

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.

ELECTRONIC VERSIONS OF THIS TRANSCRIPT ARE
A CONVENIENCE COPY ONLY AND ARE NOT
THE OFFICIAL TRANSCRIPT OF THE HEARING,
THE .PDF VERSION INCLUDES PREFILED TESTIMONY.

VOLUME 7

Pages 863 through 948

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.
Adjourned at 9:35 p.m.

PLACE:

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

REPORTED BY:

TRICIA DeMARTE
Official FPSC Reporter
(850)413-6736

APPEARANCES:

(As heretofore noted.)

DOCUMENT NUMBER-DATE

00923 JAN 25 02

FPSC-COMMISSION CLERK

I N D E X

WITNESSES

NAME:	PAGE NO.
STEPHEN A. STEWART	
Direct Examination by Mr. Burgess	866
Prefiled Direct Testimony Inserted	872
Cross Examination by Ms. Espinoza	879
Cross Examination by Mr. Wharton	880
Redirect Examination by Mr. Burgess	909
RICHARD DURBIN	
Direct Examination by Mr. Jaeger	912
Prefiled Direct Testimony Inserted	914
Cross Examination by Mr. Wood	917
Cross Examination by Mr. Deterding	919
Redirect Examination by Mr. Jaeger	934
VINCENT C. ALDRIDGE	
Stipulated Prefiled Direct Testimony Inserted	936
CERTIFICATE OF REPORTER	948

EXHIBITS

	NUMBER:		ID.	ADMTD.
1				
2				
3				
4	11	SAS-1	871	910
5	12	11/30/01 Deposition Transcript of Stephen A. Stewart	902	911
6	13	JRD-1 through JRD-3	913	934
7	14	VCA-1	935	935
8	15	DEP e-mail and attached correspondence	946	946
9				
10				
11				
12				
13				
14				
15				
16				
17				
18				
19				
20				
21				
22				
23				
24				
25				

P R O C E E D I N G S

(Transcript follows in sequence from Volume 6.)

MR. BURGESS: Thank you. I would call
Stephen Stewart.

STEPHEN A. STEWART

was called as a witness on behalf of the Citizens of the State
of Florida and, having been duly sworn, testified as follows:

D I R E C T E X A M I N A T I O N

BY MR. BURGESS:

Q Mr. Stewart, are you ready?

A Yes, I am.

Q Would you state your name and business address for
the record, please.

A Yeah. My name is Stephen Allen Stewart, and my
business address is 2904 Tyron Circle, T-Y-R-O-N, Tallahassee,
Florida 32309.

Q Mr. Stewart, did you prefile testimony in this
docket?

A Yes, I did.

Q Do you have any changes to the prefiled testimony
that you would like to make?

A The only changes are the ones that we noted in my
deposition where we submitted the revised Exhibits 4, 5, and 6.

Q Would you state for the benefit of the Commission the
nature of those changes to your prefiled testimony?

1 A Right. At the deposition, I submitted these changes.
2 I had made a mistake in a calculation. I just made that change
3 and redid the calculation that flowed through the exhibits and
4 distributed them at the deposition.

5 CHAIRMAN JABER: So it affects -- Mr. Burgess, it
6 affects SAS-1 or does it affect --

7 THE WITNESS: No, it's 4, 5, and 6.

8 MR. BURGESS: It does affect SAS-1 which is composed
9 of six schedules, and it affects of that Schedules 4, 5, and 6.

10 CHAIRMAN JABER: And do we have new copies of the
11 schedule, or do you want to read the numbers into the record?

12 See, the Commissioners don't have the --

13 MR. BURGESS: I am just now aware of that. If I may
14 provide copies, either get access to a copier this morning -- I
15 mean, tomorrow morning --

16 CHAIRMAN JABER: We have been here --

17 MR. BURGESS: Even a few more hours. Or even, if
18 necessary, with your indulgence after we return to Tallahassee
19 and make enough copies to submit that. I'm trying to think of
20 whether -- what we did submit for the record, but I'm afraid
21 the record does reflect the testimony prefiled, so I will need
22 to file that.

23 CHAIRMAN JABER: But there are no objections to the
24 changes. It's just that the Commissioners -- and the parties
25 know what the changes are. It's just that the Commissioners

1 don't have them; right?

2 MR. BURGESS: That's correct.

3 THE WITNESS: Right. And there's one number that I
4 could give you that you could just scratch out which is
5 basically the end result which would help you in the
6 cross-examination, if you would like.

7 CHAIRMAN JABER: Commissioners, what's your
8 preference? I don't mind allowing Mr. Burgess to give us a
9 copy tomorrow if there is a copy machine.

10 MR. JAEGER: Here's one extra copy that I don't need
11 if you'd like to have it at the table.

12 CHAIRMAN JABER: Give it to Mr. Burgess.

13 MR. BURGESS: I have a copy or probably a couple of
14 copies but not enough to distribute proper recognition.

15 CHAIRMAN JABER: Well, Mr. Burgess, what we'll do is
16 go ahead and identify this as an exhibit, and we'll call it a
17 revised schedule based on changes made today by Mr. Stewart,
18 and then you can submit the requisite copies later on in
19 Tallahassee. And we'll leave this with the court reporter,
20 though, for her records.

21 MR. BURGESS: Thank you very much, Chairman Jaber.
22 Would you like for -- may I ask Mr. Stewart to give a very
23 brief synopsis of what the change reflects?

24 BY MR. BURGESS:

25 Q Would you do that, please, Mr. Stewart.

1 A Yes. Referring to Schedule 4, the change is on the
2 projected 2001 average number of ERCs on the original on
3 Schedule 4. The original exhibit, that number was 10,323.
4 That was a miscalculation and should be changed to 10,560.
5 With that change, I just flowed that through on the
6 calculations for the next three exhibits.

7 Q And what effect did that have on your projected
8 gallons to be sold in 2001?

9 A That increased the projected gallons to be sold in
10 2001 from 998 million to 1,021,000,000.

11 Q With the exception of those changes, if the questions
12 posed in the prefiled testimony were asked tonight, would your
13 answers be the same?

14 A Yes, they would.

15 MR. BURGESS: Chairman Jaber, I would ask that
16 Mr. Stewart's prefiled testimony be entered into the record as
17 though read.

18 CHAIRMAN JABER: Yes. The prefiled direct testimony
19 of Stephen A. Stewart shall be inserted into the record as
20 though read.

21 BY MR. BURGESS:

22 Q Mr. Stewart, did you also prefile six schedules,
23 Schedules 1 through 6, inclusive attached to your testimony?

24 A I did.

25 MR. BURGESS: May we get an exhibit number to

1 identify those schedules in composite?

2 CHAIRMAN JABER: Yes. Composite Exhibit 11 shall be
3 made up of SAS-1 which is comprised of Schedules 1 through
4 6 with a revised Schedule 4-R, 5-R, and 6-R.

5 MR. BURGESS: And that would be a schedule that would
6 be part of Composite 11?

7 CHAIRMAN JABER: The revised schedules?

8 MR. BURGESS: Yes.

9 CHAIRMAN JABER: Yes.

10 MR. BURGESS: Okay. Very good.

11 CHAIRMAN JABER: That's my intent.

12 MR. BURGESS: Okay. And as I'm thinking about it,
13 I'm not positive I asked to move in or whether you moved in of
14 your own motion the Composite Exhibit 10 of Mr. Bidy's
15 testimony.

16 CHAIRMAN JABER: I moved Exhibit 10 in.

17 MR. BURGESS: Thank you.

18 CHAIRMAN JABER: Mr. Jaeger, for purposes of your
19 recommendation, are you clear on what Exhibit 11 is? I intend
20 it to be Schedules 1 through 6 which have been identified in
21 the prehearing order as SAS-1.

22 MR. JAEGER: Yes.

23 CHAIRMAN JABER: But I'm making the reference that
24 Schedules 4-R, 5-R, and 6-R are the revised schedules.

25 MR. JAEGER: The only confusion I may have is the

1 original Schedules 4, 5, and 6, are they going to be deleted,
2 or will they be there in the record?

3 CHAIRMAN JABER: Well, you all tell me.

4 MR. BURGESS: I would suggest the deletion of those
5 for the purposes of the record, and then if these are
6 submitted, then these would be the new second half of -- or a
7 Composite Exhibit 11.

8 MR. JAEGER: So we will delete the original 4, 5, and
9 6?

10 CHAIRMAN JABER: I think that that would be --
11 Schedules 4-R, 5-R, 6-R will be the substitute for Schedules
12 4 through 6 initially identified.

13 MR. BURGESS: Thank you, Madam Chairman. And I
14 apologize for the inconvenience.

15 CHAIRMAN JABER: That's Composite Exhibit 11.
16 (Exhibit 11 marked for identification.)
17
18
19
20
21
22
23
24
25

1 **Q. PLEASE STATE YOUR NAME, ADDRESS AND OCCUPATION?**

2 A. My name is Stephen A. Stewart. My address is 2904 Tyron Circle,
3 Tallahassee, Florida, 32309. I am appearing as a consultant for the Office of
4 Public Counsel.

5 **Q. PLEASE DESCRIBE YOUR EDUCATIONAL BACKGROUND AND
6 BUSINESS EXPERIENCE?**

7 A. I graduated from Clemson University with a Bachelor of Science degree in
8 Electrical Engineering in December 1984. I received a Master's degree in
9 Political Science from Florida State University in August 1990, and I have
10 completed Doctorate level work in the area of Public Policy.

11 From January 1985 until October 1988, I was employed by Martin Marietta
12 Corporation and Harris Corporation as a Test Engineer. In July 1989, I accepted
13 an internship with the Science and Technology Committee in the Florida House of
14 Representatives. Upon expiration of the internship I accepted employment with
15 the Office of the Auditor General in August 1990, as a program auditor. In this
16 position I was responsible for evaluating and analyzing public programs to
17 determine their impact and cost-effectiveness.

18 In October 1991, I accepted a position with the Office of Public Counsel
19 responsible for analyzing accounting, financial, statistical, economic and
20 engineering data of regulated companies and identifying issues and positions in
21 matters addressed by the Public Service Commission.

22 Since 1994 and I have been the Director of Operations for two privately held
23 companies, USMED and Real Estate Data Services, Inc. My responsibilities with

1 these two companies have included profitability analysis, product development,
2 product evaluation, budgeting and forecasting.

3 **Q. WHAT IS THE PURPOSE OF YOUR TESTIMONY?**

4 A. The purpose of my testimony is to address the methodology used by Aloha to
5 project test year water consumption.

6 **Q. HAVE YOU PREPARED AN EXHIBIT TO YOUR TESTIMONY?**

7 A. Yes. I have prepared an exhibit entitled, "Exhibit of Stephen A. Stewart,"
8 which consist of 6 schedules and has been identified as Exhibit No. ____.

9 **Q. PLEASE DESCRIBE THE METHODOLOGY USED BY ALOHA TO**
10 **PROJECT TEST YEAR WATER CONSUMPTION?**

11 A. Aloha projects total water to be sold in 2001 by adding projected new
12 customer water demand in 2001 to water sold in 2000 (Schedule G-9, page 2 of
13 4). New customer water projected to be sold in 2001 is calculated by multiplying
14 the projected number of additional ERC's for 2001 (Schedule F-9, page 1 of 2) by
15 the projected water demand per additional ERC in 2001 of 500 Gallons/Day
16 (Schedule G-9, Page 1 of 4). The formula for this methodology is listed in
17 Schedule 1 of my Exhibit.

18 **Q. HOW WAS THE NUMBER OF NEW ERC'S PROJECTED FOR 2001?**

19 A. Aloha used a regression analysis for the period of 1995 to 2000 to project 2001
20 ERC's. This procedure is detailed in Schedule F-9, Page 2 of the MFR's.

21 **Q. HOW WAS THE 500 GALLON/DAY USAGE FOR EACH NEW**
22 **CUSTOMER IN 2001 CALCULATED?**

1 A. Aloha witness Porter averaged the annual average monthly demand per ERC
2 for the period 7/1/00 to 6/30/01 for twelve of the newer subdivisions in the Aloha
3 service area. OPC witness Bidy points out in detail the numerous flaws in this
4 procedure.

