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## I N D E X

## WITNESSES

NAME:

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EXHIBITS

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## P R O C E E D I N G S

(Transcript continues in sequence from Volume 3.)

COMMISSIONER DEASON: Call the hearing to order.

Mr. Reilly, you may call your witness or Mr. Burgess.

MR. BURGESS: Commissioner, we call Donna DeRonne to the witness stand.

I don't know whether you would like us to go ahead and identify this preliminary matter that we've been discussing before going on the record with regard to the stipulation or, or wait until we have it worked out. There's an item that the parties have been examining to make sure that everybody agrees with the appropriate number that, that would reflect a stipulation that has been made that does not have any number attached to it. And we're in the process of working that out, but some of the people involved are, you know, involved in both the cross-examination of this witness and this witness herself. So perhaps at a break if we could, if we work that out, bring that back to you.

COMMISSIONER DEASON: That would be fine. We will proceed. I understand that those discussions are taking place, and hopefully before we leave today we'll have a resolution.

MR. BURGESS: Thank you.

DONNA DERONNE  
was called as a witness on behalf of the Office of Public Counsel and, having been duly sworn, testified as follows:



## DIRECT EXAMINATION

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BY MR. BURGESS:

Q Would you state your name and business address, please, Ms. DeRonne.

A Yes. My name is Donna DeRonne. And my business address, I'm with the firm Larkin and Associates at 15728 Farmington Road, Lavonia, Michigan 48154.

Q And did you prefile testimony in this docket, Docket Number 020071?

A Yes, I did.

Q And if the questions posed in that prefiled testimony were posed to you today, would your answers be the same?

A Yes, they would.

Q Did you also compile and file with the testimony a number of exhibits that are reflected in the prehearing order?

A Yes.

MR. BURGESS: Commissioner, may we get a composite exhibit number for Ms. DeRonne's exhibits as identified in the prehearing order?

COMMISSIONER DEASON: Yes. That would be composite Exhibit 13.

MR. BURGESS: Thank you. And just for clarification, that includes the Appendix 1, which is the witness's qualifications, as well as all the exhibits?

COMMISSIONER DEASON: That's my understanding, yes.

1 MR. BURGESS: Thank you.

2 (Exhibit 13 marked for identification.)

3 BY MR. BURGESS:

4 Q Ms. DeRonne, do you have a summary of your  
5 testimony -- excuse me.

6 MR. BURGESS: Commissioner, I was inclined to ask her  
7 for a summary now and then seek to have the testimony inserted  
8 into the record as though read. Do you have a preference?

9 COMMISSIONER DEASON: Well, let's just go ahead and  
10 do it and --

11 MR. BURGESS: Okay. I would ask the Commission to  
12 insert Ms. DeRonne's prefiled direct testimony, prefiled  
13 testimony into the record as though read.

14 COMMISSIONER DEASON: Without objection, show that  
15 testimony inserted into the record.

16 MR. BURGESS: Thank you, Commissioner.

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1 DIRECT TESTIMONY OF DONNA DERONNE  
2 ON BEHALF OF THE CITIZENS OF FLORIDA  
3 BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION  
4 UTILITIES, INC. OF FLORIDA  
5 DOCKET NO. 020071-WS  
6

7 I. INTRODUCTION

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

9 A. My name is Donna DeRonne. I am a Certified Public Accountant licensed in the  
10 State of Michigan and a senior regulatory consultant at the firm of Larkin &  
11 Associates, PLLC, Certified Public Accountants, with offices at 15728 Farmington  
12 Road, Livonia, Michigan 48154.

13

14 Q. PLEASE DESCRIBE THE FIRM LARKIN & ASSOCIATES, PLLC.

15 A. Larkin & Associates, PLLC, is a Certified Public Accounting and Regulatory  
16 Consulting Firm. The firm performs independent regulatory consulting primarily for  
17 public service/utility commission staffs and consumer interest groups (public  
18 counsels, public advocates, consumer counsels, attorneys general, etc.). Larkin &  
19 Associates, PLLC, has extensive experience in the utility regulatory field as expert  
20 witnesses in over 400 regulatory proceedings, including numerous electric, water and  
21 wastewater, gas and telephone utilities.

22

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

3 A. Yes. I have testified before the Florida Public Service Commission on several prior  
4 occasions. I have also testified before several other state regulatory commissions.

5

6 Q. HAVE YOU PREPARED AN EXHIBIT DESCRIBING YOUR QUALIFICATIONS  
7 AND EXPERIENCE?

8 A. Yes. I have attached Appendix I, which is a summary of my regulatory experience  
9 and qualifications.

10

11 Q. ON WHOSE BEHALF ARE YOU APPEARING?

12 A. Larkin & Associates, PLLC, was retained by the Florida Office of Public Counsel  
13 (“OPC”) to review the rate increase request filed by Utilities, Inc. of Florida  
14 (“Company” or “UT”) for Marion, Orange, Pasco, Pinellas, and Seminole Counties.  
15 Accordingly, I am appearing on behalf of the Citizens of Florida (“Citizens”).

16

17 Q. ARE ANY ADDITIONAL WITNESSES APPEARING ON BEHALF OF THE  
18 FLORIDA OFFICE OF PUBLIC COUNSEL IN THIS CASE?

19 A. Yes. Kim Dismukes, Ted Bidy and Mark Cicchetti are also presenting testimony in  
20 this case.

21

22 Q. HOW WILL YOUR TESTIMONY BE ORGANIZED?

1 A. I address, in order, the following: Overall Financial Summary, Staff Adjustments,  
2 Operating Income, Rate Base and Rate of Return - Return on Equity Penalty.

3

4 II. OVERALL FINANCIAL SUMMARY

5 Overall Recommendation

6 Q. HAVE YOU PREPARED AN EXHIBIT IN SUPPORT OF YOUR TESTIMONY?

7 A. Yes. I have prepared Exhibit\_\_(DD-1), consisting of five sets of schedules, one set  
8 for each of the five counties involved in this case. Each set of schedules include: (1)  
9 A schedules providing the overall revenue requirement for each county separated  
10 between water and wastewater; (2) B schedules providing recommended adjustments  
11 to net operating income; (3) C schedules providing the recommended adjustments to  
12 rate base; and (4) D schedules providing the overall rate of return on rate base. The  
13 schedules presented in Exhibit\_\_(DD-1) are also consecutively numbered, by county,  
14 at the bottom of each page.

15

16 Q. WHAT DO SCHEDULES A-1 AND A-2, ENTITLED "REVENUE  
17 REQUIREMENT" SHOW FOR EACH COUNTY?

18 A. Schedules A-1 and A-2 present the revenue requirement calculation for water and  
19 wastewater, respectively, giving effect to all the adjustments I am recommending in  
20 this testimony, along with the impacts of the recommendations made by Citizens'  
21 witnesses Kim Dismukes, Ted Bidy and Mark Cicchetti. The adjusted rate base  
22 amounts presented on each Schedule A-1 and A-2 can be found on Schedules C-1

1 and C-2 for water and wastewater, respectively. The remaining C schedules contain  
 2 supporting calculations for the adjustments shown on Schedules C-1 and C-2. The  
 3 OPC adjustments to net operating income are listed on Schedule B-1 for each county.  
 4 The remaining B schedules provide supporting calculations for the adjustments to net  
 5 operating income presented on Schedule B-1.

6  
 7 Q. WHAT IS THE REVENUE REQUIREMENT YOU ARE RECOMMENDING FOR  
 8 EACH OF THE FIVE COUNTIES' WATER AND WASTEWATER SYSTEMS?

9 A. The following table presents the Company's requested revenue requirement (based  
 10 on the Company's 3<sup>rd</sup> revised filing dated October 3, 2002), OPC's adjusted revenue  
 11 requirement at the mid-point of the return on equity range proposed by Citizens'  
 12 Witness Mark Cicchetti, and the Office of Public Counsel's recommended revenue  
 13 requirement based on the bottom point of the return on equity range. I recommend  
 14 that the Commission adopt the revenue requirement amounts based on the low point  
 15 of the return on equity range. The reasons for this recommendation will be addressed  
 16 further in the final section of this testimony.

17  
 18

	Per Company	OPC Adjusted	OPC Recommended (with Penalty)
19 Marion - Water	\$49,509	(\$27,584)	(\$29,092)
20 Marion - Wastewater	\$5,309	(\$21,696)	(\$22,065)
21 Orange - Water	\$76,950	\$23,463	\$22,988
22 Pasco - Water	\$110,293	(\$95,069)	(\$98,940)

1	Pasco - Wastewater	\$59,118	(\$68,703)	(\$69,427)
2	Pinellas - Water	\$102,494	\$11,355	\$10,320
3	Seminole - Water	\$184,949	(\$100,290)	(\$107,000)
4	Seminole - Wastewater	\$510,847	\$152,436	\$143,969
5	TOTAL	\$1,099,469	(\$126,088)	(\$149,247)

6  
7  
8 As shown in the table presented above, the Company's requested revenue  
9 requirement was significantly overstated and should, in fact, be revenue reductions  
10 for the majority of the county systems in this case.

11

12 III. STAFF ADJUSTMENTS

13 Q. THE FLORIDA PUBLIC SERVICE COMMISSION STAFF RECOMMENDED  
14 NUMEROUS ADJUSTMENTS IN ITS AUDIT REPORT ON THE COMPANY'S  
15 RATE FILING, AUDIT CONTROL NO. 02-249-3-1. HAVE YOU REFLECTED  
16 EACH OF THE ADJUSTMENTS CONTAINED IN STAFF'S AUDIT REPORT IN  
17 CALCULATING THE OPC'S RECOMMENDED REVENUE REQUIREMENT  
18 AMOUNTS IN YOUR EXHIBIT\_\_(DD-1)?

19 A. In this case, due largely to the condition of the Company's books and records and the  
20 Company's MFR filings in this case, numerous adjustments were required, as is  
21 obvious from a review of Staff's Audit Report. I agree with and have reflected many  
22 of the adjustments contained in Staff's Audit Report, but not all of the adjustments.

1 Staff has recommended numerous adjustments that are necessary to correct the  
2 Company's books and records. For example, there are numerous incidents in which  
3 the Company has incorrectly booked the impact of prior Commission orders on its  
4 books. Another example is that there were many instances in which the Company  
5 did not record retirements of plant in service on its books when such plant was  
6 replaced. The Company has also used incorrect depreciation rates on its books for  
7 several plant accounts. As stated at page 69 of Staff's Audit Report: "The Utility's  
8 books and records are not in substantial compliance with the NARUC USOA..."  
9 Staff Audit Exception No. 26 lists numerous deficiencies with the Company's filing  
10 and its books and records. The OPC strongly shares these concerns.

11

12 Q. HAS THE COMPANY AGREED WITH THE ADJUSTMENTS  
13 RECOMMENDED IN THE STAFF AUDIT REPORT?

14 A. In response to OPC Interrogatory No. 137, and via a letter to the Commission dated  
15 March 25, 2003, the Company provided its response to the Audit Report. In the  
16 response, the Company did not contest the majority of the adjustments recommended  
17 in Staff's Audit Report. For many of the exceptions the Company did contest, it only  
18 contested a portion of the recommended adjustment. For example, in Audit  
19 Exceptions 1 and 2, Staff made numerous revisions to correct the Company's  
20 recording in its general ledger of the impact of prior Commission orders. The Staff  
21 Auditors found that in numerous cases the Company incorrectly adjusted the wrong  
22 accounts or used incorrect amounts in its recordings to the general ledger.



1 Additionally, the Company did not record its acquisition of the Pasco County Wisbar  
2 and Bartelt (Buena Vista) systems on its books until mid-2002, even though the  
3 systems were purchased in 2000 and are included in this case. For Exceptions 1 and  
4 2, the Company contested the calculations to correct the recordings for a few of the  
5 systems, but did not contest others.

6  
7 Q. COULD YOU PLEASE LIST THE EXCEPTIONS CONTAINED IN THE STAFF  
8 AUDIT REPORT THAT YOU HAVE REFLECTED IN YOUR REVENUE  
9 REQUIREMENT CALCULATIONS IN EXHIBIT\_\_(DD-1)?

10 A. Yes. I have reflected either the full or partial impact of the following Staff  
11 Exceptions:

12 - Exception 1 - Rate Base Water - Adjustment to Prior Orders. I reflected the  
13 adjustment for the systems/counties that the Company did not contest;  
14 specifically for Marion County, Orange County, Pasco County Orangewood  
15 System, Pinellas County, and Pasco County - Wisbar/Bartelt systems. I did  
16 revise the adjustments to accumulated depreciation contained in Schedule H  
17 of the exception to reflect the average test year methodology, as opposed to  
18 the year-end amount contained in the schedule. The Company contested  
19 Staff's calculations for the Seminole County and Pasco County - Summertree  
20 water system; thus, I have not reflected the adjustments for Seminole County  
21 and the Summertree system at this time, pending further information.

22

1 - Exception 2 - Rate Base Wastewater - Adjustment to Prior Orders. I reflected  
2 the adjustment necessary to include the purchase of the Pasco County -  
3 Wisbar system. As previously mentioned, the Company failed to record the  
4 2000 purchase of this system in the appropriate accounts in its general ledger  
5 until 2002. Thus, while the revenue and expense for this system is in the  
6 MFR filing, the correct rate base balances and depreciation expense is not.  
7 The Company contested the adjustments made by Staff for Marion County,  
8 Seminole County, and the Pasco County - Summertree system; thus, I have  
9 not reflected the adjustments for those systems at this time, pending further  
10 information.

11  
12 - Exception 3 - Utility Plant in Service - Nonrecurring Plant. I agree with the  
13 adjustments contained in this exception and have reflected them, with a few  
14 minor revisions. The adjustments to accumulated depreciation contained in  
15 the exception are based on year-end amounts. I revised the adjustments to  
16 accumulated depreciation to reflect the average test year rate base  
17 methodology. Additionally, Staff removed \$2,725 from Seminole County  
18 wastewater rate base for a TV video inspection of sewer lines recorded in  
19 April 1994. Staff recommended that the items it removed from plant in these  
20 adjustments be amortized into expense over a five-year period. However, as  
21 the TV video inspection occurred in 1994, it would have been fully amortized  
22 prior to the test year in this case had it been recorded properly. Thus, I

1 disagree that this amortization should be included in test year expenses and  
2 have not included the \$272 recommended by Staff as amortization expense  
3 for this project in my schedules for Seminole County.

4  
5 - Exception 4 - Utility Plant in Service - Replacement and Retirement of Plant.

6 As previously mentioned, the Company failed in several instances to retire  
7 plant items on its books when the item was replaced. This resulted in both  
8 the replacement plant and the original, retired plant remaining in plant in  
9 service on the Company's books. I agree with Staff's adjustments to correct  
10 this deficiency and have reflected the adjustments in my schedules. The  
11 Company did not contest this exception.

12  
13 - Exception 5 - Utility Plant in Service - Reclassified Plant. The Company  
14 does not contest this exception.

15  
16 - Exception 6 - Utility Plant in Service - Organization Cost and Capitalized  
17 Labor. The Company disagreed with these Staff adjustments to reclassify  
18 certain costs as acquisition adjustments rather than organization costs. I agree  
19 that Staff's recommendations in this exception are appropriate and have  
20 reflected them in my schedules.

21  
22 - Exception 7 - Utility Plant in Service - Common Plant Allocations from

1 Utilities, Inc. Florida. The Company does not contest this exception.

2

3 - Exception 9 - Utility Plant in Service - Adjustments to Test Year Balance. In  
4 this recommendation, Staff removed the remaining land and water treatment  
5 plant for the Crescent Heights water system and the Davis Shores water  
6 system, along with the associated accumulated depreciation and depreciation  
7 expense. The Crescent Heights water system was interconnected with  
8 another utility's system and the Company plans to dispose of the remaining  
9 equipment and demolish the building. The Davis Shores water system was  
10 interconnected with another utility's system, and the Company removed all of  
11 the equipment and disposed of the land. I agree that these adjustments should  
12 be made, and have reflected them in my schedules. The Company has not  
13 contested this portion of the exception.

14

15 The second part of Staff's adjustment in this exception removes the Lincoln  
16 Heights wastewater plant. The Company has disagreed with this adjustment.  
17 The OPC agrees that the Lincoln Heights wastewater plant should be  
18 removed, and this removal is supported by OPC Witness Ted Bidy.  
19 However, the amounts contained in Staff's exception to remove the Lincoln  
20 Heights wastewater plant are based on year-end amounts and do not tie into  
21 the amounts contained in the MFR filing. The appropriate adjustment to  
22 remove the amounts contained in the Company's revised MFR filing is

1 addressed later in this testimony, under the Rate Base section.

2

3 - Exception 10 - Contributions in Aid of Construction (CIAC) - Advances.

4 The Company does not contest this exception.

5

6 - Exception 11 - Accumulated Depreciation - Depreciation Rates. This  
7 adjustment, which the Company does not contest, revises the Company's  
8 accumulated depreciation balances associated with two accounts to correct  
9 the Company's application of the wrong depreciation rates.

10

11 - Exception 14 (Revised) - Working Capital. Staff's revised Exception 14  
12 significantly reduces the amount of working capital contained in the MFR  
13 filing, reducing working capital from the \$1,634,351 total amount requested  
14 by the Company to \$208,497. In response to an OPC Interrogatory, the  
15 Company has indicated that it agrees with the revised Staff recommendation,  
16 with a few minor exceptions. Staff's adjustment allocates the working capital  
17 balance to each County's water and wastewater system based on the  
18 percentage of adjusted O&M expenses for each county system. On Schedule  
19 C-5 for Marion County, I have reflected Staff's recommended working  
20 capital amount of \$208,497. However, my allocation to each system is  
21 slightly different from Staff's as the OPC's adjusted O&M expenses differ.  
22 The adjustment to working capital, calculated on my Marion County

1 Schedule C-5, is applied on Schedules C-1 and C-2 for each county system.

2

3 - Exception 16 - Cost of Capital - Parent. Commission Staff recommended  
4 several revisions to the Company's cost of capital/rate of return calculations.  
5 With the exception of the rate of return on equity used, I agree with Staff's  
6 recommendations. Citizens' Witness Mark Cicchetti recommends a rate of  
7 return on equity of 10.41%, which is lower than the 10.91% rate used by  
8 Staff. On Schedule D-1 for each county, I recalculated the overall rate of  
9 return of each county based on Staff's recommendations, with the OPC's  
10 recommended rate base incorporated in the calculations and OPC's  
11 recommended rate of return on equity. I will discuss the rate of return on  
12 equity in the final section of this testimony.

13

14 - Exception 17 - Revenues - Adjustment to Test Year. The Company does not  
15 contest this exception.

16

17 - Exception 18 - Operation and Maintenance Expense. The Company does not  
18 contest this exception.

19

20 - Exception 19 - Operation and Maintenance Expense - Cost Centers 603 and  
21 639. The Company did not contest this exception.

22

1 - Exception 23 - Operation and Maintenance Expense - Adjustment to Test  
2 Year Seminole County. During the historic test year, the Company's Lincoln  
3 Heights wastewater treatment plant in Seminole County was removed from  
4 service. This adjustment annualizes the impact on O&M expense due to the  
5 resulting wastewater interconnection with the City of Sanford. It also  
6 corrects the adjustments included in the Company's MFRs for the  
7 annualizations of the purchase wastewater treatment expense. The Company  
8 did not contest this exception, which reduces the Company's MFR  
9 adjustment to test year O&M expenses for Seminole County wastewater by  
10 \$80,751. Later in this testimony, I recommend an additional adjustment to  
11 the amount of annualized purchase wastewater treatment expense included in  
12 this Staff exception, resulting in an additional \$7,451 reduction to purchase  
13 wastewater treatment expense for Seminole County.

14  
15 - Exception 24 - Taxes Other Than Income - Property. The Company did not  
16 contest this exception.

17

18 Q. FOR THE STAFF EXCEPTIONS YOU HAVE NOT FLOWED THROUGH YOUR  
19 SCHEDULES, COULD YOU PLEASE DISCUSS WHY NOT.

20 A. Yes. For several of the exceptions discussed above (i.e., portions of Exceptions 1  
21 and 2), the Company has contested the exception and I have not yet reviewed all of  
22 the information necessary to determine whether or not the Company's contention is

1 valid. I also have not reflected Staff Exception Nos. 12, 13 and 15 and take no  
2 position on these exceptions at this time. As also discussed above, I have made  
3 some slight modifications to the adjustments recommended by Staff. Specific  
4 reasons for not adopting certain Staff Exceptions are discussed below:

- 5 - Exception 8 - Utility Plant in Service - Common Plant Allocations from  
6 Water Services Corporation. The OPC, through Citizens' Witness Kim  
7 Dismukes, recommends that 100% of the common plant allocated from  
8 Water Services Corporation be disallowed. Thus, I have removed the  
9 common plant allocated from Water Services Corporation in its entirety.  
10
- 11 - Exceptions 20 and 21 - Operation and Maintenance Expense - Allocations.  
12 Citizens' Witness Kim Dismukes is recommending different allocation  
13 factors for spreading common costs to the Utilities, Inc. Florida systems. Ms.  
14 Dismukes' adjustment takes into account the adjustments recommended by  
15 Staff in these exceptions and applies her recommended allocation factors.  
16 Ms. Dismukes' adjustments for the reflection of Staff's recommended  
17 revisions to allocated expenses with her recommended allocation factors are  
18 reflected on Schedule B-1 for each county.  
19
- 20 - Exception 22 - Operation and Maintenance Expense - Adjustment to Test  
21 Year. This exception adjusts the amount of expense included in the adjusted  
22 test year for salaries and wages and employee benefits. I am recommending



1 different adjustments to salaries and wages and employee benefit expense  
2 later in this testimony.

3

4 - Exception 25 - Taxes Other Than Income - Adjustments to Test Year. This  
5 exception adjusts employee payroll tax expense based on Staff's  
6 recommendations in Exception 22, discussed above.

7

8 IV. OPERATING INCOME

9 Revenues - Index Rate Increase Annualizations Corrections

10 Q. THE COMPANY HAS REVISED AND RE-FILED ITS E SCHEDULES  
11 NUMEROUS TIMES THROUGHOUT THIS CASE. ARE ANY ADJUSTMENTS  
12 TO THE REVENUE REQUIREMENT CALCULATIONS NECESSARY BASED  
13 ON THE MOST RECENT VERSION OF THE E SCHEDULES?

14 A. Yes. The Company's filing for several county systems include adjustments to test  
15 year revenues to annualize the impact of index rate increases that went into effect  
16 during 2001. The necessary adjustments for the index rate increases were calculated  
17 using MFR Schedule E-2 for each of the counties impacted. The differences between  
18 the MFR Schedule Nos. E-2 annualized index rate increase amount and the as-  
19 recorded revenues were reflected as adjustments on MFR Schedule Nos. B-3. As a  
20 result of Commission Staff's deposition of Steve Lubertozzi, the Company filed Late  
21 Filed Exhibit 4, consisting of Revised MFR Schedules Nos. E-1 and E-2 to reflect  
22 the correction of additional errors, inconsistencies and omissions. The amounts in

1 the revised Schedule Nos. E-2 for the annualizations of the impact of the index rate  
2 increases that went into effect in mid-2001 (the middle of the test year) differed from  
3 the amounts in the Schedule Nos. E-2 included in the MFR filing in calculating the  
4 Company's proposed revenue requirement amounts.

5

6 Q. HAVE YOU REFLECTED THE IMPACT OF THE LATEST REVISIONS TO THE  
7 COMPANY'S CALCULATION OF REVENUES BASED ON THE  
8 ANNUALIZATIONS OF THE INDEX RATE INCREASES?

9 A. On my Schedule Nos. B-1 for Seminole County, Pinellas County and Orange  
10 County, I have included adjustments to revenue to reflect the annualizations of the  
11 index rate increases that occurred in the middle of the test year based on the latest  
12 version of MFR Schedule Nos. E-2 provided in Late Filed Exhibit No. 4. The  
13 adjustments are calculated as the difference between the original index increase  
14 annualizations adjustment included in the MFR filing and the latest version of  
15 Schedule Nos. E-2. Marion County did not receive an index rate increase during  
16 2001, and I did not reflect the impact of the revision for Pasco County. As shown on  
17 Schedule Nos. B-1, the following adjustments are necessary: (1) increase Seminole  
18 water revenues by \$3,393; (2) decrease Seminole wastewater revenues by \$245; (3)  
19 increase Pinellas water revenues by \$592; and (4) increase Orange County water  
20 revenues by \$808.

21

22 Q. WHY DID YOU NOT INCLUDE THE IMPACT OF THE REVISIONS TO

1 ANNUALIZATIONS OF THE 2001 INDEX RATE INCREASE FOR PASCO  
2 COUNTY?

3 A. In its MFR filing, the Company's adjustment to annualize the Pasco County water  
4 rates resulted in a \$6,784 reduction to water revenues booked during the test year.

5 The latest version of Pasco County MFR Schedule E-2 would result in an additional  
6 \$7,934 reduction to recorded test year revenues, or a total reduction of \$14,718. For  
7 the wastewater system, the adjustment to annualize the wastewater rate increase in  
8 the MFR filing resulted in an increase in wastewater revenues of \$18,482. If the  
9 most recent version of MFR Schedule E-2 is used, the result would only be a \$513  
10 increase in the revenues recorded during the test year. It is counterintuitive that the  
11 annualizations of an increase in rates would result in a decrease in revenues. I have  
12 reviewed the revenue accounts contained in the Company's 2001 general ledgers for  
13 each of the systems in Pasco County. There does not appear to be any unique  
14 accounting entries or accruals that would result in the recorded test year revenues  
15 being overstated. Consequently, at this point, I have not adjusted the Pasco County  
16 revenues for the latest version of the annualizations of the 2001 index rate increases  
17 contained in Revised MFR Schedule E-2.

18  
19 Employee Costs

20 Q. WOULD YOU PLEASE DISCUSS THE ADJUSTMENTS TO SALARY AND  
21 WAGE EXPENSE INCLUDED IN THE COMPANY'S FILING?

22 A. For each of the County systems, the Company has revised its salary and wage

1 expense. The description for the salary adjustment on each MFR Schedule B-3  
2 states: "Salary Expense is adjusted for the difference between year end expense and  
3 present salaries." The Company's MFR filing did not include any further  
4 information or detail showing how the salary adjustments were determined. OPC  
5 POD No. 21 asked the Company to "...provide a complete set of workpapers  
6 associated with the compilation of the Company's rate case financial and minimum  
7 filing requirements and used and useful analysis." The response to that question did  
8 not provide any of the details or calculations for the salary adjustments. The  
9 Company did provide its salary expense adjustment calculations in response to OPC  
10 Interrogatory No. 6, which addressed taxes other than income. Based on a review of  
11 the Company's calculations, the salary expense adjustments revise the allocation of  
12 salary expense between the County systems and water and wastewater systems, and  
13 incorporate a 4% increase for Office Salaries and a 7% increase for Operator  
14 Salaries.

15  
16 Q. WERE THERE ANY PROBLEMS WITH THE COMPANY'S SALARY  
17 EXPENSE CALCULATIONS?

18 A. Yes. The Company calculated the adjustments by County system. There were  
19 numerous discrepancies and errors in the calculations from one County system to  
20 another. On the workpapers, the individual office and operator employees and their  
21 adjusted salaries are listed. For the operator employees, the Company then applied  
22 factors for the portion of the employee's salary allocated to Utilities, Inc. Florida

1 ("UIF"), then to the respective County. The salaries incorporated for twelve (12) of  
2 the Operator employees were different from system to system, some substantially so.  
3 For example, one employee's salary was incorporated as \$74,900 in Orange County  
4 and as \$25,044 in Seminole County. The response to OPC Interrogatory No. 139(g)  
5 indicated that the correct salary was the lower salary of \$25,044. This means the  
6 salary for this employee that flowed through the Orange County calculations was  
7 overstated by approximately \$50,000 or almost 200%.

