Aloha we went
16 out, we used Pasco County as the template basically adopting
17 their salary structure, and that's what we used to realign our
18 salary structure. We also added a few employees that were a
19 result of just not having any room at our old facilities prior
20 to relocating to our office. These were somewhat done in
21 conjunction with the management audit and recommendations that
22 were provided by your staff in relation to the management audit
23 as it related to staffing shortfalls and deficiencies.

24 The next issue that I talk about in my direct
25 testimony is the royalty that's paid for the extraction of

1 water. Not only has this water been made available to the
2 utility at an extremely low cost, about 32 cents compared
3 to \$2.35, which is the present county rate, there are many
4 other reasons as well that make this a good deal for the
5 customers of Aloha.

6 There has been some discussion in this case about
7 maybe 25 years ago we should have done things differently.
8 However, probably the single biggest issue is that 25 years ago
9 Aloha was a Class C utility with about \$50,000 in revenues and
10 a million dollars in debt. There was absolutely no way they
11 could purchase the land or install the facilities to, to build
12 this stuff. But it has been a very fortunate arrangement for
13 the utility and it's provided a continuing source of water for
14 20 years.

15 MR. JAEGER: Chairman Jacobs, excuse me. I'm going
16 to -- is this -- Jaber. I'm not sure where I am. I'm not sure
17 where that is in his direct testimony. I missed something
18 there on his summary.

19 CHAIRMAN JABER: Mr. Watford, limit your summary to
20 what's in your prefiled testimony. You don't want your summary
21 to be longer than your prefiled testimony.

22 THE WITNESS: Yes, ma'am. I'm almost, I'm almost
23 done.

24 CHAIRMAN JABER: That's a good indicator.

25 THE WITNESS: The final issue that I wanted to

1 address was just the rate structure that was being proposed in
2 this case and that's the final thing that I talked about in my
3 prefiled direct testimony. And we have proposed, albeit
4 somewhat a unique arrangement, I think, the best that we could
5 develop as far as being something that's fair to the customers,
6 accomplishes the requirements of the Water Management District
7 and the funding of conservation programs, as well as satisfying
8 the revenue requirement in this case and also providing some
9 level of stability and balance for the utility. And if, in
10 fact, some of the projections in this case, of which there are
11 many and very diverse projections as far as future water use,
12 in case some of those don't come to pass as projected, we have
13 proposed a, a multi-tiered structure in compliance with the
14 requirements of the district, but in essence the ability to
15 fund the revenue requirement from the first tier using the
16 second tier revenues for the conservation programs and for the
17 purchases of any water that result as a result of the
18 projections of future water use not coming in according to
19 projection, and also to, that could also flow into the
20 alternative water source development program that the district
21 is also requiring us to pursue. And that concludes my summary.

22 MR. DETERDING: I request that Mr. Watford's
23 testimony, prefiled direct be inserted in the record as though
24 read.

25 CHAIRMAN JABER: The prefiled direct testimony of

1 Stephen G. Watford shall be inserted into the record as though
2 read.

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1 BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

2 ALOHA UTILITIES, INC.

3 DOCKET NO. 010503-WU

4 APPLICATION FOR WATER RATE INCREASE OF

5 ALOHA UTILITIES, INC. IN PASCO COUNTY

6 DIRECT TESTIMONY OF STEPHEN G. WATFORD

7 Q. Please state your name and employment address.

8 A. Stephen G. Watford, Aloha Utilities, Inc., 6915 Perrine
9 Ranch Road, New Port Richey, Florida 34655.

10 Q. In what capacity are you employed by Aloha Utilities,
11 Inc.

12 A. I am the Utility's President.

13 Q. What is the purpose of your direct testimony?

14 A. The purpose of my testimony is to provide information
15 concerning some costs in this case that may or may not
16 become issues. These are: (1) addition of administrative
17 personnel which occurred in 2001; (2) changes in salary
18 levels for most personnel of Aloha Utilities, which also
19 occurred in 2001; (3) the royalty paid for the right to
20 extract raw water; and (4) change to inclining block rate
21 structure and proposal by the Utility to generate its
22 full revenue requirements in the first tier of such
23 rates, and set aside the second higher tier first for
24 payment of water bills, and second for conservation
25 measures. I believe each of these issues requires

1 separate direct testimony, because an explanation is
2 needed for why each of these must be annualized and
3 recognized in rate setting to the full extent incurred by
4 Aloha Utilities, Inc. I am also the custodian of all the
5 records of Aloha Utilities, Inc. and therefore am
6 attesting to the accuracy of the information provided
7 within Mr. Nixon's schedules, to the extent it relies
8 upon the books and records of the company as a basis for
9 his calculations and the schedules prepared by both him
10 and by Mr. Porter.

11 Q. Please address the first of the issues you have outlined?

12 A. At the beginning of the year 2001, the Utility began work
13 on upgrading its customer service, billing and collection
14 departments in order to meet existing customer
15 requirements. We had needed to expand to add a few
16 employees in these areas for some time, but had failed to
17 do so because there was no space available in our old
18 office building. Once we moved into the new office
19 building in December of 2000, we were able to accommodate
20 the additional employees, which had long been needed.
21 One of these was added in January of 2001. This was the
22 receptionist which we had no room for in the old
23 building, but sorely needed to serve the existing
24 customer base. This person helps to direct calls between
25 customer service and administrative departments, as well

1 as serves as the receptionist for all visitors to our
2 office. With a company of our size, we believe that a
3 receptionist is not only appropriate, but necessary.

4 In March, April, and May we interviewed for new positions
5 for a data entry operator and a customer service
6 specialist I and filled those positions in May of 2001.
7 The total annualized costs for the year 2001 for these
8 new positions is \$32,989 per year, of which \$12,371 is
9 allocated to Seven Springs water. I believe these are
10 justified costs to service current customers during 2000
11 and 2001.

12 The Commission's own management audit staff in fact
13 reviewed our plans for adding additional personnel and
14 agreed that they were appropriate and would assist
15 management in carrying out their duties. The only reason
16 we had not added them earlier, were the space limitations
17 outlined above.

18 The entire annualized cost of these additional personnel
19 must be recognized as necessary in going-forward rate
20 setting in order to service existing customers.

21 Q. You mentioned increases in salaries across-the-board.
22 Please explain this adjustment.

23 A. Yes, as part of the MFRs prepared by Mr. Nixon, we have
24 included the changes in salaries for our personnel
25 across-the-board, which have been implemented in the last

1 two months. These changes are the result of the fact that
2 the Utility has had extremely high turnover in recent
3 years, primarily because the salaries and benefits we
4 offered were below those available from our competition,
5 both at the County level and from the various other
6 utilities in the surrounding areas. We have utilized the
7 study of salaries performed this year by Pasco County in
8 order to upgrade our pay packages to meet those of the
9 County, so that we do not continue to experience these
10 extremely high and very detrimental turnover rates. In
11 recent months, we have been paying excessive overtime and
12 in addition, we have only had time to train our
13 personnel, because once they are trained, they tend to
14 look for work with higher pay and benefits than those
15 that we have offered in the past. It is not only
16 inefficient to operate a utility in this manner, it is
17 detrimental to the quality of service, the quality of
18 operations provided, and to our ability to maintain a
19 system in conformance with all applicable standards. As
20 such, these changes in costs and benefits have been
21 included within Mr. Nixon's schedules on an annualized
22 basis, and must be incorporated into the establishment of
23 any going-forward rates.