5 **Q. DO YOU THINK THE METHODOLOGY USED BY ALOHA IN THIS**
6 **CASE IS APPROPRIATE?**

7 A. No. In calculating their projection, Aloha integrates a number of competing
8 methodologies. Aloha accepts the single year 2000 as a base for their projection,
9 uses data from the period 1995 to 2000 to project ERC's, and uses 12 month
10 averages of selected neighborhoods to calculate new customer demand. This
11 hodgepodge of methodologies is inappropriate. After reviewing Aloha's filing and
12 conducting my own research and analysis the evidence indicates the hybrid
13 methodology used by Aloha in this case failed to take into consideration the
14 abnormally dry weather in 2000 and has resulted in an inflated projection of water
15 consumption in 2001.

16 **Q. HOW WOULD ABNORMALLY DRY WEATHER AFFECT**
17 **PROJECTED TEST YEAR CONSUMPTION?**

18 A. Abnormally dry weather would result in increased water usage due to
19 irrigation needs.

20 **Q. WHAT MAKES YOU THINK WEATHER IS RELATED TO WATER**
21 **CONSUMPTION?**

22 A. Schedule 2 of my Exhibit shows water consumption over the last five years
23 with the associated yearly rainfall in Pasco county. As you can see the

1 relationship between rain and consumption is inversely proportional – as rain
2 increases consumption decreases. Also listed in Schedule 2 is a statistical
3 analysis which supports the inverse relationship between rainfall and water usage
4 during this period.

5 **Q. WHAT IS YOUR EVIDENCE THAT THE DATA USED BY ALOHA**
6 **COMES FROM AN ABNORMALLY DRY PERIOD.**

7 A. Schedule 3 of my exhibit shows rainfall data as provide by the Southwest
8 Water Management District for Pasco county. The data reveals that the year 2000
9 was abnormally dry.

10 **Q. WHAT IMPLICATIONS DOES THIS HAVE FOR ALOHA'S**
11 **METHODOLOGY.**

12 A. First, using the “dry” year 2000 consumption data as a base for projecting 2001
13 usage creates an inflation factor in the methodology. Second, calculating
14 projected usage for new customers employing consumption data from a “dry”
15 year compounds the effect by introducing another inflating factor. Taken together,
16 these factors result in a methodology which projects consumption that would be
17 less under normal weather conditions.

18 **Q. GIVEN THE FLAWS YOU HAVE IDENTIFIED WITH ALOHA'S**
19 **METHODOLOGY, HOW WOULD YOU CALCULATE PROJECTED**
20 **2001 WATER USAGE.**

21 A. Given the limitations placed on discovery in this case, a valid approach would
22 be to take a reasonable gallon per day usage figure per ERC and multiply that

1 number by the projected average number of ERC's for 2001. Schedule 4 of my
2 exhibit details this approach.

3 **Q. HOW DID YOU ARRIVE AT AN AVERAGE GALLON PER DAY**
4 **USAGE FIGURE PER ERC?**

5 A. I took the average gallon per day usage per ERC over the period of 1995 to
6 2000 as provided by the utility in Schedule F-9, Page 1 of the MFR.

7 **Q. HOW DID YOU ARRIVE AT THE PROJECTED AVERAGE NUMBER**
8 **OF ERC'S FOR 2001?**

9 A. I accepted the year 2001 ERC's as projected by the Utility and calculated an
10 average number of ERC's for 2001.

11 **Q. GIVEN THESE CALCULATIONS, WHAT IS YOUR PROPOSED 2001**
12 **WATER USAGE?**

13 A. Referring to Schedule 4 of my exhibit, the methodology I employed proposes a
14 reasonable consumption figure of 998,492,175 gallons for 2001. This number is
15 arrived at by multiplying gallons/day usage by 365 and by the projected average
16 number of ERC's.

17 **Q. WHY DO YOU BELIEVE THIS PROJECTION IS REASONABLE.**

18 A. One test of reasonableness is to compare actual results with projected results.
19 In this case we have actual results for the first six months of 2001. Schedule 5 of
20 my exhibit shows that the methodology I employed matches 2001 actual numbers
21 rather well, particularly when compared to the projections by Aloha. OPC's
22 projection is off by 2.4 % of actuals, while Aloha's projection is off by 13.4%.

1 In addition, Schedule 6 of my exhibit demonstrates the variation in projections
2 based on extreme values of gallons/day per ERC over the period of 1995 to 2000.
3 The high extreme is 277 gallons/day per ERC and the low extreme is 247
4 gallons/day per ERC. This schedule clearly shows that OPC's projection falls
5 between these extremes. Aloha's projection for 2001 results in 287 gallons/day
6 per ERC. This number clearly falls outside the high range of gallons/day per ERC
7 usage over the period of 1995 to 2000.

8 **Q. ARE THERE ANY OTHER FACTORS THE COMMISSION SHOULD**
9 **CONSIDER IN DETERMINING THE 2001 PROJECTION OF WATER**
10 **USAGE?**

11 A. Yes. The methodology I have employed to determine 2001 projected usage
12 was based on using a consistent methodology. This methodology does not give
13 any "special consideration" to the drought of the year 2000.

14 **Q. DOES THIS COMPLETE YOUR DIRECT TESTIMONY?**

15 A. Yes.

16

1 BY MR. BURGESS:

2 Q With that, I would ask Mr. Stewart if he could
3 provide the Commission with a brief summary of his testimony.

4 A Thank you, Mr. Burgess. The purpose of my testimony
5 was to address the methodology used by Aloha to project test
6 year water consumption. Upon review of Aloha's methodology, I
7 determined their approach contained significant flaws which
8 lead to an inflated water consumption projection for the test
9 year. These flaws include using a base year for their
10 calculation that was abnormally dry and employing a simplistic
11 and selective methodology to project new customer demand.

12 In my testimony, I present an alternative approach
13 that results in what I believe to be a more reasonable and
14 statistically sound projection than was presented by Aloha.
15 This conclusion is supported by the first six months of the
16 actual results for the 2001. This concludes the summary of my
17 testimony.

18 MR. BURGESS: Thank you. We would tender the witness
19 for cross-examination.

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

21 MR. WOOD: I have no questions.

22 CHAIRMAN JABER: Ms. Lytle.

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

24 CHAIRMAN JABER: Staff.

25 MS. ESPINOZA: We have a few questions.

CROSS EXAMINATION

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

BY MS. ESPINOZA:

Q Mr. Stewart, would you agree that the use of a weather variable such as a moisture deficit variable is one way to take into account weather as it pertains to consumption?

A Yes, I would agree with that.

Q And would you also agree that to the extent that there are abnormalities in weather, that a variable such as a deviation of the moisture deficit variable from its mean as one appropriate way to take such weather abnormalities into account?

A I would agree.

Q And, Mr. Stewart, were you present earlier this morning when Mr. Porter testified?

A I was.

Q Do you recall a response to a question earlier when he was testifying that for the purposes of his analysis he'd considered ERCs to be the same as single family residences?

A Yes, I do.

Q And what is your opinion on the appropriateness of that presumption?

A I think it's a flawed one, and it gets to be very technical. But the way that they projected the ERCs to get to the final projection, they sort of throw the number 500 gallons per consumer or per customer around with 500 gallons per ERC,

1 and there is a difference. And if you look in the MFRs on
2 Schedule F-9, you can see how -- for each six years of data
3 here how it flows through. And what he's assuming is that the
4 473 ERCs that he projects, not only is he starting them off on
5 January 1st, but what he's projecting is that they're all new
6 customers. Okay. And that does not flow through the way the
7 calculation of ERC works, because what happens is, you have a
8 single family residential gallon sold with an average number of
9 customers from beginning to year end. You divide that to get
10 the gallons per ERC. And then you take that and use the total
11 gallons that were sold out outside, you know, which would
12 include those that were sold outside the residential class to
13 get the total ERCs.

14 So what he has done is he has said, well, there's 473
15 ERCs and that translates to 473 new customers, single family
16 residential customers, well, that's not right.

17 MS. ESPINOZA: Thank you. We have no further
18 questions.

19 CHAIRMAN JABER: Thank you.

20 Mr. Wharton.

21 CROSS EXAMINATION

22 BY MR. WHARTON:

23 Q Good evening, Mr. Stewart.

24 A Good evening.

25 Q Now, by education, you're an electrical engineer with

1 a Master's degree in political science?

2 A Right.

3 Q And you told me that you utilized a methodology in
4 this case that you haven't used anywhere else; correct?

5 A That's true.

6 Q And you've explained that methodology in your
7 prefiled testimony and with these six exhibits that you've
8 attached to your prefiled testimony?

9 A Right.

10 Q And you told me at deposition on November 30 that you
11 had worked 50 hours on this case at that time; right?

12 A Subject to check, yeah. I don't recall saying that,
13 but --

14 Q And what you did was, your calculations -- your
15 methodology resulted in a calculation of 265 gallons per day
16 per ERC?

17 A Hold on just a second. Fifty hours, is that what you
18 said?

19 Q Yeah.

20 A Okay. All right. Go on to the next question. I was
21 just trying to clear that up in my mind. I'm sorry. Next
22 question.

23 Q Okay. And you had -- your methodology resulted in a
24 calculation of 265 gallons per day per ERC?

25 A Correct.

1 Q And you had six years' worth of data that you were
2 relying on in that regard?

3 A Right '95 through 2000.

4 Q Okay. Now, isn't it true that despite all your
5 testimony and all your schedules, what you did was took the
6 last six years gallons per day per ERC and divided it by six?

7 A That's what I did.

8 Q Okay. Did that take 50 hours?

9 A To do the calculation, no.

10 Q So your number of 265 is just an average of those
11 numbers from the information you got from Aloha; right?

12 A That's correct.

13 Q Now, would you agree that during those six years, the
14 gallons per day per ERC used by Aloha's customers showed an
15 upward trend?

16 A I would agree.

17 Q Okay. And would you agree that if you went back
18 seven years and that number was a lower number, then your
19 number, the average would have been a lower number?

20 A This all sounds so familiar, Mr. Wharton.

21 Q That's the way it's supposed to work.

22 A I would agree with that.

23 Q And you would agree that if you went back ten years
24 and the numbers got lower and lower, your number would be
25 lower?

1 A Could you repeat that question again?

2 Q Yes. If you used ten years' worth of data and the
3 four years before the six years you used were lower numbers,
4 lower number, lower number as you moved away, your average
5 would have been lower?

6 A If the actual numbers that were provided in the MFRs
7 were lower and lower, yes, that would be correct.

8 Q And the same thing would be true if I gave you an
9 example 15, 20 years, et cetera?

10 A Right. If they kept going lower, that's a
11 mathematical proof, I would say.

12 Q So for a system that is growing like Aloha, the
13 longer data set you would have used, the lower your number
14 would have come out; correct?

15 A Well, no, I think -- you just said that for a system
16 that is growing. What you meant to say was that use that is
17 growing -- use per customer that is growing.

18 Q Okay. We'll go with that then, with your correction.

19 A Right. Well, the thing is use per customer is
20 affected by a number of things -- a number of variables that
21 makes it very difficult to predict what's going to happen. So
22 what we do in rate cases is, we try to normalize company
23 operations to set rates for a test year. We don't try to
24 predict what the test year would be. We try to look at what
25 would be the best set of data that would represent normal

1 operations.

2 Q But you would agree, Mr. Stewart, that if Aloha's
3 usage per ERC per day has grown steadily over a 20-year period,
4 if you went back 20 years, your figure would have even been
5 lower?

6 A If I had 20 years of data, there may have been -- you
7 know, the analysis fits the data that's available. If there
8 had been 20 years of data -- which again we asked for more data
9 which we were unable to get for a number of reasons. So what I
10 did is, I took an analysis that fit the data that was
11 available. And, you know, I mean, based on the actual results,
12 I think that it has done a good job of representing what normal
13 operations would be for the company in the test year.

