

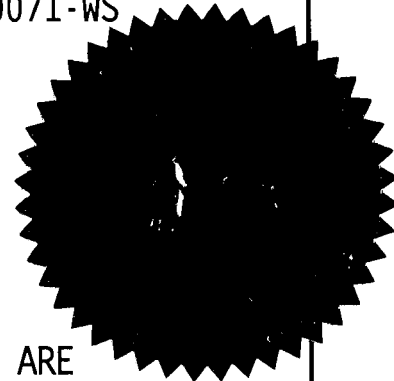
1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

BEFORE THE
FLORIDA PUBLIC SERVICE COMMISSION

DOCKET NO. 020071-WS

In the Matter of

APPLICATION FOR RATE INCREASE IN
MARION, ORANGE, PASCO, PINELLAS,
AND SEMINOLE COUNTIES BY
UTILITIES, INC. OF FLORIDA.



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.

PROCEEDINGS: PREHEARING CONFERENCE

BEFORE: COMMISSIONER BRAULIO L. BAEZ
 Prehearing Officer

DATE: Monday, August 4, 2003

TIME: Commenced at 1:35 p.m.
 Concluded at 2:55 p.m.

PLACE: Betty Easley Conference Center
 Room 152
 4075 Esplanade Way
 Tallahassee, Florida

REPORTED BY: TRICIA DeMARTE, RPR
 Official FPSC Reporter
 (850) 413-6736

1 APPEARANCES:

2 STEPHEN BURGESS, ESQUIRE, and STEPHEN REILLY,
3 ESQUIRE, Office of Public Counsel, 111 W. Madison St., #812,
4 Tallahassee, Florida 32399-1400, appearing on behalf of the
5 Office of Public Counsel.

6 MARTIN FRIEDMAN, ESQUIRE, Rose Law Firm (A.S.), 600
7 S. North Lake Boulevard, Suite 160, Altamonte Springs, Florida
8 32701, appearing on behalf of Utilities, Inc. of Florida.

9 ROSANNE GERVASI, ESQUIRE, and LORENA HOLLEY,
10 ESQUIRE, FPSC General Counsel's Office, 2540 Shumard Oak
11 Boulevard, Tallahassee, Florida 32399-0850, appearing on behalf
12 of the Commission Staff.

13

14

15

16

17

18

19

20

21

22

23

24

25

P R O C E E D I N G S

1
2 COMMISSIONER BAEZ: All right. Let's call this
3 prehearing to order. Counsel, will you read the notice.

4 MS. GERVASI: Pursuant to notice, this time and place
5 has been set for a prehearing in Docket Number 020071-WS,
6 application for rate increase in Marion, Orange, Pasco,
7 Pinellas, and Seminole Counties by Utilities Inc. of Florida.

8 COMMISSIONER BAEZ: Let's take appearances.

9 MR. FRIEDMAN: Martin Friedman of the law firm of
10 Rose, Sundstrom & Bentley representing Utilities Inc. of
11 Florida.

12 MR. BURGESS: I'm Steve Burgess; I'm here on behalf
13 of the Office of Public Counsel for the citizens of the state
14 of Florida, and Steve Reilly as well for the Office of Public
15 Counsel.

16 MS. GERVASI: Rosanne Gervasi and Lorena Holley on
17 behalf of the Commission.

18 COMMISSIONER BAEZ: Okay. Are there any preliminary
19 matters, Ms. Gervasi?

20 MS. GERVASI: None that I'm aware of.

21 COMMISSIONER BAEZ: Okay. Let's -- any of the
22 parties? No.

23 Shall we jump into this light reading?

24 MR. FRIEDMAN: It's not as bad as it looks.

25 COMMISSIONER BAEZ: That's what I was told.

1 MR. FRIEDMAN: Rosanne has spent a lot of time
2 narrowing it down to what it is.

3 COMMISSIONER BAEZ: That's what I was told. Let's go
4 through the first four sections quickly. Are there any changes
5 that need to be made?

6 MS. GERVASI: I'm not aware of any changes to the
7 case background or of anything up until Page 5. And on
8 Page 5 we wanted to bring to your attention that the parties
9 have requested that their briefs be as long as up to 60 pages,
10 which staff has no objections.

11 COMMISSIONER BAEZ: You don't have any objections.
12 Okay. We'll show that change accepted.

13 Any changes to Section VI?

14 MS. GERVASI: No changes.

15 COMMISSIONER BAEZ: All right. And then the order of
16 witnesses.

17 MS. GERVASI: We do some changes with respect to the
18 order of witnesses. As I understand, Witnesses Orr and Flynn
19 need to be listed as direct witnesses as opposed to just
20 rebuttal.

21 MR. FRIEDMAN: Yeah, they're just -- they're
22 sponsoring Mr. Rasmussen's testimony, who is no longer with the
23 company. And those are quality of service testimony anyway,
24 which I think is not a real substantial issue.

25 MS. GERVASI: We can move them to the direct

1 witnesses, the list of direct witnesses. Should they come
2 before Mr. Lubertozzi?

3 COMMISSIONER BAEZ: I guess --

4 MR. FRIEDMAN: I would probably propose to put them
5 on first because their testimony will be very brief. And
6 depending upon what we do on the quality of service issue, they
7 may not have to testify at all.

8 COMMISSIONER BAEZ: Mr. Burgess, is there any
9 objection to listing Witnesses Orr and Flynn --

10 MR. BURGESS: We have no objection.

11 COMMISSIONER BAEZ: Okay.

12 MS. GERVASI: And then as I understand it, Mr. Orr
13 should also be listed as a rebuttal witness as he, I think, has
14 some rebuttal with respect to some other issues; is that right?

15 MR. FRIEDMAN: He did. One of the DEP witnesses
16 mentioned needing some information on something that alludes me
17 at this point, but he did file some rebuttal testimony that
18 included response to that.

19 COMMISSIONER BAEZ: To other issues?

20 MR. FRIEDMAN: It's only on the quality of service
21 issue. One of the water management districts said we didn't
22 respond to a particular evaluation or something, and so he
23 explained that we had responded, and I don't -- like I said, I
24 don't think that's a real issue witness.

25 COMMISSIONER BAEZ: Well, I have him listed here as a

1 rebuttal witness anyway.

2 MR. FRIEDMAN: Yeah.

3 COMMISSIONER BAEZ: So then there's no changes.

4 MS. GERVASI: Right. We'll just remove Mr. Flynn as
5 a rebuttal witness then.

6 COMMISSIONER BAEZ: Okay.

7 MS. GERVASI: And I believe Mr. Lubertozzi should be
8 listed on Issues 47 and 48. As I understand, he testifies on
9 those issues, so we can include that in his list of issues,
10 Marty, if you agree.

11 MR. FRIEDMAN: Yeah, I don't --

12 COMMISSIONER BAEZ: Mr. Friedman, is that --

13 MR. FRIEDMAN: Yes. I don't know why we didn't put
14 him up there. I mean, this is going to be renumbered anyway,
15 isn't it?

16 MS. GERVASI: If everybody agrees, I would prefer to
17 do that. Once we nail down what all the issues are and which
18 ones we're keeping, that I can renumber it before we issue the
19 actual prehearing order and take out the subissues.

20 COMMISSIONER BAEZ: Okay. But in terms of substance,
21 that's --

22 MR. FRIEDMAN: That's correct.

23 COMMISSIONER BAEZ: Okay.

24 MR. FRIEDMAN: Mr. Lubertozzi will be a witness.

25 COMMISSIONER BAEZ: We'll hold off the listing of the

1 numbers then as you suggest.

2 There's a lot of witnesses. Are there any witnesses
3 that the parties know right now they're not going to wish to
4 cross-examine?

5 MR. FRIEDMAN: I think as we move along, I don't
6 think -- at least as far as we're concerned, none of the other
7 agency witnesses are witnesses that we -- they testify on rate
8 structure and on quality of service, and it's all testimony as
9 far as I'm concerned that supports the -- you know, having a
10 satisfactory quality of service, so I can't imagine I'm going
11 to ask those people any questions right now unless somebody
12 else asks them that raises an issue with me.

13 COMMISSIONER BAEZ: Again, I'm just throwing the
14 question out there to see if we can pare down the witness list.

15 MR. BURGESS: As we get closer to the hearing,
16 Commissioner, I think we may be in the same position. I'm
17 reluctant to agree to that at this point.

18 COMMISSIONER BAEZ: I'm not trying to put you in a
19 box now, Mr. Burgess. It's just a --

20 MR. BURGESS: Certainly we don't --

21 COMMISSIONER BAEZ: It's just a reminder, and you-all
22 can keep that in mind --

23 MR. BURGESS: We will.

24 COMMISSIONER BAEZ: -- as usual.

25 MS. GERVASI: And along those lines, I'd like to

1 suggest that the parties think about waiving cross of Staff
2 Witness Jenkins since he testifies only to issues that we have
3 proposed to stipulate concerning water rate structures and
4 going from bimonthly to monthly billing. So there's one that I
5 see as a potential stipulated witness.

6 MR. FRIEDMAN: I don't have any problem with that.

7 COMMISSIONER BAEZ: Counsel, you've got homework. We
8 don't need to settle this here if you're not comfortable doing
9 it.

10 MR. FRIEDMAN: No, I'm fine with that.

11 COMMISSIONER BAEZ: Mr. Burgess, the bet is to you,
12 sir. You can reserve your right.

13 MR. BURGESS: I'd like to. And let me get some sense
14 as to timing on that. When do you intend to have this
15 finalized for Commissioner Baez's signature for the prehearing
16 order?