24 Q. Please address the third issue that you raised in your
25 summary related to royalties on water extracted.

1 A. Aloha has been paying a royalty on water extracted,
2 rather than rent or other payments on land, for over 25
3 years. There are many reasons why this is the best
4 course available to the Utility, in addition to being a
5 method of payment that has been previously approved by
6 the Commission in prior cases for this and other
7 utilities. In our specific case, the Utility is charged
8 both by a related and by an unrelated party a royalty
9 rather than rent or other compensation for the right to
10 extract water. This gives the Utility the right to
11 locate and relocate wells at any point in time in the
12 future that it desires. Should the initial well location
13 be unacceptable to the Utility for any reason it can move
14 those well sites to enumerable locations, without buying
15 land. Therefore, it is better than owning a small parcel
16 of land and extracting water from that parcel only.
17 In the Utility's 1976 rate case, the Commission
18 recognized this method of paying for water and the
19 Utility has continued to utilize it from that point
20 forward. In fact, within that rate case, the Commission
21 staff specifically recognized a doubling (100% increase)
22 of the rate which occurred after the close of the test
23 year in that proceeding in the amount of the charge
24 imposed, and incorporated the change into the rates
25 ultimately approved by the Commission. Over the last 25

1 years the charge imposed by the related party has
2 increased more than that charged by the unrelated party.
3 However, this is no basis in and of itself for denying
4 recognition of the cost. The fact that the unrelated
5 party has not demanded a higher charge cannot reasonably
6 be allowed to affect that which is reasonable for Aloha
7 to pay. As a better indicator, the Commission originally
8 approved this methodology for paying for the rights to
9 extract water in 1979. The charges currently imposed for
10 that right are less than the effects of inflation on the
11 amount approved in the 1979 Order and, as such, have
12 increased less than the Commission's own index has over
13 that 25 year period (test year to test year).

14 Finally, as to market justification, surely it is not
15 reasonable for the Commission to have approved this
16 methodology for acquiring raw water in the past, and then
17 to suggest now that the Utility should have done
18 something different over the intervening years. However
19 the Commission views the current arrangement, it must be
20 viewed in light of the choices the Utility has at the
21 present time and the fact that the Utility will have to
22 seek alternative sources of water if the Commission
23 disallows the current arrangement. The only alternatives
24 available to the Utility on this issue, are the
25 utilization of bulk treated water from Pasco County. Not

1 only is this many times more expensive than Aloha's own
2 cost of acquiring water through payment of a royalty and
3 treating the water itself, but it is questionable whether
4 Pasco County would be willing to guarantee the quantities
5 which Aloha needs. This would also make Aloha wholly a
6 captive customer of Pasco County, which is not a
7 reasonable situation to be in and is therefore very
8 unstable and risky in addition to substantially
9 increasing all costs of water service. There are no
10 other viable alternatives available to the Utility and,
11 as such, the alternative of purchasing treated water from
12 the County is the only accurate measure of current
13 "market value" for similar services. Therefore, the
14 Commission must recognize this cost as a reasonable cost
15 for providing service. It is a cost that is at or below
16 the charge which would be imposed by an unrelated entity
17 seeking to charge market value.

18 Q. Do you have any further testimony to provide on this
19 issue?

20 A. Only that the primary reason for this case being filed
21 was in order to recognize the substantial increase of
22 purchased water cost the Utility must incur in order to
23 obtain all water above its Consumptive Use Permit levels
24 from Pasco County. In the past, the regulatory
25 authorities have not been strict in requiring Aloha, or

1 any other utilities in the area, to conform completely to
2 the WUP limitations: The general counsel of the SWFWMD
3 pointed this out to the Commission in another recent
4 proceeding at which he appeared. However, in the last
5 year and a half, that has changed and the Water
6 Management District is now strictly requiring that the
7 Utility limit its withdrawals for raw water to the levels
8 authorized in its permit. They have also refused to
9 allow an increase in the permit withdrawal levels,
10 leaving Aloha with no choice but to purchase additional
11 water from Pasco County, at least for the foreseeable
12 future. Those increased costs must be recognized in
13 going-forward rate setting, before the Utility can begin
14 to purchase these substantially increased quantities of
15 water from Pasco County. In addition, this highlights
16 the good value that the Utility gets from paying a
17 royalty on raw water, rather than purchasing all of its
18 water from Pasco County, which is the only alternative
19 available to it. Should the Commission deny recognition
20 of the cost of the royalty paid on raw water and in
21 effect force the Utility to go to an alternative water
22 source for all of its water needs. This will drive rates
23 even higher.

24 Q. You mentioned the issue of the change in rate structure
25 and the Utility's proposal related to implementation of

1 an inclining block rate structure. Please explain this
2 proposal.

3 A. In accordance with the requirements of the SWFWMD, the
4 Utility is proposing to implement an inclining block rate
5 structure within this Application. I as president of the
6 Utility, our engineer, our accountant, and our general
7 manager have all been involved in reviewing the various
8 alternative available for the Utility in implementing an
9 inclining block rate structure as required by the SWFWMD.
10 After review of the available alternatives, we determined
11 that since the requirement to implement the new rate
12 structure was imposed by the SWFWMD, and since they seem
13 to have done the most research on this issue, we should
14 utilize the extensive model that they had provided to us,
15 which they had commissioned from an expert in the area.
16 In doing so, we developed rates that we believe will
17 generate our full revenue requirement (assuming the
18 repressed usage is at the levels inherent in the model),
19 from the first tier of consumption rates, along with all
20 the other base and general service charges. We have then
21 proposed that the second tier of charges to be set aside
22 and used only for the purposes of first paying the cost
23 of water as purchased from Pasco County (since all of the
24 water utilized for providing the upper tier of service
25 will come from purchases from Pasco County), and secondly

1 for utilization for various conservation measures. Our
2 belief is that this is an appropriate way to handle
3 implementing the new rate structure as it places less of
4 the risk of a potentially substantial revenue deficiency
5 on the Utility. Such a deficiency may result if the new
6 rates in fact differ from the conservation goal, up or
7 down. The opinions on the extent to which the
8 conservation goal will be achieved when implementing this
9 new rate structure varies greatly from expert to expert,
10 especially in Aloha's unique circumstances. There is
11 therefore a need for stability in the Utility's new rate
12 structure, which this proposal provides. It will also
13 help to minimize or avoid the likelihood of the second
14 rate proceeding and its cost (if conservation is greater
15 than expected), as well as the intervening shortfall in
16 revenues and allow the Utility to meet its costs. The
17 risk inherent in this change of rate structure is
18 substantial and not recognized anywhere else within the
19 PSC's rate setting procedures, such as in an increased
20 rate of return. As such, this is the appropriate way to
21 deal with this increased risk. In addition, the Utility
22 can utilize the additional revenues generated by the
23 upper tier for purposes related to continued efforts
24 toward conservation, as agreed to by the Water Management
25 District and the PSC. Initially, we believe those

1 conservation measures to be funded through use of these
2 second tier monies should include various conservation
3 programs, including educational, and possible rebates on
4 low flow fixtures, etc. We also believe an important use
5 of such monies is for funding, in part, the search for
6 alternate sources of water, which the Utility can utilize
7 to ensure the availability of a long-term secure supply
8 of water for Aloha's customers. Continued reliance on
9 bulk purchases from Pasco County is not wise or cost
10 effective in the long run. The significant cost increase
11 resulting from this case is a clear indicator of that,
12 since the cost of purchasing water from Pasco County is
13 a primary reason for this needed increase. Finally, we
14 believe that to the extent there are significant monies
15 generated by this upper tier of consumption rates for
16 residential service, and those monies are not used up for
17 the other purposes outlined above, we can utilize them to
18 help assist us in furthering our goal of extending reuse
19 service throughout our service territory. We will have
20 to see how much money is available and whether or not it
21 meets the needs of the other proposals as outlined above,
22 but we are encouraged with the idea of benefitting all of
23 the Utility's customers in the long run, based upon the
24 increased revenue generated by this second tier of rates.