14 Q But, Mr. Stewart, didn't you acknowledge in
15 deposition that if I gave you similar examples and went
16 backwards, the further back I went, the lower your number would
17 become?

18 A Mathematically, yes, but that is assuming that if I'd
19 had those 20 years that I would have done the same analysis,
20 and I don't think that I stated that in my deposition.

21 Q Well, let's take a look at it. Let's look at Page 50
22 of your deposition. And I've taken you through the examples of
23 if you had a '94 number that was lower and a '93 number that
24 was lower --

25 A Correct.

1 Q -- Page 50, Line -- and then I said, "And it would
2 just go on and on and on, and if I went backwards and gave
3 similar examples, right, your number would get lower and lower
4 and lower?"

5 A And you said, "Right, that's how averages work."

6 A Exactly.

7 Q Do you stand by that testimony?

8 A I stand by the fact that the methodology that I had
9 if you did 20 years and the numbers were lower each time, that
10 the number would be lower. I do not -- or did not say that if
11 there's 20 years of data that I would have stuck by that type
12 of analysis to project test year consumption.

13 Q Now, you would tend to agree that using a simple
14 average eliminates changes such as increasing consumption per
15 ERC due to demographic changes, wouldn't you?

16 A Repeat that.

17 Q You would tend to agree that using a simple average
18 eliminates changes such as increasing consumption per ERC due
19 to demographic changes --

20 A What do you mean "eliminates changes"?

21 Q Well, did you understand that word when I took your
22 deposition, but you have a problem with it now?

23 A Understand --

24 Q Let's take a look at Page 60 of your deposition.

25 Page 60, Line 6, "Doesn't a simple average eliminate changes

1 such as increasing consumption per ERC due to demographic
2 changes?

3 Answer: You say increasing consumption due to
4 demographic changes?

5 Question: Yes.

6 Answer: I would say that without looking and doing
7 some analysis that I would tend to agree with that."

8 A Are you going to finish my answer?

9 Q "However, consumption can also be affected by other
10 variables that are included in a simple average."

11 So you would tend to agree with that statement?

12 A Yes, I would with the qualification that's there.

13 Q Okay. Now, you agree that for the last -- for the
14 data you looked at, you have never seen demand levels drop 12
15 or more gallons per ERC per day in any year for Aloha's
16 customers; right?

17 A Twelve or more gallons per day?

18 Q Correct.

19 A I'm not sure where you're referring to.

20 Q When you look back and you compare the gallons per
21 ERC per day for the data set you had, you never saw it drop 12
22 from one year to the next, did you?

23 A Subject to check, I would agree with that.

24 Q However, that's exactly what you're projecting will
25 happen in 2001, isn't it, that it will drop 12 gallons per day

1 per ERC compared to the year before that?

2 A Yes, I would agree with that. And my -- I guess my
3 qualification -- and we can wordsmith through this and get me
4 to agree to all these mathematical calculations, but the bottom
5 line is, is you've got to look at what the results are of the
6 model that we've devised. Okay. And if you look at the actual
7 results for six months compared to what I have predicted, it's
8 very close -- much closer than what the company came up with.

9 Now, you know, we can keep going and talk about
10 school buses and how schools are growing and all that, but it
11 really gets down to a bottom line number and how those numbers
12 are calculated. Okay. I haven't driven through any
13 neighborhoods. I haven't visited the area. I just sat and
14 looked at the numbers. Okay. And that's sort of where the
15 buck stops, I think.

16 Q Well, and I recall, Mr. Stewart, that we talked very
17 vividly in your deposition about a lot of highly technical
18 language coming from an electrical engineer, but the fact that
19 I just pointed out is a fact, isn't it? You're predicting a
20 bigger drop from 2000 to 2001 than for any of the years that
21 you had data for?

22 A And your implication is that is so unreasonable. And
23 do you know what the first six months actual data is?

24 Q Sir, I don't mean to make any implication. I'm just
25 asking you --

1 A Well, no, I think that's what you're doing, and --
2 (Simultaneous conversation.)

3 CHAIRMAN JABER: Mr. Stewart and Mr. Wharton, the
4 court reporter needs to take the transcript accurately, and it
5 is late and I recognize that. Let's try to stick to answering
6 the questions, and then you can elaborate.

7 And you're quite aware that your attorney can do
8 redirect.

9 THE WITNESS: Right, that's true. I'm sorry.

10 BY MR. WHARTON:

11 Q I apologize, sir, if my question sounded like it had
12 an implication in it.

13 You do agree that that's what you're predicting --
14 projecting?

15 A Right.

16 Q Okay. Now, isn't it true that in your methodology,
17 you didn't incorporate any rainfall data?

18 A That's not true.

19 Q Okay. Take a look at Page 21, Line 15. You didn't
20 analyze any rainfall -- "Question: You didn't analyze any
21 rainfall amounts?

22 Answer: I did analyze it as a context" -- I think is
23 what that sentence is supposed to say and there's a
24 typographical error -- "but the actual methodology, I didn't
25 analyze any rainfall. If you look at my methodology, I don't

1 incorporate any rainfall data into the methodology."

2 A Right.

3 Q Do you stand by that answer?

4 A Well, first of all, this deposition is 95 pages.

5 Okay. And you will remember at this deposition we had a
6 lengthy discussion about you talking about the simple average
7 not including any extraneous variables. And I went into the
8 argument that a simple average actually incorporates almost an
9 infinite number of variables. Okay.

10 Now, what that answer is there is that I did not use
11 rainfall data as a separate variable in a multiple regression
12 equation. Okay. But we did talk about what variables are
13 taken into consideration in a simple average. And that is why
14 I am answering it the way I am now. I stand by the deposition
15 and by my answer here.

16 Q Okay. You do stand by what I've read out of the
17 deposition?

18 A I do.

19 Q You would agree that rainfall data in your testimony
20 is there as a contextual background and wasn't used per se as
21 part of your model?

22 A I disagree with that. It was not used as a separate
23 discrete variable. A simple average over a six-year period
24 will capture -- if there's a lot of rain in one year, that
25 average will be -- that rainfall effect will be captured in

1 that average. If the next year there's not a lot of rainfall,
2 that average will also capture that effect. So it is by
3 definition in each of those averages. It is not outlaid like
4 in Ms. Lingo's testimony as a discrete variable in a multiple
5 linear regression model.

6 Q Let's take a look at Page 24 of your deposition, Page
7 24, Line 14. "Question: So, first of all, we're not talking
8 about just Aloha's service area; right?

9 Answer: That's why my methodology that I employed, I
10 did not use per se -- the rainfall data in my testimony is
11 there as a contextual background, it is not used per se as part
12 of the model. One of the reasons why I did not do a regression
13 model."

14 Do you stand by that testimony?

15 A Right. Exactly. It says -- first of all, there's
16 two different contexts here. This question is talking about
17 the exhibits that I presented in my testimony which showed
18 rainfall data and the correlation which was to give a
19 contextual background that as rainfall increases, consumption
20 would go down or reverse. It's negatively correlated. Okay.
21 That's what that is addressing.

22 The second part of this says what I have just stated,
23 that that's why I didn't use a regression model because I
24 didn't use it as a discrete variable. The implication is that
25 my model does not consider rainfall. I will sit here and argue

1 that until daylight. It does consider the impact of rain on
2 consumption. And that's just a simple fact, and that's in this
3 deposition.

4 CHAIRMAN JABER: You will not sit here until daylight
5 and argue that, I just want you to know.

6 Q In all candor, Mr. Stewart, I'm not attempting to
7 make an implication. I'm just attempting to get you to say the
8 same things you said in your deposition. Do you stand by --

9 MR. BURGESS: But I think what counsel needs to be
10 aware of is, Mr. Stewart is saying, please understand the
11 context of what the questions are in the deposition relative to
12 the questions as are being posed here tonight.

13 CHAIRMAN JABER: Yeah, I agree, Mr. Wharton. Ask
14 your question again, but that is precisely the way I took his
15 comment too.

16 BY MR. WHARTON:

17 Q Do you stand by the statement you made in your
18 deposition that the rainfall data in my testimony is there as a
19 contextual background, it is not used per se as part of the
20 model?

21 A Commissioners, I will answer yes to that, and then I
22 will refer the Commissioners to my testimony. There's two
23 exhibits there where I look at rainfall to provide a contextual
24 basis. I go on with a model. It's not to imply that rainfall
25 is not taken into account for in the model that I use.

1 Q And you would agree that the only purpose you used
2 the rainfall data for was to determine there was a negative
3 correlation between rainfall and water consumption?

4 A Right.

5 Q And if that correlation is accepted, you could leave
6 the rainfall data out of your testimony?

7 A That's not true. There's another -- there's another
8 chart in there. It's an exhibit that shows rainfall, a
9 weighted average for Pasco County since 1916. I think I
10 probably would have wanted that to be in there.

11 Q Let's take a look at Page 24, Line 25 -- Page 24,
12 Line 22. "Question: Is it still important to your conclusions
13 that the rainfall data that you used be accurate?"

14 Answer: The rainfall data, that part of my testimony
15 can be completely left out if one would accept that rainfall
16 has a negative correlation with water consumption."

17 A Mr. Wharton --

18 Q Now, that's the exact question --

19 A No, it is not. If you read the question here, it
20 says, is it important to your conclusions. It does not say
21 that if it's important -- if I would have left it out of my
22 testimony in general. My testimony is more than just a
23 conclusion. I set the foundation for criticizing the Aloha
24 methodology. So, you know, again, it's wordsmithing at best.

25 Q And I'd love to testify in this case, sir, and I

1 think I'd do a good job, but it's your answer that I'm asking
2 you about.

3 Do you stand by this answer, "The rainfall data, that
4 part of my testimony can completely be left out if one would
5 accept that rainfall has a negative correlation with water
6 consumption"?

7 A With respect to my final conclusion, yes.

8 Q So if one would accept that rainfall has a negative
9 correlation with water consumption, you could throw that
10 rainfall data out?

11 A As it pertains to my final conclusion, not to the
12 basis of why I criticized a methodology.

13 Q So you didn't mean left all the way out, huh, when
14 you said that in your deposition? You meant thrown out for
15 some particular purpose but left in for some other purpose?

16 A Is that a question?

17 Q Yes.

18 A What's the question?

19 Q You didn't mean throw it all the way out. You meant
20 throw it out for some purpose and leave it in for another
21 purpose.

22 A I said that -- your question was, is it still
23 important to your conclusion, and there's more to my testimony
24 to just my conclusion. There's a process of getting to the
25 conclusion.

1 Q Okay. I'm ready to move on. You did mean by that
2 answer that if one would accept that rainfall has a negative
3 correlation with water consumption, that that part of your
4 testimony could be completely left out. Is that what you said?

5 A I think I've answered the question.

6 Q That's not what you meant with that answer?

7 CHAIRMAN JABER: Mr. Stewart, I'm not sure you
8 answered the question enough for me to understand. So as
9 Mr. Wharton just stated it, answer it.

10 THE WITNESS: Can you repeat it?

11 BY MR. WHARTON:

12 Q Yes. You did not mean by this answer that if one
13 would accept that rainfall has a negative correlation with
14 water consumption, that that part of your testimony could be
15 completely left out?

16 A No, I did not mean that.

17 Q Okay.

18 COMMISSIONER PALECKI: Mr. Stewart, let me see if I
19 can -- if I have this clear in my mind.

20 THE WITNESS: Okay.

21 COMMISSIONER PALECKI: Your conclusion is based upon
22 a simple six-year average which you say takes into account an
23 infinite number of variables, including rainfall.

24 THE WITNESS: Right.

25 COMMISSIONER PALECKI: You've also included in your

1 testimony two exhibits that are specific to rainfall.

2 THE WITNESS: Right.

3 COMMISSIONER PALECKI: But those two exhibits are not
4 there and don't contribute to the conclusion that you reach
5 when you do your six-year simple average.