8  
9 For four (4) of the operator employees, the percentage of their salary allocated to UIF  
10 varied between the county system schedules. For example, the Orange County  
11 calculations flow through 20% of one employee's salary to UIF, whereas the  
12 Seminole County schedules flow through 25% of that same employee's salary to  
13 UIF.

14  
15 In the calculations, the Company allocated the Direct Office Salaries to UIF and then  
16 to each of the respective counties. For most of the counties, the Company allocated  
17 14% of the Direct Office Salaries to UIF. In the calculation for Pasco County, the  
18 Company allocated 10% of the Direct Office Salaries to UIF.

19  
20 Finally, according to the response to OPC Interrogatory No. 142, the actual salary  
21 increases granted in 2002 for office salaries and operators were 5% and 4%  
22 respectively, as compared to the 4% and 7% increase factors included in the filing.

1 Q. DID THE COMPANY PROVIDE CORRECTED SALARY EXPENSE  
2 CALCULATIONS?

3 A. In response to OPC Interrogatory Nos. 144 and 145, the Company provided revised  
4 calculations of its salary and wage expense adjustments. The revised calculations  
5 included the current office employees and operator employees at their current  
6 salaries. For the most part, the salary amounts included are lower than the projected  
7 amounts included in the original calculations. Additionally, several employees were  
8 changed to a part-time status and several left and their positions were filled with new  
9 employees. With one exception, the revised calculations corrected for the errors and  
10 discrepancies discussed above. For one employee, Jeffrey Pinder, the percentage of  
11 salary allocated to UIF still varied between the Seminole County calculation (35%)  
12 and the Orange County calculation (25%). The revised salary expense calculations  
13 should be used as a starting point in adjusting the salary and wage expense included  
14 within the Company's MFRs.

15

16 Q. SHOULD ANY ADDITIONAL REVISIONS BE MADE TO THE COMPANY'S  
17 CALCULATIONS BEYOND THOSE INCORPORATED IN THE COMPANY'S  
18 REVISIONS?

19 A. Yes. My recommended adjustments to the MFR filings for salary expense are  
20 presented in Schedule B-2 for each County system. As the starting point in my  
21 calculations, I use the Company's revised total Office Salaries allocated to UIF and  
22 the revised operator employee salaries for each County system provided by the

1 Company in response to OPC Interrogatory Nos. 144 and 145. While the WSC  
2 salaries allocated to UIF in total decreased slightly from the amounts in the  
3 Company's original calculations, I did not reflect the updated amount. Citizens'  
4 Witness Kim Dismukes addresses costs allocated from WSC in her testimony and  
5 adjustments; thus, I did not revise the WSC salaries allocated to UIF from the  
6 amount contained in the original calculations and MFR filing of \$31,307.

7  
8 My B-2 schedules then revise the Company's allocation of Office Salaries between  
9 each county and each county's water and wastewater systems and the Operator  
10 Salaries between the water and wastewater systems based on the revised allocation  
11 factors recommended by OPC Witness Kim Dismukes.

12  
13 As previously mentioned, the percentage of Mr. Pinder's salary allocated to UIF is  
14 inconsistent between Orange County (25%) and Seminole County (35%). A listing  
15 of employees and percentage allocations to UIF was attached to the Company's  
16 response to OPC Interrogatory No. 144. That attachment shows that the percentage  
17 of Mr. Pinder's salary allocated to UIF should be 25%. Thus, on Schedule B-2 for  
18 Seminole County, I reduced salary costs allocated to Seminole County by \$2,321 to  
19 reflect the corrected UIF allocation percentage for Mr. Pinder's salary.

20  
21 For Orange County and Seminole County, the Company included allocations for an  
22 operator position that was unfilled. As the Company's revised calculations are based

1 on updated salary levels and employee positions, I recommend that this unfilled  
2 position be removed. This results in a \$2,280 reduction to the operator salaries  
3 allocated to Orange County and a \$9,120 reduction to the operator salaries allocated  
4 to Seminole County.

5  
6 On each of the B-2 schedules, I then subtract from the resulting subtotals of revised  
7 salaries for each county system the amount of test year unadjusted salaries for that  
8 system to determine the amount of necessary revision to the recorded test year salary  
9 and wage costs. The Company's adjustment methodology would stop at this point;  
10 however, one additional adjustment to this amount is necessary.

11

12 Q. WHAT ADDITIONAL ADJUSTMENT IS NECESSARY?

13 A. The Company's calculations do not take into account the fact that a portion of  
14 salaries and wages are capitalized as opposed to expensed. During the 2001 test  
15 year, the Company capitalized 13.14% of its salary and wage costs. OPC  
16 Interrogatory No. 142 asked the Company why it did not include the application of a  
17 factor to reflect the percentage that would be charged to plant instead of expensed in  
18 calculating its salary expense adjustment. The Company's response was: "UIF did  
19 not adjust the Salaries Charged to Plant account because it is difficult to estimate the  
20 amount charged to plant, and UIF believes that the test year amount provided is the  
21 most reliable estimate available." This position does not take into account that salary  
22 and wage increases for employees would also result in higher amounts of salary and



1 wages charged to capital. The Company's calculation methodology results in 100%  
2 of the salary and wage increases being applied to expense. To correct this deficiency,  
3 on each Schedule B-2, I reduce the amount of necessary adjustment to salary and  
4 wage costs by 13.14% to reflect the capitalization rate in effect during the historic  
5 test year. This results in my recommended adjustment to the test year recorded salary  
6 and wage expense for each County system. I then compare this amount to the  
7 amount of adjustment to test year recorded salary and wage expense included in  
8 Company MFR Schedules B-5 and B-6 for water and wastewater, respectively.

9  
10 Q. DO YOUR RECOMMENDED ADJUSTMENTS ALSO IMPACT EMPLOYEE  
11 BENEFITS EXPENSE AND PAYROLL TAX EXPENSE?

12 A. Yes. On Schedules B-3 and B-4 for each county system I calculate the necessary  
13 adjustments to employee benefit expense and payroll tax expense, respectively. The  
14 Company's salary expense calculations also included the employee benefit expense  
15 and payroll tax expense calculations. These amounts were also revised by the  
16 Company in its response to OPC Interrogatory Nos. 144 and 145. The benefit  
17 expense changed as the amount of pension cost is dependent on the salary amounts  
18 used in the Company's calculations. The same is true for payroll tax expense.  
19 Consistent with my salary expense calculations, I revised the allocations between  
20 counties and water and wastewater operations based on Ms. Dismuke's allocation  
21 percentage recommendations, reduced the amount of Mr. Pinder's benefit and payroll  
22 tax expense allocated to Seminole County, and removed the benefit expense and

1 payroll tax expense for the unfilled operator position.

2

3 Q. WHAT ADJUSTMENTS RESULT FROM YOUR REVISIONS TO THE  
4 COMPANY'S SALARY AND WAGE EXPENSE, BENEFIT EXPENSE AND  
5 PAYROLL TAX EXPENSE?

6 A. The table below presents a summary of the revisions to the salary and wage expense,  
7 benefit expense and payroll tax expense included in the Company's MFR filing by  
8 each County system. These adjustments are taken from my Schedules B-2, B-3 and  
9 B-4, respectively, for each county.

	Payroll Expense Adjustment	Benefit Expense Adjustment	Payroll Tax Adjustment
11 Marion - Water	(\$587)	(\$335)	(\$213)
12 Marion - Wastewater	(\$86)	(\$50)	(\$32)
13 Orange - Water	(\$3,251)	(\$695)	(\$455)
14 Pasco - Water	(\$568)	\$1,259	\$394
15 Pasco - Wastewater	(\$177)	\$393	\$123
16 Pinellas - Water	(\$21,550)	(\$3,318)	(\$1,496)
17 Seminole - Water	(\$7,574)	\$58	(\$255)
18 Seminole - Wastewater	(\$4,088)	\$33	(\$138)

19

20 Purchase Water Expense - Oakland Shores

21 Q. ARE ANY ADDITIONAL ADJUSTMENTS TO PURCHASE WATER EXPENSE  
22 NECESSARY BEYOND THOSE INCORPORATED IN THE STAFF  
23 EXCEPTIONS YOU REFLECT IN YOUR REVENUE REQUIREMENT

1 CALCULATIONS?

2 A. Yes. The Company's Oakland Shores water system in Seminole County treats its  
3 own water, but has an automatic interconnection with the City of Altamonte Springs.  
4 During the historic test year, in May 2001, the Company recorded \$1,894 to  
5 purchased water expense for this interconnection. This resulted in a total test year  
6 purchased water expense for the interconnection of \$2,620, which is significantly  
7 higher than both the two preceding years and the subsequent year. In response to  
8 OPC Interrogatory No. 155, the Company agreed that the total expense for 2001 of  
9 \$2,620 was "...not the normal, recurring level of expense for purchased water from  
10 the City of Altamonte Springs." The Company's response also indicated that the  
11 amount of this expense varies greatly from year to year. I recommend that this  
12 expense be based on an average, normalized level instead of the abnormally high  
13 historic test year level. Seminole County Schedule B-5 presents a calculation of the  
14 average expense level for the account, using the period 1999 through 2002. As  
15 shown on the schedule, test year purchase water expense should be reduced by  
16 \$1,632 to reflect the average, normalized purchase water expense level for Oakland  
17 Shores.

18  
19 Uncollectible Expense - Weathersfield

20 Q. ARE THERE ANY ADDITIONAL ACCOUNTS IN THE SEMINOLE COUNTY  
21 SYSTEMS THAT YOU RECOMMEND BE NORMALIZED?

22 A. Yes. Test year expense recorded in Account 090\*0602\*6708000 - Uncollectible

1 Accounts contained a high level of expense (\$1,486.29) booked on June 30, 2001.  
2 According to the Company's response to OPC Interrogatory No. 154, the June 2001  
3 booking was so much higher than other periods due to the finalization of several  
4 accounts associated with customers with large amounts outstanding who never paid  
5 the bills and moved from their properties. This resulted in the test year expense in  
6 this account being considerably higher than the amounts recorded in 1999, 2000 and  
7 2002. As shown on Seminole County Schedule B-8, I recommend that the test year  
8 uncollectible expense for this account be reduced by \$538 to reflect the four-year  
9 average, normalized expense level.

10  
11 Excessive Lost & Unaccounted for Water

12 Q. HAVE YOU CALCULATED THE ADJUSTMENTS NECESSARY TO REFLECT  
13 THE IMPACT OF CITIZENS' RECOMMENDED EXCESSIVE LOST AND  
14 UNACCOUNTED FOR WATER?

15 A. Yes. Citizens' Witness Ted Bidy recommended that adjustments be made to test  
16 year expense for excessive lost and unaccounted for water. For each of the systems  
17 in which Mr. Bidy has recommended an excessive lost and unaccounted for water  
18 adjustment, I have applied his recommended excessive percentages to the test year  
19 chemical, purchased power and purchased water expense for the system. The  
20 amount of chemical, purchased power and purchased water expense for each of the  
21 individual systems was derived from the Company's 2001 general ledger. In each of  
22 my schedules, I also take into account any adjustments to the test year recorded

1 amount made either by the Company or myself, which impact the associated expense  
2 level. The adjustments include: (1) a \$1,465 reduction to Marion County expenses  
3 shown on Schedule B-7; (2) a \$987 reduction to Pasco County expenses for the  
4 Summertree and Orangewood water systems shown on Schedule B-5; (3) a \$751  
5 reduction to Pinellas County expenses shown on Schedule B-6; and (4) a \$285  
6 reduction to Seminole County expenses for the Little Wekiva, Weathersfield, Phillips  
7 and Ravenna Park water systems shown on Schedule B-6.

8  
9 Excessive Inflow & Infiltration

10 Q. HAVE YOU CALCULATED THE ADJUSTMENTS NECESSARY TO REFLECT  
11 THE IMPACT OF CITIZENS' RECOMMENDED EXCESSIVE INFLOW AND  
12 INFILTRATION?

13 A. Yes. Citizens' Witness Ted Bidy recommended that adjustments be made to test  
14 year expense for excessive inflow & infiltration (I/I) to the sewage systems. For each  
15 of the systems in which Mr. Bidy has recommended an excessive I/I adjustment, I  
16 have applied his recommended excessive percentages to the test year purchase power  
17 and purchased sewage treatment expense for the system. The amount of purchased  
18 power and purchased sewage treatment expense for each of the individual systems  
19 was derived from the Company's 2001 general ledger. In each of my schedules, I  
20 also take into account any adjustments to the test year recorded amount made either  
21 by the Company or myself, which impact the associated expense level. The  
22 adjustments include: (1) a \$12,730 reduction to Pasco County expense for the

1 Summertree wastewater system shown on Schedule B-6; and (2) a \$30,122 reduction  
2 to Seminole County expense for the Weathersfield and Ravenna Park/Lincoln  
3 Heights wastewater systems shown on Schedule B-7.

4  
5 Lincoln Heights Purchase Wastewater Treatment Expense

6 Q. WHY DID YOU REDUCE PURCHASE WASTEWATER TREATMENT  
7 EXPENSE FOR LINCOLN HEIGHTS BY AN ADDITIONAL \$7,451 ON YOUR  
8 SEMINOLE COUNTY SCHEDULE B-9?

9 A. As previously mentioned in this testimony, the Company's wastewater treatment  
10 plant at Lincoln Heights in Seminole County was removed from service during the  
11 historic 2001 test year. At the time of the removal, on July 1, 2001, the Company  
12 began purchasing wastewater treatment services from the City of Sanford. The  
13 Company's MFR filing included an adjustment to annualize the impact of the receipt  
14 of wastewater treatment service from the City of Sanford. Staff Audit Exception 23  
15 revised the Company's adjustment, and annualized the impact of the removal of  
16 Lincoln Heights wastewater treatment plant from service and the subsequent  
17 purchase of wastewater treatment service from the City of Sanford. The Company  
18 has agreed with this Staff Audit Exception. However, an adjustment to the  
19 annualized amount of purchase wastewater treatment expense calculated by Staff is  
20 needed.

21  
22 Q. HOW DID STAFF DETERMINE ITS RECOMMENDED AMOUNT OF

1 PURCHASE WASTEWATER TREATMENT EXPENSE CONTAINED IN AUDIT  
2 EXCEPTION 23?

3 A. The Commission's audit staff used a 14-month average purchased wastewater  
4 treatment expense using the period July 2001 through August 2002 to calculate a 12-  
5 month average total purchase wastewater treat expense of \$142,086. However, the  
6 July 2001 and August 2001 amounts that were included in Staff's calculation is not  
7 reflective of normal operating conditions or normal monthly expense levels.

8 Consequently, I recommend that the annualized purchase wastewater treatment  
9 expense be recalculated based on the actual expense incurred during the twelve-  
10 month period from September 1, 2001 through August 31, 2002. This period would  
11 be more reflective of a normal, on-going level of expense than the 14-month period  
12 utilized by Staff in determining the average annual expense level.

13

14 Q. PLEASE EXPLAIN.

15 A. In response to Commission Staff Interrogatory No. 19, the utility stated the  
16 following:

17 It is UIF's opinion, based upon its preliminary analysis of the wastewater  
18 flows within the Lincoln Heights wastewater system that the test year  
19 wastewater flows are higher than normal based upon two specific issues.

20  
21 First, the City of Sanford billed UIF for 4,707,000 gallons during the month  
22 of July 2001. It is the opinion of UIF that this flow is not correct based on the  
23 fact that the facility was put on-line in July, 2001 which required a start-up  
24 and calibration of all facilities used to transfer the wastewater flow to the City  
25 of Sanford. The July 2001 bill was based on the 4,707,000 meter read. This  
26 would indicate there was a zero reading on the meter for the start of the  
27 billing period. UIF believes this to be an incorrect bill since wastewater

1 and/or effluent would have been used to perform the necessary start up tests  
2 and calibrations of the master lift station.

3  
4 Second, the Lincoln Heights wastewater treatment facility was taken off-line  
5 and the wastewater, which was already within the treatment system, was  
6 transferred to the City of Sanford over a period of time acceptable to the City.  
7 The volume of wastewater transferred to the City can be estimated as the  
8 volume of liquid within the aeration bays, clarifier, and digester at the facility,  
9 plus any flows used to clean the facility. Therefore, the flow sent to the City  
10 would be higher than average for the month of July and possibly for the  
11 month of August.  
12

13 Clearly, the bills to the City of Sanford billed to UIF during July and August of 2001  
14 are not reflective of normal operating conditions or of on-going purchase wastewater  
15 treatment levels. Consequently, those months, i.e., July and August 2001, should be  
16 excluded from the determination of a normal, annualized level of purchase  
17 wastewater treatment expense. On Schedule B-9, I calculated the annualized  
18 purchase wastewater treatment expense using the twelve-month period September  
19 2001 to August 2002, resulting in an annualized expense level of \$134,635. As  
20 shown on the schedule, an additional reduction of \$7,451 to Staff's annualized  
21 purchase wastewater treatment expense contained in Audit Exception 23 is  
22 necessary.  
23

24 Q. DOES THIS ADJUSTMENT IMPACT THE ADJUSTMENT FOR EXCESS  
25 INFLOW AND INFILTRATION DISCUSSED PREVIOUSLY IN THIS  
26 TESTIMONY?

27 A. On Schedule B-7 for Seminole County, I calculated the impact of Citizens' Witness



1 Ted Biddy's recommended excessive I/I adjustment using my recommended  
2 purchase wastewater treatment expense of \$134,635 for Lincoln Heights. I applied  
3 his recommended excessive I/I percentage for the Ravenna Park/Lincoln Heights  
4 system of 21.47%.

5  
6 Q. DOESN'T YOUR ADJUSTMENT EFFECTIVELY RESULT IN COSTS  
7 INCLUDED IN YOUR ADJUSTED TEST YEAR ASSOCIATED WITH A  
8 LOWER VOLUME OF PURCHASED WASTEWATER TREATMENT THAN  
9 THAT INCLUDED IN STAFF'S ADJUSTED TEST YEAR AMOUNT?

10 A. Yes. Based on Staff's Audit Workpapers, Staff's adjusted annualized purchase  
11 wastewater treatment expense would be based on treating 33,228,000 gallons. My  
12 recommended revisions to remove July and August 2001 from determining the  
13 annualized level, would result in costs being associated with the treatment of  
14 31,479,000 gallons. In calculating the excessive inflow and infiltration percentage in  
15 his Exhibit TLB-6, Mr. Biddy used total wastewater treated of 31,155,000 gallons.  
16 Thus, the purchase wastewater treatment volume effectively included in my  
17 annualizations adjustment slightly exceeds the volume of wastewater treated  
18 considered in Mr. Biddy's analysis. Thus, if anything, the adjustment for excessive  
19 inflow and infiltration would need to be slightly larger than the adjustment calculated  
20 on my Schedule B-7 for Seminole County.

21  
22 V. RATE BASE

1        Non-Used & Useful Facilities

2 Q.    HAVE YOU ADJUSTED FOR NON-USED AND USEFUL FACILITIES?

3 A.    Yes. With the exception of the Crownwood wastewater system in Marion County,  
4        the Company has reflected all of its systems as being 100% used and useful in its  
5        filing. Citizens' Witness Ted Bidy addresses the used and usefulness of the  
6        facilities in each of the systems in his testimony, and he has recommended the  
7        appropriate Used & Useful (U&U) percentages for each of the water and wastewater  
8        systems included in the Company's filing. I used Mr. Bidy's recommended  
9        percentages to determine the necessary reductions to plant in service, accumulated  
10       depreciation and depreciation expense for each system.

11

12 Q.    THE COMPANY'S RATE CASE FILING WAS PROVIDED ON A PER-COUNTY  
13        BASIS. DID THIS CAUSE ANY PROBLEMS IN CALCULATING THE  
14        APPROPRIATE NON-USED AND USEFUL ADJUSTMENTS BASED ON MR.  
15        BIDY'S RECOMMENDATIONS?

16 A.    Yes. Used and useful calculations are, by necessity, calculated on a per-system basis.  
17        The Company's filing did not provide the plant in service, accumulated depreciation  
18        and depreciation expense amounts on a per-system basis, with the exception of  
19        Pinellas County water and Marion County wastewater, for which there is only one  
20        system. In response to OPC Interrogatory No. 37, the Company provided its plant in  
21        service and accumulated depreciation amounts, by account, for each month in the  
22        historic test year by system. I was able to utilize this response to determine the test

1 year average plant in service and accumulated depreciation balances by plant account  
 2 for each system. For the most part, I was able to then trace these amounts into the  
 3 MFR filing for each respective county. However, this was a time-consuming process  
 4 as the response did not provide the 13-month average test year balances. These had  
 5 to be separately calculated. To say the least, the Company's MFR filing presentation  
 6 done only on a per county system basis has caused a great deal of additional time and  
 7 effort to be expended in the review of the Company's rate increase filing and in the  
 8 calculation of necessary adjustments to the filing.

9  
 10 Q. HAVE YOU PREPARED SCHEDULES CALCULATING THE ADJUSTMENTS  
 11 NEEDED TO REFLECT THE IMPACT OF CITIZENS' RECOMMENDED USED  
 12 AND USEFUL AMOUNTS?

13 A. Yes. The recommended adjustments to net plant in service (i.e., plant in service less  
 14 accumulated depreciation) and depreciation expense for each system, by county,  
 15 along with the schedule reference in which the calculation is presented, are provided  
 16 in the table below:

	Sch. Nos.	Net PIS	Deprec. Exp.
17 Golden Hills/Crownwood - Water 18 (Marion County)	C-3 / B-5	\$ (41,686)	\$ (3,043)
19 Crownwood Sewer (Marion)	C-4 / B-6	\$ (6,458)	\$ (1,347)
20 Crescent Hgts. Water (Orange)	C-2	\$ (4,945)	\$ (222)
21 Wisbar Water (Pasco)	C-4	\$ (251)	\$ (12)
22 Buena Vista Water (Pasco)	C-4	\$ (613)	\$ (17)

1	Summertree Water (Pasco)	C-4	\$ (222,289)	\$ (11,344)
2	Orangewood Water (Pasco)	C-4	\$ (64,865)	\$ (4,819)
3	Wisbar Wastewater (Pasco)	C-4	\$ (467)	\$ (15)
4	Summertree Wastewater (Pasco)	C-4	\$ (99,330)	\$ (3,693)
5	Lake Tarpon Water (Pinellas)	C-2/B-5	\$ (33,464)	\$ (1,251)
6	Weathersfield Water (Seminole)	C-5	\$ (69,896)	\$ (4,307)
7	Oakland Shores Water (Seminole)	C-5	\$ (103,867)	\$ (4,275)
8	Little Wekiva Water (Seminole)	C-5	\$ (2,078)	\$ (106)
9	Park Ridge Water (Seminole)	C-5	\$ (23,868)	\$ (1,427)
10	Phillips Water (Seminole)	C-5	\$ (6,504)	\$ (234)
11	Crystal Lake Water (Seminole)	C-5	\$ (8,879)	\$ (294)
12	Ravenna Park/Lincoln W(Seminole)	C-5	\$ (67,476)	\$ (4,021)
13	Bear Lake Water (Seminole)	C-5	\$ (23,885)	\$ (1,929)
14	Jansen Water (Seminole)	C-5	\$ (70,241)	\$ (4,288)
15	Weathersfield Wastewater (Sem.)	C-5	\$ (19,746)	\$ (914)
16	Ravenna Park/Lincoln Heights	C-5	\$ (29,341)	\$ (729)
17	Wastewater (Seminole)			

18

19 Q. YOU HAVE MADE SEVERAL OTHER ADJUSTMENTS TO PLANT IN  
20 SERVICE, ACCUMULATED DEPRECIATION AND DEPRECIATION  
21 EXPENSE IN THIS CASE. DID YOU FLOW THE IMPACT OF THOSE  
22 ADJUSTMENTS THROUGH TO THE USED AND USEFUL CALCULATIONS,  
23 THE RESULTS OF WHICH ARE REFLECTED ABOVE?

24 A. For the most part, yes. For a few of the adjustments contained in Staff's Audit  
25 Report I was unable to determine which specific county system was impacted. Thus,

1 the impact of those exceptions would not be reflected in the used and useful  
2 calculations. There are footnotes at the bottom of each of the used and useful  
3 schedules impacted by other adjustments, identifying which of Staff's Audit  
4 Exceptions are included in the adjustment column.

5

6 Q. ARE THERE ANY OF MR. BIDDY'S USED AND USEFUL  
7 RECOMMENDATIONS THAT YOU WERE UNABLE TO CALCULATE THE  
8 IMPACT OF?

9 A. Yes. Mr. Bidy has recommended used and useful adjustments for High Service  
10 Pumping for the Weathersfield, Oakland Shores, Park Ridge, Ravenna Park/Lincoln  
11 Heights and Bear Lake water systems. There is not a separate plant in service  
12 account for high service pumping. Consequently, I was unable to apply Mr. Bidy's  
13 recommended used and useful percentages to the high service pumps.

14

15 Removal of Non-Used & Useful Wastewater Treatment Plants

16 Q. CITIZENS' WITNESS TED BIDDY RECOMMENDED THAT THE  
17 WASTEWATER TREATMENT PLANTS AND DISPOSAL EQUIPMENT FOR  
18 THE SUMMERTREE, WEATHERSFIELD AND RAVENNA PARK/LINCOLN  
19 HEIGHTS SYSTEMS BE REMOVED FROM PLANT IN SERVICE AS 100%  
20 NON-USED AND USEFUL. HAVE YOU CALCULATED THE ADJUSTMENTS  
21 NECESSARY TO REFLECT HIS RECOMMENDATIONS?

22 A. Yes. I will address each system separately. I will first address the Summertree

1 system. Commission Order No. PSC-93-0430-FOF-WS, issued March 22, 1993,  
2 when addressing the wastewater assets purchased by Utilities Inc. of Florida (this  
3 would be the current Summertree wastewater system) indicates that the  
4 Commission's balance of plant in service for the purchased wastewater assets was  
5 "...reduced by \$274,799 to reflect the removal of the cost of the abandoned  
6 wastewater treatment plant from plant-in-service." Company Exhibit (FS-2), page 5,  
7 attached to the testimony of Frank Seidman indicates that wastewater for the  
8 Summertree system is pumped to Pasco County for treatment and disposal. As  
9 indicated in Mr. Biddy's testimony, when the Company was asked if all of the  
10 wastewater treatment facilities should be removed from plant in service or  
11 considered 0% used and useful, the Company's response with regards to the  
12 Summertree wastewater system was: "Per the Utility's plant in service accounts, no  
13 plant remains in sewer plant account for year ended 2001." This assertion does not  
14 appear to be correct.

15

16 Q. PLEASE EXPLAIN.

17 A. In response to OPC Interrogatory No. 37, the Company provided the plant in service  
18 and accumulated depreciation balances by system and by month for the systems  
19 included in its filing. I was able to tie the wastewater system amounts provided in  
20 the response to the Company's MFR filing. Included in the information provided in  
21 the response for the Summertree wastewater system, on a 13-month average test year  
22 basis, were the following amounts: (1) \$30,087 for Building and Structures; (2)

1 \$114,849 for Sewage Lagoons; and (3) \$90,272 for Sewage Treatment Plant. I was  
2 able to trace these amounts to the Company's Pasco County MFR Schedule A-6,  
3 where they appeared under the Treatment and Disposal Plant category in plant in  
4 service. The Company's contention that the wastewater treatment plant for the  
5 Summertree system is not in the sewer plant accounts for the test year is not  
6 consistent with the Company's filing and the information provided in response to  
7 OPC Interrogatory No. 37. The adjustments necessary to remove these wastewater  
8 treatment and disposal items for the Summertree wastewater system are shown on  
9 Pasco County Schedule C-3, resulting in a \$235,208 reduction to plant in service, a  
10 \$76,713 reduction to accumulated depreciation, and a \$6,760 reduction to test year  
11 depreciation expense. The net reduction to Pasco County wastewater rate base is  
12 \$158,495 (\$235,208 - \$76,713).

13

14 Q. WHAT ADJUSTMENT IS NECESSARY TO REFLECT MR. BIDDY'S  
15 RECOMMENDED REMOVAL OF THE WEATHERSFIELD WATER  
16 TREATMENT PLANT IN SEMINOLE COUNTY?