25 Q. Do you have anything else to offer?

1 A. No, not at this time.

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1 MR. DETERDING: And we tender the witness for cross.

2 CHAIRMAN JABER: Thank you. Mr. Wood?

3 MR. WOOD: Yes.

4 CROSS EXAMINATION

5 BY MR. WOOD:

6 Q Mr. Watford, is there sulfide in your water?

7 A There are varying levels of sulfide in the raw water.

8 Q Yes.

9 A There is no sulfide in the treated water as it enters
10 into a customer's home. And I believe that's been aptly
11 testified to by many other experts here.

12 Q What happens to the sulfide that's in the water, the
13 raw water?

14 A With our current treatment process?

15 Q Yes.

16 A It is converted to sulfates through the process of
17 chlorination.

18 Q In previous statements that you have made either
19 through newsletters, et cetera, et cetera, you stated that
20 there is hydrogen sulfide in your water. Is that a fact?

21 A In our source water. That's just what I just said.
22 Yes.

23 Q In your treated water I thought.

24 A No, sir. In fact --

25 Q I thought you said in previous testimony statements

1 that the hydrogen sulfide is reacting with the copper in the
2 customers' homes. Is that true?

3 A That is true. But that is not what you said before.

4 Q Well, if it's not in your water, where is the
5 hydrogen sulfide coming from?

6 A Well, I believe probably Mr. Hoofnagle gave a very
7 adept explanation of that as did Mr. Porter. But the water
8 that comes from all of the groundwater sources just about in
9 Florida has some level of sulfide in it.

10 Q Uh-huh.

11 A We chlorinate that water. That converts sulfides to
12 sulfates.

13 Q Uh-huh.

14 A I believe you've already heard testimony and I can
15 also confirm that the level of sulfates in our water runs
16 anywhere in our treated water from six milligrams per liter to
17 approximately 16 milligrams or 17 milligrams per liter. The
18 state limit is 250. That is what is in the finished water that
19 is provided to the customers.

20 Q The --

21 A Once the water -- can I finish my answer, sir?

22 Q Go ahead.

23 A Once the water enters into the home there are a
24 multitude of things can cause the formation of the sulfide.
25 They can react with sulphur-reducing bacteria in hot water

1 tanks. That we believe is the most predominant factor.
2 Certainly home treatment devices can remove the chlorine as the
3 water enters into the home, which then allows the
4 sulphur-reducing bacteria to breed and grow in a hot water
5 system, which will then create the sulfide, which will then
6 react with the copper. But, no, the sulfide is not coming
7 through the customer's meter and into the customer's home.

8 Q Then how is it getting in?

9 A I just explained that to you, I thought.

10 Q If there's no sulfide coming through the meter, how
11 do you have sulfide beyond the meeter? It just doesn't grow by
12 itself. Nobody is standing there creating it.

13 A I'm sorry. Was that a question?

14 Q Yes. How does it get there?

15 A Sulfates come through the meter. Sulphur can exist
16 in three various forms: One as elemental sulphur, one as
17 sulfate, the other is sulfide.

18 Q Uh-huh.

19 A Sulfide is the one that will react with copper.
20 Sulfide doesn't exist in the presence of free chlorine.

21 Q Is it not --

22 A State standard requires a residual of free chlorine
23 throughout the distribution system, which we maintain.
24 Therefore, you cannot have sulfide in the same water that you
25 have the free chlorine residual.

1 Now if you remove the chlorine with a home treatment
2 device, put it in a hot water tank and let it sit for a period
3 of time, thermophilic bacteria known as SRBs or
4 sulphur-reducing bacteria can begin to break down and convert
5 that sulfate back into sulfides, which will then tie up and
6 react with the copper.

7 Q Well, where is the hydrogen sulfide coming from?

8 A Well, the hydrogen is provided by water, H₂O.

9 Q And it just automatically mixes?

10 CHAIRMAN JABER: Mr. Wood, remember, you're not
11 making statements, so you want to ask him a question.

12 MR. WOOD: I'm -- that's a question. That's a
13 question.

14 CHAIRMAN JABER: Okay. Restate it in the form of a
15 question that he can answer.

16 BY MR. WOOD:

17 Q Does the hydrogen automatically unite with the
18 sulfide?

19 A Yes. There is hydrogen in all water. That is one of
20 the two chemicals that makes up water.

21 Q Uh-huh.

22 A And, yes, to the extent that there is sulfide
23 available for it to tie up with, yes, it will tie up with the
24 sulfide. And there are many other reactions going on at the
25 same time.

1 Q You stated that hydrogen sulfide is not on this side
2 of the meter but it's on this side of the meter?

3 A Absolutely.

4 Q How does that happen?

5 A Well, I thought I just explained it in-depth how it
6 happens.

7 Q I don't think so.

8 CHAIRMAN JABER: Mr., Mr. Wood -- Mr. Watford, the
9 explanation about the three sulphur elements, do that one more
10 time and do it slowly.

11 THE WITNESS: Okay.

12 CHAIRMAN JABER: This is, Mr. Wood, this is the
13 answer to your question from Mr. Watford. You may not agree
14 with him, that's the nature of this proceeding, everyone has,
15 has a position. You may not agree with him, but this is his
16 answer to your question.

17 MR. WOOD: Uh-huh.

18 CHAIRMAN JABER: Go ahead, Mr. Watford.

19 THE WITNESS: Okay. Water drawn from groundwater in
20 Florida has sulphur in it in various compounds. It can exist
21 as either elemental sulphur, sulfate or sulfide.

22 As I mentioned to you, we convert the sulfate or
23 sulfide to sulfate through the process of free chlorination or
24 break point chlorination. At the point break point is
25 achieved, you then have a free chlorine residual in the water.

1 At that point all sulfides have been converted to
2 sulfates. That's what comes in through the customer's meter.
3 Once it gets inside the home many things can take place.
4 Probably the best thing to look at is the interagency report
5 that kind of delineates a lot of those, and I know you were
6 involved in the five-year water quality docket where we flushed
7 these things out in great detail and you heard a lot of
8 testimony there. It exists not only from us but from Sarah
9 Jacobs and other parties, other experts, and you heard it here
10 yesterday, there is a conversion that can take place within the
11 home. And when that conversion takes place, sulfates can be
12 converted back to sulfides. That can happen just because
13 someone goes away for a month or two and the water sits
14 stagnant in their home. That can happen in a hot water heater.