17 MS. GERVASI: The --

18 MR. BURGESS: I mean, a number of these types of
19 issues are going to come up and some of them will be better
20 served if we can get our answers in before this actually goes
21 to print, so to speak.

22 MS. GERVASI: It's due to be issued on the 14th.

23 MR. BURGESS: Okay.

24 MS. GERVASI: So to the extent we can determine that
25 beforehand, I know the witnesses would appreciate that.

1 MR. BURGESS: Very good.

2 MS. GERVASI: And then one other thing I failed to
3 mention is Staff Witness Lingo. We need to add that she will
4 testify to Issue 47 as well as 48 and 50. That was just an
5 omission.

6 COMMISSIONER BAEZ: So that's a change to the witness
7 list?

8 MS. GERVASI: Yes, sir.

9 COMMISSIONER BAEZ: I'm sorry, which issues was that?

10 MS. GERVASI: Issue 47.

11 COMMISSIONER BAEZ: Okay.

12 MR. FRIEDMAN: The only other witness that we haven't
13 listed is myself on the issue of rate case expense, if there's
14 any issue of wanting to cross-examine on the issue of rate case
15 expense. I don't know whether to put it as a -- in the direct
16 testimony or in rebuttal. I don't care where that is, but --

17 COMMISSIONER BAEZ: Mr. Burgess.

18 MR. FRIEDMAN: To the extent anybody needs me to
19 testify on the legal rate case expense, I need to be in there
20 somewhere.

21 MS. GERVASI: You have not prefiled testimony though,
22 Mr. Friedman, on that issue?

23 MR. FRIEDMAN: No. We filed our exhibit on rate case
24 expense, and if nobody has a question about it, I don't care --
25 well, I don't care to testify particularly.

1 MS. GERVASI: Okay.

2 COMMISSIONER BAEZ: Ms. Gervasi, is there anything we
3 can do now or that we need to do now regarding the rate case
4 expense?

5 MS. GERVASI: As I understand it, the rate case
6 expense exhibit will be sponsored at the time of the hearing?

7 MR. FRIEDMAN: Yes, by Mr. Lubertozzi along with the
8 rest of the rate case expense exhibit. That's correct.

9 MS. GERVASI: So if we have questions about that
10 exhibit, we'll ask Mr. Lubertozzi.

11 MR. FRIEDMAN: Okay. Sure.

12 COMMISSIONER BAEZ: Okay. Mr. Friedman, you're off
13 the hook.

14 Moving on to basic positions. Are there any changes,
15 Mr. Friedman?

16 MR. FRIEDMAN: None from the utility.

17 COMMISSIONER BAEZ: Mr. Burgess.

18 MR. BURGESS: No, sir.

19 COMMISSIONER BAEZ: Okay. Staff.

20 MS. GERVASI: And none for staff either.

21 One other thing, Commissioner, before we move on, I
22 meant to raise the question as to whether or not the direct and
23 rebuttal witnesses should be --

24 COMMISSIONER BAEZ: You know, you actually read my
25 mind. Are we going to be doing that? Is the company -- you're

1 giving me the face like --

2 MR. FRIEDMAN: I understand it -- and I'm still
3 trying to think about it. You know, as a lawyer, it's very
4 hard to give up that last say-so.

5 COMMISSIONER BAEZ: Mr. Friedman, I understand what
6 you're going to say, or I think I can anticipate what you're
7 going to say, and I'm not sure that it's necessary that we have
8 an answer on that now. But I can almost promise you that the
9 Chairman is going to be asking you the same question when the
10 time comes. I would hope you've thought about it by then.

11 MR. FRIEDMAN: I've been thinking about it for about
12 three weeks.

13 COMMISSIONER BAEZ: Okay. Please continue.

14 MR. FRIEDMAN: I vacillate about it, and ultimately
15 it's the client's decision to make.

16 COMMISSIONER BAEZ: I understand. And if you can
17 continue keeping it in the mind. I fortunately have the luxury
18 of punting on that, to the extent that you still have second
19 thoughts about it, but it will come up again. This probably
20 isn't the end of it.

21 MR. FRIEDMAN: No doubt.

22 COMMISSIONER BAEZ: Very well. Ms. Gervasi, can we
23 move on?

24 MS. GERVASI: Yes, sir.

25 COMMISSIONER BAEZ: All right. Issues and positions.

1 Issue 1.

2 MS. GERVASI: Issue 1 is that quality of service
3 issue. The company and staff both agree that the quality of
4 service appears to be satisfactory. Those are our positions.
5 Public Counsel has no position, and we're not sure if that has
6 changed.

7 COMMISSIONER BAEZ: Let's check with Mr. Burgess.

8 MR. BURGESS: It hasn't. We've had the service
9 hearings and all that, and so we're in a little bit different
10 situation than usual. Our reluctance though -- and we don't
11 have testimony on it, and our engineering witness has testified
12 in deposition that he's not raising any quality of service
13 issues, so it's not like we're trying to spring anything. I'm
14 just very reluctant in the event that we get some calls or
15 something like that from customers. I just don't want to tell
16 them that they have got -- that they're irrelevant to the
17 process at this point. And, you know, so I would like to just
18 have it left open. And I realize that, you know, what I'm
19 saying would be, you know, something that possibly could cause
20 difficulties. We've not spoken with anybody, so again, I'm not
21 trying to presuppose anything.

22 COMMISSIONER BAEZ: Would you anticipate having a
23 different frame of mind prior to hearing? I mean, is this the
24 kind of issue that ultimately once we get down the road you'll
25 be able to stipulate?

1 MR. BURGESS: Either stipulate or step back from and
2 let it be one of the various category stipulations.

3 COMMISSIONER BAEZ: Very well.

4 MR. FRIEDMAN: Yeah, our problem, of course, in that
5 is that if it's not stipulated to, then we've got to spend a
6 couple of hours writing a -- you know, going through the
7 testimony on quality of service and writing up a position on
8 that whole issue, and that's an issue that takes some time to
9 write up because of the different factors that are involved in
10 it. So it certainly would save us time and expense if when we
11 get to the final hearing, if that's a -- everybody agrees that
12 we don't have to address that in our briefs.

13 COMMISSIONER BAEZ: Mr. Friedman, I actually
14 sympathize with you on this. The problem as I see it is I
15 can't force Mr. Burgess to stipulate on it. As much as I would
16 like to encourage him to make his decision as soon as possible
17 in order to save the very ratepayers that he represents any
18 additional expenses brought on by his --

19 MR. BURGESS: Yes, sir. And the point is well-taken,
20 what Mr. Friedman says, although I don't know about spending
21 two hours on it. But I think if there appears no relevant
22 testimony, nothing in the record on it, that we would stipulate
23 it before it's time to write post-hearing statements and
24 briefs.

25 COMMISSIONER BAEZ: But you do understand that that's

1 not going to encourage Mr. Friedman to do anything less than
2 his best. The promise that it won't be a problem or the
3 implication that it won't be a problem when the time comes is
4 not going to do all of us any good in terms of preparation and
5 the like.

6 MR. BURGESS: I guess I'm hoping that -- as I
7 envision it, siting right now, status quo, that there is no
8 additional preparation. Maybe I'm wrong, maybe I'm missing the
9 point. I don't see that if we just say it's an open issue at
10 this point, that that causes any additional preparation for
11 anybody at this point if we can, you know, make a determination
12 that it's closed out at the end of the hearing or maybe even a
13 directed verdict or something like that.

14 COMMISSIONER BAEZ: Mr. Friedman.

15 MR. FRIEDMAN: Yeah, it doesn't involve any -- just a
16 trial preparation, it just involves post-trial preparation. So
17 anytime before the end of the trial if he says, I don't object
18 to quality or service, or says, I'm not going to pose
19 satisfactory of quality, or anything that I don't have to write
20 a brief -- include that in my brief I'm happy with.

21 COMMISSIONER BAEZ: And I think that that's what
22 we're anticipating, you know, sometime around the start of the
23 hearing, whether we're going to --

24 MR. BURGESS: Yeah, that's exactly right. And, you
25 know, it's not something I anticipate. I've spoken to nobody

1 that gives me any reason to think it's going to be brought up
2 by customers. I just think it's probably not -- we prefer not
3 to close it out.

4 COMMISSIONER BAEZ: That's fine. I think we're all
5 on the same page.

6 I show Issues 2, 3, 4, and 5 under a proposed
7 stipulation.

8 MS. GERVASI: Correct.

9 COMMISSIONER BAEZ: All right. Issue 5a, any
10 changes, Mr. Friedman?

11 MR. FRIEDMAN: We've got some numbers, some actual
12 numbers to put in. I can give them to you now, or I can give
13 them to Ms. Gervasi, whichever you -- there are two different
14 systems involved in that issue and I could --

15 COMMISSIONER BAEZ: If there are extensive changes,
16 Ms. Gervasi, is it appropriate to have the changes just
17 reflected? We can acknowledge them here and --

18 MS. GERVASI: Yes, sir, we could do it that way.

19 COMMISSIONER BAEZ: Okay. Let's do it that way,
20 Mr. Friedman. You can just provide them to Ms. Gervasi, the
21 numbers.