6 THE WITNESS: Right. Commissioner Palecki, the
7 reason that's in there is because one of the criticisms of the
8 methodology by Aloha is that the base year that they use to add
9 the increment of customer growth was an abnormally dry year.

10 COMMISSIONER PALECKI: So the purpose of those
11 exhibits was not to help you reach a six-year average, it was
12 to show that -- or it was your way of trying to demonstrate
13 that Aloha's methodology was faulty.

14 THE WITNESS: That's right, Commissioner Palecki. So
15 that's why I would not want it thrown out with regards to the
16 testimony taken as a whole, and the question was with regards
17 to my conclusion in the deposition.

18 COMMISSIONER PALECKI: I think I understand.

19 THE WITNESS: All right. Thank you.

20 BY MR. WHARTON:

21 Q You would agree that nowhere in your testimony or in
22 the model do you plug in the rainfall data?

23 A No, it's not plugged in.

24 Q Does you agree with my statement?

25 A Pardon?

1 Q Do you agree with my statement?

2 CHAIRMAN JABER: He couldn't hear it over the
3 karaoke, so perhaps you could repeat the question.

4 A I mean, the model is not designed to plug in
5 anything, so, yeah, I mean, by definition, it's not plugged in.

6 Q And you have no opinion as to whether or not the
7 amount of rain that falls in 2002 will be more like 2001 or
8 2000?

9 A That was not part of my mission, no.

10 Q And in fact, you didn't use rainfall data in the
11 development of your model or your methodology, did you?

12 A No.

13 Q Now, you don't have any firsthand knowledge about
14 things like differences in income, age, how those things affect
15 water consumption levels, do you?

16 A No, I do not.

17 Q And you've previously never rendered an opinion on
18 water use projections that took into account differing
19 demographics of the groups that were likely to use the water?

20 A No.

21 Q Now, you wanted the data on whether the homes likely
22 to be built in 2002, 2003, 2004 and beyond were like the homes
23 that were in Aloha's service area in the years that you looked
24 at, didn't you, but you were not able to obtain that data?

25 A I don't recall I was looking into the future, 2002,

1 2003, but I'm sure you can find it in my deposition if I did.

2 Q Right. Let's see what we've got here. Well, you did
3 attempt to garner such data?

4 A For 2002 and 2003, I'm --

5 Q And 2004. I'm looking at Page 40, Line 10. And then
6 we go on and I asked you why you wanted the data, and you tell
7 me. So do you agree you tried to obtain that data and couldn't
8 get it?

9 A The question -- again, I think it could be
10 wordsmithing a little bit. We had asked -- I had asked for
11 data for homes between 1995 to 2000, which is the part of the
12 question I was answering. I didn't -- I don't know how I would
13 have used the data for 2002, 2003, and 2004. So my answer
14 there is referring to interrogatories that were filed to get
15 data from 1990 to 2000 -- or '95 to 2000.

16 Q Mr. Stewart, were you particularly concerned when you
17 went back and reviewed your deposition?

18 A No. After the deposition, I was a little concerned
19 of how long it was and how many -- as tonight how you would
20 just ask questions over and over again, so --

21 Q Look at Page 41, Line 15. "Question: Is it a fair
22 characterization of your testimony that you wanted that data,
23 and you would have utilized the data, but you didn't get that
24 data?

25 Answer: I wanted that data."

1 A What data is that, Mr. Wharton?

2 Q The data for 2002, 2003, and 2004. You want me to
3 read that entire exchange into the record? I'll do it.

4 A The question was, "And you have not attempted -- you
5 have made no attempt, have you, to garner any such data? That
6 is, to determine whether the homes that are likely to be built
7 in 2002, 2003, and 2004 are not like the homes that were in
8 Aloha's service area in the years 1995 to 2000?"

9 That's not true. Interrogatories were filed to
10 gather usage data for individual neighborhoods."

11 Okay. Now, first of all, that sentence says, "Usage
12 data." So how would I gather usage data for 2002, 2003, 2004
13 if they weren't built yet? So obviously I wasn't responding to
14 that part of the question. It says --

15 Q What were you responding to? Not the question that I
16 asked, huh?

17 A Well, you ask a lot of questions, you know. I tried
18 to pick the parts that --

19 Q Did you not try to --

20 CHAIRMAN JABER: All right. Okay. Look, here's the
21 deal. You are not going to argue with him. You are going to
22 ask one question at a time. You will not talk over each other.

23 THE WITNESS: Sorry, Commissioner. It's just a
24 little frustrating.

25 CHAIRMAN JABER: I know. But it's late and we have a

1 court reporter that's trying to do her job. And we have done
2 so well so far. Go ahead, Mr. Wharton.

3 BY MR. WHARTON:

4 Q Sir, did you try to gather data to determine whether
5 the homes that are likely to be built in 2002, 2003, and 2004
6 are not like the homes that were in Aloha's service area in the
7 years 1995 to 2000?

8 A No, I did not.

9 Q Okay. I'd like you to look at Page 40, Line 10 of
10 your deposition.

11 "Question: And you have not attempted -- you have
12 made no attempt, have you, to garner any such data? That is,
13 to determine whether the homes that are likely to be built in
14 2002, 2003, 2004 are not like the homes that were in Aloha's
15 service area in the years 1995 to 2000?

16 Answer: That's not true. Interrogatories were filed
17 to gather usage data for individual neighborhoods. It was not
18 provided for whatever reason, either we ran out of a number of
19 questions.

20 Question: You hung me with the word 'attempt.' Did
21 you garner such data?

22 Answer: We attempted to, and that was going to be an
23 area of inquiry. However, we were -- that avenue of analysis
24 or investigation was cut off. I'm not saying that is because
25 of you. I'm saying for whatever reasons."

1 Then down to -- and my next question, Page 41, Line
2 2, "That's an interesting point. Why did you want that data?"
3 You then give a lengthy answer there.

4 And then Page 41, Line 15, "Is it a fair
5 characterization of your testimony that you wanted that data,
6 and you would have utilized that data, but you didn't get the
7 data?"

8 And your answer begins, "I wanted that data."

9 Do you stand by that testimony?

10 A I do.

11 Q Okay.

12 MR. BURGESS: Commissioner, this may be useful to
13 find out what the interrogatory was that is being referred to
14 as seeking to get the data. Maybe that will help explain this
15 situation.

16 CHAIRMAN JABER: Mr. Burgess, you raise a good point.
17 That can be explored on redirect.

18 But, Mr. Stewart, let me tell you also that if you
19 don't understand a question, you can ask for additional
20 clarification. If you want to qualify your answer, you can
21 elaborate. I just don't want the two of you arguing.

22 THE WITNESS: I understand, but I mean, I have
23 already elaborated. I think that, you know, the answer to the
24 question says that I was going to gather usage data. So for
25 that to mean that I was looking for data for homes in 2002 and

1 '03 and '04 just doesn't make any sense. So what I was
2 referring to when I said I wanted the data, it was the usage
3 data. And that's what I filed as an interrogatory. It had
4 nothing to do with 2002, 2003, 2004. So I mean, I don't --
5 it's nothing sinister here.

6 BY MR. WHARTON:

7 Q Mr. Stewart, if that's the case, then why when I
8 said, have you tried to determine whether the homes that are
9 likely to be built in 2002 -- have you tried to determine
10 whether the homes that are likely to be built in 2002, 2003,
11 2004 are not like the homes that were in Aloha's service area
12 in the years 1995 to 2000, you said, that's not true. I didn't
13 ask you about usage data, did I?

14 A Well, obviously, that is what I was thinking about
15 because it's in my answer, Mr. Wharton. I mean, you've got to
16 give me that.

17 Q You know, Mr. Stewart, if you don't stand by your
18 answer or if you feel you were confused, as the Chairman has
19 indicated, you are free to say that.

20 A I wasn't confused. I think that reading these
21 questions makes it perfect to what my intent was in answering
22 the questions.

23 MR. WHARTON: I'd like to move Mr. Stewart's
24 deposition into the record, and I think that under the civil
25 rules I have --

1 CHAIRMAN JABER: We need to identify it.

2 MR. WHARTON: Okay. I will provide the court
3 reporter with a copy, but I guess if you'll give me a number, I
4 would like to have it identified.

5 CHAIRMAN JABER: That would be Number 12. And can
6 you give me the date on the deposition?

7 MR. WHARTON: I do. It is the deposition of Stephen
8 A. Stewart taken on November 30, 2001.

9 CHAIRMAN JABER: Okay. Mr. Burgess, we are
10 identifying the November 30, 2001 deposition for Stephen
11 Stewart, Exhibit 12.

12 MR. WHARTON: Thank you.

13 (Exhibit 12 marked for identification.)

14 BY MR. WHARTON:

15 Q Mr. Stewart, now, you have only performed in the past
16 a similar analysis of rainfall data or historical rainfall
17 amounts once and that was in a 1993 Marco Island case?

18 A That's correct.

19 Q And the Commission did not accept your recommendation
20 in the case?

21 A Right.

22 Q And I'm sorry, I want to make sure the court
23 reporter --

24 A That's correct.

25 Q Okay. Now, your model is not trying to predict

1 what's going to happen in 2001; correct?

2 A No, it's not.

3 Q And it makes no attempt to project what gallons per
4 ERC will be used in Aloha's service area in 2002 or beyond?

5 A That's correct.

6 Q Okay. You've been cooling your heels around here for
7 a couple of days. Have you had a chance to look at this little
8 blue sheet that --

9 A No, I have not.

10 Q I want to read you a sentence here. "The PSC Staff
11 adjusts test year data to properly reflect conditions in the
12 future period for which the rates are being fixed." But that's
13 not what you tried to do; right?

14 A No, it's not.

15 Q Okay.

16 A Could I see that document?

17 Q Sure.

18 MR. WHARTON: May I approach?

19 CHAIRMAN JABER: Yes.

20 BY MR. WHARTON:

21 Q Do you agree that I have accurately read to you the
22 sentence that I have underlined in red?

23 A Yes.

24 Q Do you want to hang on to that?

25 A I just want to finish reading the whole paragraph.

1 Q Is it fair to say that it was not part of your task
2 to adjust test year data to properly reflect conditions in the
3 future period for which rates were being fixed?

4 A Wait. I'm not sure about the context of that. A
5 test year can be a future period; is that true?

6 Q Do you understand the test year in this case to be
7 the future period for which the rates are being fixed?

8 A Well, when you filed the rate case, it was a
9 future -- I mean, the test year was not -- part of it was a
10 projected test year is my point. So I'm not sure, you know, a
11 line in a bulletin --

12 Q Okay. So is it your testimony then that it was your
13 task to adjust test year data to properly reflect conditions in
14 the future period for which the rates were being fixed?

15 A I'll state what I view my task as. I'm not sure how
16 it would, you know, correlate with that, was to project water
17 consumption in the environment of normal operations that would
18 face the utility in a test year. During that task, we did the
19 middle of 2001. So part of that was a projected test year, I
20 would assume.

21 Q But if the -- if you consider the period for which
22 the rates are being fixed to be from January 1, 2002 onwards,
23 then you did not make any attempt to adjust the test year data;
24 right?

25 A In my understanding of rate base regulation from a

1 test year perspective is, you look at normal operations and set
2 rates on a going-forward basis. I've been in cases where there
3 have been multiple test years to take into consideration,
4 changes that would happen in future years. That's one reason
5 if you look at my projection is probably -- I think it's a bit
6 higher than what the actual results would show. And I'm fine
7 with that. I'm not trying to predict what's happening in 2001.
8 I'm trying to give the best estimate of what normal operations
9 would be. So again, I was not looking beyond the test year to
10 2002 or 2003.

11 Q Well, I regret straying from the deposition. Your
12 model is not trying to predict what's going to happen in 2001;
13 right?