15 There was a change a few years back where the
16 temperatures of hot water heaters was lowered, and it's more
17 than a few years back now, it was back before the other docket,
18 so probably close to ten years ago, where the water
19 temperatures in hot water heaters was lowered. Whenever that
20 occurred -- and that was due to some lawsuit, I guess, against
21 water heater manufacturers for someone getting scalded and also
22 to try to conserve energy -- but whenever that was done it
23 created an ideal environment for the growth of thermophilic
24 bacteria known as SRBs or sulphur-reducing bacteria.

25 If you -- again, referring back to that previous case

1 there was a list of things that contribute to it. The anodes,
2 the sacrificial anodes in your water heaters can contribute to
3 them. As a matter of fact, if you go to -- I don't want to say
4 every. Every hot water heater that I've ever seen has a little
5 owner's manual that comes with it and right in that owner's
6 manual from the hot water heater manufacturer it tells you that
7 water kept in the water heater for a period of time can
8 generate hydrogen sulfide and do not strike a match near it if
9 you're going to open the vent valve on top. I think that
10 probably answers your question. That's what occurs.

11 CHAIRMAN JABER: Mr. Watford, in the conversion from
12 sulfides to sulfates, is there any sulfide left?

13 THE WITNESS: It just -- sulphur -- it just exists in
14 a different form. You've heard talk about pH adjustment here.

15 CHAIRMAN JABER: Uh-huh.

16 THE WITNESS: PH, varying pHs is the single biggest
17 factor as to what exists or what state sulphur would exist in.

18 CHAIRMAN JABER: Uh-huh.

19 THE WITNESS: At varying pHs it transforms from
20 sulfides to sulfates to elemental sulphur. It can convert up
21 and down based upon, on pH alone.

22 CHAIRMAN JABER: Is there a way to test in the
23 conversion process, the ultimate product, is there a way to
24 test the amount of sulphur that's left? What if -- could it be
25 that it's the, the amount of sulphur that's left reacting to

1 the copper in the pipe that creates that sludge looking
2 chemical? I mean, maybe the conversion process is not enough.
3 Is that a possible --

4 THE WITNESS: Well, I don't think so, and in
5 certainly at least all the data that exists that we have seen
6 says that the active ingredient has to be the sulfides. The
7 entire, what we refer to as the Sarah Jacobs study or the
8 University of Colorado study was specifically on that issue of
9 sulfide corrosion.

10 CHAIRMAN JABER: Okay. That brings me back then to
11 the original question. Could there still be sulfide left at
12 the end of the conversion process?

13 THE WITNESS: No. Because chemically once you have
14 free chlorine there can be no more sulfides. Now once you
15 remove the chlorine from the water, whether it be through home
16 treatment, whether it just be because you leave the house sit
17 for a couple of months and the chlorine dissipates from the
18 water, the same thing can occur. It would obviously take
19 longer.

20 And we have, you know, there's a lot of things we
21 don't know about this process, but, you know, the big question
22 that Mr. Porter alluded to earlier is when you drive into a
23 subdivision and there's a row of 20 houses all built by the
24 same builder with the same product getting the same water and
25 one has it and 19 don't, what's the difference?

1 One of the things that we found, and I can't tell you
2 with 100 percent certainty that exists, but if a home even
3 before the first person moved into it the builder turned the
4 water on and then left it sit for six months, maybe it was a
5 spec home, maybe it was a model with no water usage, that would
6 be the home on the street we would see that would encounter
7 that.

8 It's not uncommon at all if you go away for a couple
9 of months, you come back, you turn on the water and you say,
10 oh, I need to run that for a little bit. That, I think, most
11 people expect the water that's been trapped in the pipes for
12 however long you shouldn't drink, especially if it's a metallic
13 piping of any sort.

14 But to your original question, if there's chlorine in
15 the water, which the state mandates we have to have, and I
16 think there's abundant testimony that we do, you can't have
17 sulfide there. The chlorine has to somehow go away, whether,
18 for whatever reason; carbon filter, home treatment system,
19 whatever. There has to be something that removes the chlorine
20 which will then allow the sulphur-reducing bacteria to grow,
21 which will then convert the sulfates that are in our water at
22 the levels that I mentioned, very low levels, like a tenth of
23 the MCL or actually a 20th of the MCL, I guess, they will then
24 take that component and convert it back to sulfide.

25 CHAIRMAN JABER: Okay. Mr. Wood?

1 MR. WOOD: Yes.

2 BY MR. WOOD:

3 Q Mr. Porter, you on many occasions -- or Mr. Porter.
4 Mr. Watford, I'm sorry. You and Mr. Porter have referred on
5 many occasions to Sarah Jacobs' study.

6 My question is have you read the executive summary of
7 July 1998 in the American Waterworks Journal?

8 A I receive that magazine. I can't tell you whether
9 I've read the executive summary or not.

10 Q Since Ms., since Ms. Jacobs is the so-called poster
11 girl of the previous hearing, 9906, 960545, and has been the
12 basis of the reason for the corrosion is the customers' pipes,
13 I ask you, Mr. Watford, are you aware that Ms. Jacobs in her
14 article that I just stated the date states that the utilities
15 have a dual interest in the corrosion problem, they need to
16 provide non-corrosive water that meets the regulatory limit for
17 copper and that customers enjoy drinking?

18 A Well, I think --

19 Q Quote and unquote. You, are you aware of that?

20 A I don't have any reason to disbelieve what you just
21 read. I read the entire article. I didn't just read the
22 summary.

23 Q Well, is it a fact that you're providing water that
24 is, that meets all the regulatory limits and that people enjoy
25 drinking?

1 A I think by and large, yes, we are.

2 Q How many, what percentage of your clientele would you
3 say enjoys the water that they're getting into their home?

4 A The vast majority of our clientele.

5 Q What, what is the number? 20 percent, 30 percent,
6 100 percent?

7 A Well, if I had to put a finger on it, I guess I would
8 say we serve approximately 25,000 and we heard from 33 or so
9 yesterday. I mean, I'm not, I'm not trying to characterize
10 that. We have -- I have no way of knowing that with any --

11 Q How many households do you think of that? Does that
12 mean that out of 9,000 that you're saying that there are only
13 one percent that or a half a percent that is dissatisfied?

14 A We have seen -- when we look at our database, and we
15 have testified to this, I think, previously, there appear to be
16 several hundred homes that have had this problem repeatedly.

17 Q Wouldn't that translate into more like a thousand?

18 A I don't understand your question.

19 Q Several hundred homes that you referred to in the
20 areas you're referring to, wouldn't that translate into more
21 like a thousand?

22 A I still don't understand your question. But, no, I
23 think it translates into the several hundred homes that I
24 identified out of our database where we have seen the problem
25 repeatedly at the same location.

1 Q Okay. There are many people -- aren't there many
2 people that have just become fed up with the whole thing and
3 nothing is being done and don't react to it?

4 A I can't speak to the mind-sets of all 25,000 people
5 that live in our service area, Mr. Wood; however, I would take
6 great issue with the fact that nothing is being done. We have
7 gone through a water quality docket I think of the magnitude
8 that's never been done before at the Public Service Commission
9 that certainly cost this company well in excess of a half a
10 million dollars and money, I might add, that came from
11 customers. We are proceeding in a pilot study. We are moving
12 forward with alternative source development. There are a
13 myriad of things that are going on in regards to this. And as
14 you may or may not remember, we were extremely active in
15 seeking solutions to this problem.