22 MR. FRIEDMAN: Now or later?

23 COMMISSIONER BAEZ: Later.

24 MR. FRIEDMAN: Okay. Sure.

25 COMMISSIONER BAEZ: Okay. Thanks.

1 Staff.

2 MS. GERVASI: No changes.

3 COMMISSIONER BAEZ: No changes.

4 Okay. I show Issues 6 and 7 under proposed
5 stipulation.

6 MS. GERVASI: Yes, sir.

7 COMMISSIONER BAEZ: Mr. Friedman, I'm showing your
8 client's position to be provided on Issue 7a.

9 MR. FRIEDMAN: This issue -- the response is, in
10 fact, the same responses we have to 5a as far as the written
11 part of it is. The amount is obviously different.

12 COMMISSIONER BAEZ: Do you have it?

13 MR. FRIEDMAN: And I do have that amount, too, and I
14 could give it to Ms. Gervasi.

15 COMMISSIONER BAEZ: Okay.

16 MR. FRIEDMAN: But the written response is the same.

17 COMMISSIONER BAEZ: You provide -- the response is
18 what it is and just provide it to her.

19 Mr. Burgess, or Mr. Reilly, I don't want to leave you
20 out either, but if there's no changes --

21 MR. BURGESS: No changes.

22 COMMISSIONER BAEZ: Okay. Staff.

23 MS. GERVASI: No changes.

24 COMMISSIONER BAEZ: Very well. I'm showing Issue
25 8 under proposed stipulation as well as 9, 10, and 11.

1 MS. GERVASI: Yes, sir.

2 COMMISSIONER BAEZ: Okay. Issue 12, Mr. Friedman.

3 MR. FRIEDMAN: We have no changes to our position.

4 COMMISSIONER BAEZ: Mr. Burgess.

5 MR. REILLY: No changes.

6 MS. GERVASI: No changes.

7 COMMISSIONER BAEZ: I see staff's position. Okay.

8 No changes?

9 MS. GERVASI: Right.

10 COMMISSIONER BAEZ: Very well. Issues 13, 14, 15,
11 and 16 are part of the proposed stipulation.

12 MS. GERVASI: Yes, sir.

13 COMMISSIONER BAEZ: Issue 16a, Mr. Friedman.

14 MR. FRIEDMAN: We have no change to our position.

15 COMMISSIONER BAEZ: Okay. Mr. Burgess.

16 MR. REILLY: No change. Mr. Reilly. Just say Steve.

17 COMMISSIONER BAEZ: Okay.

18 MR. REILLY: Steve Reilly, Steve Burgess.

19 COMMISSIONER BAEZ: Staff.

20 MS. GERVASI: No change.

21 COMMISSIONER BAEZ: Okay. And I'm showing Issue 17,
22 proposed stipulation. Issue 18.

23 MR. FRIEDMAN: There's no change in the utility's
24 position.

25 COMMISSIONER BAEZ: Okay. Steves.

1 MR. REILLY: No change.

2 COMMISSIONER BAEZ: No changes.

3 MS. GERVASI: And staff has no changes.

4 COMMISSIONER BAEZ: Staff has no changes. All right.

5 Issue 19.

6 MS. GERVASI: Commissioner, Issue 19, this brings us
7 to the used and useful questions, and we have a difference of
8 opinion as to how many used and useful issues we need to have
9 in the prehearing order. We can go by the regular order if you
10 like, but this is with respect to Issues 19 through 20k.

11 COMMISSIONER BAEZ: All right.

12 MR. REILLY: We do have some strong views on this
13 subject.

14 COMMISSIONER BAEZ: And I'm interested in hearing
15 them, Mr. Reilly, if only from the point of -- I guess I'm
16 trying to get my hands around why we should do something other
17 than what the staff is suggesting, which is, in essence, how
18 they try and manage their analysis and their organization of
19 recommendations and orders and such.

20 MR. REILLY: Well, we have worked, as you know, in
21 stipulating many issues.

22 COMMISSIONER BAEZ: Yes.

23 MR. REILLY: We've even combined issues everywhere we
24 could. For instance, when it comes to the used and useful on
25 the distribution and collection, that is a single issue that

1 applies to both the wastewater and water. Why? Because the
2 methodology. The used and useful percentages are different,
3 but the methodology is the same. So it was logical to
4 compartmentalize.

5 Our view is that the whole purpose of having this
6 prehearing order and establishing these issues is to focus the
7 Commission's attention where there really is a specific
8 disagreement, to really highlight it and bring it to your
9 attention to give everyone -- it doesn't mean we're going to
10 win the issue but at least we have a chance to really properly
11 organize and compartmentalize the points which are in
12 disagreement.

13 Both staff and the utility have taken the position
14 that we're going to just give kind of a broad used and useful
15 methodology and analysis of providing water service. Our view
16 is that -- really, the authority's belief that we rely upon,
17 that the used and useful methodologies are different from the
18 wells from water supply to treatment to storage and high
19 service pumps, that those should -- at least those three should
20 be properly joined at issue and allow us to have separate
21 methodologies, separate used and useful percentages. I think
22 that's a reasonable compartmentalization, particularly in light
23 that we're not talking about a single utility.

24 We're talking about 22 systems -- well, in water
25 we're talking about 17 separate water systems. So it just

1 becomes from our standpoint -- and we're going to get a little
2 further on. They're not just compartmentalizing those three
3 subissues, those three components of water and wastewater.
4 They want to dump in five more very specific, very direct
5 issues that we and our consultant want to have our opportunity
6 to highlight to this Commission. And we'll get to those later.
7 But -- well, go ahead. You had a question.

8 COMMISSIONER BAEZ: Finish up.

9 MR. REILLY: Well, I believe it's fundamental
10 fairness that these are our issues; we should be able to
11 preserve them. And we worked with staff. I mean, staff had
12 the Staff Audit Report and it deserved, you know, a multitude
13 of issues. It wasn't Staff Audit Report A, B, C, D, E, F, G,
14 H, I, all the way to Z. It's just not -- we accommodated that.
15 Those issues, many of them have been stipulated to; some have
16 been preserved.

17 I believe that it's going to facilitate the -- and
18 give us an opportunity to present our case to have these issues
19 preserved. Their view is that this should all be just, you
20 know, put under one -- you know, swept under one carpet. We
21 really want to bring to the Commission's attention that these
22 methodologies should be specifically looked at and to just lump
23 them all together, we think, undermines our ability to do that.

24 COMMISSIONER BAEZ: Let me see if I -- and,
25 Ms. Gervasi, you're going to have to help me on this. I think

1 I heard Mr. Reilly suggest that OPC disagrees with the
2 particular methodologies that are going to be employed in these
3 enumerated cases; is that --

4 MS. GERVASI: Certainly the methodology to be
5 employed in coming up with the used and useful percentages in
6 this case is very much at issue.

7 COMMISSIONER BAEZ: Okay. And, Mr. Reilly, it's at
8 issue in every one of these that you want to parcel out as
9 opposed to others?

10 MR. REILLY: I think we'll take one at a time, but
11 clearly the methodology and the used and useful percentages for
12 those three components. Those are the ones that we believe
13 should be three separate issues. You know, what is the
14 methodology and what is the used and useful percentages that
15 are appropriate for these 17 water systems; that's one issue.

16 What is the methodology and what are the appropriate
17 used and useful percentages for determining the water treatment
18 for 17 systems? I mean, these are pretty big components. To
19 dump everything into a huge basket, I think, is -- we suggest
20 is a mistake. And they're not only going to do that, but later
21 on as we go down this prehearing order, there's a bunch of
22 other very specific issues, five of them, that they want to
23 also dump into one huge, omnibus Issue 19. And it's just not
24 practical and it's not -- it really doesn't facilitate us in
25 presenting our case. It's going to facilitate us while we're

1 writing this brief. And we have this huge Issue 19 with all
2 these multiple, multiple subparts.

3 COMMISSIONER BAEZ: Hold on a second because I want
4 to get -- Mr. Friedman, do you have any comment on this, or are
5 you going to sit this one out?

6 MR. FRIEDMAN: Sure.

7 COMMISSIONER BAEZ: Okay.

8 MR. FRIEDMAN: No, I do have some -- I feel as
9 vehement as Mr. Reilly does in his position I do in my
10 position, and this is that if they want to espouse a particular
11 methodology, something new that the Commission has not accepted
12 before, then they can espouse that methodology within the
13 framework of the question as it's written, which is, what is
14 the methodology for determining used and useful, including
15 these components? And they list out some components. And then
16 they say, and what is the used and useful percentage? That
17 provides each of us with the ability to espouse our individual
18 methodologies without being trapped into each other's
19 methodologies.

20 And I don't think he should be able to phrase the
21 question any way he wants to phrase it and trap me into having
22 to make my argument in response to his. That's why the
23 methodology -- the way the question is phrased is appropriate
24 to allow us both within the framework of one question, one
25 issue to write whatever we want about why our methodology is

1 better than the other party's.

2 COMMISSIONER BAEZ: Ms. Gervasi.

3 MS. GERVASI: We obviously agree with the utility's
4 position on that. And I'd like to add that we don't view it as
5 an issue of fairness at all as to whether you break it down
6 into various subissues or keep it as one broader issue. We
7 don't view that there's any harm or prejudice doing it either
8 way because we're going to be looking at what is the
9 appropriate methodology to use whether you do it one way or the
10 other. But the used and useful percentage for the water plant
11 is one number, it's not 17 different numbers. It's, you know,
12 whatever it is for each plant.

13 COMMISSIONER BAEZ: It's the aggregate of 17
14 different numbers; is that fair? I guess I'm trying to
15 understand. If we're arguing over methodologies to be employed
16 in the calculation for used and useful of different parts of
17 the system, essentially what OPC seems to be saying is that
18 there are 17 different methodologies. I mean, yes, some of
19 them can be the same, some of them might be different. That's
20 for them to maintain, at least that's what they're maintaining.
21 Am I understanding it correctly?