14 A No, it's -- yeah, it's trying to look at normal
15 operations for 2001, and I'm not looking beyond that.

16 Q And your model makes no attempt to project what
17 gallons per ERC will be used in Aloha's service area in 2002?

18 A That's correct.

19 Q Or any year beyond that?

20 A That's correct.

21 Q And that was not its purpose in any way, shape, or
22 form?

23 A That's correct.

24 Q Okay. Now, if you were attempting to predict what
25 consumption would have been in 2002 and beyond, you may have

1 used a different methodology, and you would had to have had
2 more data; correct?

3 A Well, I think the company would've had to file some
4 more data on 2002. I believe that the MFRs -- if I'm not
5 mistaken, I think everything was based on looking at 2001.
6 Now, if the company was trying to integrate changes they
7 thought were going to happen to 2002 and to 2001, that would
8 explain why their number is so inflated, but I don't think in
9 the MFRs there's anything that addresses 2002. I may be wrong,
10 but I don't remember seeing anything.

11 Q If you were attempting to predict what consumption
12 would have been in 2002 and beyond, you may have used a
13 different methodology, and you would've had to have had more
14 data; correct?

15 A I would've had more data provided by the company,
16 right.

17 Q And you may have used a different methodology?

18 A It's a possibility.

19 Q Now, the data that you have reviewed reveals that
20 sometimes from year to year when the amount of rainfall goes
21 down, water usage goes down; correct?

22 A Could you show me that, please.

23 Q I can tell you where you said it in the deposition.
24 Is that what you'd like me to do, Mr. Stewart --

25 A Yes.

1 Q -- or would you like to look at your exhibits?

2 A Restate the question. Maybe I can save some time.

3 Q Yeah. The data that you had revealed that sometimes
4 from year to year when the amount of rainfall goes down, water
5 usage goes down.

6 A Okay. You're referring to Schedule 2 in my exhibit?

7 Q Well, is there data on that exhibit which reveals
8 that fact?

9 A Well, that's what I'm looking at. Yeah, I would
10 agree with that.

11 Q Okay. And would you agree that those same numbers
12 reveal that sometimes when the amount of rainfall falls as much
13 as five inches from year to year, the amount of usage remains
14 the same?

15 A Yes, I would agree with that. And the point being
16 that there are a lot of other things other than rain that
17 affect water usage, and that is one of the things that led to
18 my use of my methodology. An average would incorporate all
19 those things, where a multiple regression model I would have to
20 identify each and every thing that would affect usage. And it
21 gets extremely complicated.

22 Q Do you agree, Mr. Stewart, that they -- are you
23 familiar with the minimum filing requirements?

24 A You mean the ones filed in this case?

25 Q Well, the minimum filing requirements as required by

1 the Commission's rules.

2 A Not with regards to rules. I mean, I've looked over
3 numbers of companies' MFRs and can cite schedules, but I don't
4 know about rules.

5 Q Would you agree that the minimum filing requirements
6 actually take residential consumption and then use it in a
7 calculation by which you arrive at residential and general
8 service ERCs?

9 A Right. Yes, I would agree with that.

10 Q And yet you testified earlier, you thought it was a
11 problem to use residential consumption only in Mr. Porter's
12 methodology, didn't you?

13 A I don't believe that's what I said. My point was
14 that he was using an end ERC number to back into a residential
15 number.

16 Q Let me ask you this. Do you accept Mr. Porter's
17 projected growth as Staff and I think even Mr. Bidy have
18 indicated they do in deposition?

19 A Do I accept the number 473?

20 Q Uh-huh.

21 A I accept that in the terms of total ERCs. My
22 argument -- or my contention was, which I did not figure out
23 until today listening to Mr. Porter's testimony was that he
24 translates those ERCs into actual single family resident
25 consumers.

1 Q You just figured that out today, huh?

2 A Yeah, a big mistake.

3 Q And the Staff just happened to ask you about that?

4 A Well, it was in his direct testimony.

5 MR. WHARTON: Give me just one moment.

6 Q Would you agree that the number 473 is a combination
7 of single family and commercial ERCs?

8 A It's total ERCs, yes.

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

10 CHAIRMAN JABER: Thank you.

11 MR. WHARTON: Thank you.

12 CHAIRMAN JABER: Commissioners.

13 COMMISSIONER PALECKI: No questions.

14 CHAIRMAN JABER: Mr. Burgess.

15 MR. BURGESS: Very short redirect, if I might,
16 Chairman.

17 REDIRECT EXAMINATION

18 BY MR. BURGESS:

19 Q Do you recall being asked whether you had ever seen a
20 drop in usage of 12 gallons per day per ERC from one year to
21 the next?

22 A Yes, I do recall being asked that.

23 Q In your answer where you -- do you recall answering
24 that you had not?

25 A I don't recall my answer on that.

1 Q Okay. In your answer, did you include the change
2 from the years 2000 to the year 2001?

3 A I'm a little confused on that question. Could you
4 repeat it, please.

5 Q Yes. Do you recall the question being asked to you
6 whether you had ever seen a drop in consumption of 12 gallons
7 per day per ERC from one year to the next?

8 A Right.

9 Q Do you recall what you answered?

10 A No, I do not.

11 MR. BURGESS: Okay. Then I have no further
12 questions. Thank you.

13 CHAIRMAN JABER: All right. Mr. Burgess, we have
14 Exhibit 11.

15 MR. BURGESS: And I would move Exhibit 11.

16 CHAIRMAN JABER: Without objection, Exhibit 11 is
17 admitted into the record.

18 (Exhibit 11 admitted into the record.)

19 CHAIRMAN JABER: Mr. Wharton, you asked that
20 Exhibit 12 be admitted into the record?

21 MR. WHARTON: I do ask that Exhibit 12 be admitted
22 into the record.

23 CHAIRMAN JABER: Without objection?

24 MR. BURGESS: No objection.

25 CHAIRMAN JABER: Exhibit 12 is admitted into the

1 record.

2 (Exhibit 12 admitted into the record.)

3 CHAIRMAN JABER: Mr. Stewart, thank you for your
4 testimony and bearing with us. I know that you had to testify
5 late.

6 THE WITNESS: Thank you.

7 (Witness excused.)

8 CHAIRMAN JABER: Now, the next witness is Staff's
9 witness, and it's Richard Durbin.

10 MR. JAEGER: That's correct.

11 CHAIRMAN JABER: Can you guys gauge how many
12 questions, how much time, Mr. Deterding? Mr. Wharton?

13 MR. DETERDING: Well, I'm sure that since
14 Mr. Durbin's testimony is about the level of complaints with
15 Aloha, I'll be doing most of the questioning. I would guess 45
16 minutes, something like that.

17 CHAIRMAN JABER: All right. And Aldridge, that's a
18 stipulated testimony. What about Mr. Fletcher?

19 MR. DETERDING: Fletcher will be a while.

20 CHAIRMAN JABER: So out of all the Staff testimony,
21 would you think Mr. Durbin's testimony would be the fastest?

22 MR. DETERDING: Of the ones that are going to take
23 any time at all, yes.

24 CHAIRMAN JABER: Let's go ahead and get started, see
25 how far we get.

1 RICHARD DURBIN

2 was called as a witness on behalf of the Staff of the Florida
3 Public Service Commission and, having been duly sworn,
4 testified as follows:

5 DIRECT EXAMINATION

6 BY MR. JAEGER:

7 Q Mr. Durbin, you have been sworn in, have you not?

8 A Yes, sir, I have.

9 Q Please state your name and business address for the
10 record.

11 A My name is Richard Durbin, D-U-R-B-I-N. My address
12 is 2540 Shumard Oak Boulevard, Tallahassee.

13 Q And in what capacity are you employed by the
14 Commission?

15 A I'm a regulatory consultant in the Division of
16 Consumer Affairs.

17 Q Have you prefiled direct testimony in this docket
18 consisting of three pages?

19 A Yes, I have.

20 Q Do you have any changes or corrections to your
21 testimony?

22 A No, sir.

23 MR. JAEGER: Chairman, may we have Mr. Durbin's
24 testimony inserted into the record as though read?

25 CHAIRMAN JABER: Yes. The prefiled direct testimony

1 of Richard Durbin shall be inserted into the record as though
2 read.

3 BY MR. JAEGER:

4 Q And, Mr. Durbin, did you also file Exhibit Numbers
5 JRD-1 through JRD-3 to your testimony?

6 A Yes, I did.

7 Q Do you have any changes or corrections to any of
8 those exhibits?

9 A No, sir.

10 MR. JAEGER: Chairman, may we have those exhibits
11 identified as Composite Exhibit --

12 CHAIRMAN JABER: Yes. JRD-1 through JRD-3 are
13 identified as Composite Exhibit 13.

14 (Exhibit 13 marked for identification.)

15

16

17

18

19

20

21

22

23

24

25

DIRECT TESTIMONY OF RICHARD DURBIN

1
2 Q. Would you please state your name and address.

3 A. My name is Richard Durbin; 2540 Shumard Oak Boulevard, Tallahassee,
4 Florida, 32399-0850.

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

6 A. I am employed by the Florida Public Service Commission as a Regulatory
7 Consultant in the Division of Consumer Affairs.

8 Q. Please give a brief description of your educational background and
9 professional experience.

10 A. I graduated from the University of Louisville in 1975 with a Bachelor
11 of Science in Commerce degree.

12 I have worked at the Florida Public Service Commission since 1992 and
13 have held various positions within the Division of Consumer Affairs since
14 that time.

15 Q. What are your present responsibilities with the Commission?

16 A. I work in the Bureau of Complaint Resolution where I am primarily
17 responsible for both initial and continuing education of the analysts. I
18 identify, develop, and maintain training resources including the Division's
19 Intranet. I also serve as the first point of contact when a customer
20 requires a higher level of staff member intervention.

21 Q. What is the purpose of your testimony?

22 A. The purpose of my testimony is to advise the Commission of the number
23 of consumer contacts received by the Commission concerning Aloha Utilities,
24 the nature of the complaints received by the Commission, and the adequacy
25 of the company's response to those complaints.

1 Q. How many consumer contacts concerning Aloha Utilities has the Commission
2 received?

3 A. Attachment JRD-1 is a chart indicating that the Commission received 294
4 consumer contacts between January 1, 1999, and October 31, 2001.

5 Q. How many complaints has the PSC had logged against Aloha Utilities since
6 January 1, 1999?

7 A. Exhibit JRD-2 is a chart indicating that, between January 1, 1999, and
8 October 31, 2001, the PSC logged 193 complaints against Aloha Utilities.

9 Q. In how many of those complaints was it the determination of Staff that
10 Aloha was in apparent violation of the Florida Administrative Code or the
11 company tariff?

12 A. Two. One was a complaint in which it appeared that the company had sent
13 the customer an improper bill. The other apparent violation concerned a delay
14 in connection of service in a timely manner.

15 Q. Has the company responded in a timely manner to the complaints?

16 A. Aloha has provided a response in a timely manner in 92% of the cases that
17 were filed in 1999, 2000, and year-to-date 2001.

18 Q. What were the most common types of complaints the PSC received?

19 A. High bills and water quality concerns, including "black water" complaints,
20 were the two most common complaints.

21 Q. How does the number of complaints filed against Aloha Utilities compare
22 with other, similarly situated, water and wastewater companies?

23 A. Exhibit JRD-3 is a comparison of the number of complaints per 1,000 water
24 customers for similarly situated Water and Wastewater companies. It includes
25 other Class A and B Water and Wastewater companies in Pasco County plus other

1 | selected Class A companies outside of Pasco County.

2 | The chart indicates that Aloha Utilities had 15.16 complaints per 1,000
3 | customers for the period January 1, 1999 through November 13, 2001. Other
4 | companies ranged from a low of .024 complaints per 1,00 customers by Florida
5 | Cities Water Company - Lee County Division to a high of 13.45 complaints per
6 | 1,000 customers by Jasmine Lakes Utility Corporation.

7 | Q. Does this conclude your testimony?

8 | A. Yes it does.

9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

1 BY MR. JAEGER:

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

4 A Yes, sir. My testimony indicates that from
5 January 1999 through October 2001 consumers filed
6 193 complaints with the Public Service Commission against Aloha
7 Utilities. This was the highest number of complaints per 1,000
8 customers of any of the similarly-sized water and wastewater
9 utility companies reviewed. The most commonly filed complaints
10 concerned high bills and water quality.