16 Q And did we find a solution?

17 A Well, there is a solution, and the same solution
18 that's been on the table for years now. You can repipe a house
19 with PVC and the black water will never be seen again.

20 Q Isn't it true that one, the house that you had
21 repiped by a plastic company from up north now has orange water
22 running through its pipes?

23 A If you're referring to Mr. Vento's (PHONETIC) home,
24 the home that was repiped and we did not have that repiped,
25 that was done between Mr. Vento and BF Goodrich as I recall,

1 the supplier of CPVC materials. No, that is not the fact. And
2 as far as I know, I know Mr. Vento has left the area, but the
3 last thing I believe of record is a letter from Mr. Vento
4 himself signed that was entered into the prior proceeding that
5 said from the day the pipe was installed he's never seen
6 discolored water in his home again.

7 Q I thought that that was, at least my understanding, I
8 thought that from a previous hearing that letter was refuted;
9 is that true?

10 A By Mr. Vento? No. Absolutely not. I'm not saying
11 certain customers haven't characterized what they think
12 Mr. Vento said. We entered the letter signed by Mr. Vento in
13 the water quality docket that stated that.

14 Q When was the first black water problem reported to
15 Aloha Utilities?

16 A That's rather difficult to answer simply because
17 every utility experiences some water quality complaint. The
18 obvious beginning of the water quality docket that resulted
19 from the, as I recall, a petition by a group of homeowners was
20 when it received the focus and was, and was identified as such.
21 But certainly the phenomenon that was seen was not something
22 that hadn't been seen sporadically and randomly before. It had
23 just never received honestly the attention. And to the extent
24 that, you know, it was collectively pulled into a group and
25 identified as such -- always in this business you get the

1 sporadic complaints from a customer who says I just got back
2 from up north for six months and when I turned on my water it
3 came out cruddy for a few minutes. And everybody for years and
4 years just said, well, that's normal when somebody goes away.
5 We have an awful lot of that here because we have a very large
6 percentage of our population that goes back and forth, and that
7 was just considered the way systems tended to operate.

8 Only in the course of that previously docketed case
9 that I referred to has that been specifically identified as
10 what it was, being the copper sulfide formation in homes, and
11 set aside and looked at separately. But the reality is it's
12 been going on and goes on to this day in systems all over the
13 place and has for years.

14 Q Would you say that that took place in 1995?

15 A Would I say what took place in '95?

16 Q When the problem exploded into a large, larger
17 problem and became the attention of many people.

18 A It became the source of that docketed item that I
19 referred to.

20 Q Is that 1995?

21 A I believe it was.

22 Q What things went on in Aloha in 1995 that changed the
23 makeup of the Aloha system?

24 A Well, shortly thereafter that was the beginning of
25 the Corrosion Control Program as mandated by the DEP and

1 certainly there were some water quality issues associated with
2 that as there are in all of the corrosion control programs.

3 As a matter of fact, we did public notices as DEP
4 suggested because when you start using the corrosion inhibitor
5 the first thing it does is goes out and scours all the
6 pipelines in your system before it begins to put this bond on
7 the inside of the piping to provide the corrosion protection.
8 And we did public notices to customers and actually ran some in
9 the newspaper stating that we were bringing the system online
10 in accordance with DEP regs and that they would probably see
11 some discolored water for short periods of time and so forth.
12 That was probably the biggest thing that went on that would
13 have been a change in water quality characteristics during that
14 time.

15 Q In 1995 is it not true that you were out of
16 compliance or below, above the action level for copper?

17 A I don't have the dates for that with me, but, yes, we
18 were. And, as Mr. Foster testified to, we were above the
19 action level as most utilities were and required to implement
20 corrosion control. And that's what the purpose of the action
21 level is was to make a determination. It is not an
22 out-of-compliance issue. You are fully in compliance as long
23 as you are following the schedule and the program mandated by
24 the DEP and the EPA to come into compliance. And that's
25 exactly what we did and are now deemed fully optimized by the

1 DEP in that program.

2 Q Without a water treatment system in the house, a
3 house built today that is receiving your so-called treatment,
4 should they have copper corrosion?

5 A I'm sorry. I missed the beginning of the question.

6 Q A house built today, coming online today without a
7 water treatment system, should they see copper corrosion?

8 A Well, the houses that by and large are being built
9 today are all being built with CPVC piping. So obviously, no,
10 they're not experiencing copper corrosion.

11 Q But the houses that are being built today with
12 copper, will they?

13 A I don't believe we have any of those.

14 Q I think that -- I'm sorry. I'm sorry.

15 CHAIRMAN JABER: That's okay.

16 BY MR. WOOD:

17 Q Have you toured all the houses in Trinity Oaks or,
18 excuse me, Thousand Oaks to see that all the houses have
19 plastic plumbing?

20 A Was your question have I toured all of them?

21 Q Have you toured and seen that all the houses that are
22 currently under construction in Thousand Oaks have only plastic
23 plumbing?

24 A No, I have not. What I can tell you is we advise all
25 of our developers that they should use CPVC piping.

1 Q So there could be --

2 A Now --

3 Q So there could be houses being built today with
4 copper plumbing in areas under construction.

5 A There absolutely could be and we have absolutely no
6 regulatory authority to prevent them from doing that, if they
7 choose to.

8 Q So I go back to my question, a house being built
9 today, coming online today with copper plumbing with your
10 so-called treatment system, will that completely eliminate that
11 copper corrosion?

12 A It will greatly minimize the copper corrosion. I
13 believe that if you ask the experts, and I'm certainly not one
14 of those, but if you ask the experts, they will tell you that
15 there is always some level of corrosion that's going on no
16 matter what you do as far as treating it, and that's one of
17 the, obviously the downfalls of copper piping.

18 The question with corrosion is whether it affects you
19 to where you have to replace your piping in eight years as
20 opposed to 20 years or as opposed to two years?

21 CHAIRMAN JABER: Mr. Watford, it's up to the county
22 to issue an ordinance limiting plumbing, construction or
23 infrastructure to plastic piping, the PVC?

24 THE WITNESS: Commissioner, again, that's not exactly
25 my field of expertise. But it's my understanding, and I

1 believe that issue was taken up in your, in your study group,
2 the task force group, there is, the first level of regulation
3 is the state building code. And there, at least at the close
4 of the study group and I assume still going forward, is a
5 proposal for an amendment there. Honestly it's not as strong
6 as we would have liked, but it's a suggestion.

7 There was a group that we participated in called the
8 Copper Corrosion Focus Group, I believe it was, that even
9 preceded that study that was conducted by the University of
10 Florida in which a lot of proposed language came up as far as
11 modification of building codes. Obviously there's the copper
12 industry's influence, there's a lot of competing interests
13 there.

14 CHAIRMAN JABER: Well, but let me refocus you back to
15 the question.

16 As far as you know though it's a county that can pass
17 an ordinance that could require new construction to have PVC
18 piping; right?