22 MS. GERVASI: Well, we will have a used and useful
23 calculation for each of the water systems and that calculation
24 will include the various components that Public Counsel would
25 like to see separated into different issues, including the

1 source of supply and pumping. That's part of the water used
2 and useful percentage, as is the storage and high service
3 pumping and the actual plant itself. So you calculate all of
4 that and come up with one number for each water system.

5 COMMISSIONER BAEZ: I don't want to get into an
6 argument over something that obviously is an issue as to how --
7 I want to understand it as simply as possible, and please
8 forgive my ignorance, but it's -- if there's no disagreement
9 that there are different components to a system -- is that fair
10 to say?

11 MS. GERVASI: Yes, different parts to it.

12 COMMISSIONER BAEZ: Okay. Different parts to it.
13 You don't apply -- there is some question as to whether you
14 apply the same methodology across the components. That
15 seems -- is there a question there, or there's no question that
16 there are different methodologies?

17 MS. GERVASI: There could be different methodologies.

18 COMMISSIONER BAEZ: And that's an issue of contention
19 between --

20 MS. GERVASI: Yes, sir, it is.

21 COMMISSIONER BAEZ: And it's your position to which
22 Mr. Reilly objects that even that question is part of an
23 even -- excuse me, part of a larger question. And I've always
24 understood, Mr. Reilly, that even where you disagree -- even
25 where you have disagreed with methodologies and particular

1 parts of the system, that that's always been part of a greater
2 question of what is ultimately the used and useful for the
3 system. And I don't understand how peeling things off
4 precludes your ability or impinges on your ability to say,
5 look, we have a problem as to how we're calculating --

6 MR. REILLY: It gets unwieldy. First of all, there
7 was a discussion of 17 methodologies. There's not 17
8 methodologies.

9 COMMISSIONER BAEZ: No. I'm sorry --

10 MR. REILLY: There's basically -- there will be in
11 the context of providing water service three -- we suggest
12 three methodologies, they may say one, but one methodology to
13 apply to the source of supply, the wells; one methodology to
14 try to calculate the treatment itself; and then a third
15 methodology to apply to the used and useful of storage and high
16 service pumps.

17 COMMISSIONER BAEZ: So you've --

18 MR. REILLY: We've identified that as our issue of
19 methodology and percentage, and we want to try to make sure --
20 we may not win the issue, but we think that the Prehearing
21 Officer should let us keep our issue at least to give us our
22 opportunity to present that.

23 COMMISSIONER BAEZ: And again, I think maybe we're
24 just discussing semantics here, Mr. Reilly, but I'm not sure.
25 I think it's your position and not your issue, or is there a

1 difference, or isn't there?

2 MR. REILLY: I think the purpose of having an issue
3 is to focus attention on that controversy, and there is
4 obviously a controversy here as to what methodology should be
5 employed. I think our due process rights -- Public Counsel's
6 due process rights can be minimally protected if you force all
7 these three methodologies and all these used and useful
8 calculations on 17 different water systems all in one huge
9 issue. You could decide to do that today, and we would work
10 with that and do the best we could.

11 COMMISSIONER BAEZ: But answer me this, have you
12 worked with it before?

13 MR. REILLY: No, generally not. I have not had this
14 kind of fight before. Normally we have the huge subpart of the
15 prehearing order that has to do with used and useful, and
16 Public Counsel is given latitude to identify the ones that they
17 feel really want to be highlighted. This needs to be
18 highlighted because of this -- it's not always been this way.
19 Counsel for the utility suggests novel methodology approaches
20 that Public Counsel now wants to make before the Commission in
21 this case. They are not novel.

22 COMMISSIONER BAEZ: I trust that they're not, but I
23 don't think that's where the discussion is focussing. I mean,
24 what is it about the way the issues are crafted or have been
25 crafted traditionally that makes it impossible for you to say

1 that you have a problem with the methodology over the water
2 collection system or any other part of the system?

3 MR. REILLY: It certainly does not make it
4 impossible. If you ruled that we shall have one big issue that
5 says what shall be the used and -- what's the proper
6 methodology and used and useful percentages for the various
7 water components of the 17 systems, that would be one issue,
8 I'm just respectfully arguing that it would be more -- I think
9 it prejudices us a little bit because there is -- we are kind
10 of foretold that we want to sweep this all into one methodology
11 and one used and useful approach for all the components, and we
12 felt like we had a right to at least, you know, highlight the
13 methodology issue by making it three issues.

14 COMMISSIONER BAEZ: And I think that you heard from
15 staff that that's not in fact what takes place, but there is an
16 issue here of trying to -- how shall I say this without --
17 trying to control the product, not the content of the product,
18 mind you, but the product overall, and I think that that
19 responsibility somehow falls squarely on the staff's purview.
20 And if you're getting assurances and you're sitting here
21 telling me that there's no due process rights being infringed
22 on and that what really we're caught up in is a question of
23 style, I mean, nothing is going to preclude you from objecting
24 or challenging aspects which you intended always to challenge
25 even under these --

1 MR. REILLY: I think that's technically correct. And
2 we have a certain now, a big pigeonhole that we're going to try
3 to pump all this evidence and information and argument in, but
4 we're soon to be coming to five more specific individual used
5 and useful issues that we want to bring to your attention and
6 to the other Commissioners that are on this case. We want
7 those issues to be preserved, and yet they say, oh, we've got
8 this 19. We're going to dump everything into 19 that has to do
9 with used and useful. And I contend to you that I have never
10 seen that done in a prehearing order before where they make all
11 of our issues that was in this large component called used and
12 useful be dumped into one huge used and useful issue.

13 So, you know, if that be your intention on this one,
14 that's fine. But we've got five more issues coming that
15 staff's position is -- on fire flow and all these specific
16 issues that we want to specifically bring to your attention,
17 oh, we'll make that "d," we'll make that "e," we'll make that
18 "f," we'll make that "g" under 19 and it's unfair. I don't
19 think it's -- it does begin to compromise our ability to write
20 the brief and to really focus the kind of attention. It almost
21 crosses the line.

22 COMMISSIONER BAEZ: And that's an alternative that
23 I'd certainly be interested to explore. I don't know if it's
24 been discussed amongst you, but if it's a question of let's get
25 these properly situated and if they become subissues, so be it,

1 aren't you being presented at the same time a forum in which to
2 focus what your positions are and what your problems may be in
3 a particular area?

4 MR. REILLY: If you can -- I think it's true, but it
5 gets to a point where it's hard to keep the Commission's focus
6 if you're going to relegate something that we think deserves to
7 be an issue as 19g. You know, it's just de minimis. I just
8 feel like if we felt that we want to bring --

9 COMMISSIONER BAEZ: They're just numbers. I can
10 assure you, at least from my point of view, I don't pay any
11 more or less attention to an issue because it has a letter or
12 because it happens to be a subpart.

13 Understand my situation here. We've got to
14 balance -- on some level we've got to balance the staff's
15 ability to feel confident that it can do its analysis the way
16 that it sees fit with your opportunity to get your case out in
17 this manner. And I think if we can offer you an opportunity so
18 that everybody gets a feeling that there is particular focus
19 that needs to be attended on a particular issue, that's fine,
20 but let's not create a difficulty on another respect at the
21 exchange of one, especially in a situation where we're not
22 dealing with due process preclusions.

23 You know, we're not dealing with -- you know, there's
24 a forum for your issue. There's a place for your discussion.
25 That's not going away. I see it more as a situation we're

1 trying to keep control of staff's ability to analyze in the way
2 that it needs to analyze it.

3 MR. REILLY: And we have worked with staff.

4 COMMISSIONER BAEZ: I know you have. I don't doubt
5 that.

6 MR. REILLY: Rosanne will concede that we've
7 stipulated a bunch of issues, we've combined issues, but when
8 issues that you feel strongly about keep being pigeonholed and
9 just thrown into one big issue, we'll call those Public
10 Counsel's used and useful issues, it just -- it becomes -- it's
11 a concern that I'm expressing to you. And I'm asking that as
12 we get to these other issues you'll just make a ruling one by
13 one as to whether we deserve a separate issue or whether you're
14 going to throw it into the one giant 19 bin.

15 COMMISSIONER BAEZ: I'm sure we're going to have that
16 discussion over again. I wanted to at least have this
17 discussion, this overarching discussion. I don't want you to
18 feel -- it's certainly not the intent, the way that I'm going
19 at it to preclude you from making any -- taking any position
20 that you see fit. That is your job. I'm trying to maintain
21 everybody's ability to do their job as intact as possible,
22 Mr. Reilly. So where are they then? We are on 19. What do we
23 need to address?

24 MS. GERVASI: We are on Issue 19, Commissioner, which
25 originally staff would have just used language that would have

1 been even broader than this to say what is the used and useful
2 percentage for the water treatment systems. Instead what we
3 tried to do in the spirit of compromise, although we didn't
4 reach a resolution on how the issue should be worded, we did
5 include what methodology should be used as well as what the
6 percentages should be for the water treatment systems. And we
7 actually -- you know, we expressly set out the major components
8 within that phrasing of the issue that Public Counsel is most
9 concerned with. And our suggestion is that Issue 19 would take
10 care of several of Public Counsel's issues and that their
11 positions on Issue 19 would certainly --

12 COMMISSIONER BAEZ: And can you go pointing me to
13 those particular issues? And that would be Issues 20 through
14 20k? Are those the issues that you're referring to?