11 Of the 171 complaints filed with the Public Service
12 Commission's Division of Consumer Affairs only two complaints
13 were found in which it appeared that the company violated
14 either Commission rules or the company's tariff.

15 My testimony also indicates that as a whole the
16 company's responses to customer complaints were submitted to
17 the Public Service Commission in a timely manner. This
18 concludes my summary.

19 MR. JAEGER: I tender the witness for
20 cross-examination.

21 CHAIRMAN JABER: Thank you, Mr. Jaeger. Public --
22 actually, Mr. Wood, do you have any questions?

23 MR. WOOD: Yes.

24 CROSS EXAMINATION

25 BY MR. WOOD:

1 Q Mr. Durbin, during that period of time you just
2 testified, was there a period of time when the PSC was not
3 taking complaints about Aloha black water?

4 A No, sir, there was no such time.

5 Q Why were customers then denied complaints when they
6 called the Public Service Commission?

7 A I'm not aware of anybody being denied the opportunity
8 to file a complaint.

9 Q Would you look into that?

10 A I would have to have some direction as to any
11 specific individual that would --

12 Q You're looking at one.

13 A Mr. Wood, I believe that our records show that we
14 have filed numerous complaints on your behalf concerning black
15 water.

16 MR. WOOD: And I'm not trying to testify.

17 CHAIRMAN JABER: No, but I need you to speak into the
18 mike and make sure that you're asking him a question so that he
19 can answer.

20 BY MR. WOOD:

21 Q Is there any time -- I go back to my question. Is
22 there any time or any reason that anyone was ever denied to
23 file a complaint on Aloha black water?

24 A I am not aware of that, of any such time.

25 Q That's what I asked. Will you go back and look at

1 what the process was at one time -- in that period of time?

2 A At all times if a customer called us and asked us to
3 file a complaint concerning black water, we would file a
4 complaint.

5 Q I take -- you know, there should be a record there of
6 people who called and were denied, is there?

7 A There is no record of anybody being denied the
8 opportunity to file a complaint concerning the black water.

9 MR. WOOD: I have no other questions.

10 CHAIRMAN JABER: Thank you, Mr. Wood.

11 Mr. Burgess.

12 MR. BURGESS: We have no questions.

13 CHAIRMAN JABER: Okay. Ms. Lytle.

14 MS. LYTLE: I have no questions.

15 CHAIRMAN JABER: Mr. Deterding.

16 CROSS EXAMINATION

17 BY MR. DETERDING:

18 Q Mr. Durbin, you're testifying concerning both
19 customer contacts and complaints filed at the Commission, are
20 you not?

21 A That is correct.

22 Q And you would agree that the difference between a
23 contact and a complaint is that a contact is when a customer
24 calls and requests information but does not file a complaint
25 per se, or it would -- those that are -- let me back up. Let

1 me start the question over.

2 Would you agree that a customer contact is anytime a
3 customer calls you about a utility?

4 A That's correct. Anytime a customer calls us, writes
5 us a letter, sends us an e-mail concerning Aloha Utilities,
6 that would be considered a customer contact.

7 Q And a complaint or the complaints you've discussed
8 here are actually subsumed within the contacts; correct?

9 A That is correct, yes.

10 Q And the difference being that a customer complaint
11 requires some action by you to look into their issue?

12 A Correct. If we determine that it's necessary to file
13 a complaint, it not only requires that we file the complaint,
14 we would forward that complaint to the utility; ask that the
15 utility respond to the customer's complaint.

16 Q Now, you looked at customer complaints for
17 approximately a -- is it a two-and-three-quarter-year period;
18 is that accurate?

19 A That's correct, yes.

20 Q And in that two-and-three-quarter-year period there
21 were only two cases where you found that this utility had
22 either done something incorrectly contrary to a rule or
23 contrary to its tariff?

24 A It's -- in only two complaints did we find that it
25 appeared that the company violated a rule or a tariff.

1 Q Out of 194 complaints or 1--

2 A 193.

3 Q -- somewhere close to 200 complaints?

4 A Correct. That is correct.

5 Q And you would agree that that represents
6 approximately 1 percent of the time that this utility has been
7 found to be incorrect or in the wrong in some way in that
8 history?

9 A That is correct.

10 Q Now, if a customer calls you and states both a
11 concern with a rate increase -- well, let's start with that
12 alone.

13 A customer calls you and says, I'm very concerned
14 about this rate increase. I don't like it. If that's all they
15 ask about or talk about, how is that treated?

16 A We would enter that into our complaints tracking
17 system but only as a contact. If it is a docketed matter,
18 there is -- we would have the opportunity to make a note in
19 there that the customer called, expressed concern about the
20 rate case or an impending request for a rate increase. And we
21 would have the opportunity to plug into that complaint -- or
22 into that information request form the docket number, and that
23 information would then be part -- become part of the
24 correspondence side of the docket file.

25 Q Okay. Now, if they did the same thing but they said,

1 I don't like this rate increase, they provide horrible quality
2 of water, is that treated in the same manner?

3 A It depends upon the way that the customer presents it
4 to us. If the customer just calls to express an opinion,
5 dissatisfaction with -- where the customer says, hey, they have
6 requested a rate increase, we don't think they ought to have a
7 rate increase because they provide nasty water, we would not
8 file a complaint.

9 Now, if the customer calls us and says, we want to
10 protest this company's request for a rate increase, and by the
11 way, what can you do about this nasty water? I have this awful
12 water, and I want to file a complaint. Then we would go ahead
13 and file a complaint on the water quality problem.

14 Q Okay. If a customer calls and says, I have horrible,
15 nasty water, and I'm against this rate increase, do you ask
16 that customer if they want to file a complaint about the
17 quality of the water?

18 A We would not solicit a complaint -- you know, that
19 the customer file a complaint. We let the customer take the
20 lead there. And if it is, for instance, a customer calling
21 complaining about -- or expressing concern about the rate case
22 and in that same telephone call mentions, say, the black water,
23 we would explain to the customer what the situation is with the
24 black water, what is being done to address it. But if the
25 customer then says, hey, I want to file a complaint about it,

1 we will then file a complaint. But we would not -- in our
2 conversation with the customer, we would not solicit a
3 complaint. That's got to be the customer's volition.

4 Q So do they have to use the word "complaint," or can
5 they just say, the water is terrible and nasty?

6 A If they just said that the water is terrible and
7 nasty, we would -- we might ask some specific questions about
8 the -- well, are you talking about the smell? Could you expand
9 on that a little bit? And that would give us a little more
10 direction as to what the customer is talking about.

11 And if we found, say, that the customer was
12 complaining of, say, just simply a bad odor or a customer was
13 complaining there's too much -- you know, it's got this awful
14 chlorine smell, there's too much chlorine, in a situation like
15 that, we might ask the customer, well, we can if you believe
16 that -- you know, if you are getting an excess chlorine smell,
17 we can request from the company a copy of their most recent
18 water quality report, and that would go in as a complaint.

19 Q Okay. So it basically depends on how much
20 information they give you about the water quality side of the
21 issue?

22 A Correct, correct.

23 Q Okay. As to whether it's treated as a complaint or
24 just a contact about the rate case?

25 A Correct.

1 Q Now, once it goes into a complaint, isn't it true
2 that it is simply noted as a complaint and a quality complaint
3 and doesn't say anything about the rate case?

4 A That's correct. If we file -- if we're filing a
5 complaint, there would not typically be any comment there about
6 the rate case. The complaint should only address the
7 customer's allegation or contention that the company may have
8 violated a rule or a tariff.

9 Q Okay. And you segregate, I believe, your complaints
10 in your exhibit into quality and billing, I believe; is that --

11 A Service and billing.

12 Q Service and billing. And service includes water
13 quality, does it not?

14 A That's correct, that is correct.

15 Q And over that approximately 30-month period you
16 analyze, isn't it true that there were zero water quality
17 complaints that the Commission found the utility to be in
18 violation of any rule, statute, or tariff?

19 A That is correct, yes.

20 Q Okay. Now, your testimony suggests that
21 approximately 8 percent of the responses from the utility to
22 the complaints lodged at the Commission were untimely; is that
23 right?

24 A Yes, sir, that is correct.

25 Q And these -- that's 16 that you-all contend are late

1 in 30 months; correct?

2 A I believe that was the number, yes, sir.

3 Q Okay. Isn't it true that only one or two of those
4 were late more than one day?

5 A I honestly don't know. If they are one day late, we
6 would consider them to be a late response. And the ones that I
7 reviewed this afternoon while we were sitting here, yes, the
8 ones that I noticed were one day.

9 Q And it is true that you generally faxed the
10 complaints to the utility for a response; correct?

11 A That is correct.

12 Q And you request a response within ten days?

13 A Fifteen working days.

14 Q I'm sorry, 15 working days.

15 CHAIRMAN JABER: Mr. Durbin, is Aloha on the warm
16 transfer program -- hot transfer, whatever?

17 THE WITNESS: No, they're -- you're not on the warm
18 transfer? No, they're not on the warm transfer.

19 CHAIRMAN JABER: He can't testify.

20 THE WITNESS: Excuse me, I'm sorry.

21 CHAIRMAN JABER: As far as you know --

22 THE WITNESS: But, no, they're not. No, they're not
23 on the warm transfer program.

24 BY MR. DETERDING:

25 Q And generally, the responses are filed by fax, too,

1 are they not?

2 A I believe so, yes.

3 Q Okay. And that's always been acceptable to the
4 Commission, has it not?

5 A Absolutely.

6 Q Have you looked to see whether or not Aloha's -- the
7 number of complaints Aloha is above or below or exactly on
8 average for the industry?

9 A The number of complaints or the number of late --

10 Q Of complaints, total complaints for the industry as a
11 whole.

12 A For the industry as a whole, no, I haven't reviewed
13 that.

14 Q Your exhibit suggests several that you compare them
15 to, but not the industry as a whole?

16 A That's correct.

17 Q Okay. Now, the ones you have referenced in your
18 JRD-3 makes a comparison to -- between Aloha and several other
19 customers based on a complaints per thousand customers, does it
20 not?

21 A That is correct.

22 Q And you've made no attempt to break out the
23 complaints between those that relate to water and those that
24 relate to sewer in your analysis; is that right?

25 A That is correct. Now, all of the companies that we

1 are looking at here, the number of customers was just -- we
2 just looked at -- used the number of water customers for the
3 number of customers.

4 Q Okay. But the complaints may have been all about
5 sewer for all you know?

6 A They could have been, yes.

7 Q Okay. And would you agree that of the utilities used
8 in your analysis, only the Florida Water Services system has
9 two distinct separate water and wastewater systems as Aloha
10 does?

11 A Florida Water Services has way more than two.

12 Q At least two then, huh?

13 A Oh, a hundred and something.

14 Q But I'm saying, isn't it the only one that has two
15 distinct systems?

16 A I believe so, yes.

17 Q Have you made an attempt to segregate out the
18 complaints for Aloha between the Seven Springs and Aloha
19 Gardens systems?

20 A No, I have no way of doing that.

21 Q Have you made an attempt to determine what portion of
22 those complaints relate to Aloha water versus sewer?

23 A No, I haven't.

24 (Pause.)

25 CHAIRMAN JABER: Mr. Deterding, hurry up and ask a

1 question.

2 MR. DETERDING: Why? Are people falling asleep?

3 THE WITNESS: No, I'm going to start singing if you
4 don't.

5 (Laughter.)

6 MR. DETERDING: Commissioner, the reason I'm
7 hesitating, I'm trying to see if I've hit this point and can go
8 on. I apologize. I'm trying to shorten it as much as I can.

9 BY MR. DETERDING:

10 Q Are you aware of the fact that Aloha had a water
11 quality investigation opened and dealing with service provided
12 to its Seven Springs water customers that lasted longer than
13 any prior subsequent examination of the utility's quality of
14 service in the Commission's history?