19 THE WITNESS: Well, specifically Duval County banned
20 the use of copper in residential construction years ago. That
21 was the way they chose to deal with the copper corrosion issue
22 and as far as I know it's been 100 percent successful.

23 CHAIRMAN JABER: And Pasco County has not done that
24 as far as you --

25 THE WITNESS: Pasco -- I'm sorry.

1 CHAIRMAN JABER: As far as you know, Pasco County has
2 not done that?

3 THE WITNESS: As far as I know, they have not. And I
4 can also in addition to that tell you, I can't tell you when as
5 we sit here, but we sent a letter to the county urging them to
6 do so.

7 Although it can be addressed on the state level. If
8 the state fails to do that, the county can implement more
9 stringent codes. But it certainly can be done on a state level
10 and, you know, that was our first push that I think came out of
11 that task force and also that preceding group.

12 CHAIRMAN JABER: The state level, you mean in terms
13 of the building commission; right?

14 THE WITNESS: Adopting a modification to the Southern
15 Building Code.

16 CHAIRMAN JABER: Okay. The reason I clarified that,
17 Mr. Watford, the reason I want you to clarify that is someone
18 reading the transcript I don't want to misunderstand. There is
19 nothing the Public Service Commission can do in your opinion to
20 require that new homes are built using PVC.

21 THE WITNESS: I think in all honesty the Florida
22 Administrative Code as it deals with the Florida Public Service
23 Commission's authority technically stops at the meter. We
24 believe ours does, too, for the same reasons.

25 We can't, I don't think, any more than you can

1 mandate what type of faucets they use or what type of any of
2 the building products that go on inside. That is pretty much
3 the purview of the building code.

4 CHAIRMAN JABER: Which state agency has oversight
5 over the building code?

6 THE WITNESS: I believe it's DCA.

7 CHAIRMAN JABER: What does that stand for?

8 THE WITNESS: Department of Community Affairs. I'll
9 have to look at your --

10 CHAIRMAN JABER: Okay. Mr. Wood, I'm sorry. I
11 interrupted your questioning.

12 MR. WOOD: That's okay. Are you finished?

13 CHAIRMAN JABER: Yes. Uh-huh.

14 BY MR. WOOD:

15 Q When did Wells 8 and 9 come online?

16 A I believe they came online, I believe it was '95 or
17 '96. I'd actually have to go back and check. I don't have
18 that information in front of me.

19 Q Is it not true that the corrosion problem exaggerated
20 or became larger when Wells 8 and 9 came on?

21 A No, I don't believe that's the case.

22 Q Prior to 1995 say in an area like Veterans Village
23 how many complaints did you have for black water?

24 A Well, as I said, until this phenomenon took on its
25 own docket there was sporadic reference to that. As a matter

1 of fact, you've heard customer testimony if you've sat here of
2 people who said they've had the problem, I think one of the
3 gentlemen said he's had it for 20 years.

4 Q If I put PVC into my home, the copper reacts with or
5 the water reacts with copper to cause corrosion, what kind of
6 reaction and what kind of test and background is there that
7 there wouldn't be a chemical reaction with the PVC?

8 A All the data that we have to date and -- well, let me
9 back up and answer your question this way.

10 When you take water and trap it in any sort of
11 material, the only thing you can do is let it sit there for a
12 period of time and then measure various components in that
13 water when you drain it out. Now in theory that's exactly what
14 we do under the Lead and Copper Rule. And you heard earlier
15 testimony by Mr. Foster about the difficulty of getting people
16 to, to participate. A lot of them would participate once or
17 twice, then they didn't want to be bothered because they are
18 not allowed to use their water for a period of eight hours.
19 They have to leave the water sit in their pipes for eight
20 hours, then measure the level of copper that exists in that
21 water.

22 If you put water in any vessel, whatever it is,
23 depending on the level that the material that is holding the
24 water will give itself up, chemicals or ions from that will
25 migrate into that water. That's corrosion. To the best of our

1 knowledge that doesn't take place in PVC.

2 Q If, if it did take place in PVC, and since PVC is a
3 carcinogen, don't you think that it would be prudent that we
4 have a study or something that tells us all this information?

5 A Well, that entire question is prefaced on your point
6 about PVC being a carcinogen. I don't know that anybody has
7 made that determination. I certainly hope that isn't the case
8 considering that almost every utility in the state, the vast
9 majority of their distribution system is PVC.

10 Q Have you ever been in a plastics molding plant?

11 A I've actually been in a pipe manufacturing plant.

12 Q And what kind of information did they give you about,
13 and what kind do they have posted for, information posted for
14 their workers regarding the handling of the PVC?

15 A I have no idea.

16 Q What's the pH level of the Aloha water?

17 A About seven two to seven six generally.

18 Q Are you aware that the pH level has a direct
19 relationship with the life of the pipe?

20 A Not directly but indirectly. And I believe I
21 testified to that earlier is it results in the formation of
22 sulfides moving back and forth on the curve.

23 Q How long -- what is the life expectancy of a pipe
24 with your pH level?

25 A Well, I guess I can't definitively answer that, but

1 the best that I could tell you is we have homes that have
2 copper pipe in them that have been there for 30 years or better
3 than 30 years and we also have people who have come in here and
4 testified that in newer homes they're replacing copper piping.
5 That's part of the problem of identifying the phenomenon that
6 occurs.

7 Q As a prudent manufacturer or business do you not
8 think that you should know the life expectancy of the products
9 that you're putting out there, how you're affecting them?

10 A I believe that the primary marching orders for any
11 utility is to be in compliance with all of the regulatory
12 standards that exist. Certainly there are, as the doctor
13 talked about, things called community standards and things like
14 that I guess. They're relatively difficult to determine
15 exactly what those are.

16 However, from the basis of the way we have to operate
17 utility companies, we have plenty of regulation in this
18 industry that tends to monitor just about every aspect of
19 everything that we do. And as I said, we have had homes in
20 existence in our area for in excess of 30 years who still have
21 their original piping in them. So I don't know how anybody
22 would know beyond that point until some of those older homes
23 actually totally fail, if you're talking about our specific
24 water.

25 Now in general terms you've heard testimony in this

1 case already about what goes on up and down the I-4 corridor.
2 You can look to the actual interagency copper pipe corrosion
3 study and you can look, there's a map in the back that shows
4 you the incidence of copper corrosion problems. There's pretty
5 much dots all over the state, but they tend to be concentrated
6 along the I-4 corridor and up the east coast.

7 Q Shouldn't that be, what you just said, shouldn't that
8 be more of a reason that you develop testing facilities that
9 would determine life expectancy?

10 A Well, Mr. Wood, our job in the utility business is
11 not directly to try to determine the life expectancy of copper
12 piping. Certainly it has something to do with us, but, no,
13 that's not what we do.

14 Q If you, if another utility supplied water and it
15 lasted 40 years and yours only lasts four or five years, don't
16 you think that's area for concern and the testing facilities
17 for life expectancies should be developed and parameters on how
18 to extend life expectancies should be developed?

19 A Well, maybe they should. And to be honest with you,
20 I think to a certain extent those kind of things are done. I
21 think you can check with the Copper Development Association.
22 They have a lot of information about the life expectancy of
23 copper. You can check with the various pipe manufacturers.
24 The people who create those products tend to do those kind of
25 studies, not utilities. And I would tend to think that not

1 only the customers but probably this Commission would have a
2 bit of an issue with us building a pipe life expectancy testing
3 facility.