17 A. As shown on Seminole County Schedule C-3, the average test year wastewater plant  
18 in service should be reduced by \$151,733, accumulated depreciation should be  
19 reduced by \$88,054, and depreciation expense should be reduced by \$4,723. This  
20 results in a net reduction to rate base of \$63,679 (\$151,733 - \$88,054). The average  
21 test year amounts by account for plant in service and accumulated depreciation were  
22 derived from the Company's response to OPC Interrogatory No. 37 and were traced,

1 along with the other Seminole County wastewater system, to MFR Schedules A-6  
2 and A-10.

3

4 Q. PLEASE DISCUSS THE ADJUSTMENT NECESSARY TO REMOVE THE  
5 RAVENNA PARK/LINCOLN HEIGHTS WASTEWATER TREATMENT PLANT  
6 AND DISPOSAL EQUIPMENT.

7 A. The necessary adjustment is shown on Seminole County Schedule C-4. As  
8 mentioned previously in this testimony, Staff Audit Exception 9 also removed the  
9 Lincoln Heights wastewater treatment plant, and the Company has disagreed with  
10 this adjustment. The OPC agrees with the audit finding that the Lincoln Heights  
11 wastewater plant should be removed, as supported further by Citizens' Witness Ted  
12 Bidy. However, the amounts contained in Staff's exception to remove the Lincoln  
13 Heights wastewater plant are based on year-end amounts and do not tie into the  
14 amounts contained in the MFR filing. Consequently, on Seminole County Schedule  
15 C-4, I recalculated the adjustment to remove the Lincoln Heights wastewater plant,  
16 consisting of Building and Structures, Sewage Treatment Plant and Sewer Lagoons,  
17 along with the associated accumulated depreciation and depreciation expense. The  
18 resulting adjustment, based on the amounts included in the MFR filing (as revised) is  
19 a \$386,236 reduction to plant in service, a \$69,833 reduction to accumulated  
20 depreciation, and a \$11,148 reduction to depreciation expense. The plant in service  
21 and accumulated depreciation amounts were derived from the Company's response  
22 to OPC Interrogatory No. 37 and were traced to both the 2001 General Ledger and



1 the Company's MFR Schedules A-6 and A-10.

2

3 Q. YOU INDICATE THAT THE COMPANY DISAGREES WITH STAFF'S AUDIT  
4 EXCEPTION REMOVING THE LINCOLN HEIGHTS WASTEWATER  
5 TREATMENT PLANT FROM RATE BASE. ARE THERE ANY ADDITIONAL  
6 REASONS BEYOND THOSE ADDRESSED IN MR. BIDDY'S TESTIMONY  
7 FOR REMOVING THIS PLANT FROM RATE BASE?

8 A. Yes. Beyond the reasons raised by Mr. Bidy, it is my understanding that the  
9 condemnation of the Lincoln Heights wastewater treatment plant and the subsequent  
10 acquisition of a portion of the surrounding land is the subject of on-going litigation.  
11 Staff's Audit Report contained many adjustments associated with the deferral of  
12 substantial legal fees associated with the proceedings and litigation. Additionally,  
13 according to the Staff Audit Report, Disclosure No. 1, the Company received  
14 \$154,190 in June 1999 from the Department of Transportation, and this \$154,190  
15 received by the Company for the land is not reflected anywhere in the Company's  
16 MFR filing. Additionally, Staff indicated in the disclosure that the litigation is still  
17 on-going. Clearly, as of the mid-point of the 2001 test year, the Lincoln Heights  
18 wastewater treatment plant became non-used and useful. There are adjustments  
19 proposed by Staff and reflected in my recommended revenue requirement to  
20 annualize the treatment of the wastewater by the City of Sanford. With the on-going  
21 litigation, the issue of the amount of compensation to ultimately be received by the  
22 Company as a result of the condemnation and land acquisition remains open. At this

1 point, it is appropriate to remove the entire wastewater treatment plant as 100% non-  
2 used and useful and the issue should be readdressed in a future proceeding when the  
3 final status and details of the litigation are resolved.  
4

5 VI. RATE OF RETURN - RETURN ON EQUITY PENALTY

6 Q. WHEN DISCUSSING THE STAFF AUDIT EXCEPTIONS NEAR THE  
7 BEGINNING OF THIS TESTIMONY, YOU ADDRESSED STAFF'S  
8 RECOMMENDED RATE OF RETURN CALCULATIONS. WOULD YOU  
9 PLEASE ADDRESS THIS ISSUE FURTHER?

10 A. Yes. Commission Staff recommended several revisions to the Company's cost of  
11 capital/rate of return calculations in Audit Exception No. 16. With the exception of  
12 the rate of return on equity used, I agree with Staff's recommendations. On Schedule  
13 Nos. D-1 for each County, I recalculate the overall rate of return of each county  
14 based on Staff's recommendations, however, with the OPC's recommended rate base  
15 incorporated in the calculations and OPC's recommended rate of return on equity.  
16 Citizens' Witness Mark Cicchetti recommends a rate of return on equity range of  
17 9.41% to 11.41%, with 10.41% at the mid-point of this range. This 10.41% is lower  
18 than the 10.91% rate used by Staff. On Schedule Nos. D-1 for each County system, I  
19 calculate the overall rate of return reflecting both the mid-point of Mark Cicchetti's  
20 recommended range of 10.41% and the low-point of the range of 9.41%.  
21 Additionally, Schedule Nos. A-1 and A-2 present the overall revenue requirement for  
22 each of the County water and wastewater systems. On these schedules, I present the

1 amount of necessary increase or decrease in revenues based on both the mid-point of  
2 the return on equity range and the low-point of the range.

3

4 Q. WHICH RETURN ON EQUITY PERCENTAGE DO YOU RECOMMEND THE  
5 COMMISSION USE IN CALCULATING THE OVERALL REVENUE  
6 REQUIREMENT FOR UTILITIES INC. OF FLORIDA?

7 A. I recommend the Commission adopt an authorized return on equity of 9.41% for  
8 determining the appropriate revenue requirement in this case. This is based on the  
9 low-end of the return on equity range recommended by Mr. Cicchetti.

10

11 Q. ON WHAT BASIS DO YOU RECOMMEND THAT THE COMMISSION ADOPT  
12 THE LOW-END OF THE RETURN ON EQUITY RANGE IN THIS CASE?

13 A. In my opinion, the adoption of the low-end of the range of reasonableness would  
14 provide a needed incentive for the Company to improve its books and records and to  
15 become in compliance with the Commission's Rules and the NARUC Uniform  
16 System of Accounts. This utility has demonstrated time and again that the much  
17 needed improvements will not occur absent a penalty or substantial incentive to do  
18 so. In the Company's next rate case proceeding, the Commission could then revisit  
19 this issue and if, at that future date, the Company has adopted the much needed  
20 improvements in its accounting records, then the return on equity could be set at the  
21 mid-point of the range of reasonableness.

22

1 Q. WOULD YOU PLEASE DISCUSS SOME OF THE PROBLEMS WITH THE  
2 COMPANY'S FILINGS AND RECORDS IN THIS CASE, ALONG WITH OTHER  
3 PROBLEMS ENCOUNTERED DURING THE COURSE OF YOUR REVIEW?

4 A. Yes. First, the Company had to re-file substantial portions of its MFRs several times  
5 in this case. The first round of MFRs was filed by Utilities, Inc. on June 28, 2002.  
6 This filing was not based on a 13-month average test year basis, as is required by the  
7 MFR filing instructions. There were numerous additional deficiencies in which the  
8 Company did not meet the minimum filing requirements. On July 19, 2002, the  
9 Commission sent the Company a letter listing four pages of deficiencies with the  
10 Company's filing. On September 3, 2002, the Company filed updated MFRs which  
11 it contended corrected the deficiencies in the original filing. On September 12, 2002,  
12 the Commission Staff informed the Company that it still was not in compliance with  
13 the minimum filing requirements, and that its plant in service and accumulated  
14 depreciation amounts still were not being calculated based on a 13-month average  
15 basis, as required and previously noticed. The September 12, 2002 letter included a  
16 three page listing of areas in which the MFR filings were still deficient. On October  
17 3, 2002, the Company filed new revised MFR schedules.

18  
19 On October 31, 2002, the Company filed Revised MFR Schedule Nos. E-1 and E-2  
20 for Pasco County. On December 2, 2002, the Company filed revised MFR Schedule  
21 Nos. E-14 for each of the Counties. On February 4, 2003, the Company again filed  
22 revised MFR Schedule Nos. E-2 and E-14. On February 17, 2003, the Company

1 filed revised MFR Schedule Nos. E-1, E-2 and E-3. On April 17, 2003, once again,  
2 the Company filed Revised MFR Schedule Nos. E-1 and E-2 for each County to  
3 correct for remaining errors and deficiencies identified by Staff in its Deposition of  
4 UIF witness Steven Lubertozi. Obviously, the significant amount of errors and  
5 subsequent re-filings of the Company's MFRs has caused a great deal more work and  
6 aggravation in reviewing the Company's filing and its request for rate increases.

7  
8 An additional factor that had substantial impact on the review of the Company's rate  
9 increase requests was the fact that the rate base schedules included in the Company's  
10 MFRs do not completely tie into the Company's general ledgers. The Company used  
11 its 2001 Annual Report in preparing its filing, and for rate base, the accounts in its  
12 annual reports do not tie entirely into the general ledger balances. In fact, Staff Audit  
13 Exception No. 26 quoted Order No. PSC-00-2388-AS-WU, issued December 13,  
14 2000, as follows:

15 The utility shall correct any remaining areas of non-compliance with the  
16 NARUC USOA by January 31, 2001. Further, the utility and its parent shall  
17 file, in future rate proceedings before this Commission, MFRs which begin  
18 with utility book balances, and show all adjustments to book balances after  
19 the "per book" column in its MFRs. The utility shall file a statement which  
20 affirms that the MFRs begin with actual book balances.  
21

22  
23  
24 This quoted Order, involving another Utilities, Inc. subsidiary, was issued well  
25 before this case was filed. Despite this fact, the Company did not use its per book, or

1 general ledger, balances as the starting point in its MFRs. Rate Base MFR Schedules  
2 A-1 and A-2 use the Company's annual reports as the starting point, not the utility's  
3 general ledger balances. The schedules then provide a column showing the amount  
4 of adjustment needed to tie the Company's general ledgers to the annual report  
5 balances. However, these amounts are only given on an overall basis, and the filing  
6 does not provide a breakout of the amounts on an account by account or system by  
7 system basis.

8  
9 Staff's Audit Report, in Exception Nos. 1 and 2, also points out numerous instances  
10 in which the Company has incorrectly booked the impact of prior Commission  
11 Orders. In many cases the Company either booked adjustments to the wrong  
12 accounts or booked incorrect amounts. These adjustments made by Staff in  
13 Exception Nos. 1 and 2 would apply to both the Annual Reports used as the starting  
14 point in the Company's MFRs and to the general ledgers.

15  
16 Q. CAN YOU GIVE FURTHER EXAMPLES OF PROBLEMS WITH THE  
17 COMPANY'S ACCOUNTING AND GENERAL LEDGERS?

18 A. Yes. In fact, numerous problems are identified throughout the Exceptions contained  
19 in Staff's Audit Report. These problems resulted in numerous adjustments to the  
20 Company's revised MFRs being necessary. Examples of problems include:

21 -- The impact of prior Commission Orders being booked to incorrect accounts  
22 or in incorrect amounts;

- 1       –     The mid-2000 purchase of the Wisbar and Bartelt (Buena Vista) systems were
- 2             not booked in the correct rate base accounts in the general ledger until mid-
- 3             2002;
- 4       –     Non-recurring expenses associated with repairs to the water and wastewater
- 5             systems were improperly booked to plant in service accounts;
- 6       –     In many instances the Company failed to record the retirement of plant on its
- 7             books when such plant was replaced, resulting in both the old plant and the
- 8             replacement plant remaining on the books;
- 9       –     In many instances the Company recorded items in the incorrect accounts and
- 10            did not adhere to the NARUC Uniform System of Accounts, particularly for
- 11            items booked to Account Nos. 301 and 351 - Organization costs;
- 12       –     Amounts remain in plant in service and accumulated depreciation accounts in
- 13            the Company's general ledger for the Summertree wastewater treatment plant
- 14            which, to the best of my knowledge, was demolished quite some time ago;
- 15       –     In many cases, the plant in service items are included in the Company's
- 16            general ledger in different account numbers than they appear in on the
- 17            Company's MFR Schedule Nos. A-5 and A-6;
- 18       –     The Company removed all of its equipment from the Davis Shores water
- 19            system site and disposed of the utility land, yet items remain in both plant in
- 20            service and accumulated depreciation on the Company's general ledger.
- 21       –     The Company has used incorrect depreciation rates in depreciating plant
- 22            Account Nos. 371 and 380;

1           –       During the test year, the Company recorded expenses associated with  
2                    purchased wastewater treatment for the Lincoln Heights system in Seminole  
3                    County in the subaccount on its general ledger for the Buena Vista system in  
4                    Pasco County.

5  
6           The above listed items should be considered as examples. Staff's Audit report, along  
7                    with my testimony, point out additional problems with either the Company's MFRs  
8                    or its general ledgers.

9  
10 Q.       DID THE FORMAT CHOSEN BY THE COMPANY TO PRESENT ITS MFR  
11             FILING CAUSE ANY ADDITIONAL PROBLEMS IN YOUR REVIEW AND  
12             ANALYSIS?

13 A.       Yes. The Company's filing was presented on a County by County basis, and no  
14             information was provided in the MFRs on a per-system basis, with the exception of  
15             those counties that have only one system. The application of several adjustments,  
16             such as used and useful adjustments and unaccounted for water adjustments, require  
17             per-system amounts. As the Company did not use its general ledgers as the starting  
18             point in its rate base schedules, Citizens had to request plant in service and  
19             accumulated depreciation amounts on a per account basis by system, which was  
20             provided in response to OPC Interrogatory No. 37. From this information, I then  
21             needed to calculate the 13-month average test year account balances on a per system  
22             basis for accounts impacted by Mr. Bidy's used and useful recommendations.



1 Q. DID YOU RUN INTO ANY ADDITIONAL PROBLEMS DURING THE COURSE  
2 OF YOUR REVIEW AND ANALYSIS OF THE COMPANY'S FILING?

3 A. Yes. In this case, the Company was regularly late in responding to OPC  
4 interrogatory requests, in many cases extremely so. The OPC was required to file  
5 many Motions to Compel in this case to receive responses to interrogatories and  
6 requests for production of documents. This, coupled with the frequent revisions to  
7 the MFR filing schedules, negatively impacted Citizens' analysis of the Company's  
8 rate increase requests.

9

10 Q. HAVE OTHER CONSULTANTS RETAINED BY THE CITIZENS IN THIS CASE  
11 RUN INTO PROBLEMS WITH THE LEVEL OF SUPPORT PROVIDED BY THE  
12 COMPANY AS JUSTIFICATION FOR COSTS INCLUDED IN ITS FILING?

13 A. Yes. The testimony of Citizens' witness Kim Dismukes points out serious problems  
14 with the allocations to UIF from Water Service Corporation (WSC) and the utter lack  
15 of support for the determination of the allocation factors used. In fact, the problems  
16 were so severe that Ms. Dismukes has recommended that none of the costs allocated  
17 from WSC included in the Company's MFRs be permitted. Staff Audit Exception  
18 No. 26 also addresses the lack of support needed to determine the reasonableness of  
19 the calculation of the percentages used to allocate WSC common rate base and costs.

20

21 Q. HAS UTILITIES INC. BEEN WARNED OR PUT ON NOTICE BY THE  
22 COMMISSION IN THE PAST REGARDING ITS BOOKS AND RECORDS?

1 A. Yes. Staff Audit Exception No. 26 discusses several prior cases involving  
2 Wedgefield Utilities, Inc., a subsidiary of UIF. The exception discusses the Staff's  
3 and Commission's findings in past cases that Utilities, Inc. was not in compliance  
4 with Commission Rule 25-30.115, F.A.C. and was not in compliance with the  
5 NARUC Uniform System of Accounts. Order No. PSC-00-2388-AS-WU, issued  
6 December 13, 2000, included a large discussion regarding Wedgefield Utilities,  
7 Inc.'s and its parent Company, Utilities, Inc.'s, non-compliance with the NARUC  
8 USOA, along with the extreme amount of time that Staff had to spend to trace the  
9 Company's MFR filing to its books and records. Commission Order No. PSC-00-  
10 1528-PAA-WU, issued August 23, 2000 contains a section dealing with Utilities,  
11 Inc.'s non-compliance with the NARUC Uniform System of Accounts. It references  
12 numerous Staff Audit reports addressing non-compliance and cites the following  
13 other Commission Orders in which Utilities, Inc. was notified it was not in  
14 compliance with the NARUC Uniform System of Accounts required under  
15 Commission Rule 25-30.115: PSC-95-0574-FOF-WS issued May 9, 1995 in Docket  
16 No. 940917-WS, Utilities Inc. of Florida; PSC-97-0531-FOF-WU, issued May 9,  
17 1997 in Docket No. 960444-WU, Lake Utility Services Inc.; PSC-96-0910-FOF-WS,  
18 issued July 15, 1996 in Docket No. 951027-WS, Lake Placid Utilities, Inc.; and PSC-  
19 98-0524-FOF-SU, issued April 16, 1998 in Docket No. 971065-SU-Mid-County  
20 Services, Inc. Obviously non-compliance with Commission Rule No. 25-30.115 has  
21 been a long-standing issue with Utilities, Inc. and its utility systems.

22

1 Q. DOES THIS COMPLETE YOUR TESTIMONY?

2 A. Yes, it does.

1 BY MR. BURGESS:

2 Q Ms. DeRonne, would you provide the Commission with a  
3 summary of your testimony, please.

4 A Yes. And I intend to limit that to the issues that  
5 were not stipulated to. A lot of the issues in my testimony  
6 are included in the stipulation, so I'll exclude those from my  
7 summary.

8 One of the first adjustments I addressed is there  
9 were many items on the company's books and it's picked up by  
10 the staff auditors where the company had capitalized as plant  
11 certain items that should have been expensed. And these were  
12 nonrecurring costs that staff recommended be removed from plant  
13 and accumulated depreciation and then amortized over a  
14 five-year period.

15 One of the specific items removed by staff and  
16 included in the original recommendation and the audit report to  
17 be amortized related to a TV video inspection of some  
18 wastewater lines. And that inspection and the expense was  
19 recorded in April 1994 and it was for \$2,725. And my  
20 contention is that that amount should not be amortized in this  
21 case. It's a historic cost. It goes back to '94. That's well  
22 above five years before this case, and it's also prior to a,  
23 the previous rate case decision for that same county.

24 The next adjustment I address are the employee costs.  
25 The company's MFRs, when I did attain the work papers for the

1 payroll adjustments, they had done calculations to redistribute  
2 the salary costs between the counties in water and wastewater.  
3 And also incorporated in that adjustment were projected 2002  
4 wage increases for, for its operator and office employees.

5           When I obtained the work papers, I discovered  
6 numerous discrepancies in those between county systems for the  
7 calculations. For 12 of the operator employees the salaries  
8 were different between the different counties for the same  
9 exact employee. And for the operator salaries the company also  
10 first applied a UIF allocation factor and then allocated it to  
11 each of the counties in this case. And the allocation factor  
12 going to UIF was also inconsistent for four of the employees.  
13 So as a result I filed several interrogatories where I obtained  
14 from the company the corrected salary amounts for the employees  
15 and the corrected allocation factors.

16           And also as part of that response -- in the interim  
17 period the actual salaries and wage increase for 2002 had  
18 occurred, so I recommend that those amounts be used as opposed  
19 to the projected amounts used in the company's filing. The  
20 actual increases were quite a bit lower than what had been  
21 projected in the filing, so I recommended that the company's  
22 revised calculation provided in response to one of my  
23 interrogatories be used as the basis. And I recommended a few  
24 adjustments to that revised amount. I reallocated the amounts  
25 to each of the county systems based on Ms. Dismukes'

1 recommended customer equivalent percentages between the  
2 systems. In addition, there was still one discrepancy for one  
3 of the employees between two, between the county systems as to  
4 what was allocated UIF, so I corrected that error.

5           And, in addition, the company, when they made their  
6 payroll adjustment to reflect this post-test year wage  
7 increase, they did not apply a capitalization factor. And  
8 whenever you have salary and wage expense, you know, a  
9 portion -- or salary and wage costs, a portion of that goes to  
10 expense and a portion is capitalized. Well, my contention is  
11 the company's adjustment did not pick up the fact that a  
12 portion of that wage increase would also be capitalized. So I  
13 applied the actual test year capitalization factor to determine  
14 what percentage of that adjustment should not be reflected as  
15 an expense item.

16           The next issue I address was purchased water expense  
17 for Oakland Shores. The company has a backup interconnection  
18 with another system for emergency or if they need extra flow,  
19 and there was one large amount booked in one month within the  
20 test year that wasn't consistent with the rest of the months of  
21 that year and prior years. So I obtained the '99 through 2000  
22 amounts and then calculated an average to normalize that cost  
23 so that rates going forward are not based on an abnormal level.

24           And I also -- a similar adjustment was on collectible  
25 expense for Weathersfield. The company booked midpoint in the

1 test year a large cost on its books in one month to collect a  
2 bunch of accounts that were large and hadn't been written off  
3 and write those all off at once, and that caused the test year  
4 to be higher than other periods. So I calculated a three-year  
5 average as a recommended normalized amount for that account.

6 I also flowed through the impacts of numerous  
7 recommendations by OPC witness Ted Bidy. I calculated the  
8 impact on revenue requirement from his lost and unaccounted for  
9 water recommendations, his excessive inflow and infiltration  
10 recommendations, and his numerous used and useful  
11 recommendations. I calculated the impact on revenue  
12 requirement from those recommendations, and I calculated the  
13 impact of his recommendation that wastewater treatment plants  
14 be removed, that have been abandoned be removed from the books.

15 Additionally, I addressed Lincoln Heights' purchased  
16 wastewater treatment expense. In the middle of the test year  
17 that system interconnected with the City of Sanford and began  
18 receiving wastewater service for the City of Sanford. This was  
19 addressed in the cross yesterday of Mr. Lubertozi where  
20 staff's audit report based the calculation on 14 months' worth  
21 of usage and then, you know, divided that by 14 and multiplied  
22 it by 12 to get an annual level. But in response to staff  
23 Interrogatory 19, the company has stated that the July and  
24 possibly the August balances are overstated because of the  
25 initial calibration of the system, the cleaning out of the

1 system, the emptying of the clarifiers and digesters. So I  
2 recommend those first two months that are not representative of  
3 ongoing operations be excluded and just the following 12 months  
4 be used to determine normal annualized level. And that results  
5 in an additional reduction to the company's filing of  
6 approximately \$7,400.

7           And a final recommendation I made, OPC witness Mark  
8 Cicchetti addresses what the reasonable range for return on  
9 equity is in this case, and I recommend that the range be set  
10 at the low point of that range as an added incentive for the  
11 company to bring its books and records up to compliance with  
12 the Commission's rules and the NARUC uniform system of  
13 accounts.

14           There's been a long-standing history of this company  
15 being cited in Commission orders as not being in compliance  
16 with several rules and with the uniform system of accounts. I  
17 was able to find seven different cases for Utilities, Inc. and  
18 various entities within that group dating back to 1995 and all  
19 the way up until this year in the Cypress Lakes Utilities case  
20 where they've been cited for either not being in compliance  
21 with the NARUC uniform system of accounts and staff's audit  
22 from numerous adjustments resulting from those books not being  
23 in compliance partially. In order after order it cited about  
24 the additional work and steps staff must take in its audits to  
25 reconcile the amounts in these books.



1           So my recommendation is that as an incentive for the  
2 company to finally correct these deficiencies that have been  
3 going on for over eight years now, that the return equity be  
4 set at the low end of the range; still within a range of  
5 reasonableness, but it will give it an added incentive. And  
6 then if in the next case or in the future they can, their books  
7 are in compliance with the rules and the uniform system of  
8 accounts, then at that time they may go back up to the midpoint  
9 of the range. That completes my summary.

10           MR. BURGESS: Thank you, Ms. DeRonne. We tender the  
11 witness.

12           COMMISSIONER DEASON: Mr. Friedman.

13           MR. FRIEDMAN: Thank you.

14                           CROSS EXAMINATION

15 BY MR. FRIEDMAN:

16           Q    Ms. DeRonne, in this last issue that you were  
17 addressing, you mentioned the Cypress Lakes case. Isn't it  
18 true that this recordkeeping issue is being addressed as a show  
19 cause issue in that docket?

20           A    Yes. I read that decision and the company's response  
21 to the show cause, and in that case the company's promised to  
22 make various corrections and revisions to its books. But this,  
23 my position is this has been going on since at least 1995, and  
24 the company is once again saying, yes, we will correct it.  
25 Well, my position is that you should have that hourly reduction

1 just as an added incentive. I mean, the companies in the past  
2 said they'd correct these problems and it hasn't occurred yet.  
3 And the company's once again assertion in the order to show  
4 cause that it will, hopefully they will. And I, you know, I  
5 have faith that they will try to. But in the meantime you  
6 can't go on for over eight years and have no result to the  
7 company for not --

8 Q Do you know what has transpired in the Cypress Lakes  
9 dockets regarding the recordkeeping issues?

10 A I have the company's response. Well, I read the  
11 staff audit, staff recommendations and the company's response  
12 to each of those recommendations.

13 Q If you -- if the Commission reduced the rate of  
14 return on that basis, wouldn't it be a disincentive to the  
15 company in that it wouldn't have the resources to hire extra  
16 people that may be what are needed to correct those problems?

17 A Absolutely not because my recommendation is that it  
18 be based on the low end of the range, reasonable range equity.  
19 So the company will still be permitted to allow -- to earn  
20 within a reasonable range of equity. And it will give the  
21 additional incentive that if you want to come back up to the  
22 midpoint of the range before the next case, you need to -- if  
23 you need to hire someone or whatever needs to be accomplished  
24 to do so, it would give the company the added incentive they  
25 need to do that.

1 Q So your recommendation is that at some point in the  
2 future when the company's books and records are fine, that the  
3 rate of return would go back to the midpoint?

4 A Yes, absent any other unique and compelling  
5 circumstances to not do so in a future case.

6 Q You mentioned earlier that you believe a portion of  
7 the salary increases should be capitalized?

8 A Yes. Absolutely.

9 Q And how do you -- what accounts do you book that to?  
10 I mean, how mechanically do you do that from an accounting  
11 standpoint?

12 A Here's how it would happen. During the historic test  
13 year there were amounts booked to plant accounts. You know, as  
14 an employee works on a project, costs are booked to the plant  
15 accounts. And I looked through the general ledger and there  
16 are capitalized costs added to the various plant accounts  
17 during the test year.

18 What the company's adjustment does is it increases  
19 salary wage expense beyond the historic test year and into 2002  
20 and beyond for post-test year wage increases. So during 2002  
21 the company would also, per that wage increase that was  
22 actually granted is being capitalized on the books, and I did  
23 check the company's general ledgers which were received in  
24 response to data requests, and the amount, total amount  
25 capitalized on the books did increase during 2002. And, in

1 fact, the percentage of employee wages that were capitalized  
2 also increased from my recommendation of 13.14 percent to  
3 13.88 percent.

4 Q Okay. And do your financial schedules, in fact,  
5 capitalize that part of the salary increases?

6 A My schedules?

7 Q Yes.

8 A Well, that's a post -- that's after the historic test  
9 year issue. And during the following year in 2002 a higher  
10 portion of those salaries and wages earned by employees in that  
11 year would be capitalized.

12 If you were using a future test year for all the  
13 adjustments in this case, then there would be an issue where a  
14 portion of the salary and wage increase, you would have to add  
15 something to plant accounts for that. But we're using a  
16 historic test year in this case and we're making an allowance  
17 for extra expense that goes beyond the historic test year for  
18 these salary and wage increases. So as those higher wage  
19 levels are in the future, 2002, 2003 and beyond, earned by  
20 those employees, well, a higher percentage is also being  
21 capitalized at the same time.