15 MS. GERVASI: 20d, "e," and "f," for sure, have to do
16 with the water used and useful.

17 MR. FRIEDMAN: Wait a minute. 20?

18 COMMISSIONER BAEZ: "D", "e," and "f."

19 MS. GERVASI: 20d, "e," and "f."

20 MR. FRIEDMAN: Oh, okay.

21 MS. GERVASI: And 20g is more of a legal question, as
22 I see it. 20h is fire flow which we also believe has to do
23 with Issue 19 because fire flow again is something that's
24 looked at as part of the used and useful calculation for water
25 treatment systems.

1 COMMISSIONER BAEZ: And under which one of those
2 three distinct parts of the system -- or distinct issues that
3 you've included, distinct areas that you've included in 19,
4 where does fire flow fall under?

5 MS. GERVASI: I don't -- really didn't expressly
6 state fire flow in the issue.

7 COMMISSIONER BAEZ: So fire flow is not one of the
8 things that falls into --

9 MS. GERVASI: It would fall under Issue 19 because
10 fire flow is part of the used and useful determination for
11 water treatment systems.

12 COMMISSIONER BAEZ: Right. But it's not -- and
13 again, I'm not an engineer, so I don't know how to categorize
14 these, but is it part of the water treatment systems, supply
15 and pumping, or high service pumping? I mean, is that an
16 accurate question to ask?

17 MS. GERVASI: I think it's part of all of those.

18 COMMISSIONER BAEZ: Okay.

19 MR. BURGESS: It covers the several components.

20 COMMISSIONER BAEZ: All right. And that was, I'm
21 sorry, 20h?

22 MS. GERVASI: Yes, sir, that was 20h.

23 COMMISSIONER BAEZ: "D," "e," "f," and "h."

24 MS. GERVASI: And "h." 20g we think could be
25 subsumed within Issues 19, 20 and 20b because that's more of a

1 legal question as to whether used and useful needs to be set at
2 100 percent simply because the Commission has determined it to
3 be -- to have been set at 100 percent in a prior case.

4 COMMISSIONER BAEZ: I'm sorry. Ms. Gervasi, 20g you
5 state that you believe it to be a legal issue?

6 MS. GERVASI: Yes, sir.

7 COMMISSIONER BAEZ: Okay.

8 MS. GERVASI: And certainly could be addressed in the
9 parties' briefs and also in positions, if they so choose,
10 within the used and useful issues that we --

11 COMMISSIONER BAEZ: Mr. Reilly, do you agree that
12 it's a legal issue?

13 MR. REILLY: I agree that there are legal
14 implications. I think it's a policy issue of this Commission
15 to what extent it's going to, you know, give credence to prior
16 rulings. But again, we just -- there is a considerable issue
17 in this case about the application of these prior decisions,
18 and we think it needs to be brought directly and specifically
19 to the Commission's attention.

20 And it's not -- I mean, this issue that we bring,
21 20g, you can call it whatever issue it is, and I'm happy to put
22 it as an issue somewhere else in the prehearing order. It is
23 not covered by 19. I mean, 19 I concede does specifically
24 mention those three elements of the water treatment, and those
25 three issues do take care of our suggested 20d, "e," and "f."

1 But these other five specific issues we respectfully feel
2 strongly about and want to bring to this Commission's
3 attention, and we do not wish for these issues to not be
4 entered into the prehearing order.

5 When you get to fire flow, I mean, there is no
6 mention at all of fire flow. And this issue here -- let's take
7 a look at an example, 20h. The issue says, "If a local
8 jurisdiction requires fire flow, is the Commission obligated to
9 provide the fire flow allowance to the utility?" What's
10 happened in this case is we have to bring to the attention of
11 the Commission that just because a local requirement of fire
12 flow occurs doesn't mean that automatically you give a fire
13 flow allowance to the utility. We want to make an issue and
14 bring as a policy decision to this Commission, if the fire flow
15 is, in fact, not even being provided at all by the utility or
16 being provided 10 percent of the territory, that there should
17 not be a full allowance of fire flow in the used and useful
18 component -- in the used and useful calculation of that
19 utility.

20 We need this pigeonhole in this prehearing order to
21 bring to the attention of this Commission an important policy
22 issue that should be addressed in this case. And just sweeping
23 it under this huge rug doesn't give us an opportunity to do
24 that.

25 COMMISSIONER BAEZ: I got the sweeping part already.

1 MR. REILLY: Well, you know --

2 COMMISSIONER BAEZ: Got that one down.

3 Mr. Friedman.

4 MR. FRIEDMAN: I disagree. And that particular
5 issue, I think, is one that points out the fallacy of Public
6 Counsel's argument, and that is, you can't isolate the fire
7 flow requirement from the general concept of what's the used
8 and usefulness of that system because fire flow, as everybody
9 has already acknowledged, flows through a number of components
10 in the system. It's not like a storage tank. It deals with
11 pumping; it deals with storage; it deals with high service
12 pumps; it deals with well capacity. It flows through the whole
13 thing, and you can't isolate this one element and say, oh, this
14 is different. And that's the difference in philosophy and
15 methodology between what the Public Counsel is espousing and
16 what the utility is espousing, is that what they want to do is
17 break down on the water plant every little component and say,
18 we want to do different used and usefuls on everything. And if
19 they want to argue that, there's nothing to stop them from
20 arguing that within Issue 19. They espouse whatever
21 methodology they want to espouse. I don't think we should have
22 to respond to an issue that identifies their methodology that
23 we've got to respond to.

24 COMMISSIONER BAEZ: Hold on. 20h says, "If a local
25 jurisdiction requires fire flow, is the Commission obligated to

1 give the utility a fire flow allowance" and then some
2 circumstances. This doesn't seem to me to impinge on any of
3 the methodologies that we've been discussing.

4 MR. FRIEDMAN: It does, because fire flow is one of
5 the components and the methodology that you're going to pick.
6 It's what is the fire flow --

7 COMMISSIONER BAEZ: But it goes to the requirement,
8 so it seems to me to be a threshold question. You say either
9 we're obligated to allow recovery based on whatever methodology
10 or we're not. It seems to be outside of -- you know, you've
11 got to answer -- we need an answer to this before we ever get
12 into whether we're parceling out or whether we can tie up fire
13 flow as a discrete component or not, or you don't --

14 MR. FRIEDMAN: I don't think so, because I don't
15 think you can identify fire flow as a discrete component.

16 COMMISSIONER BAEZ: Is there such a thing as a fire
17 flow analysis, or isn't there?

18 MR. FRIEDMAN: I don't have the slightest idea.

19 COMMISSIONER BAEZ: I'm hearing yes.

20 MS. GERVASI: There is, and we have kept fire flow as
21 a separate issue on some other cases where fire flow was a
22 large issue. In this case fire flow is an issue with respect
23 to only one system, and we didn't think of it as being that
24 large of an issue. If we keep it as a single issue, we can
25 process it that way as well, but it certainly falls within the

1 used and useful umbrella.

2 COMMISSIONER BAEZ: I was hoping to get into all of
3 them at the end when we're finished, but I can tell you that
4 this one in particular, because of the legal question of what
5 we need -- you know, what kind of responsibilities we have, I
6 think our relationship is clear when DEP is mandating
7 something, but when local ordinances do or don't, I think that
8 question can probably be more appropriately held out.

9 While we're on the subject, I think "d", "e," and "f"
10 can probably be appropriately included in 19.

11 MS. GERVASI: Yes, sir. Those are strict components
12 of how you calculate used and useful.

13 COMMISSIONER BAEZ: But I think "g" is an issue that
14 falls outside that type of calculation. Okay?

15 MS. GERVASI: Okay.

16 COMMISSIONER BAEZ: So if you're keeping score at
17 home, I know I've had to, "h" and "g" right now we're going to
18 maintain in their positions. I'm sure they're going to be
19 renumbered at some point, but --

20 MS. GERVASI: So we will strike 20d, "e," and "f,"
21 keep "g" and keep "h." And if that brings us to "i" --

22 COMMISSIONER BAEZ: "I" is the next one, isn't it?

23 MR. FRIEDMAN: What did we do with "g"?

24 MS. GERVASI: Kept "g" and kept "h."

25 COMMISSIONER BAEZ: "G" you were keeping.

1 MR. REILLY: I can address the "i" if you want me to,
2 or would you prefer to, Rosanne, to start with?

3 MS. GERVASI: It's the Commissioner's pleasure.

4 COMMISSIONER BAEZ: Interesting word, "pleasure."

5 Ms. Gervasi, why don't you tee it up?

6 MR. REILLY: Well, this is --

7 COMMISSIONER BAEZ: I think I --

8 MR. REILLY: Oh, I'm sorry.

9 COMMISSIONER BAEZ: I think I pointed to Ms. Gervasi.

10 MS. GERVASI: Issue "i," Commissioner, we do see as a
11 true component of the used and useful percentage which is Issue
12 19. It has to do with whether to use a 12- or 24-hour pumping
13 time, and we think it falls squarely within Issue 19.

14 COMMISSIONER BAEZ: Mr. Reilly, tell me why it
15 doesn't.

16 MR. REILLY: Our witness, you know, strongly wanted
17 to make this an issue because staff has evolved on this
18 position and last -- or more recent cases they've espoused this
19 12-hour versus the 24 hours. I do concur that this issue of
20 whether you use the 12 hours, the 24 hours in determining firm
21 reliable capacity has do with the source of supply and deals
22 with the methodology of that and could be subsumed into that.
23 I almost want to concede this one and move to the next one.