15 A I believe I have heard that, yes.

16 Q And that docket was opened through a significant
17 portion of this period of time you've analyzed, was it not?

18 A That's correct, yes.

19 Q And isn't it true that Aloha also had during the
20 substantial portion of time that you have chosen to analyse and
21 open a sewer rate case?

22 A That is correct.

23 Q And that case did not conclude until April of 2001?

24 A Correct.

25 Q And this rate case was filed in August, but the test

1 year approval process began in April, did it not?

2 A I honestly don't know.

3 Q So for the majority of time, the utility has had a
4 rate proceeding ongoing with this Commission throughout the
5 30-month period of time -- well, not throughout but for the
6 majority of the period of time you've chosen to analyze;
7 correct?

8 A That is correct.

9 Q Have you made any attempt to determine whether any of
10 the other companies on your list had ongoing rate proceedings
11 at the time you analyzed?

12 A No, sir, I haven't.

13 Q And even during the period of time that was not
14 covered by a pending rate proceeding, the utility had a water
15 quality investigation ongoing; correct?

16 A I believe so, yes, sir.

17 Q The Commission requires a utility in a rate
18 proceeding to send out an initial customer notice that includes
19 certain information about the case, does it not?

20 A That is correct.

21 Q And isn't it true that the notice specifically asks
22 the customers to write to the Commission if they have any
23 concerns or complaints?

24 A That is correct.

25 Q In the notice of hearing that the Commission issues

1 in any rate proceeding or quality investigation, it requests
2 customer input in that notice as well, does it not?

3 A That is correct.

4 Q So on at least four different occasions throughout
5 this 30-month period you investigated, the Commission has
6 specifically solicited customer input concerning their quality
7 of service; correct?

8 A That is correct, yes.

9 Q And none of the other utilities, to your knowledge,
10 that you have compared to Aloha have solicited complaints at
11 all during that period of time?

12 A I could not -- I honestly could not swear to that.

13 Q You don't know?

14 A No, I honestly don't know.

15 Q Okay. Now, you would agree that it's logical to
16 expect more complaints when such formal proceedings are ongoing
17 or pending at the Commission, would you not?

18 A That has typically been our experience.

19 Q How did you determine the period of time that you
20 utilized in analyzing these customer complaints?

21 A I was asked to use this period of time by Staff
22 attorney Mr. Jaeger and Marshall Willis.

23 Q Isn't it true that if you went back four, five, six
24 or more years that the number of complaints drops off
25 dramatically from the numbers that you saw as an average for

1 these 30 months?

2 A I don't know because I didn't go back beyond this
3 period.

4 Q Would you agree there has been an escalation in the
5 number of complaints in the last two years from the beginning
6 of the period you analyzed?

7 A Yes, I believe that my charts demonstrate that. Yes.

8 Q And that coincides with the month in which the
9 utility filed its MFRs in the sewer case, the beginning of that
10 upward trend, does it not?

11 A I'm not aware of the date that those MFRs were filed.

12 Q Okay. If I told you that the customer notice was
13 sent out in April and May of 2000, would that indicate to you
14 that that upward spike in customer complaints that began in
15 that month was probably related to that?

16 A That wouldn't surprise me at all.

17 Q And there are a couple other high points in this
18 Exhibit JRD-2. The December 2000 and January 2001 peaks are
19 primarily related to complaints from -- several complaints from
20 Ashley Park Apartments; correct?

21 A That is correct, yes.

22 Q Have you read Mr. Watford's testimony in that regard?

23 A Yes, I have.

24 Q And do you disagree with anything in that
25 testimony --

1 A If I could take a moment.

2 Q -- concerning that issue?

3 I apologize. I don't want you to go through the
4 entire thing right now.

5 A No, nothing of any substance. No.

6 Q Okay. And was the utility found to be in violation
7 of a rule or a tariff as regards to those complaints that
8 occurred at that point in time?

9 A No, sir.

10 Q And just to make sure I'm clear, you agree that the
11 majority of those complaints are related to that issue?

12 A That's correct. My analysis showed that that was the
13 cause of that spike.

14 Q And do you agree that the high point in July of 2001
15 relates to customers calling in concerning the implementation
16 of the wastewater rate increase, the final wastewater rate
17 increase?

18 A That's correct, that's my understanding.

19 Q Would you agree there are numerous newspaper articles
20 about the utility throughout this 30-month period of time
21 covered by your analysis?

22 A Yes.

23 Q And would you agree that would increase the number of
24 complaints you would receive?

25 A That has been our experience, yes.

1 Q And you, I believe, agreed with me at your deposition
2 that 111 of the 193 complaints were related primarily to high
3 bills; correct?

4 A I do believe that's correct, yes, sir.

5 Q So the majority of complaints you noted relate to
6 high bills?

7 A Correct.

8 Q Okay. And in none of the billing complaints or in
9 any of the water quality complaints has the utility determined
10 to be in violation of rules, statutes, or tariffs?

11 A I'm sorry, could you repeat that, please.

12 Q Isn't it true that in none of the billing complaints
13 or in the water quality complaints has the utility ever been
14 determined to be in violation of statutes, rules, or tariffs
15 during the period you've analyzed?

16 A I know that there were no water quality complaints
17 that we determined that the company was in violation. Bear
18 with me just one moment here. There was -- one of the two
19 complaints, the Helen Geisler (phonetic) complaint, that was a
20 billing question.

21 Q And what was that related to? An improper bill?

22 A Yes, this was an error or an improper bill that was
23 sent to the customer, and the company issued a credit for
24 \$12.80.

25 Q Okay. But that's the only one you know of; correct?

1 A That is correct.

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

3 CHAIRMAN JABER: Thank you, Mr. Deterding.

4 Mr. Jaeger.

5 MR. JAEGER: Just two redirect.

6 REDIRECT EXAMINATION

7 BY MR. JAEGER:

8 Q If a consumer wants to protest a rate case such as
9 Aloha, you can enter a protest code in the system, can you not,
10 designating a protest?

11 A That's correct, yes.

12 Q And I think you said that they can file their
13 responses by fax, and they can also do them by e-mail now, can
14 they not?

15 A That is correct, that is correct.

16 MR. JAEGER: That's all I have.

17 CHAIRMAN JABER: Thank you, Mr. Jaeger. Exhibit

18 Number 13 shall be admitted without objection.

19 (Exhibit 13 admitted into the record.)

20 CHAIRMAN JABER: Thank you.

21 THE WITNESS: Thank you, ma'am.

22 (Witness excused.)

23 CHAIRMAN JABER: Let me -- Mr. Jaeger, we can go
24 ahead and insert the prefiled direct testimony of Vincent C.
25 Aldridge into the record.

1 MR. JAEGER: Okay. That's pursuant to Stipulation
2 14.

3 CHAIRMAN JABER: Yes. So the prefiled direct
4 testimony of Vincent C. Aldridge shall be inserted into the
5 record as though read. And he has one exhibit, Mr. Jaeger.

6 MR. JAEGER: That's correct. It's a Staff audit
7 report, VCA-1.

8 CHAIRMAN JABER: Okay. VCA-1 shall be identified as
9 Exhibit 14 and admitted into the record without objection.

10 (Exhibit 14 marked for identification and admitted
11 into the record.)

12

13

14

15

16

17

18

19

20

21

22

23

24

25

DIRECT TESTIMONY OF VINCENT C. ALDRIDGE

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

3 | A. My name is Vincent C. Aldridge and my business address is 4950 West
4 | Kennedy Blvd., Suite 310, Tampa, Florida, 33609.

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

6 | A. I am employed by the Florida Public Service Commission as a Regulatory
7 | Analyst II in the Division of Regulatory Oversight.

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

9 | A. I have been employed by the Florida Public Service Commission since
10 | August, 1998.

11 | Q. Briefly review your educational and professional background.

12 | A. In 1993, I received a Degree in Accounting from Michigan State
13 | University. I received a Juris Doctor degree from the University of Florida
14 | in 1997. I also received a Masters in Accounting from the University of South
15 | Florida in 2000. I am also a member of the Florida Bar.

16 | Q. Please describe your current responsibilities.

17 | A. Currently, I am a Regulatory Analyst II with the responsibilities of
18 | managing a financial audit using a standard audit program.

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

20 | A. The purpose of my testimony is to sponsor the staff audit report of
21 | Aloha Utilities, Inc, the Seven Springs water system, Docket No. 010503-WU.
22 | The audit report is filed with my testimony and is identified as VCA-1.

23 | Q. Was this audit report prepared by you?

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

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

1 A. We audited Rate Base, reviewed invoices for plant additions, and tested
2 accumulated depreciation using the currently approved rates. We also tested
3 Contributions in Aid of Construction (CIAC) and Amortization of CIAC and
4 calculated a working capital allowance using the balance sheet method. For
5 the Net Operating Income schedule, we compiled revenue and expenses, tested
6 specific customer bills to verify that the approved rates were in use,
7 recomputed revenues using approved tariffs and company-provided gallonage
8 sales and verified Operating and Maintenance (O&M) expenses. We also
9 performed audit test work of payments to vendors to verify booked expenses,
10 recalculated depreciation expense and analyzed taxes other than income. We
11 also audited the capital structure of Aloha Utilities.

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

13 A. Audit Disclosure No. 1 discusses the accumulated depreciation related
14 to computers. The utility made adjustments to account 340.5- Office Furniture
15 and Equipment to separate computer equipment (which has a depreciable life of
16 5 years) from the other office furniture and equipment (which has a
17 depreciable life of 15 years). This separation is in accordance with Rule 25-
18 30.140, Florida Administrative Code, and is required by Commission Order No.
19 PSC-01-1374-PAA-WS, issued June 27, 2001, in Docket No. 000737-WS. The
20 utility also made corresponding adjustments to its accumulated depreciation
21 account. Although the utility made an adjustment to its accumulated
22 depreciation account, it did so incorrectly. I recommend that the utility
23 reduce the December 31, 1999 balance for Accumulated Depreciation - Office
24 Furniture, by \$586 and increase the balance for Accumulated Depreciation -
25 Computer Equipment, by \$2,848.

1 Audit Disclosure No. 2 discusses items that were expensed during the
2 test year ended December 31, 2000, that should have been capitalized in the
3 Seven Springs water division. These items total \$11,552 and consist of a well
4 head check valve for \$1,200 (Pumping Equipment, Account 311), a pump for
5 \$4,124 (Pumping Equipment, Account 311), a pump motor for \$4,116 (Pumping
6 Equipment, Account 311), and office file cabinets for \$2,112 (Office
7 Furniture, Account 340). Because these assets provide benefit to future
8 periods, I recommend that they be recorded in the appropriate plant accounts
9 at historical cost and then depreciated over the service life as provided in
10 Rule 25-30.140, Florida Administrative Code. The utility should also record
11 additional depreciation expense of \$306 for the reclassification.

12 Audit Disclosure No. 3 discusses the allocation of the working capital
13 allowance. The utility allocated working capital using the O&M expenses for
14 the four water and wastewater systems. The company calculation resulted in
15 34.1086% of the working capital allowance being allocated to the Seven Springs
16 water system. The company calculation allocated working capital using O&M
17 amounts from Commission Order No. PSC-01-1245-PAA-WS, issued June 4, 2001, in
18 Docket No. 000737-WS, for the Aloha Gardens water and wastewater systems and
19 the utility's 2000 annual report for the Seven Springs wastewater system. I
20 could not determine where the utility derived its Seven Springs water system
21 O&M expense amount.

22 I believe that the methodology used by the utility to allocate working
23 capital among its four systems is appropriate. However, I believe that the
24 O&M expense figure for the Seven Springs water system should be changed to
25 reflect the audited balance of O&M expense. That change would result in

1 | working capital being allocated to the Seven Springs water system based on
2 | \$1,428,758 of O&M expenses. This results in 31.8829% of the working capital,
3 | or \$259,412 being allocated to the Seven Springs water system. This is a
4 | \$50,364 decrease to the MFR amount.