22 Q My question -- give me a simple answer because I'm  
23 just a dumb lawyer. I'm not an accountant. Give me just a  
24 simple answer.

25 A Okay. So some of these accounting answers --

1 Q You have recommended that for the expected increases  
2 or actual increases in salary subsequent to the test year --

3 A Uh-huh.

4 Q -- that a portion of that increase be capitalized  
5 instead of expenses. How am I doing so far?

6 A Well, I'm recommending that and stating as a simple  
7 fact that in that future period on the books a higher portion  
8 will be capitalized as opposed to expense on the books.

9 Q Let's start over.

10 A Okay.

11 Q You've recommended that -- you agree, do you not,  
12 that included in the rates should be the increase in salaries  
13 that actually occurred post-test year; is that correct?

14 A Yes.

15 Q Okay. Is it correct that you have in your  
16 calculations split that increase up with a portion being  
17 capitalized and a portion being expensed; is that correct?

18 A Yes, based on the historic test year percentage that  
19 was capitalized. Yes, you're correct.

20 Q Okay. Do your financial schedules reflect the  
21 capitalized part of that salary?

22 A No. Because when you set the rate base in this case,  
23 you're basing it on the 13-month average 2001 plant in service.  
24 These additional items will not be capitalized on the books  
25 until 2002 and beyond when those employees are actually

1 performing those services and that work. So it wouldn't be  
2 appropriate to take the amounts that are going to be  
3 capitalized and were capitalized on the books in 2002 and 2003  
4 and apply that to a 2001 historic test year rate base.

5 Q You don't think you should do that?

6 A Absolutely not.

7 Q The company just loses that portion of that increase?

8 A No, they don't lose it. As I said before, a higher  
9 amount of salary and wages were capitalized in 2002. So in a  
10 future rate case, those plant in service accounts in the future  
11 are higher by the capitalized portion of those costs.

12 Q But it's not included in this --

13 A So they don't lose it.

14 Q But it's not included in this rate case.

15 A No. Because it's a 2001 historic test year and rate  
16 base is based on 2001. These higher salary levels that are  
17 being capitalized are not capitalized or even incurred by the  
18 company until 2002 and beyond.

19 Q Okay. But you agree that the expense part should be  
20 included?

21 A Yeah. I agree that the -- and that's what my  
22 calculation does.

23 Q Am I also correct that you recommend that the, one of  
24 the unfilled operator positions be eliminated and that no  
25 expense for that be included?

1           A     Yes. The revised payroll numbers provided by the  
2 company were based on the actual wages in effect. And included  
3 in that was one position that was not filled, so I did not  
4 include that unfilled position in my salary, in my salary and  
5 wage expense calculations. Correct.

6           Q     Do you know whether that's a position that is  
7 actively being sought to be filled?

8           A     I'm not sure. I put this issue in my direct  
9 testimony and I saw absolutely no rebuttal saying that it was  
10 being filled or they were seeking to fill it. I do know during  
11 2001 there were more interconnections of systems, so it may be  
12 that that's not needed. But I saw no rebuttal testimony to say  
13 specifically what the status of that position was.

14          Q     So the question is do you know whether or not that  
15 position is being actively sought to be filled?

16          A     No, I do not.

17          Q     Thank you.

18               MR. FRIEDMAN: I don't have any other questions.

19               COMMISSIONER DEASON: Staff.

20               MS. GERVASI: We have just a couple of questions.

21                               CROSS EXAMINATION

22 BY MS. GERVASI:

23           Q     Ms. DeRonne, on Page 19 of your prefiled testimony at  
24 the first, the top of the page, Line 1, regarding your  
25 adjustment to salaries --

1 A Correct.

2 Q -- you state that 12 of the operator employees'  
3 salaries were different from system to system.

4 A Yes.

5 Q And is it correct that your adjustment corrects these  
6 amounts prior to the allocation between the UIF county systems?

7 A Yes, it does. And I did check the company's response  
8 to my data request where they provided the updated salary  
9 amounts, and I traced them from system to system and they were  
10 corrected.

11 Q Do you know whether the staff auditor's adjustment to  
12 salaries takes this correction into account?

13 A No. The only adjustment that I'm aware of that they  
14 did is there was an issue of the total office salaries. In one  
15 county the allocation to UIF was different, and I believe they  
16 did correct that. But, no, it wouldn't have picked up any of  
17 these items.

18 MS. GERVASI: Thank you. That's all.

19 COMMISSIONER DEASON: Okay. Redirect.

20 MR. BURGESS: No redirect, Commissioner. I would ask  
21 that Exhibit 13, composite Exhibit 13 be entered into the  
22 record.

23 COMMISSIONER DEASON: Without objection, show that  
24 Exhibit 13 is admitted.

25 (Exhibit 13 admitted into the record.)



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COMMISSIONER DEASON: Thank you, Ms. DeRonne.

THE WITNESS: You're welcome.

COMMISSIONER DEASON: Mr. Burgess, you may call your next witness.

MR. BURGESS: Thank you. We would call Kimberly Dismukes.

KIMBERLY DISMUKES

was called as a witness on behalf of the Office of Public Counsel and, having been duly sworn, testified as follows:

DIRECT EXAMINATION

BY MR. BURGESS:

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

A Kim Dismukes, 6455 Overton Street, Baton Rouge, Louisiana 70808.

Q And did you file prefiled testimony in this docket, Docket Number 020071?

A Yes, I did.

Q If the questions that are posed in that prefiled testimony were posed to you today, would your answers be the same?

A I have a few corrections.

Q Would you please give us those corrections?

A Sure. The first correction is on Page 6, Line 16.

1 The sentence begins, "As in the case of Druid Isles." You need  
2 to strike "and Green Acres Campground." And then there's the  
3 word "sales," and that should just be "sale."

4 Q Thank you.

5 A The second correction is on Page 19, Line 1. There  
6 are two orders cited. The second order, which is  
7 "PSC-99-2372" should be "99-2373."

8 On that same page, if you go to Line 8, the word  
9 "Ibid" is used to cite the Commission order. That's not  
10 correct. The correct Commission order is PSC-96-1320-FOF-WS.

11 The final correction is on Page 28, Line 12. The  
12 words -- the line begins with "UIF as well as other." If you  
13 could just strike those words. The next word is "utilities" --  
14 let me see. And the rest of the sentence should continue.

15 And then on the next -- continue on and it goes,  
16 "Therefore, the rates set by the Commission" and insert the  
17 words "can be" and remove the word "are." So it would read,  
18 "Therefore, the rates set by the Commission can be based upon  
19 projected expenses and investments, not historical expenses and  
20 investments." That completes my corrections.

21 Q With those corrections, if the questions were posed  
22 to you that were posed in your prefiled testimony, would your  
23 answers today be the same?

24 A Yes, they would.

25 Q Did you also attach to your prefiled testimony,

1 include an appendix of qualifications and a number of exhibits  
2 that are identified in the prehearing order?

3 A Yes, I did.

4 MR. BURGESS: Commissioner, may we get a, a composite  
5 exhibit number for the appendix and the exhibits?

6 COMMISSIONER DEASON: Yes. Composite Exhibit 14.

7 MR. BURGESS: Thank you.

8 (Exhibit 14 marked for identification.)

9 MR. BURGESS: Commissioner Deason, I would ask that  
10 Ms. Dismukes' prefiled testimony as amended by her oral  
11 statements today be inserted into the record as though read.

12 COMMISSIONER DEASON: Without objection, it shall be  
13 so inserted.

14 MR. BURGESS: Thank you.

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TESTIMONY  
OF  
KIMBERLY H. DISMUKES

On Behalf of the  
Florida Office of the Public Counsel

Before the  
FLORIDA PUBLIC SERVICE COMMISSION

Docket No. 020071-WS

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**Q. WHAT IS YOUR NAME AND ADDRESS?**

A. Kimberly H. Dismukes, 6455 Overton St., Baton Rouge, LA 70808.

**Q. BY WHOM AND IN WHAT CAPACITY ARE YOU EMPLOYED?**

A. I am a partner in the firm of Acadian Consulting Group, which specializes in the field of public utility regulation. I have been retained by the Office of the Public Counsel (OPC) on behalf of the Citizens of the State of Florida to analyze Utilities, Inc. of Florida's (UIF or the Company) application for a rate increase and UIF's proposed ratemaking treatment of the gain on sale of water and wastewater systems in Orange and Seminole County.

**Q. DO YOU HAVE AN APPENDIX THAT DESCRIBES YOUR QUALIFICATIONS IN REGULATION?**

A. Yes. Appendix I, attached to my testimony, was prepared for this purpose.

**Q. DO YOU HAVE AN EXHIBIT IN SUPPORT OF YOUR TESTIMONY?**

A. Yes. Exhibit\_\_(KHD-1) contains 12 Schedules that support my testimony.

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

1 A. The purpose of my testimony is to address the following aspects of Utilities, Inc. of  
2 Florida's application for a rate increase:

- 3 1) the appropriate treatment of the gain on sale of UIF's Orange County Druid  
4 Isles water system and a portion of its Oakland Shores water system to the  
5 City of Maitland and the gain on sale of its Green Acres Campground  
6 facilities in Seminole County to the City of Altamonte Springs;
- 7 2) affiliate transactions and the appropriate allocation of costs from UIF's  
8 service company, Water Services Corporation (WSC); and
- 9 3) two other adjustments to UIF's test year expenses and rate base related to a  
10 contribution by the City of Altamonte Springs to UIF for the provision of  
11 wastewater treatment services and rate case expense.

12 My recommended adjustments to test year expenses and rates are depicted on  
13 Schedule 1 of my exhibit.

14 **I. Gain on Sale**

15 **Q. WOULD YOU PLEASE DESCRIBE THE TRANSACTION WHICH GAVE**  
16 **RISE TO THE GAIN ON SALE OF THE ORANGE COUNTY SYSTEMS?**

17 A. In February 1999, UIF had three water systems located in Orange County, serving a  
18 total of 377 customers. This sale consisted of the entire Druid Isle water system,  
19 including the transfer of all 51 Druid Isle customers, plus a portion of the utility's  
20 Oakland Shores water system. Most of the Oakland Shores system is located in  
21 Seminole County. A small portion, however, is in Orange County and interconnected  
22 with Druid Isles. This portion of the Oakland Shores system, including 40 of the

1 system's 293 customers, was included in the Druid Isle sale.

2 The net gain on the Druid Isle sale was calculated by the utility as follows:

3		<u>Druid Sale</u>
4	Proceeds from Sale	\$159,000
5	Deductions:	
6	Book Basis of Plant	31,267
7	Selling Costs	<u>27,832</u>
8	Pre-Tax Gain	\$ 99,901
9	Taxes (38.27%)	<u>38,232</u>
10	Net Gain	\$ 61,669

11  
12 In Order No. PSC-99-21721-FOF-WU, the Commission found this  
13 calculation to be reasonable. In that same order, the Commission directed that a  
14 docket be opened to determine if the sale involved any gain that should be shared  
15 with the utility's remaining Orange County customers.

16 **Q. PLEASE DESCRIBE THE TRANSACTION WHICH GAVE RISE TO THE**  
17 **GAIN ON SALE RELATED TO THE SEMINOLE COUNTY SYSTEM.**

18 A. The Green Acres sale, in August of 1999, consisted of the sale of the Green Acres  
19 Campground facilities to the city of Altamonte Springs. The utility had acquired  
20 these same facilities from the City of Altamonte Springs in 1982. The Commission  
21 approved the sale of the Green Acres Campground back to Altamonte Springs as a  
22 transfer to a governmental authority in compliance with Florida Statutes Section  
23 367.071(4)(a).

24 The utility calculated its net gain on the sale as follows:

25		<u>Green Acres Sale</u>
26	Proceeds from Sale	\$427,000
27	Deductions:	
28	Book Basis of Plant (Booked as CIAC)	N/A
29	Selling Costs	<u>18,422</u>

1	Pre-Tax Gain	\$408,578
2	Taxes (34%)	<u>138,197</u>
3	Net Gain	\$269,661
4		

5                   This sale was approved by the Commission in Order No. PSC-99-2372-FOF-  
6                   WS, issued December 6, 1999. The Commission found this calculation of the gain on  
7                   sale to be reasonable. In that order the Commission also directed that a docket be  
8                   opened to determine if the sale involved any gain that should be shared with the  
9                   utility's remaining Seminole County customers.

10   **Q.   HOW DID THE GAIN ON SALE OF THESE PROPERTIES BECOME AN**  
11   **ISSUE IN THE INSTANT DOCKET?**

12   **A.**   Docket No. 991890-WS was opened December 10, 1999 to address the ratemaking  
13           treatment of both sales. On May 14, 2002, the Commission issued its Proposed  
14           Agency Action Order, PSC-02-0657-PAA-WU, in that docket. The Commission's  
15           PAA Order stated that the utility's remaining Orange and Seminole County  
16           customers would not receive any share of the gain from these sales. On June 4, 2002,  
17           the Office of Public Counsel (OPC) protested that order. Meanwhile, in February  
18           2002, UIF requested test year approval in order to file an application for a rate  
19           increase for its remaining systems located in Seminole and Orange County.

20                   On October 24, 2002, the Commission issued order PSC-02-1467-PCO-WS  
21                   which closed Docket No. 991890-WU, the investigation into the ratemaking  
22                   treatment of the gain on sale, and consolidated that investigation with the utility's  
23                   rate case docket, Docket No. 020071-WS.

1 Q. WOULD YOU SUMMARIZE YOUR TESTIMONY CONCERNING THE  
2 GAIN ON SALE OF THE ORANGE COUNTY AND SEMINOLE COUNTY  
3 FACILITIES?

4 A. Yes. I recommend that the Commission attribute the gain on sale of these facilities to  
5 ratepayers. I make this recommendation for several reasons. First, the Commission  
6 has consistently required customers to absorb the risk of losses associated with  
7 abandoned plants and early retirements. Consistency dictates that customers should  
8 receive the benefit of the gains associated with the sale of utility assets and/or  
9 systems. Second, in the electric industry, the Commission has consistently treated the  
10 gains on sale of utility assets as belonging to ratepayers. There is no reason why the  
11 Commission should treat the water and wastewater industry any differently than the  
12 electric industry. Third, on balance in other jurisdictions, commissions typically  
13 attribute some or all of the gain on sale of utility assets to customers. Fourth, in  
14 another water and wastewater utility's rate case, the Commission recently set forth  
15 distinguishing circumstances of gains on sales where it did not attribute the gain on  
16 sale to customers. These circumstances are not present in the instant case. In  
17 addition, the Commission has, in other utilities' rate cases, attributed some gains on  
18 sales to ratepayers. For these reasons described in greater detail below, the  
19 Commission should attribute the gain on sale of the Orange County and Seminole  
20 systems to customers.

21 Q. IT IS OFTEN ARGUED THAT THE PARTY THAT BEARS THE RISK OF  
22 LOSS SHOULD ALSO RECEIVE THE BENEFIT OF A GAIN. GIVEN THE



1 COMMISSION'S RATEMAKING PRACTICES, WHO BEARS THE RISK  
2 OF LOSS CONCERNING WATER AND WASTEWATER FACILITIES?

3 A. Customers have consistently borne the risk of loss on water and wastewater assets. In  
4 the past, under circumstances similar to the present case, the Commission has  
5 required customers to absorb the loss on the sale of an entire system. Specifically, in  
6 Order No. 17168 the Commission found:

7 Subsequent to the test year, Southern States sold the Skyline Hills  
8 water system to the Town of Lady Lake. We believe the gain or loss  
9 on the sale of a system should be recognized in setting rates for the  
10 remaining systems. Based on the net investment in plant by the utility,  
11 closing costs, and the purchase price, the sale of the Skyline Hills  
12 system resulted in a loss of \$5,643. This loss should be amortized  
13 over a three-year period resulting in an annual expense of \$1,881. (P.  
14 9, emphasis added.)

15 As in the case of the Druid Isles ~~and Green Acres Campground sales~~ <sup>sale</sup>, the entire  
16 Skyline Hills system was sold. The customers of the remaining Southern States  
17 systems were required to fund the loss on the Skyline Hills system.

18 Not only did the Commission require customers to bear the loss of a sold  
19 system, the Commission has consistently required customers to bear the cost and risk  
20 of plant abandonments. For example, in Order No. PSC-93-0295-FOF-WS, the  
21 Commission required the customers of Mad Hatter Utility, Inc. to pay \$400,535 for  
22 abandoned plant. The Commission required an eight-year amortization period with an  
23 annual write-off of \$50,067. In Order No. PSC-97-0847-FOF-WS, the Commission  
24 allowed Gulf Utility Company to amortize, over a five-year period, \$29,600 of costs  
25 incurred on a project that was subsequently abandoned. In Order No PSC-97-1458-  
26

1 FOF-SU the Commission allowed Forest Hills Utility to include in rates the costs of  
2 abandoning its wastewater treatment plant and percolation ponds. Specifically, the  
3 Commission allowed the utility to amortize the loss on its abandoned assets over a  
4 period of 11 years, with the unamortized balance included in rate base. The  
5 Commission allowed Bayside Utilities, Inc. to recover an extraordinary loss on an  
6 early retirement. The Commission found:

7 In Bayside's case the extraordinary loss of \$23,417 is the net of the  
8 depreciable retired plant, that is, \$41,377, with estimated related  
9 accumulated depreciation of \$17,920.

10  
11 A similar situation occurred in 1981 when Broadview Utilities  
12 Corporation interconnected with Broward County's regional sewage  
13 treatment facility, resulting in the retirement of the utility's sewage  
14 treatment plant. The accounting treatment was addressed by the  
15 Commission in Docket No. 810403-WS, wherein we decided that the  
16 net unrecovered investment should be treated as an extraordinary  
17 property loss for ratemaking purposes and that the investment should  
18 be excluded from rate base and written off over a five-year period.  
19 The five-year period was calculated by dividing the net loss by the  
20 sum of the annual depreciation expense plus the dollar rate of return  
21 that would have been allowed. (FPSC, Order No. 18624, p. )  
22

23 From these cases it is evident that the Commission has required utility  
24 customers to bear the risk of loss on abandoned plant or plant that is retired  
25 prematurely. It would be patently unfair for the Commission in the above instances  
26 to require the customers to absorb losses, but not to similarly allow them to benefit  
27 from any of the gains on systems or assets that are sold. Unless the Commission  
28 treats gains and losses consistently, customers will be caught in a "lose-lose"  
29 situation--if it's a loss, customers pay, but if it's a gain, customers get nothing.

1 Q. WHAT HAS THE COMMISSION'S PRACTICE BEEN WITH RESPECT TO  
2 DISTRIBUTING GAINS BETWEEN RATEPAYERS AND STOCKHOLDERS  
3 IN SIMILAR SITUATIONS?

4 A. There have been several cases in which the Commission has ruled on the disposition  
5 of either a gain or a loss on the sale of utility assets.

6 In 1982, the Commission considered a gain on sale in the context of Tampa  
7 Electric Company's (TECO's) petition for a rate increase in Order No. 11307. In  
8 this case, the company had sold several properties that had been part of its rate base.  
9 These properties included the former corporate headquarters, which was sold for a  
10 pretax gain of \$1.7 million. The Commission noted that Public Counsel had argued  
11 that the ratepayers, not the stockholders, had paid the depreciation expenses and  
12 capital costs when the property was in the company's rate base, and that the  
13 ratepayers should receive the gain. The Commission agreed that the gain from this  
14 sale should be accounted for above-the-line for ratemaking purposes. In discussing  
15 its decision, the Commission referenced two previous dockets involving the same  
16 issue. "In Docket Nos. 810002-EU (FPL) and 810136-EU (Gulf Power), we  
17 determined that gains or losses on the disposition of property devoted to, or formerly  
18 devoted to, public service should be recognized above the line. We consider it  
19 appropriate to treat this gain in the same manner. . . ." (FPSC, Order No. 11307, p.  
20 26.)

21 In another transaction, TECO had transferred certain non-electric property to  
22 TECO Energy, Inc., its holding company. This property was transferred at book

1 value, although the property's market value at the time was estimated at \$1.6 million,  
2 for an unrealized gain of \$1.2 million. Again, the Commission noted that ratepayers,  
3 not shareholders, had paid the capital costs and depreciation expenses of this property  
4 while it was in rate base.

5 A third transaction had not yet been completed, but the Commission expected  
6 TECO to sell the property in the future. The Commission decided to recognize the  
7 potential gain at that time, rather than wait for the actual sale of the asset, which was  
8 estimated to result in a gain of \$23,000.

9 Although Public Counsel argued that all gains should be recognized in the test  
10 year, the Commission ordered instead that the gains from these three transactions be  
11 amortized over a five-year period. "We have previously amortized such gains over a  
12 five-year period. We consider it appropriate to do so in this case as well." (Ibid.)

13 In 1983, gain on sale was an issue in Docket No. 820100-EU, a petition by  
14 Florida Power Corporation for a rate increase. In this docket, the utility property had  
15 been classified as non-utility property at the time of sale. The Company argued that  
16 according to the FERC Uniform System of Accounts (USOA), gains or losses on  
17 property that had been recorded as Plant Held for Future Use should not be treated  
18 above the line. In its discussion of this issue, the Commission noted that it is the  
19 company that decides whether a property is recorded as Plant Held for Future Use  
20 when it is first purchased, or if it is immediately recorded as Plant In Service. Thus,  
21 the company can determine the future treatment of any gains or losses from the sale  
22 of the property well in advance of that event. In this situation, where some property

1 had not been included in rate base for several years, the Commission noted that it  
2 “does not necessarily follow that all gains belong to the ratepayers. An equitable  
3 basis upon which to apportion any benefits should be developed.” (FPSC, Order No.  
4 11628, p. 31.)

5 In the case of property that had not been included in rate base for several  
6 years, the Commission allocated gains/losses between ratepayers and shareholders.  
7 The allocation was made using the ratio of the years the property was in rate base,  
8 divided by the total years the property was owned by the company. These  
9 gains/losses were amortized over a five-year period “[c]onsistent with present  
10 Commission policy. . .” (Ibid.)

11 In 1984, Florida Power & Light Company (FPL) filed a petition for a rate  
12 increase which also involved the proper treatment of a gain on sale. In this case, the  
13 gains on sale related to transfers of property held for future use and sales of utility  
14 property to affiliates. The company argued that imputed gains on transfers to  
15 affiliates generated no cash, and so should not be included in working capital. It also  
16 argued that gains from actual sales of utility property should go to the shareholders,  
17 and not to the ratepayers.

18 Regarding the sale of utility property the Commission ruled as follows:

19 We have addressed the issue of the actual sale of Utility property in  
20 FPL’s last full rate case and in a number of other rates cases. In those  
21 cases, we determined that gains or losses on the disposition of  
22 property devoted to, or formerly devoted to, public service should be  
23 recognized above-the-line and that those gains or losses, if prudent,  
24 should be amortized over a five-year period. We reaffirm our existing  
25 policy on this issue. (FPSC, Order No. 13537, pp.17- 18.)  
26

1                   Regarding the transfer of property to an affiliated company the Commission  
2                   stated:

3                   We believe that any transfer of property to a subsidiary or affiliated  
4                   company should be treated as though the property was actually sold to  
5                   that party and that any imputed gains on the transfer should be  
6                   recognized and be reflected in working capital. . . . The Company  
7                   retains the option to sell the surplus property to a third party, but a  
8                   transfer at the Company's option should not deprive the ratepayers of  
9                   their fair share of gains. (Ibid., p. 18.)

10                   Most recently, in 1997, the Commission considered two instances of gain on  
11                   sale as part of the depreciation rate review of Florida Public Utilities Company  
12                   (FPU). In the first instance, a net gain of \$41,554 was forecast for an upcoming sale  
13                   of building and land owned by the company. The Commission ruled that a five-year  
14                   amortization period should be used, as that period was "in line with our decisions in  
15                   previous cases."

16                   In this same case, the Commission also ruled on the gain on sale of FPU's  
17                   hydraulic production plant. In this instance, the Commission ruled that the gain  
18                   should be amortized over four years, a time period equal to that between depreciation  
19                   studies.

20                   

21                   **Q.    HAVE YOU EXAMINED OTHER STATE COMMISSIONS' POLICIES ON**  
22                   **GAIN ON SALE?**

23                   A.    Yes, I have attempted to do so. In 2001, Staff distributed a gain on sale questionnaire  
24                   to public utility commission staffs across the country, as part of its research in Docket  
25                   No. 980744-WS, an investigation into the proper treatment of a gain on sale for  
26                   Florida Water Services Corporation. Not all commission staffs responded. The

1 responses of those who did complete the survey are summarized on Schedule 2 of my  
2 exhibit.

3 As this schedule shows, while there is not complete agreement on how to treat  
4 gain on sale, there is a clear trend to recognize that ratepayers have borne the risks  
5 associated with utility assets and should be allocated any rewards. Alabama,  
6 however, has no established policy on the issue, and in Arkansas, gain on sale has not  
7 been addressed by the Commission. Utah states that it has no established policy, but  
8 claims a general policy that "gain should follow risk." In a recent case cited by Utah  
9 staff, gain from the sale of PacifiCorp's Centralia plant was allocated between  
10 ratepayers and shareholders with benefits amortized over the remaining life of the  
11 plant and any loss to the company spread over a 23-year period.

12 Wisconsin also states it has no established policy, and that in general it  
13 follows USOA accounting rules that "the gain or loss, if any should be included in  
14 Miscellaneous Credits or Debits to Surplus." An unidentified case cited by  
15 Wisconsin staff resulted in 100% of the gain allocated to ratepayers.

16 Illinois also cited NARUC USOA accounting instructions. Illinois staff cited  
17 a recent case in which the Commission had ordered a normalized portion of the gain  
18 on sale of a water company's property to be included in test year revenues. The  
19 Commission decision was based, in part, on its determination that the property  
20 qualified as utility property and was used in utility service and was in rate base at the  
21 time of sale. This decision, however, was overturned by a court decision which held  
22 that the Commission was erroneous in concluding that the gain was not an isolated,

1 non-recurring event, and that “the Commission improperly relied on accounting rules  
2 without considering previously recognized policy implications with regard to the  
3 ratemaking treatment of land sale gains.” (Illinois Commerce Commission, Order On  
4 Remand, 95-0307 consolidated 95-0342, p. 1.)

5 In Idaho, gain on depreciable property is shared between ratepayers and  
6 shareholders, while any gain on nondepreciable property goes wholly to shareholders.

7 In New York, where only sales of land have been addressed, any gain from the sale  
8 of land is given to ratepayers as a reduction to rate base.

9 South Carolina and North Carolina assign all gain to shareholders.

10 Ohio, Oregon, Washington, West Virginia and Montana all agree that  
11 ratepayers should receive any gain on sale of utility property. Oregon Staff states that  
12 the Commission uses a “benefits follows risk” approach. Ohio states that if the  
13 property was in the utility’s rate base, it is appropriate for ratepayers to benefit from  
14 the sale.

15 West Virginia states that in three recent orders, gains were all handled above  
16 the line.

17 Montana also states that three recent cases have involved this issue. In all  
18 three cases in Montana the dockets were settled through a stipulation in which the  
19 gain was allocated to both ratepayers and shareholders.