24 COMMISSIONER BAEZ: I think you should.

25 MR. REILLY: Okay.

1 COMMISSIONER BAEZ: No, and I'm not trying to be
2 funny, but I think --

3 MR. REILLY: I do concur with what she said, and he
4 just thought it was of enough importance that he said, Steve,
5 make this an issue and I did.

6 COMMISSIONER BAEZ: And you're going to get to make
7 it an issue, and I say "issue" with a small "i" here. Okay?

8 MR. REILLY: Right.

9 COMMISSIONER BAEZ: Okay. So I think wherever we can
10 get away from the logic that it's really important to us and we
11 needed to highlight it, then we'll know which way this is going
12 to go. I mean, if there are things that are really -- truly
13 can stand alone, I think you're starting to figure out where
14 we're --

15 MR. REILLY: I understand.

16 COMMISSIONER BAEZ: I think you can keep that in
17 mind. So 20i is part of 19, will be subsumed into 19.

18 And 20j.

19 MR. REILLY: I would like to fight a little harder
20 for 20j. The reason is --

21 COMMISSIONER BAEZ: Give it a shot.

22 MR. REILLY: -- it's just so -- this has been again
23 and again in the testimony. There's just -- this term "built
24 out," we really want to focus attention of what does it mean
25 when a system is built out. What does it take for a system to

1 be built out? We want to bring it -- focus the attention,
2 because these percentages cross the waterfront, from 80, 85,
3 90, 95, and someone just says, well, we think this is
4 approximately built out; there hasn't been a lot of growth
5 here; we're just going to call it 100 percent used and useful.
6 And so that's why, you know, our witness said, we really want
7 to focus attention on what constitutes built out. Let's bring
8 it to the Commission's attention and make all the parties come
9 and debate that issue and brief it and have it be ruled on.
10 Does it have to be 100 percent? What is the percentage? And
11 that's why we made it an issue.

12 COMMISSIONER BAEZ: Okay. Mr. Friedman.

13 MR. FRIEDMAN: This isn't a separate issue. I don't
14 think that this Commission can set in this case a policy, which
15 is what they're asking you to do, that says in every case a
16 system is built out -- or is not built out until it reaches "X"
17 percentage. And the reason, as Mr. Reilly pointed out, that
18 the percentages that you-all have found in prior cases are,
19 quote, across the board, I think is the word he used, is
20 because every system has unique characteristics. The customer
21 base of every system has unique characteristics. And you can't
22 set one point and say, for every water system, until you get to
23 90 -- I think he says 98 is the number, not 95, it ought to be
24 98. I don't think that you can say that in every water system
25 out there when you hit 98 percent, we consider it 100. I think

1 it depends upon the unique characteristics of the customer base
2 and the unique characteristics of the system itself. And so I
3 don't think that you can set a specific number and set a
4 policy, which is what they are asking you to do, which is why
5 this question is in here.

6 This is a part of used and useful. When we make our
7 used and useful argument, we're going to tell you why if we
8 think at 90 percent it ought to be 100. We're going to tell
9 you why that particular system ought to be considered 100
10 percent used and useful even though it's only 90 or 80 or 60 or
11 70, and we'll tell you that with regard to each system because
12 it's unique.

13 COMMISSIONER BAEZ: Ms. Gervasi, is there -- and
14 hearing you talk, Mr. Reilly, I immediately said, well, this is
15 sort of a policy question. I think Mr. Friedman's argument is
16 a pretty reasonable one. Now, is it a question of -- is that a
17 question for OPC of creating the question for these systems in
18 particular?

19 MR. REILLY: I think it is. I don't think we're
20 looking for a rule of general applicability. We're not looking
21 for a rule to come out of this hearing.

22 COMMISSIONER BAEZ: Why don't we try rewording this
23 and see what we can --

24 MR. REILLY: Well, perhaps we can, but it just came
25 up again and again in this case where people came and said,

1 well, you know, he was doing numbers and it was 80 percent used
2 and useful, and someone would say, well, you know, it's
3 essentially built out or it's built out, and it just became
4 very hard for us to deal with.

5 COMMISSIONER BAEZ: Do you agree at least that that's
6 the company's burden to make, to prove that it should be
7 100 percent after it gets --

8 MR. REILLY: I would like that to be an issue. What
9 constitutes built out? That's what we said. We want the
10 Commission to consider if a system is going to be considered
11 built out, what does it take to be considered built out?

12 COMMISSIONER BAEZ: I think you're asking it --
13 again, I think you're asking it again in political terms.

14 MR. REILLY: Well, in this case then for these facts.

15 MR. BURGESS: Just basically what I understand you to
16 be perhaps directing toward is something that preserves our
17 concern, at the same time removes this from being any type of
18 general application statement. And if you're asking, can we
19 live with issues that basically say, for all of these that are
20 considered -- for every time where it's considered built out
21 when it's not actually 100 percent used and useful in its
22 calculation, what determines that it's built out under those
23 circumstances, then we could live with that.

24 COMMISSIONER BAEZ: If the question of whether a
25 particular system reaches that threshold of being built out, I

1 think Mr. Friedman has represented here that that becomes
2 something that they've got to prove up if that's their
3 insistence.

4 MR. BURGESS: Well, except -- what I understand that
5 our problem is, that it just seems to be almost a -- just it
6 is, for all practical purposes, it is built out, and then no
7 proof, no demonstration, no standard, no explanation to that
8 individual circumstance. And it's those individual
9 circumstances that we'd like the opportunity to at least have a
10 controversy. And I do agree that it should be the company's
11 burden to prove each one of those.

12 COMMISSIONER BAEZ: Ms. Gervasi, or maybe Mr. Willis
13 is going to want to jump in here, I mean, there are aspects of
14 this that obviously lend themselves to a much broader forum.
15 And I don't know what kind of work the Commission staff is
16 anticipating in that regard. And I guess I want to have a good
17 idea of whether this issue is, in fact, an issue -- I mean, if
18 this consideration is.

19 MS. GERVASI: Typically within the used and useful
20 issue, Commissioner, there is a question as to whether any of
21 the systems are built out. And if it's determined that there
22 is a built out system, then ordinarily that system would be
23 deemed to be 100 percent used and useful. That's done in the
24 ordinary course of business with respect to used and useful
25 issues, and so staff's position on that is that this concern is

1 properly subsumed under Issues 19, 20, and 20b, which are the
2 water used and useful, wastewater, and then the distribution
3 and collection lines.

4 If you wanted to separate it out into its own issue
5 because of the nature of the concern, I agree with the utility
6 that we would want to make the question be with respect
7 specifically to Utilities Inc. of Florida. So perhaps wording
8 the question, if you're going to keep the issue at all, which
9 we really don't think needs to be kept but will be addressed
10 either way, the issue could be perhaps, "Should any of UIF's
11 systems be considered 100 percent used and useful because they
12 are built out?"

13 COMMISSIONER BAEZ: And I guess my interest in
14 keeping the issue on some level is only to the extent that
15 there are disagreements as to what the considerations of
16 that -- you know, what kind of considerations are involved in
17 that question. If there is no disagreement, if there's no
18 issues, then I would agree with you that it probably more
19 properly belongs in -- is it 19, 20b, and 20?

20 MS. GERVASI: Correct.

21 COMMISSIONER BAEZ: However, if there is some
22 discussion or if there's some consideration that we had as to
23 what actually goes into that determination, then I think it
24 needs to be -- I think there has to be a proper place for that
25 discussion. Now, I haven't heard -- I'm not sure that I've

1 heard that here at this point. I think Mr. Burgess seems to be
2 comfortable with the idea as long as there's a place to discuss
3 it.

4 MR. BURGESS: The language Ms. Gervasi just said,
5 that takes care of us.

6 MR. REILLY: As a separate issue.

7 COMMISSIONER BAEZ: Okay. And because we want to get
8 away from policymaking in this docket to the extent that anyone
9 can.

10 Mr. Friedman, I'm going to give you one last go at
11 the proposed -- if you can comment on the proposed language.
12 You've already registered your objection to the whole notion,
13 but --

14 MR. FRIEDMAN: Well, certainly that language is more
15 consistent with the philosophy of setting used and useful for
16 these particular systems than this general statement of general
17 applicability. I think it's not necessary because I think it's
18 subsumed in those three -- the plant, water plant, sewer plant,
19 and lines and distribution and the collection systems, but if
20 you've got to have that issue, I think that Ms. Gervasi framed
21 it as well as --

22 COMMISSIONER BAEZ: All right. We're going to keep
23 Issue 20j as Ms. Gervasi has restated it.

24 And we're down to 20k?

25 MS. GERVASI: Yes, sir. 20k is another issue that we

1 believe could be subsumed within a prior issue. We view this
2 as just being a way of rewording 7a, which is an accounting
3 issue. If there's any distinction, we don't see it.

4 COMMISSIONER BAEZ: Mr. Reilly, do you want to take a
5 crack at the distinction?

6 MR. REILLY: I almost viewed 20k as a possible
7 stipulation.

8 COMMISSIONER BAEZ: Oh, my.

9 MR. REILLY: I say that because if plant has been
10 completely taken out of service and it's been retired, I know
11 there's another issue out there about whether the utility has a
12 right to recover some of that investment through some sort of
13 amortization or whatever. But I don't think there's anyone in
14 this room that I'm aware of that suggests that -- and in this
15 case we're talking about three wastewater plants, wastewater
16 treatment facilities that have been taken off line, that they
17 should be either considered plant in service or used and useful
18 in any way, shape, or form other than zero. So --

19 COMMISSIONER BAEZ: Leave --

20 MR. REILLY: See, we have not gotten a position from
21 anybody on this, but I believe that we could all stipulate -- I
22 think we can all stipulate that if wastewater -- if plant has
23 been completely removed from service, that it shall be neither
24 deemed plant in service nor used and useful, obviously. So I
25 just think it's a stipulation.