4 Q Do you supply water to any of these outfits so that
5 they can test Aloha water on the life expectancy?

6 A I'm sorry. To who?

7 Q You just mentioned three or four different places
8 that do life expectancy tests. Do you supply Aloha water to
9 them in order to, to determine life expectancy of pipe?

10 A No, I don't.

11 Q And by the same token, if the life expectancy of a pH
12 seven two is four or five years and the life expectancy of a
13 pH, say, nine gets it to 18 years, why wouldn't you have a pH
14 of nine?

15 A Well, what you're referring to, I presume, is looking
16 at pH adjustment as the method of copper corrosion control.
17 You can do pH adjustment. In fact, we've heard testimony in
18 this case that Pasco County does pH adjustment. Yes, you can
19 do pH adjustment and you can accomplish corrosion control
20 through pH adjustment.

21 Another method of doing exactly the same thing is to
22 use orthopolyphosphates, which is what we use. And as a matter
23 of fact, I believe that our system was actually deemed
24 optimized prior to Pasco County's becoming optimized. We had
25 actually a little bit better performance, and that's not

1 criticizing Pasco County, but we had a little bit better
2 performance in the product that we chose to use than the one
3 that Pasco County uses.

4 We also have a very big logistical problem that Pasco
5 County doesn't certainly and it gets rather involved, but the
6 facilities that would be required to do pH adjustment are very
7 large. And until we actually end up in a situation where
8 Aloha's water plants are all consolidated, it would almost be
9 impossible to do that at separate well sites, which is the way
10 we presently are configured.

11 Once the facilities all got consolidated to several
12 main water facilities where you had the land and so forth to
13 build all those facilities, you had the access for vehicles to
14 get into them and so forth, you could begin to look at
15 something like that. But the fact is our copper corrosion
16 program has had excellent performance and has been deemed
17 optimized, and you heard testimony earlier that we're down to
18 actually the minimal level of testing now due to the excellent
19 performance of our program.

20 Q Don't you believe, Mr. Watford, that that's only true
21 if you want to believe what you're saying?

22 A I don't understand your question.

23 Q If you were a normal business with a five-year plan,
24 is that consolidation in your business plan?

25 A The consolidation of the plant sites?

1 Q Yes.

2 A Is that what you're asking?

3 No, not at this time it's not.

4 Q So, in other words, what you're saying is that the
5 customers can expect at least another five years of the current
6 situation?

7 A What I'm saying is we are presently in the process of
8 doing a pilot study basically that was directed by this
9 Commission to evaluate methods of treatment. We also are going
10 to begin very soon, hopefully at the conclusion of this case,
11 purchasing a large quantity of water from Pasco County that's
12 not currently part of the mix. There's a lot of things that
13 are going to be changing, as well as the fact that Pasco County
14 is totally modifying their treatment methodology and they're
15 struggling trying to get their system up and ready for that
16 switch over that's going to occur very, very shortly.

17 There are a multitude of things in this question that
18 are changing, and to pull any one single issue out in a vacuum
19 and look at it I think just totally does disservice to
20 everybody.

21 Q Do you believe that it's good management just to be
22 pushed by the breeze in one direction or another or should
23 there be a plan that you have in effect that you're going to
24 accomplish something?

25 A Well, Mr. Wood, we certainly wouldn't be spending the

1 money going through the studies that we're going through if the
2 desire wasn't to accomplish something. That's why we're doing
3 it. No, we typically wouldn't just throw the money away.

4 Our goal is to move forward. We are looking at what
5 we believe is the best process in front of us right now to
6 satisfy the needs of the customers.

7 Now, you know, it's preposterous to presume that for
8 some reason we wouldn't want the customers happy with the
9 product that they receive. That's exactly our desire.

10 CHAIRMAN JABER: Mr. Wood, give me, give me just an
11 indication, an estimate of how many more questions you have.
12 I'm looking for a logical place to take a break.

13 MR. WOOD: I have a few.

14 CHAIRMAN JABER: Do you think you'll need how much
15 time?

16 MR. WOOD: I'll get it done quick depending on the
17 length of the answer.

18 CHAIRMAN JABER: Okay. Well, we'll let you finish.
19 And right after Mr. Wood is done with his cross-examination
20 we'll take a lunch break.

21 BY MR. WOOD:

22 Q Dealing with Pasco County, you mentioned getting more
23 water from Pasco County. What kind of negotiations did you do
24 with Pasco County to get the rate?

25 A Well, their rate is established by their regulatory

1 board, the board of county commissioners. It is a standard
2 rate. It's the same rate that all bulk utilities are required
3 to pay. And, you know, not only that, it's based -- they
4 performed -- I even spoke with Mr. Bramblett recently in
5 regards to that issue and the fact is it's a rate set by the
6 board of county commissioners. They believe it's a fair rate.
7 It would take some action by the board to modify that rate, and
8 that rate was based upon a very in-depth cost study that their
9 consulting engineers performed for them whereupon they got the
10 current rate structure that they operate under. So Mr.
11 Bramblett's response to me about if he would be interested in
12 working on a lower rate would be they'd have to throw out the
13 recommendations of our experts, plus throw out the
14 recommendations of our staff and make a move in that direction,
15 and he didn't see that was a potential.

16 Q Do you feel that it is right for the average
17 homeowner to pay more for the water you're getting from Pasco
18 County than they would be paying if they got it direct
19 themselves from Pasco County?

20 A Sir, I'm not going to sit here and defend Pasco
21 County's bulk rate. No. I think it's higher than it should
22 be. But I don't get to set that, they do.

23 Q Don't you think that's the, one of the tasks of the
24 management, to go out and negotiate and bring before a supplier
25 the rates?

1 A And I believe that's exactly what we've done.

2 CHAIRMAN JABER: How did your negotiation work?
3 You -- in terms of the bulk rate, did you receive word about
4 that from Doug Bramblett or did you have to petition the county
5 commission yourself for a study and the eventual contract
6 price?

7 THE WITNESS: They do, I don't want to say it's
8 similar to this process, but they do a, they do an annual rate
9 setting function that they do at Pasco County. Every so often,
10 I think the study was probably, and this is a guess, three
11 years ago that they did where they reset all of their rates.
12 They go to an outside consultant to evaluate all those factors
13 for them.

14 The, as it relates to the specifics in this case, we
15 have been a longtime customer of Pasco County. It's not
16 anything new. There's no new thing that's been negotiated
17 because there's not anything new. That is their rate and they
18 send us their notification of their rate changes typically
19 giving us three or four months' notice prior to, and actually
20 the last time that they sent us the notice it set the rates for
21 the next several years. And I believe next August they're
22 going from \$2.35 to \$2.56 per thousand.

23 CHAIRMAN JABER: So it's the same bulk rate that
24 every single utility that buys from them has. Do they have
25 special sort of tariff provisions based on the amount of

1 capacity you actually buy from them?

2 THE WITNESS: No, they don't. It's just a per
3 thousand gallonage rate. And Mr. Woods is right. If you're a
4 customer of Pasco County, you're first tier, and I believe they
5 either have four or five tiers to their structure, their first
6 tier is below the bulk rate.