20 In Washington, Staff states that any deviation from a policy of 100% of the  
21 gain allocated to ratepayers “would be on a case by case basis due to specific  
22 compelling circumstances.” Washington cites two recent gain on sale cases. The first



1 is the sale by Puget Sound Energy of its Colstrip, MT coal plant, in which the  
2 commission ordered the gain to be deferred, with interest, until the company's next  
3 rate case in 2001. At that time, the gain would be passed back to ratepayers through  
4 reduced rates. The second case was the sale of Puget Sound Energy's share of the  
5 Centralia plant. In this instance, the commission ordered a sharing of the gain  
6 between ratepayers and shareholders

7 The commission agreed with the various parties that the company should first  
8 recover its net book value in the plant. The gain above book value was next assigned  
9 to ratepayers, up to the amount of the original cost of the plant. The commission  
10 stated that:

11 The ratepayers have supported the Centralia facilities through a return  
12 of the investment; they have paid based on straight-line depreciation.  
13 The ratepayers have also supported the Centralia facilities through  
14 rates that include a return on the investment; they have paid a fair rate  
15 of return on the undepreciated balance of the facilities. Centralia was  
16 originally developed as a coal mine and generating facility to be used  
17 by monopoly utility companies with limited opportunities either to  
18 purchase or sell power in a competitive wholesale market. The fact  
19 that the facilities are selling for an amount greater than original cost is  
20 evidence that the facilities have an increasing, not a decreasing, value,  
21 as an asset in a competitive wholesale generation market. This  
22 increased value is greater than the depreciation paid by ratepayers.  
23 Thus, a portion of the gain equivalent to the difference between net  
24 book value and original cost should be returned to ratepayers, as they  
25 have, in effect, overpaid necessary depreciation. This amount would  
26 be equivalent to accumulated depreciation.

27  
28 Lastly, the commission directed that the remainder of the gain should be  
29 allocated 50/50 between shareholders and ratepayers. The commission stated that  
30 this was "not based on a pre-conceived formula, but on the equities of this distinctive

1 case. “ (WA Utilities and Transportation Commission, 2<sup>nd</sup> Supplemental Order, p.  
2 30.)

3 **Q. DID THE COMMISSION CONSIDER PRIOR DECISIONS IT HAS MADE**  
4 **REGARDING GAIN ON SALE WHEN IT DECLINED TO SHARE GAINS**  
5 **FROM THE DRUID ISLE AND GREEN ACRES SALES BETWEEN**  
6 **SHAREHOLDERS AND RATEPAYERS?**

7 A. Yes, it did. In Order No. PSC-02-0657-PAA-WU, Notice of Proposed Agency  
8 Action Order Declining to Share Gains on Sale, the Commission cited four of its  
9 recent orders in its decision regarding the Maitland and Altamonte Springs Sales.

10 It also summarized five factors it considered in reaching its decisions in these  
11 dockets as:

- 12 1. Whether the property sold was used and useful in
- 13 providing utility service;
- 14 2. Whether the property was included in uniform rates;
- 15 3. Whether a system, including customer base, was sold, as
- 16 opposed to specific assets;
- 17 4. The extent to which ratepayers would have borne the
- 18 risk, had the sale been at a loss;
- 19 5. Consistency with other Commission practice, such as the
- 20 calculation of rate base when a facility is purchased for
- 21 more or less than its net book value. (Order No. PSC-02-
- 22 0657-PAA-WU, p. 7)
- 23

24 In the first order, Order No. PSC-93-0301-FOF-WS, issued February 25,  
25 1993, in Docket No. 911188-WS, the Commission declined to share the gain on sale  
26 of the St. Augustine Shores (SAS) water and wastewater facilities with the ratepayers  
27 of Lehigh Utilities, Inc. This matter was examined again in Docket No. 920199-WS

1 in which Southern States Utilities, Inc., the parent company of Lehigh Utilities and  
2 St. Augustine Shores, sought a rate increase for several of its water and wastewater  
3 systems. In Order No. PSC-93-0423-FOF-WS, issued March 22, 1993 in that  
4 docket, the Commission again declined to share the gain on sale from SAS with  
5 ratepayers.

6 The third order cited by the Commission, Order No. PSC-96-1320-FOF-WS,  
7 issued October 30, 1996 in Docket No. 950495-WS again dealt with Southern States  
8 Utilities, Inc.'s sale of several properties, including its sale of St. Augustine Shores.

9 Finally, the Commission cited its order in Docket No. 001826-WU,  
10 concerning the transfer of two facilities and their 700 customers, by Heartland  
11 Utilities, Inc. to the City of Sebring.

12 **Q. WOULD YOU PLEASE DESCRIBE THE DECISIONS OF THE**  
13 **COMMISSION CONCERNING THE TREATMENT OF THE GAIN ON**  
14 **SALE IN THESE PRIOR ORDERS?**

15 **A.** Yes. In Order No. PSC-93-0301-FOF-WS, the Commission found that the gain on  
16 sale of St. Augustine Shores should not be shared with ratepayers. The Commission  
17 reasoned:

18 We agree with the utility that ratepayers do not acquire a proprietary  
19 interest in utility property that is being used for utility service. We  
20 also agree that it is the shareholders who bear the risk of loss on their  
21 investment, not the Lehigh ratepayers. Further we find that Lehigh's  
22 ratepayers do not contribute to the utility's recovery of its investment  
23 in St. Augustine Shores. Based on the foregoing, we find no  
24 adjustment for the gain on sale of the St. Augustine Shores to be  
25 appropriate.  
26

1 OPC filed for reconsideration of the Commission's decision, stating that the  
2 Commission's decision was inconsistent with its decisions in other cases involving  
3 plant abandonment, citing the Commission's decision regarding Mad Hatter, in  
4 Docket No. 910637-WS. In denying OPC's motion for reconsideration, the  
5 Commission found that different facts and circumstances distinguished the Mad  
6 Hatter case and Lehigh cases, noting that loss of customers was a material difference.

7 In Order No. PSC 93-0423-FOF-WS, the Commission found that since the  
8 remaining customers of Southern States Utilities, Inc. (SSU), the parent company of  
9 Lehigh Utilities, Inc., never subsidized the investment in St. Augustine Shores they  
10 were no more entitled to share in the gain from that sale than they would have been  
11 required to absorb a loss from it. With regard to the sale of the University Shores  
12 facility, also at issue in that docket, the Commission found that those facilities were  
13 never included in any approved rate base amount. Therefore, it did not include an  
14 above-the-line recognition of the gain.

15 In Order No. PSC-96-1320-FOF-WS, issued October 30, 1996, regarding the  
16 gain on sale of St. Augustine Shores and also the Venice Gardens system (VGU), the  
17 Commission found:

18 We first observe that the sales of VGU and SAS were similar in many  
19 respects: they were involuntarily made by condemnation or under  
20 threat of condemnation; SSU lost the ability to serve the customers in  
21 both service areas, which were both regulated by non-FPSC counties;  
22 and the facilities served customers who were never included in a  
23 uniform rate structure.

24 While the Commission did not attribute any of the gain on sale of Venice  
25

1 Gardens and St. Augustine Shores to ratepayers, it did, however, allow ratepayers to  
2 receive the gain on sale of the Spring Hill and River Park assets.

3 **Q. HOW DO THE FACTS OF THE RIVER PARK AND SPRING HILL SALES**  
4 **COMPARE TO THE DRUID AND GREEN ACRES SALES?**

5 A. Unlike the Venice Gardens and St. Augustine Shores sales, the River Park sale  
6 consisted of utility assets that were regulated by the Commission, included in the  
7 utility's rate base, and were part of Florida Water Service's uniform rate design.

8 In the case of River Park, where the system facilities were sold to a  
9 homeowner's association, the Commission ruled that:

10 ". . . when a utility sells property that was formerly used and  
11 useful or included in uniform rates, the ratepayers should  
12 receive the benefit of the gain on the sale of such utility  
13 property. This is the case with the \$33,726 gain on the sale of  
14 the River Park facilities, as it was included in the uniform rates  
15 originally approved in Docket No. 920199-WS. (Order No.  
16 PSC-96-1320-FOF-WS, p. 202)

17  
18 In the case of Druid Isles, Oakland Shores, and Green Acres Campground, the  
19 assets were regulated by the Commission, they were included in rate base, and were  
20 all part of their respective county's uniform rate design. The Commission noted in  
21 Order No. PSC-02-0657-PAA-WU, that "all systems in Orange County have been  
22 under a uniform rate structure since 1981" and that "all systems in Seminole Country  
23 have been under a uniform rate structure since 1977. . ." (Order No. PSC-02-0657-  
24 PAA-WU, p.9) Because uniform rates were established for each country, no  
25 separate rate base was determined for the Druid Isles and Oakland Shores systems, or

1 for the Green Acres facility. (PSC-99-2171-FOF-WU, p. 3; PSC-~~99-2372~~<sup>99-2373</sup>-FOF-  
 2 WS, p. 3)

3 In the case of the Spring Hill, the utility sold three parcels of land. The  
 4 Commission found that two of the parcels were not utility property and declined to  
 5 share the gain between shareholders and ratepayers. Regarding the third parcel,  
 6 however, the Commission found that “. . . the record was unclear as to whether the  
 7 property was used and useful. Had it not been used and useful, the utility should have  
 8 provided such evidence.” ~~(bid.)~~ <sup>PSC-96-1320-FOF-WS</sup> Thus, lacking evidence to the contrary, the  
 9 Commission treated the parcel as though it had been classified as used and useful and  
 10 attributed the gain on sale to ratepayers.

11 **Q. HASN'T THE COMMISSION'S TREATMENT OF GAIN ON SALE IN THE**  
 12 **PAST DISTINGUISHED BETWEEN THE SALE OF SPECIFIC ASSETS AND**  
 13 **THE SALE OF AN ENTIRE SYTEM, INCLUDING CUSTOMERS?**

14 **A.** In general, yes. “Whether a system, including customer base, was sold, as opposed to  
 15 specific assets “ is among the factors the Commission generally considers in reaching  
 16 decisions regarding gain on sale. (Order No. PSC-02-0657-PAA-WU, p. 7) The Spring  
 17 Hill sale was the sale of a specific parcel of land, with no facilities or customers lost to  
 18 the utility. In the River Park Sale, certain facilities, although not the entire system,  
 19 were sold to a homeowner's association. In the instant docket, the Oakland Shores  
 20 sale is not all of Oakland Shores, but only those facilities and customers located in  
 21 Orange County; the remainder of the system and its customers was not sold by the  
 22 utility. The Green Acres Campground is similarly not the sale of an entire system but

1 facilities serving one customer, the campground. In the instant docket, only the Druid  
2 Isles sale represented the sale of an entire system and its customers.

3 The St. Augustine Shores and Venice Gardens sales, for which the  
4 Commission declined to allocate any share of the gain ratepayers, both involved the  
5 sale of customers as well as the facilities serving them. The loss of customers, and the  
6 future earnings that would have been earned from them, are cited by the Commission in  
7 its decision to assign all proceeds from the sale to shareholders.

8 Further, when this system [St. Augustine Shores] was  
9 acquired by St. Johns County, SSU's investment in the SAS  
10 system and its future contributions to profit were forever lost..  
11 Thus, the gain on sale serves to compensate the utility's  
12 shareholders for the loss of future earnings. (PSC-93-0423-  
13 FOF-WU, p. 65)

14  
15  
16 When it later discussed this decision in Order No. PSC 96-1320-FOF-WS,  
17 however, the Commission also noted:

18 Although OPC argued that the ratepayers have benefited from  
19 the gains on the sale of property devoted to public service in  
20 previous dockets and absorbed a loss on the sale of the  
21 Skyline facility, we do not find the circumstances to be the  
22 same. Had either the SAS and VGU facilities been regulated  
23 by the FPSC at the time of the sale or previously included in a  
24 uniform rate structure, the situation would be different. (Order  
25 No. PSC 96-1320-FOF-WS, p. 201)

26  
27 From this statement it appears that the lost profit argument is secondary to the  
28 facilities being regulated by the Commission and being part of a uniform rate  
29 structure.

30 The Druid Isle and Green Acres sales thus contain aspects of both the St.

1 Augustine Shores/Venice Gardens and the River Park/Spring Hill sales. On the one  
2 hand, as in the case of St. Augustine Shores and Venice Gardens, UIF has lost  
3 customers as well as facilities. As in the case of River Park and Spring Hill, however,  
4 the Oakland Shores and Green Acres Campground sales represent the sale of only a  
5 portion of a system. And unlike St. Augustine Shores and Venice Gardens, the Druid  
6 Isle and Green Acres properties were all regulated by the Commission and part of a  
7 uniform rate structure at the time of their sale.

8 **Q. WHAT WERE THE PARTICULARS OF THE HEARTLAND UTILITIES**  
9 **SALE CITED BY THE COMMISSION?**

10 A. The Heartland Utilities sale involved the sale by the utility of two of its three water  
11 systems and their customers.

12 Heartland Utilities, Inc. is a Class C utility that, at the time of the sale, had  
13 approximately 740 customers. In 2000, it filed an application for approval of the  
14 transfer of its DeSoto City system (DeSoto) with 364 customers, and its Sebring  
15 Country Estates system (Estates) with 339 customers, to the city of Sebring. The  
16 remaining system, Sebring Lakes (Lakes) had at the time 37 customers and 363  
17 undeveloped lots. The most recent rates for Heartland were set in 1996, at which time  
18 the utility consisted of only the DeSoto and Estates systems. The Lakes system was  
19 added to the utility in 1998 in response to a request from the Department of  
20 Environmental Protection (DEP) because more than half the homes in the Lakes  
21 development had contaminated wells. The Lakes system is a stand-alone system,  
22 financed in part through a grant from the DEP. Heartland received permission from



1 the Commission to charge Lakes its existing rates, and stand-alone rates were never  
2 established for the Lakes.

3 In Order No. PSC-01-1986-PAA-WU, the Commission stated that "If the Lakes  
4 customers had subsidized the DeSoto and Estates customers through payment of  
5 monthly rates, it would be appropriate to pursue an investigation on possible gain on  
6 sale." (PSC-01-1896-PAA-WU, p. 4) However, based upon a preliminary review of  
7 Heartland's operations and financial statements from its most recent annual report, the  
8 Commission decided not to address the issue at that time.

9 Based on the 2000 annual report, the net operating income for  
10 the three systems was \$14,208. Assuming the net operating  
11 income was proportionate to the gross revenues, the Lakes  
12 system would have been allocated approximately \$511 of the  
13 \$14,208 net income.

14  
15 We recognize that without an audit, there is no way to actually  
16 quantify rate base and the cost of service for Lakes's customers.  
17 However, baseline information appears to indicate that the  
18 Lakes' customers may have been subsidized by DeSoto and  
19 Estates customers, rather than the other way around.  
20 Furthermore, the addition of the Lakes customers to the  
21 Heartland utility occurred at the request of DEP, rather than  
22 being initiated by the utility, in order to serve a distressed area.  
23 In addition, the Lakes's system was added after Heartland's  
24 1996 staff-assisted rate case. Lastly, if a gain on sale were  
25 approved with respect to this sale, it could result in the utility's  
26 rate base being reduced to \$0 or even a negative amount, which  
27 could be very troublesome for the utility.  
28 Based on the foregoing, we do not find it appropriate to address  
29 the gain on sale at this time. (Ibid, p. 5)  
30

31 As no responses were filed to the Commission's PAA, it was ordered to  
32 become effective and final on November 6, 2001. (Order No. PSC-01-2179-CO-WU)

1           The Heartland Utilities sale does not have much in common with the instant  
2 sales. First, the properties UIF sold had all been included in the utility's rate base,  
3 unlike Heartland's Lakes system. And UIF's sales properties had all been part of the  
4 Company at its last rate case. Additionally, the properties that were sold were acquired  
5 by UIF at its own initiative; none were at the request of DEP or any other government  
6 agency.

7           Regarding possible subsidization, in the case of Heartland, the Commission  
8 stated that "... the Lakes' customers may have been subsidized by DeSoto and Estates  
9 customers, rather than the other way around." (Ibid.)

10           In its PAA in the instant case, the Commission discussed the Utility's position  
11 regarding possible subsidization by the remaining customers of the facilities that had  
12 been sold.

13           The utility was also asked whether it believed that the  
14 remaining customers in Orange and Seminole Counties  
15 contributed to a portion of the utility's recovery of its  
16 investment in the systems which were sold. UIF responded  
17 that the remaining customers pay rates based on the cost of  
18 providing service, and that there is really no way to know  
19 whether, over a period of time, one customer contributed to a  
20 portion of other facilities that are unrelated, except by virtue  
21 of their common rate." (Order No. PSC-02-0657-PAA-WU,  
22 p. 4)  
23

24           Apparently, the Company does not know if one group of customers  
25 subsidized the other group of customers. In explaining its decision not to require the  
26 Utility to share the gain on sale, the Commission stated that "... we agree with UIF  
27 that it would be very difficult to determine how much any customer or group of

1 customers contributed to the utility's investment in, or operation of, the facility.”

2 (Order No. PSC-02-0657-PAA-WU, p. 9)

3 **Q. WHAT ABOUT THE LAST FACTOR THE COMMISSION CITED AS A**  
4 **CONSIDERATION IN ITS DECISIONS REGARDING GAIN ON SALE,**  
5 **THAT IS, CONSISTENCY WITH OTHER COMMISSION PRACTICE,**  
6 **SUCH AS THE CALCULATION OF RATE BASE WHEN A FACILITY IS**  
7 **PURCHASED FOR MORE OR LESS THAN ITS BOOK VALUE?**

8 A. The example of “other Commission practice” cited by the Commission is the  
9 calculation of rate base, when a facility is purchased for much more (or less) than its  
10 book value. In such instances, the policy is not to allow a utility to increase rate base  
11 when a facility is purchased for more than its net book value. Customers pay rates  
12 based upon that net book value, and not the actual purchase price. Therefore, it  
13 would be unfair to allocate them a gain from the sale of the asset at a price above the  
14 book value. Under this logic it would be unfair to allocate a loss to customers at a  
15 sale below book value. However, as explained above regarding the Skyline system,  
16 the Commission has already allocated such a loss to customers.

17 While the purchase price may be a function of the fair market value of the  
18 systems sold, the gain on the sale of assets is also a direct result of the depreciation  
19 paid for by ratepayers and the CIAC contributed by ratepayers. Consistency dictates  
20 that ratepayers be given the gain which is a direct result of paying for the assets  
21 through depreciation and CIAC.

22 **Q. WHAT IS UIF'S POSITION CONCERNING HOW THESE GAINS SHOULD**

1           **BE TREATED FOR RATEMAKING PURPOSES?**

2       A.     The Company's position is that the gain on the Maitland and Altamonte sales should  
3           be attributed to stockholders, not ratepayers. The Company makes several arguments  
4           in support of its position. These include:

- 5           •     The transactions in question are capital transactions and therefore the gain  
6           should be attributed to stockholders. (Gower Testimony, pp. 3-4)  
7  
8           •     Depreciation and return included in the price of service cover only the period  
9           for which service was provided, the customers' payments covered only the  
10          cost of the safe, reliable, adequate service which they received. The  
11          obligations of both utility and customer have each been discharged and  
12          neither owes the other anything further. Therefore, the gain should be  
13          allocated entirely to stockholders. (Gower Testimony, pp. 11-12)  
14  
15          •     The shareholders own the property financed by their investment. Because  
16          their capital is exposed to the risks of "ownership" all gains or losses should  
17          accrue to them. (Gower Testimony, p. 12)  
18  
19          •     Fair and reasonable rates are based only on the costs of activities undertaken  
20          by the utility to provide service. The Uniform System of Accounts (USOA)  
21          directs that sales of utility systems be recorded in different accounts than  
22          retirements of facilities that occur as part of ongoing operations. Transactions  
23          such as sales of systems should be excluded from cost-based ratemaking in  
24          order to preserve the benefits of such ratemaking to both utilities and  
25          customers. (Gower Testimony, pp. 4-5; 13)  
26  
27          •     If gain on sale is not assigned to shareholders it will adversely affect the  
28          utility's ability to raise capital at reasonable costs. (Gower Testimony, p. 14)  
29  
30          •     The FPSC has established a policy of allowing shareholders to retain the gain  
31          on sales of their company's facilities. (Lubertozzi Testimony, p. 4)  
32

33       **Q.     WOULD YOU ADDRESS EACH OF THESE CLAIMS BEGINNING WITH**  
34       **MR. GOWER'S CLAIM THAT THE TRANSACTION IS CAPITAL**  
35       **RELATED AND THEREFORE BELONGS TO STOCKHOLDERS?**

1 A. Mr. Gower states that sales of utility assets “are capital transactions. Construction or  
2 acquisition of properties is “investments” of capital supplied by investors. Sales of  
3 utility systems are “disinvestments” or recoveries of the capital investors had  
4 previously provided. Since these are a capital transaction, they should be assigned to  
5 investors, not customers. Neither gains nor losses on sales of utility systems should  
6 be included in cost of service used for rate setting purposes.” (Gower Testimony, pp.  
7 3-4.) Consequently, Mr. Gower argues that “such transactions should be excluded  
8 from rate setting since they are capital in nature and are assignable to investors, not  
9 customers. This is totally consistent with the fundamental distinction between the  
10 rights and obligations of customers and owners of the utility business.” (Ibid.) I fail  
11 to see the distinction drawn by Mr. Gower. Mr. Gower’s suggestion that the  
12 transaction in question is related to capital and therefore assignable to stockholders  
13 has no logic and is not based upon traditional ratemaking practices or principles. If  
14 Mr. Gower’s reasoning were accurate, why does the Commission require ratepayers  
15 to pay for extraordinary property losses? As I discussed above, the Commission has  
16 consistently required customers to absorb losses on utility plant due to early  
17 retirement or abandonment.

18 In addition, the accounting treatment of an expense, revenue or capital item  
19 does not translate into the appropriate ratemaking treatment. This Commission, as  
20 well as other commissions, frequently treats costs for ratemaking purposes differently  
21 than how costs are treated for accounting purposes.

22 For the reasons stated above, the Commission should reject Mr. Gower’s

1 suggestion that the capital nature of the gain warrants that the gain be attributed to  
2 stockholders.

3 **Q. MR. GOWER ALSO ARGUES THAT ANY DEPRECIATION AND RETURN**  
4 **INCLUDED IN THE PRICE OF SERVICE COVER ONLY THAT PART OF**  
5 **THE RESOURCES USED DURING THE PERIOD SERVICE WAS**  
6 **PROVIDED. THE UTILITY'S OBLIGATION TO CUSTOMERS IS**  
7 **DISCHARGED WHEN SERVICE IS RENDERED AND THERE SHOULD BE**  
8 **NO FURTHER OBLIGATIONS TO RATEPAYERS. DO YOU AGREE?**

9 **A.** While I agree that customers pay for service rendered by a utility, I do  
10 not agree that this determines how any gain on the sale of assets should  
11 be distributed between ratepayers and stockholders. Mr. Gower states  
12 that "it is the investors whose capital is exposed to the risks of ownership  
13 and to whom gains or losses – including those from property sales –  
14 should accrue." (Gower Testimony, p. 12) However, in most instances,  
15 and in particular in the water and wastewater industry, customers have  
16 no choice but to take service from the regulated utility. If the service is  
17 poor or the price is too high, UIF's customers cannot change to a more  
18 efficient or less costly provider. They pay for the service rendered  
19 regardless of the quality of the service or the price for the service. UIF's  
20 witness Mr. Lubertozzi asserts that "[t]he shareholders of Utilities, Inc.  
21 bear the entire risk of loss of their investment in utility property. The

1 rate payers do not bear any of this risk.” (Lubertozzi Testimony, p. 4)  
2 However, the Commission requires customers to pay for abandoned  
3 plants and again for either a new plant or interconnection to another  
4 water or wastewater system.

5 Furthermore, Mr. Gower’s argument that any depreciation and  
6 return included in the price of service cover only that part of the resources  
7 used during the period service was provided rests on the premise that  
8 rate setting is historical in nature. Therefore, customers would be  
9 unjustly enriched if they were to receive the gain on sale because they  
10 pay rates based upon historical costs. There are several problems with  
11 Mr. Gower’s reasoning. First, in the past this Commission has allowed  
12 ~~UIF as well as other~~ utilities, to use a projected test year. Therefore, the  
13 rates set by the Commission ~~are~~ <sup>can be</sup> based upon projected expenses and  
14 investments, not historical expenses and investments. Second, the gain  
15 on the sale of these assets is a direct result of the depreciation paid for by  
16 ratepayers and the CIAC contributed by ratepayers. While the purchase  
17 price may be a function of the fair market value of the system sold, the  
18 gain is a result of the depreciation and the CIAC paid by ratepayers.  
19 Consistency dictates that ratepayers be given the gain which is a direct  
20 result of paying for the assets through depreciation and CIAC. I agree  
21 that customers pay for service rendered by a utility, I do not agree that

1 this determines how any gain on the sale of assets should be distributed  
 2 between ratepayers and stockholders. The Commission should reject Mr.  
 3 Gower's arguments and attribute the gain to ratepayers.

4 **Q. WOULD YOU COMMENT ON MR. GOWER'S ARGUMENT THAT IT IS**  
 5 **THE INVESTORS WHO OWN THE UTILITY PLANT AND WHO ALSO**  
 6 **BEAR ALL THE RISK OF LOSSES?**

7 A. The Company argues that "it is investors who supply the capital which finances the  
 8 utility plant which serves the customers' needs. . . it is the investors who own the  
 9 properties which that capital finances. It is the investors whose capital is exposed to  
 10 the risks of ownership and to whom gains or losses – including those from property  
 11 sales – should accrue..." (Gower Testimony, p. 12.)

12 I disagree. Investors generally do not bear the risk of the loss, unless the loss  
 13 is due to imprudent management actions. In the past, the Commission has required  
 14 that ratepayers bear the loss on utility investment. In addition, ratepayers bear many  
 15 additional risks. Ratepayers are required to pay depreciation expense, operating and  
 16 maintenance expenses, taxes and a return on all prudently invested plant and  
 17 equipment. Ratepayers bear the risk of paying for increased costs due to  
 18 environmental compliance. Customers pay for the increased costs associated with  
 19 repairing plant and equipment. Ratepayers bear the risk of paying increased operating  
 20 costs due to environmental compliance testing. In Florida, ratepayers bear the risks of  
 21 inflation because the Commission allows annual indexing of operations and  
 22 maintenance expenses. The Commission's annual indexing rate increases compensate



1 the utility for the effects of inflation on its operating and maintenance expenses. If a  
2 water or wastewater utility in Florida purchases utility services from another utility,  
3 the Commission allows for the pass-through of purchased utility services rate  
4 increases. Customers, not stockholders, bear the risks of rate increases from  
5 purchased utility services.

6 Mr. Gower also states that “even when the book values of utility assets are far  
7 lower than replacement values of those assets, customers are completely shielded  
8 from price increases. . .” He argues that when assets are retired from service “neither  
9 depreciation nor return allowances included in utility service prices reflect the higher  
10 costs which investors will face upon replacing such assets. This risk rests squarely  
11 on the investors.” (Ibid., p. 9) However, it is the ratepayers who will pay increased  
12 depreciation and return allowances when these higher priced investments are placed  
13 into service. And unlike the investors who may choose to invest in these assets or to  
14 invest elsewhere, ratepayers generally do not have a choice of water and wastewater  
15 providers. They will pay rates reflecting the increased depreciation and return. In  
16 response to Interrogatory No. 173 regarding the risks borne by investors regarding  
17 higher priced assets, Mr. Gower replied: “New rates established may, or may not, be  
18 sufficient to cover higher costs.” Should that possibility occur, however, the utility  
19 can always return to the Commission requesting another rate review.

20 **Q. DO YOU AGREE WITH MR. GOWER THAT TRANSACTIONS SUCH AS**  
21 **THE SALE OF DRUID ISLES, OAKLAND SHORES AND THE GREEN**  
22 **ACRES CAMPGROUND SHOULD BE EXCLUDED FROM RATEMAKING**

1           **DECISIONS IN ORDER TO PRESERVE THE BENEFITS OF COST-BASED**  
2           **RATEMAKING TO BOTH UTILITIES AND CUSTOMERS?**

3           A.     No, I do not. In fact, I find Mr. Gower's argument, which he returns to  
4           throughout his testimony, unclear and illogical. Mr. Gower explains in depth how  
5           cost of service ratemaking looks at the costs of providing utility service in setting  
6           rates for that service. He explains how expenses incurred in providing service are  
7           accounted for in the Uniform System of Accounts (USOA). "Operating expenses,  
8           taxes, depreciation, etc. are routinely accounted for and reported by utilities to the  
9           applicable regulatory authorities using the Uniform System of Accounts ("USOA")  
10          prescribed by the regulatory authorities having jurisdiction." (Gower Testimony, p. 5)

11          He explains how nonutility activities are accounted for. "Amounts applicable to  
12          nonutility activities are recorded in designated accounts separate and apart from those  
13          for utility operation." (Ibid.) And he explains that "USOA instructions explicitly  
14          separate construction related expenditures and costs from utility operating accounts  
15          as it does the sales of utility systems" (Ibid.)