5 | Audit Disclosure No. 4 discusses the amortization of loan costs. During
6 | the year 1999, the utility acquired a construction loan from Bank Of America
7 | in the amount of \$5,200,000 at 9.00% interest for 15 years. The loan
8 | settlement date was July 30, 1999. The closing expenses on the loan were
9 | \$39,829, paid to the bank at closing, and \$23,541 for legal fees paid. The
10 | total loan cost is \$63,370 (39,829 + 23,541). The monthly amortization amount
11 | is \$352 (63,370 / 180 months).

12 | In its MFR Schedule D-5(B), the utility indicated a test year 2000
13 | expense of \$5,984 for amortization of Issuing Expense. This amount represents
14 | amortization from August 1, 1999 through December 31, 2000. I recommend that
15 | the five months of amortization for 1999, in the amount of \$1,760, be removed
16 | from the cost of capital computation for ratemaking purposes.

17 | Audit Disclosure No. 5 discusses the Long Term Debt included in the
18 | Capital Structure. Schedule D-2 of the MFRs indicates two debt items to LL
19 | Speer. The audit found four additional debt items totaling \$3,179,132 on a
20 | thirteen-month average basis. I recommend that the utility include all of its
21 | long term debt issues in its capital structure for the calculation of its cost
22 | of capital.

23 | Audit Disclosure No. 6 discusses Interest Income. Schedule B-4(B) of
24 | the utility's MFRs indicates \$10,139 of interest income for the year 2000.
25 | A review of the utility's general ledger revealed that the utility's interest

1 | income had not been properly allocated to its four systems. An allocation of
2 | interest income based upon ECRs results in \$17,293 of interest income for the
3 | Seven Springs water system. I recommend that the interest income be increased
4 | by \$7,154.

5 | Audit Disclosure No. 7 discusses Taxes Other Than Income. The utility
6 | allocates its real estate taxes based on the land's original cost per books.
7 | The utility allocates its tangible personal property taxes based on taxable
8 | plant balances. Taxable plant, as used by the utility, is total plant less
9 | land and vehicles. The utility did not net accumulated depreciation against
10 | its plant balances for this allocation.

11 | Because the tax paid on each particular piece of property is known, and
12 | we know to which system each piece of property applies, I recommend that the
13 | Commission allocate real estate taxes to the system where the particular piece
14 | of property is located. This results in an increase of \$253 to the Seven
15 | Springs water system.

16 | Pursuant to Commission Order No. PSC-99-1917-PAA-WS, issued September
17 | 28, 1999, in Dockets Nos. 980245-WS and 970536-WS, I recommend that the
18 | tangible personal property taxes be allocated based on plant balances less
19 | land and transportation equipment, net of accumulated depreciation. This
20 | results in an increase of \$627 to the Seven Springs water system.

21 | Previously, I recommended revenues be increased for the correct interest
22 | income. I also recommend that a corresponding change to Regulatory Assessment
23 | Fees be made. This results in an increase of \$322 to the Seven Springs water
24 | system.

25 | These adjustments result in a total increase to Taxes Other Than Income

1 of \$1,202.

2 Audit Disclosure No. 8 discusses the deferred rate case expense included
3 in the working capital adjustment. During the test year ended December 31,
4 2000, the utility recorded amounts for deferred rate case expense under Docket
5 No. 991643-SU in its general ledger in two separate accounts: 186.04 and
6 187.03. This docket was for the Seven Springs Wastewater rate case. In
7 December of 2000, the amount recorded in account 187.03 was reclassified and
8 transferred to account 186.04.

9 The thirteen-month average for these accounts was computed as \$103,459
10 for account 186.04 and \$61,702 for account 187.03. Even though account 187.03
11 had a zero balance at December 31, 2000, it still had a thirteen-month average
12 balance because dollars were recorded in that account throughout the year.
13 Because these costs were incurred in a wastewater rate case, they should not
14 be included in the computation of working capital in the current water rate
15 case. In its MFR filing the utility removed the \$103,459 from the average
16 working capital computation, but did not remove the \$61,702. The \$61,702
17 should also be removed as it was also related to the wastewater case.

18 Audit Disclosure No. 9 discusses the Pilot Project for water quality.
19 By Order No. PSC-00-1285-FOF-WS, issued July 14, 2000, in Docket No. 960545-
20 WS, the Commission ordered the utility to implement a pilot project using the
21 best available treatment alternative to enhance the water quality and to
22 diminish the tendency of the water to produce copper sulfide in customers'
23 homes. By Order No. PSC-01-1374-PAA-WS, issued June 27, 2001, in Docket No.
24 000737-WS, the Commission found that a \$380,000 estimate of the cost of the
25 pilot project was reasonable and that it was appropriate to recognize these

1 costs in working capital. It also noted that the appropriate final treatment
2 for these costs can be addressed in the upcoming rate case (which is the
3 subject of this audit). Finally, the Commission instructed the working
4 capital for Seven Springs water system to be increased by \$190,000 (\$380,000
5 divided by two) the average balance of the estimated cost of the pilot
6 project. The utility included an adjustment of \$190,000 to its working
7 capital on Schedule A-4(B) of its MFRs. The utility is currently accounting
8 for costs related to the pilot project in CWIP account 105-02-0. The balance
9 in this account at December 31, 2000 was \$3,826 and at June 30, 2001 it was
10 \$57,579. This information is provided to assist in determining the
11 appropriate final treatment for these costs.

12 Audit Disclosure No. 10 discusses the purchase of the new building.
13 During the test year ended December 31, 2000 the utility purchased a building
14 to use as its main office. At present the utility is not using the whole
15 building. The purchase price was \$774,115 for the building and land (\$765,000
16 sales price and \$9,115 for closing costs).

17 By Order No. PSC-01-1245-PAA-WS, issued June 4, 2001, in Docket No.
18 000737-WS, the Commission recognized the \$765,000 sales price and found the
19 following adjustments appropriate for the Aloha Gardens systems: 1) the value
20 of land associated with the new building was \$64,409, 2) the non-utility
21 percentage was 29.4%, and 3) the appropriate allocation to the Seven Springs
22 water system was 36% for the building related costs.

23 The utility allocated the building and associated land based on 12.5%
24 each to Aloha Gardens water and wastewater and 37.5% each to Seven Springs
25 water and wastewater. Aloha also recorded a \$82,830 value for the associated

1 land related to the building. In addition, the utility recorded a 28.19% non-
2 utility adjustment to the total cost of the building and associated land. By
3 Order No. PSC-01-1374-PAA-WS, the Commission directed plant to be increased
4 by \$1,019 and land reduced by \$970 for the Seven Springs water system to
5 reflect the difference between the valuation and allocation percentages used
6 by the utility and those approved in the order. These adjustments were made
7 by the utility in its MFR filing.

8 During the current audit, the adjustment amounts contained in Commission
9 Order No. PSC-01-1374-PAA-WS were found to be in error. We calculated the
10 appropriate balances for the building and land as of December 31, 2000, using
11 the valuation (\$765,000 + \$9,115 of closing costs), non-utility percentage
12 (29.4%) and system allocation percentage (36%) directed by Order No. PSC-01-
13 1245-PAA-WS.

14 Based on our calculation, the allocation of the new office building and
15 land for the Seven Springs water division should be reduced by \$5,776 for the
16 building and \$5,935 for the land.

17 Audit Disclosure No. 11 discusses regulatory commission expense. By
18 Order No. PSC-01-1374-WS, the Commission found that \$328,672 of regulatory
19 commission expense associated with Docket No. 960545-WS was a reasonable
20 amount. It also found that it was appropriate to begin amortizing these costs
21 in 2000. The company recorded the \$328,672 as a deferred asset in account
22 186.01 and included this in its working capital computation.

23 The utility adjusted its O&M expense by \$65,735 to recognize one year's
24 amortization of this regulatory commission expense on Schedule B-3(A) of its
25 MFRs. However, a corresponding adjustment was not made to reduce the \$328,672

1 | deferred asset for one year of amortization. I recommend that the utility's
2 | working capital be reduced by \$65,735 at December 31, 2000. The thirteen-month
3 | average effect of this adjustment is \$32,868.

4 | Q. Does this conclude your testimony?

5 | A. Yes, it does.

6 |

7 |

8 |

9 |

10 |

11 |

12 |

13 |

14 |

15 |

16 |

17 |

18 |

19 |

20 |

21 |

22 |

23 |

24 |

25 |

1 CHAIRMAN JABER: That brings us to Stephen Fletcher.
2 He will be the first witness we take up tomorrow morning at
3 9:00 a.m. So we will adjourn for the evening. You have some
4 matters --

5 MR. WHARTON: There is one matter, Chairman Jaber,
6 and that is, we had discussed earlier about the Hoofnagle
7 late-filed exhibit.

8 CHAIRMAN JABER: Right.

9 MR. WHARTON: Mr. Burgess expressed that he did not
10 really want to enter into a stipulation, but he did not object.
11 I believe what we have here in having shown this to all the
12 parties and having secured agreement is a substitute for that
13 late-filed exhibit. It is the e-mail that Mr. Hoofnagle
14 testified about where he had gotten the compliance history of
15 Aloha referring back to '99. And then on Page 2 is a letter on
16 DEP letterhead that I have shown to everyone that I believe
17 reveals on its face that in the one instance it says this
18 facility -- the facility had one violation, that that's
19 referring to someone else. And we understand we will not be
20 allowed to file any late-filed response to this. This will be
21 the end of it.

22 CHAIRMAN JABER: All right. So you and Staff have
23 reached agreement that that could be an exhibit used to
24 substitute for Late-Filed Exhibit Number 2?

25 MR. WHARTON: Correct. And I believe Mr. Burgess

1 would not object.

2 MR. BURGESS: That's correct.

3 CHAIRMAN JABER: And, Mr. Burgess, you do not have an
4 objection to that?

5 MR. BURGESS: That's correct.

6 CHAIRMAN JABER: Let's go ahead and identify that.
7 Mr. Wharton, can you give me a short title for an Exhibit
8 Number 15?

9 MR. WHARTON: It is the DEP e-mail and attached
10 correspondence.

11 CHAIRMAN JABER: Okay. That will be Exhibit Number
12 14, and it shall be admitted into the record --

13 MR. JAEGER: That was 15.

14 CHAIRMAN JABER: Fifteen. Thank you. And it shall
15 be admitted into the record without objection. And Late-Filed
16 Exhibit 2 is no longer necessary.

17 (Exhibit 15 marked for identification and admitted
18 into the record.)

19 CHAIRMAN JABER: If there is anything of substance we
20 have to take up, we're going to take up tomorrow morning at
21 nine o'clock, so we are adjourned.

22 MR. JAEGER: Chairman, we have two SWFWMD witnesses,
23 and I don't if we want to jump right into Staff or them. I
24 think we can work that out in the morning.

25 CHAIRMAN JABER: I think we can work it out in the

1 morning, nine o'clock. Thank you.

2 (Hearing adjourned at 9:35 p.m.)

3 (Transcript continues in sequence with Volume 8.)

4 - - - - -

5

6

7

8

9

10

11

12

13

14

15

16

17

18

19

20

21

22

23

24

25

1 STATE OF FLORIDA)

2 : CERTIFICATE OF REPORTER


3 COUNTY OF LEON)

4
5 I, TRICIA DeMARTE, Official Commission Reporter, do hereby
6 certify that the foregoing proceeding was heard at the time and
7 place herein stated.

8 IT IS FURTHER CERTIFIED that I stenographically
9 reported the said proceedings; that the same has been
10 transcribed under my direct supervision; and that this
11 transcript constitutes a true transcription of my notes of said
12 proceedings.

13 I FURTHER CERTIFY that I am not a relative, employee,
14 attorney or counsel of any of the parties, nor am I a relative
15 or employee of any of the parties' attorneys or counsel
16 connected with the action, nor am I financially interested in
17 the action.

18 DATED THIS 24th DAY OF JANUARY, 2002.

19
20
21
22
23
24
25


TRICIA DeMARTE
FPSC Official Commission Reporter
(850) 413-6736