7 COMMISSIONER PALECKI: Do you know if any other
8 utility purchases as much from Pasco as you will be purchasing?

9 THE WITNESS: I don't know that, Commissioner
10 Palecki. I would guess not by and large because most of them
11 have been put out of business.

12 COMMISSIONER PALECKI: I'm talking about looking out
13 into the future, I believe it was Representative Fasano that
14 said that he would be willing to help in negotiations with the
15 county. Is that something that could be done to try to get a
16 better rate based upon the high volume you will be purchasing?

17 THE WITNESS: I have absolutely no problem getting a
18 lower rate from Pasco County however we could get that.

19 COMMISSIONER PALECKI: So that's something --

20 THE WITNESS: If that's something Mr. Fasano wants to
21 participate in that, we would welcome that. Or anybody else --
22 if you folks would like to participate in that, we would
23 welcome that as well.

24 COMMISSIONER PALECKI: We would certainly like to see
25 whatever could be done to bring that rate down.

1 THE WITNESS: My personal opinion, yes, the rate is
2 excessive. I don't have the opportunity to set that rate.
3 Pasco County does. I'm not at all prepared to sit here and
4 defend their rate. I think it's quite high.

5 COMMISSIONER PALECKI: Thank you.

6 CHAIRMAN JABER: Go ahead, Mr. Wood.

7 BY MR. WOOD:

8 Q When did you first realize that you were overpumping?

9 A Several years ago.

10 Q What did you do about it?

11 A Well, we established an interconnect with Pasco
12 County and at the time, and it is kind of a progression of
13 events that took place over a period of years, the, the
14 understanding pretty much that existed out there as we were
15 going through the drought and so forth, that most all of the
16 utilities were overpumping. And as we came out of the drought
17 everybody hoped that that would take care of a lot of that.
18 But several years ago.

19 Q During the time you were overpumping there was no
20 drought, is that correct, started overpumping?

21 A No, I don't believe that is correct. I believe if
22 you asked the Water Management District, who I consider to be
23 the authority on that, they would say that's existed for years.

24 Q Uh-huh. So what year would you say that the
25 overpumping commenced?

1 A I honestly don't have the pumpage data up here with
2 me. I'd have to go back and look at that.

3 Q Would you say 1997?

4 A I believe it's in the record in the prefiled
5 testimony of the Water Management District. I can look at
6 that, if you'd like.

7 Q Did you realize in 1997 when you listened to all the
8 weather forecasts we were talking about El Nino, which was all
9 the rain that was coming into the area, is that a fact?

10 A I don't recall.

11 Q Why do you need a web site?

12 A Well, I guess a good answer wouldn't be because
13 everybody's got one.

14 One of the things that was recommended to us in the
15 course of the management audit was to improve communication
16 with our customers and to try and attempt to provide easier
17 access and so forth to information that we were trying to
18 distribute to them, as well as being able to get to customer
19 forms that they may wish to fill out, vacation rate forms and
20 so forth.

21 The final, the final portion of that was in our
22 negotiations with the Water Management District. One of the
23 things that ended up in the groundwater, the compliance plan
24 portion of the consent order would be, that was one of the
25 components. And from there we could distribute

1 conservation-related information. They encourage all utilities
2 to have links off their web site back to the Water Management
3 District's conservation information, and that's pretty much
4 where it came from.

5 Q How many hits per day would you project?

6 A I have no idea right now.

7 Q Don't you think that in a study of a web site you
8 would know that information?

9 A Well, Mr. Wood, basically the components of the
10 conservation plan, we're not the experts on that, the Water
11 Management District is. And to a large extent we're relying
12 upon their expertise as to, you know, what are the various
13 components of that plan and what value they will have to the
14 environment and to the customers and the consumers who
15 ultimately receive that benefit.

16 Maybe -- I don't know whether their witness could
17 give you a guess for a utility our size how many hits they
18 would get a day, but I think she'll be up here later.

19 Q What's your cost justification for the web site?

20 A Pretty much the same answer.

21 Q In other words, there is none. Is that your answer?

22 A No, I don't believe that was my answer. I believe
23 that's what's being required by the Water Management District
24 in the compliance plan and that's the answer.

25 Q Has Aloha ever done anything without being ordered to

1 do so by a local, state or federal agency?

2 A Yes. We do many things each and every day servicing
3 the needs of our customers. We do attempt to the best of our
4 ability to try to stay in compliance with the rules and
5 regulations of all the various entities that exist out there in
6 the regulation of this business, whether it be the Public
7 Service Commission, the DEP or the Water Management District or
8 several others. But those are obviously the framework under
9 which we operate.

10 Q Do you feel that in a competitive market Aloha would
11 survive?

12 A I think in a competitive marketplace, if you look at
13 that historically, our rates compared to surrounding utilities
14 have been substantially lower than other utilities.

15 Q But do you think that Aloha would survive with the
16 level of service that they're providing?

17 A Absolutely. And I might add the, that was also the
18 findings of the management audit team as it related to customer
19 service.

20 Q What's the cost justification for the new employees?
21 How are they going to pay back the salaries that they're
22 getting?

23 A Through improved service and -- just through improved
24 service to the customers of this utility.

25 Q Put a dollar value on it.

1 A Put a dollar value on what?

2 Q If I hire an employee and I pay him \$10,000, where is
3 the \$10,000 in return in the cash register?

4 A We need the additional employees that have been
5 requested in this case to continue to provide good and
6 hopefully improve the quality of service that we provide to our
7 customers. As you might, as you might even surmise, the level
8 of complexity in operating these systems increases all the
9 time.

10 Once this transition is made to where we are pulling
11 in another source into our system the level of complexity is
12 going to go up greatly. There are even certain unknowns at
13 this point as to how we're going to deal with certain issues as
14 it relates to the treatment changes that Pasco County is
15 proposing to do in their water. All of that takes place and
16 requires manpower to do it.

17 The answer pretty much relates, it would have to
18 relate specifically to whatever position you were referring to
19 if you're wanting, you know, a description of what that
20 individual's duties were. But across the board I guess that
21 would be my answer.

22 MR. WOOD: That's it, Commissioner.

23 CHAIRMAN JABER: Thank you, Mr. Wood. We're going to
24 take an hour lunch break.

25 Just for informational purposes, the restaurant has

1 told me they have increased their wait staff and their cook, so
2 you shouldn't have a problem getting lunch there and be back by
3 1:30. For additional information, I plan on working through
4 dinner, so don't count on a dinner break.

5 (Lunch recess.)
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1 STATE OF FLORIDA)
2 : CERTIFICATE OF REPORTER
3 COUNTY OF LEON)

4

5 I, LINDA BOLES, RPR, Official Commission
6 Reporter, do hereby certify that the foregoing proceeding was
heard at the time and place herein stated.

7 IT IS FURTHER CERTIFIED that I stenographically
8 reported the said proceedings; that the same has been
transcribed under my direct supervision; and that this
9 transcript constitutes a true transcription of my notes of said
proceedings.

10 I FURTHER CERTIFY that I am not a relative, employee,
11 attorney or counsel of any of the parties, nor am I a relative
or employee of any of the parties' attorneys or counsel
12 connected with the action, nor am I financially interested in
the action.

13 DATED THIS 22nd DAY OF JANUARY, 2002.

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