16                 Mr. Gower states:

17                 The USOA directs that retirements and dispositions of utility  
18                 facilities in the normal ongoing conduct of utility operations  
19                 be recorded as "retirements." . . .

20                 On the other hand, sales of "systems" such as those sold to  
21                 Maitland and Altamonte Springs are recorded in income  
22                 accounts which reflect any gain or loss (sale proceeds less  
23                 depreciated plant value) and which signifies that investors'  
24                 capital has been withdrawn from the utility business. This is  
25                 the kind of transaction which, in accordance with the  
26                 previously described regulatory framework of cost-based  
27                 ratemaking, should be excluded from cost of service in any

1 rate setting proceeding in order to preserve the benefits which  
2 flow from that framework to both utilities and utility  
3 customers. (Ibid., pp. 12-13)  
4

5 The validity of Mr. Gower's conclusion that transactions such as these sales  
6 should be excluded from ratemaking considerations rests upon the unspoken premise  
7 that USOA accounting treatment of a transaction determines the ratemaking  
8 treatment of that transaction. And this premise is not true. Accounting does not  
9 determine ratemaking.

10 To suggest that the Commission should set rates and determine the treatment  
11 of gain on sale based upon the USOA treatment of costs, expenses, and investment  
12 ignores the fundamental ratemaking principles. While public service commissions  
13 and the FPSC often require utilities to record revenues, expenses, and investment in  
14 accordance with the USOA requirements, this "record keeping" requirement does not  
15 translate into rate setting requirements or principles.

16 As discussed earlier, in response to Staff's survey regarding gain on sale,  
17 several states responded that their ratemaking treatment did not always agree with the  
18 accounting treatment of that same transaction. In other cases the same distinction can  
19 be found between accounting and ratemaking treatment. For example, in 2000,  
20 PacifiCorp dba Utah Power & Light, petitioned the Public Service Commission of  
21 Utah for approval of its proposed accounting treatment of retirement benefits. The  
22 Commission approved the application but noted: "The approval of PacifiCorp's  
23 application does not determine the rate making treatment for the retirement program  
24 or severance program. Any determination of that rate making treatment will be made

1 in PacifiCorp's next general rate case.” (Utah Public Service Commission, Docket  
2 No. 00-2035-01, Report and Order, July 12, 2002, p. 2)

3 The next year, PacifiCorp petitioned the Utah Commission for approval of its  
4 proposed implementation of Financial Accounting Standards 133 and 138 (FAS  
5 133/138), Accounting for Derivative Instruments and Hedging Activities. The  
6 Commission accepted this accounting proposal but noted, “Adoption of the  
7 accounting treatment, for derivatives and hedging activities, in no way makes a  
8 determination of the prudence of any such contract for rate-making purposes.” (Utah  
9 Public Service Commission, Docket No. 01-035-12, Report and Order, June 15,  
10 2001, p. 3)

11 In a rate case in Montana involving Montana-Dakota Utilities, the issue of  
12 ratemaking vs. accounting arose in regard to the treatment of construction overhead  
13 costs. Montana-Dakota Utilities disagreed with the proposal of the Montana  
14 Consumer Counsel regarding the treatment of these costs, because it was in conflict  
15 with the requirements of the Uniform System of Accounts (USOA). The Montana  
16 Public Service Commission stated

17 The Commission agrees with Mr. Clark; the USOA is a guide  
18 for accounting and does not control ratemaking (TR p. 209).  
19 If it did, the Company's revenue requirements could easily be  
20 determined with an accounting manual, which would require  
21 little or no reasoning on the part of this Commission.  
22 (Montana Public Service Commission, Order No. 5399b,  
23 November 8, 1989, pp. 33-34)

24  
25 In Michigan, the Public Service Commission considered an application of  
26 Consumers Energy Company to sell its Marysville Gas Reforming Plant to an

1 affiliate for approximately \$27 million in profit, which it proposed to retain entirely  
2 for shareholders. In the Opinion and Order in that docket the Commission noted:

3 Consumers' arguments based on the Uniform System of  
4 Accounts do not persuade the Commission that a refund of  
5 the Marysville gain would be improper. It is a long-standing  
6 principle that accounting treatment does not dictate the  
7 Commission's ratemaking decisions. (Michigan Public  
8 Service Commission, Case No. U-11636, Opinion and Order,  
9 pp. 36)  
10

11 Finally, in Louisiana, Entergy's proposed treatment of post-retirement  
12 benefits in its Fourth Post Merger Earnings Review Filing produced a lengthy  
13 discussion by the Commission of accounting vs ratemaking treatment.

14 The Public Service Commission is not bound by accounting  
15 conventions such as those found in the Generally Accepted  
16 Accounting Principals (GAAP) or those in the Uniform  
17 System of Accounts as prescribed by the FCC. The Court in  
18 *South Central Bell Telephone Co. v. Louisiana Public Service*  
19 *Commission* 352 So.2d 964, 981 (La. 1977) upheld the  
20 Commission's decision to require capitalization and  
21 amortization of research costs, although the GAAP and  
22 Uniform System of the FCC authorized treating those costs as  
23 current expenses.  
24

25 As we have seen in the case of adjustment and  
26 treatment of other financial data for regulatory  
27 purposes, accounting rules and even legal  
28 forms sometimes must be disregarded by the  
29 ratemaking body in order to properly account  
30 for economic realities and to defend legitimate  
31 ratepayer interests. Accounting practices are  
32 established for the benefit of many different  
33 observers of corporate activity, and a practice  
34 may vary depending upon whether it was  
35 adopted to facilitate analysis by stockholders,  
36 creditors, management or the Internal Revenue  
37 Service. Although an accounting procedure

1 formulated for a non-regulatory purpose may  
 2 provide one rational basis for a regulatory  
 3 determination, there is no logical reason why a  
 4 rate making agency cannot base its  
 5 decision upon another reasonable procedure. .  
 6 . (at 981)  
 7

8 “An agency is not required to follow accounting  
 9 convention, or GAAP, in a rate case.” Goodman, *The Process*  
 10 *of Ratemaking*, Public Utilities Reports. Inc., 1998. Various  
 11 examples of the basic tenant that ratemaking does not  
 12 necessarily follow accounting in a variety of situations can be  
 13 found. For example, the California Public Utility  
 14 Commission, when considering the awarding of proceeds of a  
 15 property sale stated: “Notwithstanding the specificity with  
 16 which the USOA governs the accounting practices of a water  
 17 company, we stress that the purpose of a system of accounts is  
 18 to predict the bookkeeping entries but not the ratemaking  
 19 impact of a sale... The Commission is not bound by  
 20 accounting convention; it is free to pursue its legislative duty  
 21 to balance the interests of shareholders and consumers.” *Re*  
 22 *California Water Service Co.*, 155 PUR 4<sup>th</sup> 417, 425( Cal.  
 23 PUC, 1994) See also Financial Accounting Standards Board  
 24 SFAS 71, sec. 32 “If a regulated enterprise changes  
 25 accounting methods and the change affects allowable costs for  
 26 ratemaking purposes, the change generally would be  
 27 implemented in the way that is implemented for regulatory  
 28 purposes.” It is the Public Service Commission, and not the  
 29 Board of Accountants, that has plenary authority over what  
 30 goes into the rates of regulated utilities. (Louisiana Public  
 31 Service Commission, Order No. U-22491, p. 23)  
 32

33 The Commission should reject Mr. Gower’s implications that the USOA  
 34 accounts used to book these sales determine how the gain from the sales should be  
 35 treated for ratemaking purposes.

36 **Q. MR. LUBERTOZZI CLAIMS THAT THE DECISION TO SELL THE**  
 37 **ORANGE AND SEMINOLE COUNTY SYSTEMS WAS INFLUENCED BY**

1           **THE COMMISSION’S PRIOR TREATMENT OF THE SALE OF OTHER**  
2           **SYSTEMS. IS THERE A PRIOR CONSISTENT TREATMENT BY THE**  
3           **COMMISSION ON THIS ISSUE?**

4           A.    No. Furthermore, to assume that the treatment of the gain on sale in this instance  
5           would be the same as other instances would be less than a wise assumption for a  
6           variety of reasons.

7                         Mr. Lubertozi states: “The precedent that was established has been applied  
8           consistently by the Florida Public Service Commission. The Florida Public Service  
9           Commission has established a policy of allowing shareholders to retain the gain on  
10          sales of their company’s facilities.” (Lubertozi Testimony, p. 4) This statement is  
11          not accurate for several reasons. First, the Commission does not have a written policy  
12          on the treatment of the gain on sale and it has no rules concerning how a gain should  
13          be distributed between ratepayers and stockholders. The Commission decides these  
14          cases on a case-by-case basis based upon the facts and evidence in the record.  
15          Second, the treatment of the gains on sales of other utilities’ systems have  
16          distinguishing factors, which are not all present here. Third, the members of the  
17          Commission change and what one set of commissioners may have found relevant or  
18          convincing may not be the same for a different set of commissioners. Fourth, in other  
19          industries, as I discussed earlier, the Commission has often attributed gains on sales  
20          of assets to ratepayers. Finally, in at least one water and wastewater decision, Order  
21          No. PSC-96-1320--FOF-WS, the Commission did attribute the gain on two sales to  
22          customers.

1 Citizen's Interrogatory No. 169 asked Mr. Lubertozi about his statement  
2 quoted above and asked him to provide copies of all documents supporting it. The  
3 response received was "Correspondence regarding these gains on sale have been  
4 previously provided in Citizen's POD 65-75. Also, please see previously mentioned  
5 orders, including Order No. PSC-93-0201-FOF-WS, Order No. PSC-93-0423-FOF-  
6 WS and Order No. PSC-96-1320-FOF-WS. Copies of these orders are available to  
7 the public from the Commission's web site."

8 Citizen's POD 65-75 request workpapers, correspondence, sales agreements,  
9 and other documentation regarding the Maitland and Altamonte Sales. There is  
10 nothing in any of the PODs or the responses to these requests that addresses the  
11 FPSC policy regarding gain on sale. This portion of the Company's response to  
12 Interrogatory No. 169 is simply nonresponsive. For example: POD 65 requested  
13 workpapers showing the selling costs and book basis for the Maitland Sale; POD 68  
14 asked for the same regarding the Altamonte Sale. In both instances, the Company  
15 provided workpapers and/or financial statements, but nothing that has any direct  
16 relationship to the Commission's policy regarding gain on sale. POD 67 requested  
17 the sales agreement for the Maitland Sale; POD 70 requested the sales agreement for  
18 the Altamonte Sale. POD 66 requested "all documents which address the sale of the  
19 Druid Isle and Oakland Shores systems to City of Maitland and Green Acres System  
20 to the City of Altamonte Springs." The response to this was a copy of a single letter  
21 from UIF to the City Engineer of the City of Maitland, addressing the terms of the  
22 sale. I do not see how this letter, or any of the responses provided in response to



1           PODs 65-75, answered Citizen's query to produce supporting documentation for  
2           the assertion that the Commission "has established a policy of allowing shareholders  
3           to retain the gain on sales of their company's facilities."

4           The Orders cited by the Company in response to Interrogatory No. 169 are  
5           among the four orders discussed by the Commission in the PAA to this docket. As  
6           discussed previously, the specifics of the sales in Order No. PSC-93-0201-FOF-WS  
7           and Order No. PSC-93-0423-FOF-WS were not similar to the situation in the  
8           Maitland and Altamonte Sales. And in Order No. PSC-96-1320-FOF-WS, the  
9           Commission did allocate the proceeds of two sales to ratepayers, not shareholders. I  
10          fail to see the logic in deducing that the Commission consistently allocates gain on  
11          sale to shareholders from an order in which the Commission has done the opposite.  
12          Furthermore, there is nothing in these orders which establishes a "policy" which a  
13          utility might rely upon. The Commission notes the key factors upon which it has  
14          "generally" based its decisions and states "We note that our decision herein is meant  
15          to apply strictly to the instant facts and circumstances, and only in the context of the  
16          water and wastewater industry." (Order No. PSC-02-0657-PAA-WU, p. 7; p. 9)  
17          Clearly, UIF should not have assumed that it would, under any circumstances, retain  
18          the gain on the sale of these systems.

19   **Q.    WHAT IS THE LAST ARGUMENT ADVANCED BY UIF?**

20   **A.**    The final argument espoused by UIF is that "Failure to assign to investors gains or  
21           losses on sales of this type is not only confiscatory, unfair, and improper, but also has  
22           adverse implications to the utilities' ability to raise capital at reasonable rates."

1 (Gower Testimony, p. 14)

2 I disagree. There is nothing improper, unfair, or confiscatory about assigning  
3 gains to ratepayers. Furthermore, the markets in which Utilities, Inc. (UI) competes  
4 for capital are populated with regulated utilities subject to the same commissions and  
5 commission rulings as Utilities, Inc. If UIF does not retain the gain on sale from  
6 these properties, I fail to see how this will place it at a disadvantage vis-a-vis other  
7 utilities. There are no "adverse implications" for UIF in being subject to the same  
8 decisions as other utilities against whom it competes for capital. If the Commission  
9 grants UIF's request to keep all of the gain, this does nothing but provide the  
10 Company with a windfall profit.

11 **Q. WHAT IS YOUR RECOMMENDATION WITH RESPECT TO THE**  
12 **TREATMENT OF THE GAIN FROM THESE SALES?**

13 **A.** I recommend that the Commission attribute the gain to customers. This is consistent  
14 with the Commission's finding in Order No. PSC-96-1320-FOF-WS concerning the  
15 sale of the River Park facilities and land at the Spring Hill system. In that order the  
16 Commission attributed 100% of the gain to customers. The calculation for the gain on  
17 sale are depicted on Schedule 3 of my exhibit. I have made one adjustment to the gain  
18 calculations previously found reasonable by the Commission. In response to OPC's  
19 POD 93 which asked the Company to produce the invoices and other documents which  
20 support the "selling cost" of \$27,832 related to the Druid Isles sale, the Company  
21 indicated that "out of the \$20,356 of legal costs, UIF was able to find support for  
22 approximately \$5,800." (Response to OPC POD 93.) UIF was unable to provide

1 support for the remaining \$14,566. Therefore, I recommend that the selling costs for  
2 the Druid Isle sale be reduced by \$14,566. It has been the practice of this Commission  
3 to disallow costs which are not supported by a utility. Similar recommendations for  
4 unsupported costs are addressed in the Staff's rate case audit, where the Staff  
5 recommends that unsupported costs should be removed from test year expenses and/or  
6 rate base. There is no reason to treat these unsupported costs any differently. As shown  
7 on Schedule 3, the amount of gain on sale that should be passed on to ratepayers is  
8 \$67,695 for the Druid Isle sale and \$269,662 for the Green Acres sale.

9 **Q. HOW DO YOU RECOMMEND THAT THE COMMISSION RETURN**  
10 **THESE MONIES TO CUSTOMERS?**

11 A. The Commission should require UIF to amortize the total gain of \$337,357 above-  
12 the-line for current ratemaking purposes. Further, I recommend that the Commission  
13 amortize the gain over five year. The five-year amortization period is consistent with  
14 the Commission's treatment of other gains on sale. Therefore, test year income  
15 should be increased by \$67,471. I recommend that the gain on sale be spread across  
16 the UIF systems as shown on Schedule 3.

17 **II. Affiliate Transactions**

18 **Q. WHAT IS THE AFFILIATE RELATIONSHIP BETWEEN UTILITIES, INC.**  
19 **OF FLORIDA AND ITS PARENT COMPANY?**

20 A. Schedule 4 of my exhibit presents an organizational chart for Utilities, Inc. of Florida  
21 and its affiliates. As depicted on this schedule, Nuon is the parent company of  
22 Utilities, Inc., which in turn owns Utilities, Inc. of Florida. As this schedule

1 illustrates, there are approximately 80 water and wastewater subsidiaries owned by  
2 Utilities, Inc. and its parent Company, Nuon. According to UIF, Utilities, Inc. does  
3 not provide any services to the Company. However, Water Service Corporation,  
4 (WSC), which is owned by Utilities, Inc., provides certain common services to UIF  
5 as well as to the other water and sewer companies owned by Utilities, Inc.  
6 Specifically, WSC provides centralized billing, accounting, data processing,  
7 engineering, management, and regulatory services for over 400 water and wastewater  
8 systems owned by Utilities, Inc. (Response to OPC Interrogatory 18.)

9 **Q. ARE THERE TRANSACTIONS BETWEEN UIF AND WSC?**

10 A. Yes. As discussed above, WSC provides certain services to UIF and WSC charges for  
11 these services. During the test year, WSC allocated \$126,714 to UIF, which in turn  
12 allocated these costs to the five counties of the UIF group.

13 **Q. WHY IS IT IMPORTANT TO CLOSELY EXAMINE AFFILIATE**  
14 **TRANSACTIONS?**

15 A. In a situation involving the provision of services between affiliated companies, the  
16 associated transactions and costs do not represent arms-length dealings. Cost  
17 allocation techniques and methods of charging affiliates should be frequently  
18 reviewed and analyzed to ensure that the company's non-regulated operations are not  
19 subsidized by the regulated operations. Because of the affiliation between UIF and  
20 WSC, the arms-length bargaining of a normal competitive environment is not present  
21 in their transactions. Although each of the affiliated companies is supposedly  
22 separate, relationships between UIF and WSC are still close. Both have common

1 owners.

2 In the absence of regulation, there is no assurance that affiliate transactions  
3 and allocations will not translate into unnecessarily high charges for UIF's customers.

4 Even when the methodologies for cost allocation and pricing have been explicitly  
5 stated, which is not the case here, close scrutiny of affiliate relationships is still  
6 warranted. Regardless of whether or not Utilities, Inc. or WSC explicitly establishes  
7 a methodology for the allocation and distribution of affiliate costs, there is an  
8 incentive to misallocate or shift costs to regulated companies so that the unregulated  
9 companies can reap the benefits.

10 **Q. CAN YOU EXPLAIN HOW COSTS ARE ALLOCATED FROM WSC TO ITS**  
11 **AFFILIATES?**

12 **A.** Yes. WSC calculates 11 different allocation factors to allocate expenses to the  
13 various water and wastewater companies. In general these factors are multiplied  
14 times the total cost to be allocated from WSC to the various water and wastewater  
15 systems. The allocation factors are based upon the year ending June 2001. The  
16 Company indicated that it updates the allocation factors annually and not monthly  
17 because of the complexity of the process.

18 Most of these allocation factors are based upon the "customer equivalent"  
19 allocation factor. This factor, according to the Company, is calculated using the  
20 following method:

21 Water Utility Customer Equivalent = No. of Customers times 1

22 Sewer Utility Customer Equivalent = No. of Customers times 1

1 Water & Sewer Utility Customer Equivalent = No. of Customers \* 1.5

2 Availability Customers = No. of Customers \* .25

3 The difference in allocation factors is based on the time it takes to process the  
4 billing and operations for each customer. Combined water and sewer customers are  
5 billed for water and sewer together. Therefore, it does not take as much time to bill a  
6 combined water and sewer customer as to bill both a water only customer and a  
7 sewer only customer. Thus, the allocation factor is 1.5 instead of 2. The availability  
8 customers are not billed monthly. Therefore, this allocation factor is reduced to .25.  
9 (Response to OPC Interrogatory 77.)

10 The Company did not explain why the ten other allocation factors were used.  
11 When asked to explain how the application of a distribution code (allocation factor)  
12 to an account is determined, the Company provided a general statement of  
13 applicability: "The distribution code determination is based on what service is  
14 provided and which customers benefit from that service." (Response to OPC  
15 Interrogatory 68.)

16 **Q. DO YOU HAVE ANY CONCERNS ABOUT THE ALLOCATIONS FROM**  
17 **WSC TO UIF?**

18 **A.** Yes, I do. There are numerous problems with the allocation methodology and the  
19 documentation of the process used to develop the allocation factors. First, there is no  
20 agreement setting forth the terms of the affiliate arrangement between WSC and UIF.  
21 Second, there is not adequate documentation explaining the allocation process. Third,

1 the Staff raised serious concerns with respect to the cost allocations in its Audit.  
2 Fourth, there are several flaws in the allocation methodology.

3 **Q. WOULD YOU ADDRESS YOUR FIRST CONCERN? IS THERE ANY**  
4 **AGREEMENT WHICH SETS FORTH THE TERMS AND CONDITIONS OF**  
5 **THE AFFILIATE RELATIONSHIP AND COST ALLOCATIONS BETWEEN**  
6 **UIF AND WSC?**

7 A. No, there is not. I find this surprising given the size of Utilities, Inc. and the number  
8 of water and wastewater systems that it operates. Utilities, Inc. is the largest privately  
9 owned water company operating in the United States. It operates in 16 states, and has  
10 more than 235,000 customers. For a utility this size I find it very problematic that no  
11 documentation exists which sets forth the terms of the services that will be provided  
12 by WSC to UIF and the 400 other water and wastewater systems.

13 **Q. WHAT ABOUT YOUR SECOND CONCERN? IS THERE A COST**  
14 **ALLOCATION MANUAL WHICH SETS FORTH THE METHODOLOGY**  
15 **FOR ALLOCATING COSTS BETWEEN WSC AND ITS AFFILIATES?**

16 A. No. In response to OPC's POD 26, the Company indicated that it had no  
17 documentation or policies/procedures manual which addressed how costs are  
18 allocated between the Company and its parent companies, affiliates, subsidiaries  
19 and/systems. (Response to OPC POD 26.) When asked how the Company  
20 "determines the costs to be allocated, the methods of allocation and the companies to  
21 be allocated on a consistent basis from one year to the next," the Company  
22 responded:

1 Costs are based on year-end audited financial statements.  
2 Where applicable, costs are allocated directly to the company  
3 that incurs the cost. All other allocations are based on  
4 customer equivalents. The same methodology is used  
5 annually to ensure consistency. (Response to OPC  
6 Interrogatory 67.)  
7

8 The Company's response is not even accurate in terms of the allocation  
9 methodology. WSC used more than just customer equivalents to allocate costs  
10 between the various companies that it provides services to.

11 **Q. IS THERE ANY DOCUMENT WHICH SHOWS HOW THE COSTS ARE**  
12 **ALLOCATED?**

13 **A.** Yes. There is a document entitled "Water Service Corporation Distribution of  
14 Expenses" which contains the amounts to be allocated from WSC, the allocation  
15 factors, and the amounts allocated to the different subsidiaries of Utilities, Inc.  
16 Nevertheless, this document does not explain how the allocation process works,  
17 why a particular allocation factor is utilized, or how the allocation factor was  
18 derived. Apparently, the logic for the allocation factors used by Utilities, Inc. is  
19 contained only in the minds of the personnel that prepared the above document.

20 It has been my experience that failure to document the process and procedures  
21 for allocating costs or for charging for services between affiliates can lead to errors  
22 and confusion and inefficiencies—especially if there is a change in the staff preparing  
23 the allocations. Regardless, good management practices for a company the size of  
24 Utilities Inc. would dictate that a cost allocation manual or detailed policies and



1 procedures would govern the allocation of costs between affiliates. No such  
2 documentation exists.

3 **Q. WHAT CONCERNS HAS THE STAFF RAISED WITH RESPECT TO THE**  
4 **COST ALLOCATIONS?**

5 A. The Staff raised several problems with the cost allocations in its Audit Control No.  
6 02-122-3-1, dated November 4, 2002. First, the Staff expressed concern because the  
7 Company is a contract operator for two water plants and three wastewater plants, but  
8 there are no costs allocated to these operations.

9 Second, the Staff found problems due to the lack of a formalized  
10 methodology for determining single family equivalents. According to the Audit  
11 Report,

12 Not having a formalized methodology for determining  
13 single family equivalents can cause inconsistency  
14 between divisions. According to a company  
15 representative, the company determines the estimated  
16 gallons at the time of purchase and inputs a number  
17 for single family equivalents based on gallons. This  
18 may not be based on the same number of gallons per  
19 single family as a different person may use the next  
20 year or year after. No mention was made of how the  
21 single family equivalent is adjusted for new  
22 customers. (Audit Report, p. 19.)

23  
24 The concerns raised here by Staff are similar to the ones raised above. There  
25 are no policies, procedures, or cost allocation manuals which codify the allocation  
26 methodology. Such documentation would help ensure consistent application of the  
27 allocation methodology from year to year and person to person.

1 Third, Staff explained that the “company could not provide a formula or  
2 methodology for determining the single family equivalent number” which is used in  
3 the development of the customer equivalent allocation factors which are used  
4 extensively in the allocation of costs from WSC to UIF and other companies. (Ibid.)

5 Fourth, Staff was unable to test the reasonableness of the allocation factors  
6 used by UIF. Staff found:

7 The audit staff attempted to determine gallons of  
8 water purchased and pumped and gallons of  
9 wastewater treated so that we could determine our  
10 own calculation of equivalent residential connections  
11 (ERCs) for each company. The audit staff planned on  
12 using these ERCs to prepare our own customer  
13 equivalent schedule and to compare it to the Florida  
14 allocations using customer equivalents. (Ibid.)

15  
16 Staff was precluded from conducting its reasonableness test because the  
17 information requested was apparently not available. “The company could not provide  
18 gallons of wastewater treated for states other than Florida.” (Ibid.) Staff noted that  
19 some small water plants did not have usage reports. Staff concluded: “[W]e were  
20 unable to determine ERCs and unable to determine if the company’s computation is  
21 reasonable.” (Ibid.)

22 The Commission should be very concerned about the Company’s inability to  
23 support the cost allocation methodology that it used to allocate costs from WSC in  
24 the instant proceeding. The Company has the burden of demonstrating that costs  
25 charged by an affiliate are reasonable.

1 Q. WOULD YOU PLEASE ADDRESS THE PROBLEMS THAT YOU HAVE  
2 IDENTIFIED WITH RESPECT TO THE COSTS ALLOCATED FROM WSC  
3 TO UIF?

4 A. In addition to the documentation problems that I have addressed, there are several  
5 problems with the application of the allocation process. First, as identified by Staff,  
6 the Company was unable to explain how it developed the single family equivalents  
7 that were apparently used as the foundation for its customer equivalent allocation  
8 factors. This is a serious deficiency as the Commission has already found problems  
9 with the use of the single family equivalents in the allocation of costs in the recent  
10 Mid-County rate case. The Commission specifically found:

11 We disagree that the utility's methodology is  
12 reasonable. The deficiency and inaccuracy of this  
13 method is that it makes no allowance for wide  
14 variations in average customer usage from one  
15 system to another. Normally, a utility parent with  
16 multiple discrete systems will adopt an allocation  
17 method which accounts for the possibility that  
18 average customer usage for one system (or  
19 subsidiary) may far exceed the average for another  
20 system.

21  
22 The utility's term customer equivalent implies that  
23 each customer equivalent is equal to one customer.  
24 However, this is not correct. The utility is going  
25 beyond the meter to count units, which are not  
26 customers. In reality, each of these multi-residential  
27 units only represents one customer to the utility,  
28 since there is only one meter. For 1996, Mid-County  
29 only averaged 1,507 customers or 2,943 ERCs,  
30 compared with 6,112 customer equivalents as  
31 calculated by the utility.... By counting each unit as a  
32 customer, UI has substantially overstated the cost  
33 that Mid-County places on the overall Utilities, Inc.

1 system. These units do not represent customers to  
2 the utility, as defined above, and the utility has not  
3 provided proof that they represent any real costs.  
4 Therefore, we find that an allocation based on  
5 customers is more reasonable than using customer  
6 equivalents. Although we believe the size of the  
7 system should also be a consideration, counting each  
8 unit behind the meter inflates the customer base.....  
9 We find that the ERC methodology provides a more  
10 adequate measure of the relative size of the utility.