1 COMMISSIONER BAEZ: Mr. Friedman.

2 MR. FRIEDMAN: Well, I think we've got some
3 stipulations that I thought covered that.

4 MR. REILLY: And that may be -- we've had so many
5 issues that may be the case, but let's just verify that. I
6 think that's the solution to 20k.

7 COMMISSIONER BAEZ: Let's --

8 MR. FRIEDMAN: It seems like to me that Stipulation
9 6 -- well, let's start with the earlier ones. Four deals with
10 the Summertree -- removal of the Summertree, and I think it
11 says here the adjustments that we need to do to take that plant
12 out.

13 MR. REILLY: I don't know that any issue cantles all
14 three of those wastewater treatment facilities that were taken
15 off line. I know 7a, for instance, touched on it because at
16 some condemnation proceedings and what to do with the proceeds
17 from -- but it doesn't really address the issue that that plant
18 is neither used and useful and, of course, is not even part of
19 plant in service, so --

20 MR. FRIEDMAN: I don't understand that. Four takes
21 out the Pasco County plant.

22 COMMISSIONER BAEZ: And please forgive me, but I'm
23 not showing any of the -- I don't know what Issue 4 is.

24 MR. FRIEDMAN: I'm sorry. This is Stipulation 4.
25 I'm sorry. It's over there at the very back. And then

1 Stipulation 5 takes out the land and water treatment plant
2 associated with the Crescent Heights system, and then you've
3 all got the stipulation shows what adjustments. Six, the
4 Seminole County wastewater treatment plant shall be retired.
5 It shows what adjustments need to be made to take it out.
6 Seven, Seminole County land and it shows -- I don't know if
7 that's --

8 MR. BURGESS: Commissioner, we agree in principle
9 with what Mr. Friedman is saying; that is, that if the
10 stipulations remove everything that we were concerned about
11 here, then we don't have any problem. Certainly we don't want
12 an issue on the stipulations. We're not certain, as we sit
13 here right now, that it covers everything that we had in mind.
14 And I think that's our concern.

15 You know, it sounds like he's agreeing in principle
16 to what we're saying, what Mr. Reilly said. You know, it
17 sounds like we've got a stipulation on this except we don't
18 want to say, yeah, we agree that all those stipulations take
19 care of it and find one piece of plant that didn't get included
20 in one of those stipulations. If we can work on this, perhaps
21 we can --

22 COMMISSIONER BAEZ: Mr. Friedman, has Mr. Burgess
23 represented what your position is?

24 MR. FRIEDMAN: Yeah. I mean, we believe it should be
25 removed from plant in service, not the "or considered zero used

1 and useful." I mean, I think the proper thing to do is take
2 out a plant. But I think we've already done that, and if he
3 can point to a plant that we haven't done it all, then we'll
4 stick it in there. It just seems repetitive to have
5 specific -- we took it out, we took out Seminole, we took out
6 Pasco, and then say, and we took out everything else.

7 COMMISSIONER BAEZ: No. And I think -- Mr. Burgess
8 and Mr. Reilly are nodding their heads. I think what we need
9 here is a little bit -- just a little bit of time before we --
10 you know, and I think we'll be able to remove this. Let's TP
11 20k for the moment.

12 MS. GERVASI: And then, Commissioner, before we move
13 on, I just would like to point out that for those used and
14 useful issues that we're keeping, "g," "h," and "j," the
15 company and staff will need to provide our positions with
16 respect to those issues.

17 COMMISSIONER BAEZ: Okay. That puts us at 21. This
18 is a fallout issue. I'm assuming there's no change in position
19 there.

20 MS. GERVASI: No changes.

21 MR. FRIEDMAN: No change.

22 COMMISSIONER BAEZ: Okay. 22.

23 MR. FRIEDMAN: No change in the utility's position.

24 MR. BURGESS: What I'd like to do, if we can, is
25 provide a number -- we need this as an issue. We think the

1 short-term debt should be updated. We think it can be
2 stipulated. We think that if the utility indicates what their
3 short-term debt anticipated for the period of time in which
4 this goes into effect or the most updated short-term debt at
5 the time, it's a verifiable number, is whatever it is, it is
6 that number. In other words, once it's verified, it's not
7 something that's subject to any kind of philosophical debate.
8 So I guess I'm just saying I don't believe it's 2.0, but I
9 don't believe it's 5.18.

10 COMMISSIONER BAEZ: Let's put this one in the area of
11 possibles. And I understand there may be some changes
12 forthcoming. You don't have any changes now for purposes of us
13 moving forward.

14 MR. BURGESS: No.

15 COMMISSIONER BAEZ: Issue 23 is proposed stipulation.
16 Issue 24.

17 Mr. Friedman.

18 MR. FRIEDMAN: No change in the utility's position.

19 COMMISSIONER BAEZ: Mr. Burgess, or Mr. Reilly.

20 MR. REILLY: No change.

21 COMMISSIONER BAEZ: Staff.

22 MS. GERVASI: No changes.

23 COMMISSIONER BAEZ: 24a.

24 MR. FRIEDMAN: No change in the utility's position.

25 MR. REILLY: No change as stated.

1 MS. GERVASI: And no change.

2 COMMISSIONER BAEZ: Issue 25 is dropped. Issue 25a.

3 MR. FRIEDMAN: No change in the utility's position.

4 MR. BURGESS: Commissioner, we have changes that
5 would reflect the difference in the short-term debt. We have
6 numbers that we can give you that would represent the effect of
7 changing it to 2.0, but as I say, that's almost just a place
8 keeper at this point for us. So these numbers are not
9 accurate, but I couldn't give you ones that would reflect our
10 hearing position.

11 COMMISSIONER BAEZ: Well, hopefully you'll be able to
12 stipulate the short-term debt number, and then you'll have
13 fallout numbers to provide to staff.

14 MR. BURGESS: Yes, sir.

15 COMMISSIONER BAEZ: Okay. Issue 26 is part of the
16 proposed stipulation, as is Issue 27. Issue 27a.

17 MS. GERVASI: Commissioner, Issue 27a is one of three
18 issues that I'm aware of that we are working with the parties
19 to try and come up with a proposed stipulation, but to my
20 knowledge, we don't have one as of yet. The other two issues
21 being 50 and 51.

22 COMMISSIONER BAEZ: Okay. 27b is a fallout. 28 is
23 part of a proposed stipulation. 28a.

24 MR. FRIEDMAN: There's no change in the utility's
25 position.

1 COMMISSIONER BAEZ: Mr. Burgess, no changes?

2 MR. REILLY: No change.

3 COMMISSIONER BAEZ: 28b.

4 MR. FRIEDMAN: No changes in the utility's position.

5 COMMISSIONER BAEZ: 29 I'm showing part of a proposed
6 stipulation -- I'm sorry.

7 MR. REILLY: No changes.

8 COMMISSIONER BAEZ: No changes. Okay. I'll take
9 your silence as -- Issue 30.

10 MS. GERVASI: Commissioner, I don't know of any
11 changes until we get to Issues 50 and 51, in an effort to move
12 things along.

13 MR. REILLY: I think that's right.

14 COMMISSIONER BAEZ: Okay. I'm glad somebody knew how
15 far we had to go. Are we clear on that?

16 Mr. Friedman, are you okay with that?

17 MR. FRIEDMAN: I'm thumbing through this as we --

18 COMMISSIONER BAEZ: Okay. You stop me if you hear
19 anything; otherwise, we're going to move on to Issue 50.

20 MS. GERVASI: Issues 50 and 51 are the other two
21 issues that we're still discussing whether we can propose
22 stipulation language, and if we are able to come up with
23 proposed language prior to the prehearing order being issued, I
24 would suggest that we go ahead and include those.

25 COMMISSIONER BAEZ: Well, and I think that that

1 should -- I guess that opening should stand for all other
2 issues as well.

3 MS. GERVASI: Thank you. And then the next change I
4 have is with respect to Issue 56.

5 COMMISSIONER BAEZ: Mr. Friedman, are you caught up?

6 MR. FRIEDMAN: Yes, that's my next change also. Yes.

7 COMMISSIONER BAEZ: Okay. Issue 56.

8 MS. GERVASI: This is one that we had flagged as a
9 possible proposed stipulation if we can agree on how long the
10 company would need to file a simple amendment application.

11 MR. FRIEDMAN: Yeah, we'll change our number and
12 agree with the staff on that.

13 COMMISSIONER BAEZ: 90 days?

14 MR. FRIEDMAN: Yes, sir.

15 MS. GERVASI: That would be Issue 56, so we'll move
16 that to the proposed stipulation section.

17 COMMISSIONER BAEZ: Okay. Perhaps the
18 first productive thing we've done here; is that -- we're on 57.

19 MS. GERVASI: I don't know of any other changes to
20 the remaining issues.

21 MR. FRIEDMAN: The utility doesn't have any other
22 changes.

23 COMMISSIONER BAEZ: All right. Mr. Burgess, any that
24 you're aware of?

25 MR. BURGESS: No.

1 COMMISSIONER BAEZ: Okay. We're going to move down
2 to the exhibit list. Any changes to the exhibit list?

3 MS. GERVASI: I would just like to mention that staff
4 has prepared three composite exhibits which consist of some
5 discovery that we would like to include if there's no
6 objection. And we have listed those three composite exhibits
7 under the exhibit section. If any of the other parties have
8 other pieces of discovery that they would want to do the same
9 with, we could list them here as well.