11  
12 Based on the discussions above, we find that the utility's  
13 allocations from Utilities, Inc. are not a reasonable  
14 distribution of the cost of the services provided to Mid-  
15 County. These cost allocations shall be recalculated using  
16 ERCs.

17  
18 In the instant proceeding the Company could not provide the information to  
19 perform the above calculation. The allocation factors used by UIF suffer from the  
20 same deficiencies the Commission found unreasonable in the Mid-County case.

21 Schedules 5 and 6 of my exhibit give a comparison of the differences  
22 between customers, equivalent residential connections (ERCs), customer equivalents,  
23 and revenue. As shown on these schedules, while in some instances the percentages  
24 are similar, in others they are not. Furthermore, as depicted on Schedule 7, there can  
25 be a significant difference in the percentage of residential versus commercial  
26 customer revenue and ERCs. These schedules show the differences and similarities  
27 between the UIF counties and systems. Schedule 8 shows the revenue breakdown  
28 between residential and commercial customers for the entire UI family. As shown on  
29 this schedule, there can be considerable differences between companies. These data,  
30 taken from UI's Trial Balances, show that on average for UIF companies, 93% of the

1 revenues are derived from residential customers whereas 7% are obtained from  
 2 commercial customers. Many of the UI companies obtain 100% of their revenues  
 3 from residential customers. Others, like Lake Placid, Inc., Utilities, Inc. of Louisiana,  
 4 Massanutten Public Service Corporation, Elk River Utilities, Inc. as well as others,  
 5 obtain more than 10% of their revenues from commercial customers. For example,  
 6 Utilities, Inc. of Louisiana obtains 49% of its revenues from commercial customers,  
 7 Lake Placid is at 25% and Utilities, Inc. of Eagle Ridge is at 33%.

8 It was possible to do some comparison between the Company's customer  
 9 equivalent methodology and ERCs. The table below shows the single family  
 10 equivalent, customers, customer equivalent, and ERCs for four of UIF's systems.

Name	SFE	Percent	Customers	Percent	C.E.	Percent	ERCs	Percent
Lake Tarpon	552	22%	442	21%	552	22%	565	17%
Golden Hills	374	15%	316	15%	374	15%	933	29%
Summer Tree	857	34%	739	35%	857	34%	1,001	31%
Weatherfield	708	28%	603	29%	708	28%	734	23%
Total	2,491	100%	2,100	100%	2,491	100%	3,233	100%

11  
 12 As shown in the above table there is quite a bit of difference between the  
 13 customer equivalent factor and the ERC factor. If these were the only four systems to  
 14 which costs were allocated, the Company's method would significantly under  
 15 allocate costs to Golden Hills and over allocate costs to the other three systems when  
 16 compared to an ERC methodology.

17 Using customer equivalents as the primary allocation factor does not reflect  
 18 the consumption differences between residential and commercial customers and is  
 19 therefore not necessarily representative of the size of a system relative to other

1 systems. The Company's customer equivalent allocation method, which is dependent  
2 upon its unsupported single family equivalent calculations should be rejected by the  
3 Commission.

4 Second, WSC performs services for Bio Tech, Inc. which is an unregulated  
5 affiliate. Bio Tech is a wastewater residuals disposal company. It disposes of solids  
6 that remain at the end of the wastewater treatment process. The customers of Bio  
7 Tech include 26 wastewater systems in North and South Carolina and Flowers  
8 Baking Company, MPC Environmental Services, Goglanian Bakeries, Inc.,  
9 Hermitage MHP, Town of Ridgeway, and Calhoun County I-26 Rest Stop. (Response  
10 to OPC Interrogatories 18 and 89.) WSC provides all of the same services to Bio  
11 Tech that it does to the other water and wastewater systems of UI. (Response to OPC  
12 Interrogatory 89.)

13 The customer equivalent allocation methodology employed by UIF does not  
14 adequately take into consideration the differences between Bio Tech and its sister  
15 water and wastewater companies. In developing the customer equivalent allocation  
16 factor, the Company used only 32 customers for Bio Tech. However, because the  
17 services provided by Bio Tech are different than the services provided by the water  
18 and wastewater systems of Utilities, Inc., there is no guarantee that using customer  
19 equivalents for this unregulated company adequately allocates costs from WSC.  
20 Examining other relevant statistics indicates Bio Tech comprises a much larger  
21 percent of the total UI group than is reflected by the customer equivalent factor.  
22 Schedule 9 depicts the net plant in service, revenue, and customer equivalents of the

1 UI companies that are allocated expenses from WSC. As shown on page 6 of this  
2 schedule, Bio Tech's customer equivalents as a percent of the entire UI group is only  
3 .02%. However, its revenue is 1.34% and its net plant, shown on page 3 of the  
4 schedule, is .28%. These other two statistics indicate that Bio Tech represents a  
5 much larger fraction of the total UI group than the .02% characterized by the  
6 customer equivalent allocation factor. Using the Company's allocation methodology  
7 seriously understates the common costs that should be allocated to Bio Tech and  
8 overstates the costs that should be allocated to UIF.

9 Third, WSC, or one of its affiliates, performs contract operator services for  
10 four systems that UI does not own: Hilldale Manor, Peach Orchard, Salem Church  
11 Road, and Harrco. (Response to OPC Interrogatory 83.) In response to OPC's  
12 Interrogatory 83, the Company indicated that it did not allocate costs to these  
13 systems. When questioned in OPC's Interrogatory 179 why it did not allocate costs to  
14 these systems, the Company simply did not respond. As indicated above, the Staff  
15 recommended that these contract operated systems should be allocated some costs  
16 from WSC. Schedule 9 of my exhibit shows that these contract systems have 359  
17 customers. Using the Company's customer equivalent indicates that these systems  
18 would account for .18% of the UI group. By failing to allocate costs to these contact  
19 systems, the Company has over allocated costs to UIF.

20 Fourth, the Company's allocation factors fail to take into consideration the  
21 addition of new systems to the UI family. The Company's determination of customer  
22 equivalents for test year allocations is based upon the year-ending June 2001. The

1 current test year is the year-ending December 2001. Therefore, any systems  
2 purchased by UI during the second half of 2001 would not be captured in the  
3 allocation process. UI has a strategy of purchasing small water and wastewater  
4 systems. Its customer base is continually growing. A failure to account for this  
5 growth over allocates costs to the existing systems and under allocates costs to the  
6 new systems. The new systems added between June 2001 and June 2002 were not  
7 insignificant. The Company's 2002 Distribution of Expenses document indicates that  
8 eight new systems were added totaling 9,634 customer equivalents. The combined  
9 total of these new systems is larger than UIF which had 7,781 customer equivalents  
10 for the year-ending June 2001 and 7,931 for the year-ending June 2002.

11 Fifth, the Company's allocation factors contain two mathematical errors. The  
12 first concerns Pasco County where the Company failed to include 610 customers for  
13 the Orangewood system. This error was not part of the allocations between the UI  
14 companies. Instead it affected the allocation between the UIF systems. The second  
15 error also concerns the Company's exclusion of 11 customers in the Summertree  
16 PPW system, also in Pasco county.

17 Sixth, the Company did not comply with the Commission's affiliate  
18 transaction rules when it filed its rate case. As part of its rate application filing any  
19 utility that incurs costs from an affiliate must provide additional information. This  
20 requirement was developed to help alleviate the problems often encountered when  
21 examining affiliate transactions.

22 **Q. WHAT ARE THE COMMISSION'S AFFILIATE TRANSACTION RULES?**



1 A. The Commission's Rule, 25-30.436 (h), F.A.C., specifically states that the following  
2 should be provided as part of a utility's application when it files for a rate increase:

3 (h) Any system that has costs allocated or charged to it from a  
4 parent, affiliate or related party, in addition to those costs reported  
5 on Schedule B-12 of Commission Form PSC/WAW 19 for a Class A  
6 utility or PSC/WAW 20 for a Class B utility, (incorporated by  
7 reference in Rule 25-30.437) shall file three copies of additional  
8 schedules that show the following information:  
9

- 10 1. The total costs being allocated or charged prior to any  
11 allocation or charging as well as the name of the entity from  
12 which the costs are being allocated or charged and its  
13 relationship to the utility.  
14
- 15 2. For costs allocated or charged to the utility in excess of  
16 one percent of test year revenues:
  - 17 a. A detailed description and itemization;
  - 18 b. the amount of each itemized cost.  
19
- 20 3. The allocation or direct charging method used and the  
21 bases for using that method.  
22
- 23 4. The workpapers used to develop the allocation method,  
24 including but not limited to the numerator and denominator of  
25 each allocation factor.  
26
- 27 5. The workpapers used to develop, where applicable, the  
28 basis for the direct charging method.  
29
- 30 6. An organizational chart of the relationship between the  
31 utility and its parent and affiliated companies and the  
32 relationship of any related parties.  
33
- 34 7. A copy of any contracts or agreements between the utility  
35 and its parent or affiliated companies for services rendered  
36 between or among them.  
37

38 **Q. DID THE COMPANY PROVIDE ANY OF THE ABOVE INFORMATION AS**  
39 **PART OF ITS RATE APPLICATION?**

1 A. To the best of my knowledge, it did not. The Company failed to comply with the  
2 Commission's rules on affiliate transaction.

3 **Q. YOU HAVE IDENTIFIED SEVERAL PROBLEMS WITH THE COMPANY'S**  
4 **ALLOCATION METHOD AND THE COMPANY DID NOT PROVIDE**  
5 **INFORMATION REQUIRED BY COMMISSION RULES. DO YOU HAVE A**  
6 **RECOMMENDATION FOR PURPOSES OF THIS RATE PROCEEDING?**

7 A. Yes. I recommend that all costs charged to the Company from WSC be disallowed  
8 because of the Company's failure to follow the Commission's rules and the significant  
9 deficiencies identified in the allocation process that I and the audit Staff have  
10 identified. The Company has the burden of proof to demonstrate the reasonableness  
11 of charges from its affiliates. Since the Company, in my opinion, has failed to justify  
12 the reasonableness of these charges, I believe that the Commission should disallow  
13 100% of these expenses. The adjustments that I recommend relating to affiliates are  
14 depicted on Schedule 11. As shown, I recommend that expenses be reduced by  
15 \$149,000 for the five counties included in the instant rate proceeding.

16 **Q. IS THERE PRECEDENT FOR DISALLOWING COSTS WHEN A UTILITY**  
17 **FAILS TO PROVIDE THE NECESSARY DOCUMENTATION TO SUPPORT**  
18 **THE REQUESTED COST?**

19 A. Yes. In Palm Coast's most recent rate case, the Commission disallowed costs  
20 charged by an affiliate because Palm Coast failed to provide adequate documentation  
21 justifying the costs included in the test year. The Commission found:

1 OPC witness Dismukes proposed two adjustments  
2 related to affiliate transactions. The first adjustment  
3 relates to administrative services provided by  
4 PCUC's parent (ITT). Ms. Dismukes testified that the  
5 Commission should disallow expenses in the amount  
6 of \$ 21,201. She testified that the utility failed to  
7 justify this expense and refused to provide on a  
8 timely basis the information needed to evaluate the  
9 reasonableness of the charge.

10 Ms. Dismukes' second adjustment related to charges from ITT  
11 Community Development Corporation. During 1995, ITT  
12 Community Development Corporation began providing  
13 accounts payable processing services to PCUC. This function  
14 was previously provided by the utility. She argued that the  
15 utility provided no justification for the change, other than a  
16 memo saying that "per agreement between Jim Perry of  
17 PCUC and myself there will be [a] monthly fee of \$ 1000 for  
18 accounting services provided to PCUC." Further, the utility  
19 provided no information concerning how the fee was  
20 determined or that it is cost effective for ITT Community  
21 Development Corporation to provide this service. She  
22 proposed a \$10,564 reduction to expenses, due to the absence  
23 of supporting documentation.

24 Although the utility made several arguments rebutting the recommendations  
25 of OPC's witness, the Commission disagreed and found the utility did not provide  
26 sufficient support to determine if the charges were reasonable.

27 We believe that the record does not provide sufficient  
28 support to determine what administrative services  
29 are provided under the ITT Community Development  
30 Corporation agreement and whether those  
31 transactions exceeded the market rate.... Further, we  
32 do not believe that water and wastewater customers  
33 should be required to pay for charges and R&D  
34 assessments to ITT headquarters to cover the  
35 funding of international research and development  
36 and the costs of ITT corporate administrative and  
37 commercial services.

1           The Commission went on to explain that the utility has the burden of proof to  
2 prove that its costs are reasonable. The Commission also explained how this case  
3 differed from the GTE Florida case where the court established the standard for  
4 related party costs and prices.

5           It is the utility's burden to prove that its costs are reasonable.  
6           *Florida Power Corp. v. Cresse*, 413 So.2d 1187, 1191 (1982).  
7           This burden is even greater when the purchase is between  
8 related parties. In *GTE Florida Inc. v. Deason*, 642 So.2d 545  
9 (*Fla.* 1994), the Court established that when affiliate  
10 transactions occur, that does not mean that "unfair or  
11 excessive profits are being generated, without more." The  
12 standard established to evaluate affiliate transactions is  
13 whether those transactions exceed the going market rate or are  
14 otherwise inherently unfair. The evidence in the GTE Florida  
15 case indicated that its related party costs were no greater than  
16 they would have been had services and supplies been  
17 purchased elsewhere.

18           The facts in this case differ from those established in the GTE  
19 Florida case. The distinction is that in the GTE Florida case,  
20 there was evidence in the record that showed that the utility's  
21 cost was equal to or less than what an arms-length transaction  
22 would have been. Other than the testimony provided by Mr.  
23 Seidman that either of the above charges are reasonable,  
24 PCUC did not provide any documentation to support these  
25 costs. As such, we find that the utility has essentially failed to  
26 prove the prudence of these charges.

27  
28           We find that the utility failed to meet its burden to justify its  
29 costs. Accordingly, we have reduced affiliate charges by \$  
30 25,412 (\$31,765 less 20% non-used and useful) and then  
31 allocated 59.63% to water and 40.37% to wastewater. (Florida  
32 Public Service Commission, Order PSC-96-1338-FOF-WS,  
33 November 07, 1996.)  
34

35           In the instant proceeding the utility not only failed to provide the  
36 documentation required by Commission rules, but it failed to produce underlying

1 documentation supporting the primary allocation factor. Again, it is the utility's  
2 burden to prove the reasonableness of its allocations, absent meeting this burden, all  
3 costs should be excluded from ratemaking.

4 **Q. DO YOU HAVE AN ALTERNATIVE RECOMMENDATION IF THE**  
5 **COMMISSION DOES NOT ADOPT YOUR PRIMARY**  
6 **RECOMMENDATION?**

7 A. Yes. My alternative recommendation is shown on page 2 of Schedule 11. My  
8 alternative recommendation overcomes some, but not all, of the shortcomings of the  
9 methodology used by the Company. The allocation methodology that I have used  
10 overcomes the problems of using a single statistic to allocate costs between the water  
11 and wastewater systems of the UI group and the problems associated with not  
12 allocating Bio Tech enough costs. In addition, it provides a broader base of statistics  
13 to allocate costs and therefore compensates for any deficiencies of using one single  
14 statistic. Instead of using the customer equivalent allocation factor which is the  
15 foundation for the Company's allocation, I have used a factor which consists of net  
16 plant, revenues, and customer equivalents. These allocation factors are shown on  
17 Schedule 10. The analogous allocations as they apply between the counties of UIF are  
18 shown on Schedule 11.

19 The allocation method that I propose also includes the systems for which UI  
20 services as a contract operator and includes the systems that have been added since  
21 June 2001. I have also corrected for the 610 customers omitted from the Pasco  
22 County Orangewood system and the 11 customers missing from the Summertree

1 PPW wastewater system also in Pasco County.

2 My alternative proposal is shown on page 2 of Schedule 11 for expenses and  
3 on Schedule 12 for common plant included in each system's rate base. As shown on  
4 these schedules, my alternative proposal reduces test year expense by \$25,980 and  
5 rate base by \$15,526.

6 **Q. WOULD YOU PLEASE SUMMARIZE YOUR RECOMMENDATIONS ON**  
7 **AFFILIATE TRANSACTIONS?**

8 A. Yes. The Company was unable to document how it determined the single family  
9 equivalent statistic which the foundation for the customer equivalent allocation  
10 factor. It was unable to produce ERC information to allow the Staff auditors to  
11 evaluate the reasonableness of the allocation method. UIF has failed to meet its  
12 burden of proof concerning the costs allocated from WSC. UIF did not comply with  
13 the Commission's rules concerning the minimum filing requirements for affiliate  
14 transactions. Accordingly, the Commission should disallow all costs associated with  
15 charges from WSC.

16 **III. Other Adjustments**

17 **Q. DO YOU HAVE ANY OTHER ADJUSTMENTS THAT YOU WOULD LIKE**  
18 **TO RECOMMEND?**

19 A. Yes. There are two other adjustments. The first adjustment relates to a contribution  
20 received by UIF from Altamonte Springs for the right to provide wholesale  
21 wastewater service to the Weatherfield system. The contract to provide this service  
22 provided that at the time of connection, Altamonte Springs would pay UIF \$107,000.

1 It appears from reading the agreement that Altamonte Springs agreed to pay UIF for  
2 the exclusive right to treat the wastewater from these customers. When asked how  
3 these funds were reflected on the books of UIF the Company indicated that they were  
4 not booked to UIF, but to its parent company UI. (Response to OPC Interrogatory  
5 162.) The Company did not provide an explanation why these funds were not treated  
6 as a contribution on its books and records. Because this contribution appears to  
7 compensate UIF for the exclusive right to service these customers, these funds should  
8 have been used to lower the rates charged to Seminole County customers. The  
9 agreement between Altamonte Springs and UIF is for a period of 30 years.  
10 Accordingly, I have amortized the contribution over 30 years and reflected the  
11 balance in rate base as a contribution. The adjustments that I recommend are depicted  
12 on Schedule 1.

13 **Q. WHAT IS THE NEXT ADJUSTMENT THAT YOU RECOMMEND?**

14 A. I recommend that the Commission disallow a substantial amount of the rate case  
15 expense requested in this proceeding. The utility has not been able to produce reliable  
16 and accurate MFRs. On February 26, 2002, UIF requested test year approval in order  
17 to file an application for general rate relief for all of its systems. On June 28, 2002,  
18 The Company filed its Minimum Filing Requirements (MFRs) to justify its requested  
19 rate increase. By letter dated July 19, 2002, Staff notified UIF that its MFRs were  
20 deficient. In response to that deficiency letter, UIF submitted additional information  
21 on September 3, 2002. Nevertheless, the MFRs were still deficient. The Staff  
22 notified the Company of the deficiencies by letter dated September 11, 2002. UIF

1 corrected the remaining deficiencies on October 3, 2002. Staff then notified the  
2 utility that October 3, 2002, was established as the official date of filing for the  
3 utility's rate case. On October 31, 2002, UIF again materially amended its MFR rate  
4 schedules, and as such, the official date of filing was reset to that date. Even this  
5 amended set was not without error. On April 17, 2003, after the Staff deposed UIF's  
6 witness and pointed out numerous errors in the MFR E-Schedules, the utility filed  
7 revised E-Schedules. It took UIF four tries to get its MFRs accurate. In addition, its  
8 responses to OPC's discovery have been inadequate and often extremely late.

9 As the record in this proceeding indicates, the Company filed numerous  
10 revisions to its MFRs. The costs associated with the deficiencies in the Company's  
11 MFRs and discovery responses should not be borne by ratepayers. Instead, these costs  
12 should be absorbed by the stockholders of UI. As noted earlier in my testimony, UI is  
13 the largest privately held water and wastewater company operating in the United  
14 States. The extent of the errors in the MFR filings should not be tolerated by the  
15 Commission and the costs should not be borne by ratepayers. It is the intention of  
16 OPC to provide a recommendation on the subject of rate case expense once complete  
17 documentation is submitted by the Company.

18 The Commission has disallowed rate case expense in utility rate proceedings  
19 as being imprudent. For example, in Order No. PSC-98-1583-FOF-WS, issued  
20 November 25, 1998, in Docket No. 971663-WS, where Florida Cities Water  
21 Company was seeking recovery of court costs (and the rate case expense associated  
22 with the docket filing), the Commission found that the incurrence of rate case



1 expense was imprudent and denied the utility's request for recovery. Also, in Order  
2 No. PSC-96-1320-FOF-WS, issued October 30, 1996, in Docket No. 950495-WS,  
3 the Commission denied legal rate case expense of \$25,000 incurred for what it  
4 deemed an imprudent appeal of an oral decision on interim rates. In addition, in  
5 Order No. 18960, issued March 7, 1988, in Docket No. 861338-WS, the Commission  
6 determined that expenditures for misspent time were imprudent and reduced the  
7 requested rate case expense by \$32,500. Finally, in Order No. PSC-02-0593-FOF-  
8 WU, issued, April 30, 2002, the Commission found: "As discussed above, it is the  
9 utility's burden to prove that its requested costs are reasonable. We find that filing  
10 combined water and wastewater rate cases would have resulted in material cost  
11 savings, and the customers should not be made to pay because Aloha incurred  
12 imprudent rate case expense."

13 The Commission should disallow a substantial portion of UIF's requested rate  
14 case expenses. I am currently recommending that only one-fourth of the requested  
15 rate case expense be allowed. This recommendation may be modified when the  
16 utility provides its final rate case expense documentation and request. Of the total  
17 rate case expense of \$404,090, I recommend that \$303,090 be disallowed.

18 **Q. DOES THIS COMPLETE YOUR TESTIMONY PREFILED ON JUNE 2,**  
19 **2003?**

20 **A. Yes, it does.**

1 BY MR. BURGESS:

2 Q Ms. Dismukes, would you provide a summary of your  
3 testimony, please.

4 A Yes, I would. First, I'd like to state that I have  
5 been sworn for the record.

6 Q Thank you.

7 COMMISSIONER DEASON: Is that a case of the --

8 MR. BURGESS: That was going to be my next question.

9 COMMISSIONER DEASON: -- the witness looking out for  
10 the attorney?

11 A Good morning. My testimony covers four subjects.  
12 The first issue I address concerns the treatment of the gain on  
13 sale associated with three of the company's systems. These  
14 systems are Druid Isle, Oakland Shores and Green Acres.

15 I am recommending that the Commission assign the  
16 gains from these sales to the ratepayers. I make this  
17 recommendation for four reasons.

18 First, in the past the Commission has required that  
19 customers bear the risk associated with the loss on sold  
20 systems, abandoned plants and early retirements.

21 Second, in past electric proceedings the Commission  
22 has consistently treated gains on sales as belonging to  
23 customers. In addition, in these electric proceedings the  
24 Commission has stated that both gains and losses associated  
25 with sales should be absorbed with, by customers.

1 Third, in other jurisdictions gains on sales of  
2 utility assets have generally been attributed to ratepayers,  
3 but not always.

4 Fourth, in other water and wastewater proceedings  
5 before this Commission the Commission has articulated its  
6 reasons for either assigning or not assigning gains on sale to  
7 customers. I believe that many of the reasons given to  
8 attribute gains on sales are consistent with the circumstances  
9 in this proceeding. Therefore, I recommend that the Commission  
10 pass along to customers \$337,357 associated with the gains on  
11 sale of sold systems.

12 The second area that I testify on concerns the cost  
13 allocated from Water Service Corporation, which is a service  
14 affiliate, to the company. On this issue I recommend that the  
15 Commission disallow \$149,000. My recommendation is based upon  
16 seven findings.

17 First, the company does not maintain any manuals,  
18 policies or procedures which describe, explain or document how  
19 the costs are allocated from Water Service Corporation to the  
20 various UI systems.

21 Second, the company has been unable to produce  
22 documentation which would allow OPC or the staff to test the  
23 reasonableness of its customer equivalent allocation  
24 methodology.

25 Third, the utility was unable to support the single

1 family equivalent statistic that is the foundation for the  
2 customer equivalent allocation factor. This factor is used to  
3 allocate the common costs from Water Service Corporation to the  
4 company. When asked in OPC POD 105 to produce the documents to  
5 support the number of customers in the customer equivalent  
6 allocation factor, the company's response was that no such  
7 documents existed.

8 Fourth, the Commission found in Utility, Inc.'s  
9 Mid-County rate case that the method used to allocate Water  
10 Service Corporation costs should be rejected. The Commission  
11 found problems with both the customer equivalent and the single  
12 family equivalent factors. In the instant proceeding, the  
13 company did not attempt to correct for these problems.

14 Fifth, the method used by the company does not take  
15 into account the addition of over 2,000 new customers added in  
16 the year 2001 and over 25,000 customers added in the year 2002.  
17 To put this into perspective, this is roughly three and a half  
18 times the number of customers represented by the entire  
19 Utilities, Inc. of Florida company.

20 Sixth, the company's allocation methodology does not  
21 adequately allocate costs to an unregulated affiliate.

22 And finally, seventh, Water Service Corporation  
23 provides services to companies that it does not own. No costs  
24 are allocated to these companies for the services performed.  
25 Nevertheless, the revenues received from performing these

1 services are recorded below the line while the costs are  
2 charged to the regulated companies of Utilities, Inc.

3 In my opinion, the company has failed to meet its  
4 burden to show that the allocation method is reasonable,  
5 accurate, or verifiable. Therefore, I'm recommending that the  
6 costs be disallowed.

7 The third issue that I address is a contribution paid  
8 by the company to the City of Altamonte Springs. I got that  
9 backwards. The third issue that I address is a contribution  
10 paid to the company -- did I say that? Anyway, it's a  
11 contribution paid to the company by the City of Altamonte  
12 Springs. When the company entered into a contract with the  
13 City of Altamonte Springs for the right to serve the company's  
14 Weathersfield customers, the contract provided that the city  
15 would pay Utilities, Inc. of Florida \$107,000. Rather than  
16 reflecting these funds on the books of Utilities, Inc. of  
17 Florida, they were reflected on the books of the parent  
18 company. The company has been unable to explain why the funds  
19 should be recorded at the parent company level. Therefore, I'm  
20 recommending that the contribution be reflected as CIAC in the  
21 rate base of Seminole County.

22 My final recommendation concerns the company's  
23 request to recover \$686,000 in rate case expense. I recommend  
24 that the Commission disallow a substantial portion of the  
25 company's rate case expense due to the numerous and extensive

1 revisions to the MFRs and E schedules, and for the company's  
2 failure to adequately and timely respond to discovery. The  
3 company claims that OPC's discovery was extensive and that it  
4 caused significant time to respond to, thereby driving up rate  
5 case expense. However, it's important to know that much of  
6 OPC's discovery was the result of not only the deficiencies in  
7 the MFRs and the E schedules, but the inadequacies of their  
8 responses. Furthermore, OPC's discovery was also directed at  
9 ferreting out the issues in this proceeding, many of which have  
10 been stipulated to the company.

11           In my opinion, the costs and the numerous revisions  
12 to the MFRs and the E schedules should not be borne by  
13 ratepayers. Mr. Lubertozi has indicated that, I believe,  
14 roughly nine percent of his time was spent, of all of his time  
15 from 2001 to 2003 modifying the MFR schedules. It is unclear  
16 from his rebuttal testimony in this proceeding whether or not  
17 that includes the numerous revisions to the E schedules as well  
18 as responding to discovery related to all of the errors and  
19 omissions included in the MFRs and the E schedules. None of  
20 the company's witnesses in this proceeding has provided any  
21 indication of the amount of time that they put in as a result  
22 of modifying the MFRs or for that matter the difficulties that  
23 they encountered as a result of the MFR errors and omissions.  
24 And, likewise, their attorneys have not provided us any  
25 information in that regard as well.

1           My analysis indicates that a disallowance of between  
2 \$361,000 and \$546,000 would be appropriate. That concludes my  
3 summary.

4           MR. BURGESS: Thank you, Ms. Dismukes. We tender the  
5 witness.

6           COMMISSIONER DEASON: Mr. Friedman.

7           MR. FRIEDMAN: Thank you.

8                                   CROSS EXAMINATION

9 BY MR. FRIEDMAN:

10          Q    Ms. Dismukes, other than Commission Order Number  
11 17168, which you reference in your testimony involving the  
12 Southern States Skyline Hills systems, can you direct me to any  
13 other Commission decisions where either the gain or loss of a  
14 sale of a water and wastewater system was shared with  
15 customers?

16          A    A gain or a loss?

17          Q    Yes. Were shared with customers other than that  
18 Southern States Skyline case.

19          A    Are you talking about an entire system?

20          Q    I'm talking about systems.

21          A    As opposed to just assets.

22          Q    As opposed to selling a backhoe.

23          A    Or just assets?

24          Q    Or just assets.

25          A    No, I cannot.

1 Q Okay. Will you agree with me that Order Number  
2 17168 is not very edifying when it comes to explaining the  
3 basis for that conclusion?

4 A I will agree with you that the Commission's decision  
5 does not explain their rationale for attributing both a gain  
6 and/or a loss on the sale of a system in this particular order.

7 Q In fact, you quote from that order in your prefiled  
8 testimony, do you not?

9 A Yes, I do.

10 Q And isn't it true that the part you quote in your  
11 prefiled testimony is, in fact, all that prior order says about  
12 that issue?

13 A Yes.

14 Q To the best of your knowledge did the Public Counsel  
15 or anyone else protest that order?

16 A That order was not protested.

17 Q Hasn't the Commission in prior, in a prior order  
18 rejected the precedential value of that order?

19 A In a prior order?

20 Q In a subsequent order.

21 A The Commission has addressed in a subsequent order  
22 the Order Number 17168, which is the Skyline Hills water system  
23 that was sold. I don't believe -- I don't recall precisely  
24 which docket number it was. I believe it was probably one of  
25 the Southern States cases.



1 Q Do you have --

2 A The Commission indicated, from recollection, that --  
3 they indicated that it was a PAA, that it had not gone to  
4 hearing and, therefore, evidence, I believe they used the word  
5 "evidence," was not taken with respect to that particular loss.

6 Q So do you agree that that order, based on the  
7 subsequent order, that prior Order 17168 has no precedential  
8 value?

9 A I don't believe the Commission said it had no  
10 precedential value.

11 Q Do you have Order 93-1598 there in your book?

12 A Yes. But I don't have them organized by order  
13 number.

14 Q How are they organized?

15 A By the page that they're on in my testimony.

16 Q Well, maybe it's easier if I just give you -- see if  
17 you -- if I might, does that look like the order you're talking  
18 about?

19 A Yes. It was from Southern States.

20 Q All right. Would you read for me the language at the  
21 bottom there that I've kind of put a little flag for you and  
22 highlighted in yellow. Could you read that little section for  
23 me?

24 A Sure. I think it basically says exactly what I  
25 described. "Because the facts of Order 17168 were not fully

1 explored at the hearing in Docket 920199, we find that it is  
2 impossible to determine whether the facts in that case were the  
3 same as presented in this docket. Even if the circumstances  
4 were the same, we find that the order in that case was a  
5 proposed agency action which was not based on evidence adduced  
6 through the hearing process."

7 Q And do you not understand that in the realm of what  
8 you do that that would mean that you shouldn't rely on that  
9 prior order for what it did?

10 A No.

11 Q That does not mean that to you? You think in light  
12 of that language that people should, can cite Order Number  
13 17168 for the proposition that gain on sales are, losses on  
14 sales can be charged to the customers?

15 A Well, they were charged to the customer. I mean,  
16 that's a fact.

17 Q It is a fact. What I'm saying is based upon that  
18 order and that language you just read, isn't it true that that  
19 means that that prior order should not be relied upon?

20 A It says that they find it impossible to determine  
21 whether the facts in that case were the same as the facts  
22 presented in Docket 920199. In terms of whether or not you're  
23 looking at it from the perspective of whether or not this  
24 Commission has required customers to bear the loss on the sale  
25 of a system, I think it can easily and should be relied upon.

1 Q Okay. In spite of that language?

2 A Yes.

3 Q Okay.

4 A And unlike Mr. Gower, I rely on a lot of the  
5 Commission's PAA orders.

6 Q And you do that in spite of the language in this case  
7 that says, "We find that order in that case was proposed agency  
8 action which was not based upon evidence adduced at the  
9 hearing," and then they went on and ignored the order, did they  
10 not?

11 A Well, they didn't ignore the order because they, they  
12 cited it. They did not use it as a foundation or a basis for  
13 in that particular case, although there were some gains on  
14 sale, I believe, in that case that were passed along to  
15 customers. But in arguing for that particular system and for  
16 the gain in that set of circumstances, they did not rely on  
17 that particular order.

18 Q So you're saying in this order you think that the  
19 Commission did pass along gain on sale to the customer?

20 A It was either that order or the next Southern States  
21 order there were some gains on sale passed along to customers.  
22 Yes, there were.

23 Q Would it actually have been a prior order -- well, I  
24 guess it would be a subsequent order, 961320.

25 A Is that 95095 docket number?

1 Q 495.

2 A 495. Yes, it may have been that one.

3 Q All right. And so that's, that's an order where the  
4 Commission -- you say the Commission passed a gain on sale,  
5 credited the customers with a gain on sale?

6 A It was either -- it was one of those two dockets,  
7 yes. It was one of the Southern States cases.

8 Q Do you know whether that order was ever appealed?

9 A Yes, I believe that order was appealed.

10 Q I mean, was that issue appealed as a part of that  
11 order?

12 A Not the fact that the Commission passed along the  
13 gain on sale to customers, no.

14 Q And do you recall -- were you involved in that case?

15 A Yes, I was.

16 Q Okay. Do you recall the amount of revenue that was  
17 involved in that particular issue?

18 A They were small amounts.

19 Q Okay. Do you know what percentage of the entire  
20 revenue requirement that accounted for?

21 A Not off the top of my head, but it would have been  
22 very small.

23 Q One-tenth of one percent sound about right?

24 A I don't know what the revenue requirement was. I  
25 believe the gain on sale was roughly like \$26,000. There were

1 two of them.

2 Q Together there were 33,000 in round numbers.

3 A I'll accept that, subject to check.

4 Q All right. Okay. And then the total gross revenue  
5 there on the water system was about \$31 million; does that  
6 sound about right?

7 A For the entire Southern States system?

8 Q The water, just the water side.

9 A Just the water side, \$31 million?

10 Q Yeah. Does that sound -- the point is that was an  
11 insignificant amount of money in relation to that whole rate  
12 case, was it not?

13 A That was an insignificant amount of money with  
14 respect to that particular rate case, but it was still a  
15 situation where the Commission evaluated the evidence,  
16 evaluated the information and passed along the gains on those  
17 sales to customers. They didn't say that the reason that they  
18 were doing it was because it was insignificant.

19 Q That might be the reason why somebody didn't appeal  
20 the issue though.

21 A I have no idea why Southern States did not appeal the  
22 issue.

23 Q Okay. Conspicuously absent from your testimony is  
24 any reference to the fact that these sales were made under  
25 threat of condemnation.

1           Do you place any significance to the fact that these  
2 sales were done under threat of condemnation?

3           A     These sales? You're talking about the sales --

4           Q     The sales of the three UIF systems, do you place any  
5 significance on the fact that those sales were all done under  
6 threat of condemnation by the governments who ended up  
7 acquiring them?

8           A     No.

9           Q     Did you know that that was true?

10          A     I know that the -- I believe the purchase agreement  
11 makes reference to, makes reference to the potential  
12 condemnation. I believe that to be true, yes.

13          Q     And as far as your theory of gain on sale, that  
14 doesn't matter one way or the other?

15          A     No.

16          Q     Do you believe that the customers obtained some  
17 proprietary interest in the utility's assets by virtue of  
18 paying for utility services?

19          A     No.

20          Q     So you agree that they do not?

21          A     That's correct.

22          Q     Okay. Am I correct also that you correlate between  
23 plant abandonments and gain on sales, you think there's a  
24 correlation between those two?

25          A     The loss and the gain, yes, I do.

1 Q Okay. Now the Commission has a rule, does it not, on  
2 addressing prudent plant abandonments?

3 A Yes, it does.

4 Q All right. It doesn't have a rule on dealing with  
5 gains on sale, does it?

6 A No, it does not.

7 Q Now -- and so if I follow your theory on this plant  
8 abandonment right, it's that you believe that since the  
9 customers bear the cost of prudent plant abandonment, that they  
10 should reap the benefits of a gain on sale. Is that -- am I  
11 following you?

12 A Well, I believe that because customers bear the risk  
13 of the loss associated with the plant abandonment, that they  
14 should also, I guess as you would put it, reap the benefit of  
15 the gain on a sale, yes.

16 Q Okay. And isn't it true that the customers don't  
17 bear the loss of all plant abandonments, but only those that  
18 the Commission has determined were prudent?

19 A As a general ratemaking principle, yes, imprudent  
20 abandonments, that risk is borne by the stockholders.

21 Q Now this isn't the first case, is it, in which you  
22 have espoused the opinion that since customers bear the cost of  
23 prudently abandoned plant, that they should reap the benefits  
24 of a gain on sale, is it?

25 A That's correct.

1 Q And isn't it true that your theory was rejected by  
2 the Commission?

3 A You know, that's a good question. The Commission has  
4 routinely, with the exception of the two small systems that we  
5 talked about in Southern States, rejected my arguments in  
6 attributing the gains on sale to customers. And I honestly  
7 don't recall that they have ever addressed the particular issue  
8 head-on why it's appropriate to require customers to absorb a  
9 loss on plant abandonments or early retirements, but then in  
10 turn not allow them to share in the gain on a sale.

11 Q But you made that argument and it was not accepted,  
12 at least so far.

13 A It certainly was not accepted as the sole reason for  
14 attributing gains to customers. But they have never rejected  
15 it in that they've -- at least I don't recall an order saying  
16 we disagree with Ms. Dismukes on this particular argument  
17 because. There was no because there was no discussion of that  
18 particular --

19 Q They just didn't follow it. They just didn't follow  
20 it. They didn't explain why --

21 A Well, I don't know if they didn't follow it. They  
22 didn't, they didn't speak to it.

23 Q And you rely on, I think you cite four cases in your  
24 prefiled testimony. Isn't it true that in each of those cases  
25 that the Commission found that the plant abandonment was



1 prudent?

2 A Yes.

3 Q On Pages 8 through 11 of your prefiled testimony you  
4 discuss several electric cases that you believe support your  
5 position that the gain on sale on a water and wastewater  
6 utility should go to the customers. Do you recall that  
7 testimony?

8 A Yes, I do.

9 Q This isn't the first time you've made that argument,  
10 is it?

11 A No, it's not.

12 Q And, in fact, you made the argument in the ninety, in  
13 a '91 docket for Lehigh, did you not? In the reconsideration  
14 order didn't you rely on those electric cases for the gain on  
15 sale being given to the customers?

16 A Mr. Friedman, I do not have a copy of my testimony in  
17 the Lehigh case. I honestly don't remember. I know in the  
18 more recent cases I certainly have.

19 Q Okay. And so far the Commission hasn't jumped on  
20 that bandwagon yet?

21 A I think what the Commission has done with respect to  
22 the electric industry relative to the wastewater industry is  
23 they have explained what they feel are the distinguishing  
24 circumstances or the differences between the electric and the,  
25 and the particular sales that happen in the wastewater industry

1 that would allow them to treat those gains differently. They  
2 certainly didn't -- I don't believe that they've rejected or  
3 retracted their, their reasoning in the electric industry, and  
4 I don't believe that they've said that it's not applicable to  
5 the wastewater industry, just that the circumstances are  
6 different.

7 Q The circumstances are different, so they haven't  
8 applied it at least thus far in any water and wastewater cases?

9 A Well, I think they have applied it because in the  
10 case of the two systems we spoke to with respect to Southern  
11 States, the Commission did attribute the gains on sales to  
12 customers just like they've done in the electric utility  
13 industry.

14 Q But they don't cite the electric utility industry  
15 cases as, as authority or precedence for taking that action, do  
16 they?

17 A I honestly don't know. They've used the same  
18 philosophy.

19 Q Would you define for me what the word "trend" means  
20 as you used it in your prefiled testimony? On Page 12 you  
21 state, "There is a clear trend." And I'd just like for you to  
22 define for me what you mean by "trend."

23 A Do you have a line number?

24 Q Four.

25 A What this is referring to is my Schedule 1.

1 Q I understand that. I want you to define for me,  
2 define for me what term, what the term "trend" means.

3 A Trend usually implies an event that's taken place  
4 over time.

5 Q The decisions are going in a certain direction?

6 A That, that -- yes.

7 Q Okay. Now can you point to me the facts upon which  
8 you base your conclusion that there's a clear trend going in  
9 the direction that you espouse?

10 A That's probably not perhaps the best word to use. I  
11 think what I was attempting to convey was that if you take the  
12 totality of the information provided on Schedule 1, that the  
13 majority of the commissions allocate the gain to customers or a  
14 portion of the gain to customers. There are a couple of  
15 jurisdictions that do not.

16 Q Okay. Let's look at that exhibit, if you've got it  
17 handy.

18 Isn't it true that there are only two jurisdictions  
19 that responded to this survey that have issued orders in water  
20 and wastewater cases that address gain on sale?

21 A Well, the survey wasn't directed just at water and  
22 wastewater.

23 Q I understand that.

24 A I think I count four.

25 Q All right. And am I correct that -- is one in

1 Illinois and three in North Carolina? You counted the same as  
2 I did?

3 A That's correct.

4 Q All right. And am I correct that when Illinois  
5 issued an order that gave the gain on sale to the customers,  
6 that it was reversed on appeal? Is that what this reflects?

7 A The Illinois case, you're right, the Commission gave  
8 the gain on sale to the customers. It was appealed and  
9 remanded back to the Illinois Commerce Commission. Gain on  
10 sale was one of the reasons that it was remanded back to the  
11 Commission. And I believe the court --

12 Q Doesn't this schedule reflect that the Commission on  
13 remand removed that gain?

14 A The Commission on remand did change the rates. If  
15 you, if you review the order, at least the portion of the order  
16 that I looked at, they did adjust the rates. What wasn't clear  
17 to me was whether or not the Illinois, whether or not the court  
18 remanded it because the Commission treated it as like a  
19 one-time event and reduced revenues so that it would have been,  
20 the gain would have been in the reduction to revenue  
21 requirement until the company came in for the next rate  
22 increase as opposed to amortizing it over five years, or if it  
23 was remanded because the Commission erred in giving the gain to  
24 customers.

25 Q Well, doesn't this reflect that the Illinois

1 Commission included test year revenues, a normalized portion of  
2 the gain? Doesn't that reflect that they didn't stick the  
3 whole part of the gain in one year?

4 A That's what this schedule reflects, yes. But I just  
5 recently read the order and I read the order on remand and that  
6 wasn't clear to me.

7 Q Okay. But it is clear that the -- giving the gain to  
8 the customers was overturned and Illinois doesn't follow it; we  
9 don't have any orders in Illinois that does that anymore.

10 A That I don't know. But it was overturned.

11 Q And then the only other state based on this schedule  
12 is North Carolina; is that correct?

13 A That's correct.

14 Q All right. And it looks like to me, and correct me  
15 if I'm wrong, that in the first case the gain on sale was split  
16 50/50.

17 A That's correct.

18 Q All right. And in the latter two cases the gain was  
19 allocated entirely to shareholder; is that correct?

20 A That's correct.

21 Q All right. And those four decisions are all that are  
22 reflected on this schedule as what other states have done with  
23 water and wastewater gain on sale; correct?

24 A That is all that's reflected with water and  
25 wastewater. There are other decisions here dealing with the

1 electric utility industry. The water and wastewater industry  
2 in many other states is not like it is here in Florida where  
3 there's a lot of small companies that are regulated by the  
4 commissions.

5 Q So wouldn't you agree that really, if you just look  
6 at the water and wastewater cases, there really isn't a trend  
7 towards giving the gain to the customers?

8 A I wouldn't interpret it that way because I don't  
9 think that you should limit your scope to just how other  
10 commissions have treated water and wastewater gains on sales.  
11 There's a much broader and bigger number of, of electric  
12 utilities and gas utilities and telephone utilities that are  
13 regulated analogous to how the water and wastewater industry is  
14 regulated here in Florida in other states.

15 Q But don't those other industry cases involve issues  
16 like deregulation that we do not have in the water and  
17 wastewater industry so far in Florida?

18 A The -- I don't believe the majority of the decisions  
19 that I've cited deal with stranded costs, issues that are a  
20 result of deregulation. They're older orders generally dealing  
21 with when a utility sells part of its assets to another  
22 company.

23 Q You've acknowledged in your testimony, have you not,  
24 that for each of the three systems, UIF systems we're talking  
25 about, that the customers in those systems were paying rates

1 that were contributing to the earnings of the company and the  
2 shareholders?

3 A Well, they were definitely paying rates. And I'm not  
4 sure what you mean by contributing to the earnings of the  
5 company and the shareholders. To the extent that the  
6 particular system that they were included in produced a  
7 positive return to the company, then, yes.

8 Q And isn't it true that the future earnings from those  
9 customers are now lost forever?

10 A I have never really understood that argument of the  
11 commissions in terms of a reason for not attributing the gain  
12 on sale to customers.

13 The Commission has continuously, especially in the  
14 recent past, indicated that if the systems sold or the  
15 customers are sold with a system, that the future profits are  
16 lost and, therefore, that it's appropriate to attribute the  
17 gain to stockholders.

18 The assets have been sold. There is no return.  
19 There's no risk for the stockholders that they should be  
20 rewarded for as a result of that sale. And in many instances,  
21 not only in this case, but in other cases that I've been  
22 involved with, the utilities that sell systems, and this  
23 particular utility tends to sell and buy a lot of systems, they  
24 tend to use those funds to go out and purchase other systems.

25 Q You said that this company tends to sell and buy a

1 lot of systems. Do you know how many systems this company has  
2 sold? Let's deal with just Florida. That'll be easier. You  
3 won't have to get your book out.

4 A I want to get my book out.

5 Q We sent those answers to interrogatories and you want  
6 to use them.

7 A That's why I wanted the discovery.

8 In Florida there have not been near as many sales as  
9 there have been in other jurisdictions. I would definitely  
10 grant you that. But they have sold several systems in North  
11 Carolina, South Carolina and Virginia. They have recently  
12 acquired maybe a dozen systems as well.

13 Q Is it your opinion that when a particular issue must  
14 be addressed on a case-by-case basis that there can be no  
15 policy?

16 A There may be -- there's not a stated policy. There  
17 may be certain criteria that the Commission perhaps articulates  
18 over and over again that one would take away from that that  
19 that should be applied if those circumstances exist in the  
20 future. But there is not necessarily a stated policy that is  
21 going to apply in every single imaginable circumstance or that  
22 is written in any kind of a rule.

23 Q At the bottom of Page 59 on your prefiled testimony  
24 you suggest that \$107,000 that was paid by the City of  
25 Altamonte Springs to UIF should be booked as CIAC; is that



1 correct?

2 A Yes.

3 Q And would you define for me your understanding of the  
4 definition of CIAC?

5 A CIAC is a contribution in aid of construction. It's  
6 monies received by the utility associated with the construction  
7 of some facilities. It's usually either given by the customers  
8 and/or sometimes developers contribute property.

9 Q And the purpose of that money is to do what, offset  
10 what?

11 A That offsets rate base.

12 Q That's the accounting treatment of it. But what is  
13 it -- what is the money actually intended to do? Is it true  
14 it's to offset the acquisition, improvement or construction  
15 costs of the utility's property, facilities and equipment used  
16 in providing the service?

17 A I could agree with that, yes.

18 Q Does the Public Service Commission have a rule that  
19 sets forth a particular methodology that must be used in  
20 allocating a related party cost?

21 A No, I don't believe it does.

22 Q You cite the Mid-County case in your prefiled  
23 testimony as a case where the methodology used by UIF  
24 ostensibly in this case was rejected; is that correct?

25 A Yes.

1 Q Wasn't it rejected -- were you involved in that case?

2 A No, I wasn't.

3 Q Well, maybe you won't know the answer to this. But  
4 isn't it true that it was rejected in that case because a large  
5 proportion of the customers were multifamily dwellings that  
6 were master metered?

7 A As I recall the decision, yes. The Commission was  
8 concerned about the, the use of the single family equivalent  
9 and the customer equivalent allocation factor and the fact that  
10 the allocation methodology, at least as the way that the  
11 utility had defined it in that particular proceeding, in order  
12 to calculate the customer equivalent or the single family  
13 equivalent, they actually went behind the customer and they  
14 counted meters. Okay. And they did not take -- but the  
15 Commission's argument was in that particular case that they  
16 failed to take into consideration the actual usage or the  
17 consumption associated with the different sizes of customers.

18 And as you indicated, Mr. Friedman, I do believe that  
19 the Commission was concerned about the fact that under the  
20 company's methodology a much larger fraction of the costs were  
21 being allocated to Mid-County than under an ERC methodology a  
22 much smaller fraction would have been allocated to that  
23 particular system.

24 Q But the Commission in that order didn't outright  
25 reject UIF's allocation method for all types of systems it

1 owns, did it?

2 A You're probably right about that. I don't know that  
3 the Commission addressed it. They did address the issue in  
4 great detail. But did they, did they address it to the extent  
5 that, you know, it wasn't appropriate for other systems? I  
6 don't believe they said that specifically.

7 Q Did UIF get an official date of filing in this case?

8 A I'm sorry. Did I what?

9 Q Did UIF get an official date of filing established by  
10 the Commission in this case?

11 A Yes, they did.

12 Q All right. What does a utility have to do to get  
13 their official date of filing established?

14 A They have to meet the requirements of the  
15 Commission's minimum filing requirements.

16 Q I'm almost through.

17 A I got water without spilling it.

18 Q I'll try to talk longer then.

19 A Don't.

20 Q Does, does Water Services Corporation provide the  
21 same level of service and regulatory oversight or capital  
22 investments to the systems that it does not own but operates?

23 A No, it does not.

24 Q So you wouldn't assume that in this allocation that  
25 those customers would be treated exactly the same as a UIF

1 customer.

2 A That's correct. And, in fact, in the alternative  
3 recommendation that I made with respect to allocating some cost  
4 to those systems that they provide services to but do not  
5 allocate costs to, I only gave them a one-third weight.

6 MR. FRIEDMAN: Okay. That's all the questions that  
7 we have. Thank you.

8 COMMISSIONER DEASON: Staff, do you have questions  
9 for this witness?

10 MS. GERVASI: We have no questions.

11 COMMISSIONER DEASON: Okay. I have a brief question.  
12 Ms. Dismukes, if you could turn to Page 14 of your  
13 prefiled testimony.

14 THE WITNESS: Okay.

15 COMMISSIONER DEASON: Here you cite a case in the  
16 State of Washington Commission involving Puget Sound Energy.  
17 And just reading the, the quotation there from the, from the  
18 order, I get the impression that the philosophy being expressed  
19 there is that if an asset is sold above book value, then that's  
20 an indication that ratepayers have overpaid depreciation. Is  
21 that a concept you agree with?

22 THE WITNESS: Yes, it is.

23 COMMISSIONER DEASON: Okay. If that concept were  
24 applied to the facts of this case, would it affect the -- and I  
25 guess limiting it just to the amount of gain associated with

1 the difference between original cost and, and depreciated  
2 value. If we limited the recognition of the gain to that  
3 amount, would it have any affect upon the amount of adjustment  
4 you're recommending in this case? Maybe I need to repeat the  
5 question.

6 THE WITNESS: That would be helpful.

7 COMMISSIONER DEASON: Okay. Maybe an example. If  
8 there's an asset original cost of \$100 and it's been  
9 depreciated to a net book value of \$50 and the asset is sold  
10 for \$100, there's a gain of \$50 and that represents the  
11 difference between -- and in this example it's also the amount  
12 of the depreciation the ratepayer had paid for the period of  
13 time that asset was devoted to public service.

14 Following this philosophy, 100 percent of that gain  
15 would be recognized for the benefit of customers; would you  
16 agree with that?

17 THE WITNESS: Yes.

18 COMMISSIONER DEASON: Okay. Let's change the  
19 hypothetical. Let's assume that that asset was sold for \$150.

20 THE WITNESS: Okay.

21 COMMISSIONER DEASON: So you have a gain of \$100.  
22 \$50 of it represents the difference between depreciated value  
23 and original cost and \$50 of that \$100 gain is represented by  
24 appreciation of the original \$100 investment.

25 Under that -- and following this philosophy, \$50 of

1 the \$100 gain would be passed through to customers under the  
2 philosophy that it's basically a recovery of depreciation  
3 expense which really wasn't needed because the asset did not  
4 depreciate, it actually appreciated.

5 If we were to follow that philosophy to the facts of  
6 this case, would it change the amount of the dollar adjustment  
7 you're recommending or would that take, need further analysis?

8 THE WITNESS: Let me look real quick and see what I  
9 have in my testimony.

10 I do not have, although I probably have it somewhere  
11 in discovery, the original cost.

12 COMMISSIONER DEASON: Do you think it may be possible  
13 for you to file a late-filed exhibit?

14 THE WITNESS: Sure. I'd be happy to.

15 COMMISSIONER DEASON: Okay. We will identify that as  
16 Late-Filed Exhibit 15, and I'll just entitle it original cost  
17 analysis of sales. How much time do you think you will need to  
18 compile that exhibit?

19 THE WITNESS: I could have it by early next week.

20 COMMISSIONER DEASON: Very well.

21 (Late-Filed Exhibit 15 identified.)

22 COMMISSIONER DEASON: Redirect?

23 REDIRECT EXAMINATION

24 BY MR. BURGESS:

25 Q Yes. I just have one area I wanted to ask about, Ms.

1 Dismukes. I was intrigued by a question from Mr. Friedman.

2 Do you recall being asked to speculate as to the  
3 reasons that Southern States chose not to appeal a particular  
4 Commission order?

5 A Yes, I do.

6 Q Do you think that an explicit finding by the  
7 Commission should be ignored simply because somebody does not  
8 appeal it and we don't know the reasons they did not appeal it?

9 A No, I do not.

10 Q I mean, if every time somebody didn't appeal a  
11 Commission finding the Commission determined they better ignore  
12 that finding because it was not appealed, we wouldn't have too  
13 much to go on, would we?

14 A No, we wouldn't.

15 MR. BURGESS: Thank you. That's all I have.

16 COMMISSIONER DEASON: Okay. Exhibits? We have  
17 Exhibit 14.

18 MR. BURGESS: Yes. I would ask the entry of Exhibit  
19 14. And then 15 will be submitted next week.

20 COMMISSIONER DEASON: Very well. Without objection,  
21 show that composite Exhibit 14 is admitted.

22 (Exhibit 14 admitted into the record.)

23 COMMISSIONER DEASON: Thank you, Ms. Dismukes.

24 THE WITNESS: Thank you.

25 (Witness excused.)

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COMMISSIONER DEASON: We will take a recess until  
11:15.

(Recess taken.)

(Transcript continues in sequence with Volume 5.)

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1 STATE OF FLORIDA     )  
                                  :  
2 COUNTY OF LEON     )                    CERTIFICATE OF REPORTER

3                    I, LINDA BOLES, RPR, Official Commission  
4 Reporter, do hereby certify that the foregoing proceeding was  
heard at the time and place herein stated.

5                    IT IS FURTHER CERTIFIED that I stenographically  
6 reported the said proceedings; that the same has been  
7 transcribed under my direct supervision; and that this  
transcript constitutes a true transcription of my notes of said  
proceedings.

8                    I FURTHER CERTIFY that I am not a relative, employee,  
9 attorney or counsel of any of the parties, nor am I a relative  
or employee of any of the parties' attorneys or counsel  
10 connected with the action, nor am I financially interested in  
the action.

11                    DATED THIS 2ND DAY OF SEPTEMBER, 2003.

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LINDA BOLES, RPR  
FPSC Official Commissioner Reporter  
(850) 413-6734