10 MR. FRIEDMAN: Rosanne, I need to get with you about
11 Frank Seidman's exhibits. It looks to me that they're not
12 numbered -- something's not numbered right about them or
13 identified right about them.

14 MS. GERVASI: Okay.

15 COMMISSIONER BAEZ: You can straighten out the
16 numbering. And, Ms. Gervasi, just so that I can be clear,
17 staff's exhibits were looking to be stipulated, as stipulated
18 exhibits?

19 MS. GERVASI: We have shared those three exhibits
20 with the parties, and we're just waiting to hear if they have
21 got any objections to allowing those in over any objection --
22 or without objection.

23 MR. FRIEDMAN: I mean, I think they're our responses.
24 We don't object to them.

25 COMMISSIONER BAEZ: Is that something that we need to

1 settle where we have -- where we're going to list them?

2 MS. GERVASI: We can number them at the hearing. I
3 don't know whether Public Counsel is ready to --

4 COMMISSIONER BAEZ: Yeah, we don't need to carry
5 those into hearing at this point.

6 Any changes to the proposed stipulation section?

7 MS. GERVASI: In the draft prehearing order under
8 Proposed Stipulation Number 3, we were not certain whether
9 Utilities Inc. agrees with the language that's shaded. That
10 was language that, I believe, was added after the last time we
11 met.

12 MR. FRIEDMAN: The problem was it didn't come through
13 shaded when I downloaded the e-mail. So I guess I should have
14 called, but I didn't know what particular language was shaded.

15 MS. GERVASI: Just the very last sentence of Proposed
16 Stipulation 3.

17 MR. FRIEDMAN: Starting with "No"?

18 COMMISSIONER BAEZ: Yes.

19 MR. FRIEDMAN: I'll let you know.

20 COMMISSIONER BAEZ: Anything else?

21 MS. GERVASI: I don't know of anything up until we
22 get to Proposed Stipulation Number 25, but we have some
23 language shaded in that stipulation as well. And again, it's
24 because it was added after the last meeting that we had with
25 the parties and that would be the second sentence of that

1 proposed stipulation which reads, "Rate case expense and other
2 pro-forma," et cetera. This is language that Public Counsel
3 has told us they can stipulate to that issue but only if that
4 language is included. And I wasn't sure what the company's
5 position was on that.

6 COMMISSIONER BAEZ: Mr. Friedman.

7 MR. FRIEDMAN: I'll get back well in advance.

8 MS. GERVASI: And this, Marty, is standard language
9 that the Commission --

10 MR. FRIEDMAN: I mean, I don't see a problem with it,
11 but I need some time to think about it.

12 MS. GERVASI: All right. Sure.

13 COMMISSIONER BAEZ: I'm not showing any other changes
14 Ms. Gervasi; is that correct?

15 MS. GERVASI: That's correct.

16 COMMISSIONER BAEZ: Pending motions. There's motions
17 to compel and --

18 MS. GERVASI: We will have an order for you within
19 the next day.

20 COMMISSIONER BAEZ: You're going to take care of
21 those outside the order?

22 MS. GERVASI: Yes, sir.

23 COMMISSIONER BAEZ: All right. Is there anything
24 else that we need to discuss?

25 MS. GERVASI: Nothing that I'm aware of.

1 MR. FRIEDMAN: We had mentioned that we have one
2 witness who was unavailable on Friday, and that's my only --
3 it's noted in one of the drafts of the prehearing, and I would
4 just point it out again so that you-all have some
5 considerations at how to best handle that witness. And I think
6 the staff's got a witness also. One of the other agency people
7 I think is not available on a particular date.

8 MS. GERVASI: Is that Witness Ahern? Is that who
9 you're speaking of?

10 MR. FRIEDMAN: Yes.

11 MS. GERVASI: That's listed on Page 8. Both
12 Witnesses Ahern and Dodson on behalf of staff are unavailable
13 on the Friday.

14 COMMISSIONER BAEZ: Right.

15 MS. GERVASI: And we have seven DEP witnesses that we
16 have sponsored all on that Issue 1, which is quality of
17 service. So as soon as we know for sure whether we can release
18 them, I'm certain they'll be happy to know.

19 COMMISSIONER BAEZ: Will there be anyone left at DEP
20 to do -- never mind. But we've got the availability issue
21 ironed out in the order.

22 MS. GERVASI: The availability issue?

23 COMMISSIONER BAEZ: Yeah, the notations that
24 needed --

25 MS. GERVASI: Oh, yes, sir. There were two issues

1 that we TP'd.

2 COMMISSIONER BAEZ: Ahern and Dodson unavailable.

3 Okay.

4 MS. GERVASI: Oh, yes, sir.

5 COMMISSIONER BAEZ: All right. Anything else?

6 MS. GERVASI: We had temporarily passed on two
7 issues.

8 COMMISSIONER BAEZ: That's right.

9 MS. GERVASI: Did we want to come back to those now?

10 COMMISSIONER BAEZ: That was 20 and 20k. I don't
11 know if OPC has had a chance to look at the existing proposed
12 stipulations and see if that takes care of their --

13 MR. REILLY: We haven't had a chance to look at the
14 other language, but I think we all agree that this is something
15 we can stipulate to. It's just a matter whether it's covered
16 or not.

17 MR. BURGESS: What I'd like to do is to look over and
18 also talk with our consultants all the proposed stipulations
19 that we mentioned today and see if those cover all of the items
20 that we had identified for the purpose of bringing this rule --
21 separating this issue out.

22 COMMISSIONER BAEZ: Ms. Gervasi, we can eliminate an
23 issue going into hearing anyway; right?

24 MS. GERVASI: Yes, sir, we could.

25 COMMISSIONER BAEZ: I guess what I think we need to

1 do is let's preserve 20k as is for the time being. I think
2 pending OPC's confirmation that, you know, their concerns are
3 addressed through the other existing proposed stipulations and
4 either it will or will not be -- and I guess what's the proper
5 term here, is it going to get dropped or withdrawn or --

6 MR. BURGESS: I think it would be just dropped
7 because it would be covered in all the other stipulations.

8 COMMISSIONER BAEZ: Okay. And so we're going to wait
9 on OPC's confirmation of that.

10 MS. GERVASI: Okay. And to the extent that you can
11 let us know before the 14th, that would be great. We could
12 include it in the prehearing order. And then the same type of
13 thing for Issue 22, which was the short-term debt question that
14 you wanted some more time to think about as well.

15 COMMISSIONER BAEZ: Now, actually, that one is
16 actually going to take some discussion amongst the parties, I
17 believe.

18 MR. BURGESS: Yes, sir, it will. I guess right now
19 is -- are the other parties in agreement that it should be
20 updated for more recent information? That it's a debt cost and
21 the indentures say what they say as far as what it requires,
22 and so we can find out what they're issuing their -- you know,
23 whatever the papers they're issuing that they're considering
24 short-term debt.

25 COMMISSIONER BAEZ: Well, Mr. Friedman, how do you

1 feel about that? I mean, here's an opportunity to get rid
2 of --

3 MR. FRIEDMAN: Well, I mean, I don't know. I think
4 we've got to a number -- you've got to do a cutoff at some
5 point, and we cut the thing off at whatever point in time we
6 cut it off, you know, at the test year. It may go down this
7 year; it may go back up next year. You know, interest rates
8 are going up. He wants to pick -- and I don't know whether
9 it's changed or not. I'm making a theoretical argument. But,
10 you know, he's looking at, well, you know, the interest rates
11 are as low as they have been and now they're starting to creep
12 back up, so he wants to nail it in right now. And my theory is
13 you've got to pick a point. We traditionally pick a point in
14 time, and that's the point that we used in here. It's a
15 reasonable one in recognition that interest rates go up and
16 down. You know, we don't change every year depending upon the
17 interest rates. We take the best shot at a particular point in
18 time. We got that point in time and that's the way it ought to
19 be.

20 COMMISSIONER BAEZ: All right. And your logic seems
21 reasonable for purposes of our discussion. All I ask is that
22 when Mr. Burgess calls you up on the telephone, you take his
23 call and discuss it with him.

24 MR. FRIEDMAN: I always take Mr. Burgess's call.

25 COMMISSIONER BAEZ: All right. I know you will.

1 Those were the only two that we had TP'd.

2 MS. GERVASI: Yes, sir, I believe so.

3 COMMISSIONER BAEZ: Okay. And they continue to be
4 pending but I think with great hope of resolution. Do we have
5 anything else?

6 MS. GERVASI: Nothing that I'm aware of.

7 COMMISSIONER BAEZ: Any of the parties?

8 MR. REILLY: Nothing further.

9 MR. FRIEDMAN: Nothing from the utility.

10 COMMISSIONER BAEZ: All right. Thanks, everybody,
11 for showing up and spending some time. Have a good afternoon.

12 (Prehearing Conference concluded at 2:55 p.m.)

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, RPR, Official Commission Reporter, do
6 hereby certify that the foregoing proceeding was heard at the
7 time and 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 8th DAY OF AUGUST, 2003.

19
20
21
22
23
24
25


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