

BEFORE THE
FLORIDA PUBLIC SERVICE COMMISSION

DOCKET NO. 030102-WS

In the Matter of

APPLICATION FOR AUTHORITY TO TRANSFER
CERTIFICATE NOS. 620-W AND 533-S
IN HIGHLANDS COUNTY FROM THE
WOODLANDS OF LAKE PLACID, L.P. TO
L.P. UTILITIES CORPORATION.



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VOLUME 1

Pages 1 through 133

PROCEEDINGS: SERVICE HEARING

BEFORE: COMMISSIONER J. TERRY DEASON
COMMISSIONER RUDOLPH "RUDY" BRADLEY
COMMISSIONER CHARLES M. DAVIDSON

DATE: Wednesday, August 11, 2004

TIME: Commenced at 10:00 a.m.

PLACE: Sebring Civic Center
355 W. Center Avenue
Sebring, Florida

REPORTED BY: JANE FAUROT, RPR
Chief, Office of Hearing Reporter Services
FPSC Division of Commission Clerk and
Administrative Services
(850) 413-6732

DOCUMENT NUMBER DATE

1 APPEARANCES:

2 MARTIN S. FRIEDMAN, ESQUIRE, Rose, Sundstrom &
3 Bentley, LLP, 600 S. North Lake Blvd., Suite 160, Altamonte
4 Springs, Florida 32701, appearing on behalf of L.P. Utilities,
5 Corporation.

6 STEVE BURGESS, ESQUIRE, Office of the Public Counsel,
7 c/o The Florida Legislature, 111 West Madison Street, Room 812,
8 Tallahassee, Florida 32399-1400, appearing on behalf of the
9 Citizens of the State of Florida.

10 KATHERINE E. FLEMING, ESQUIRE, and JENNIFER BRUBAKER,
11 ESQUIRE, Florida Public Service Commission, 2540 Shumard Oak
12 Blvd., Tallahassee, Florida 32399-0850, appearing on behalf of
13 the Florida Public Service Commission.

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P R O C E E D I N G S

1
2 COMMISSIONER DEASON: Call the hearing to order.

3 Could I have the notice read, please.

4 MS. FLEMING: Pursuant to notice, issued by the Clerk
5 of the Commission on July 13th, 2004, this time and place has
6 been set for the purpose of conducting a hearing in Docket
7 Number 030102-WS. The purpose of the hearing is set forth more
8 fully in the notice.

9 In addition, 10:00 a.m. and 6:00 p.m. today have been
10 set aside for customers to present testimony. Today has been
11 set aside for the technical portion of the hearing as well.

12 COMMISSIONER DEASON: Thank you. Appearances.

13 MR. FRIEDMAN: I'm Martin Friedman of the law firm of
14 Rose, Sundstrom and Bentley. We represent L.P. Utilities. And
15 sitting with me is Mr. John Lovelette of L.P. Utilities.

16 MR. BURGESS: Commissioner, my name is Steve Burgess.
17 I'm with the Office of the Public Counsel, and I represent the
18 Citizens of the State of Florida. Also with me is Donna
19 DeRonne. And I was going to ask the Commission's permission to
20 have one of the customers seated at the counsel table to help
21 me in some of the factual determinations that we have.

22 COMMISSIONER DEASON: Any objection?

23 Mr. Burgess, that will be fine.

24 MR. BURGESS: Thank you.

25 MS. FLEMING: Katherine Fleming and Jennifer Brubaker

1 appearing on behalf of the Commission.

2 COMMISSIONER DEASON: Ms. Fleming, do we have any
3 preliminary matters?

4 MS. FLEMING: I believe OPC had a couple of
5 preliminary matters, and staff as well. We would like to note
6 for purposes of this record that OPC has forwarded to the
7 Commission fifty-seven letters from customers who object to the
8 transfer but are unable to attend the hearing. These letters
9 have been placed in the correspondence side of the docket file.

10 COMMISSIONER DEASON: Okay. Thank you.

11 MR. BURGESS: Commissioner, it is my understanding
12 that that has been accepted as a factual stipulation.

13 COMMISSIONER DEASON: I'm sorry?

14 MR. BURGESS: It is my understanding that that has
15 been accepted by the parties as being a factual stipulation;
16 that is, the statement of fact that these letters have been
17 sent to the Public Service Commission and that they are from
18 people who were not able to attend, and that they are in
19 opposition.

20 to the transfer.

21 COMMISSIONER DEASON: Mr. Friedman.

22 MR. FRIEDMAN: I don't think that is the way we
23 articulated it. I mean, it is not a factual stipulation, it is
24 just like any other time you get correspondence from a customer
25 that is not at the hearing, and thus not subject to

1 cross-examination, is you put that correspondence in the

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15 note that many of those fifty-seven are husband/wives, and so
16 they don't necessarily represent fifty-seven lots. And you
17 will hear a lot of testimony about voting rights. And I don't
18 want it to be mislead to believe that those represented
19 fifty-seven lots. They represent fifty-seven people, many of
20 whom are husband and wife. But there is already evidence in
21 the record about the number of people who voted against this
22 transfer, so I don't think that gives any credence to any of
23 it.

24

COMMISSIONER DEASON: Mr. Burgess.

25

MR. BURGESS: Well, my understanding was the

1 agreement that we had reached and the discussions we had had
2 was that it would be stipulated so that there would be no
3 argument later that the record included a stipulation of fact
4 that these letters came in.

5 I agree with Mr. Friedman about the reflection of the
6 lots, the number of letters, and the number of people. It was
7 fifty-seven names of people, and a number of them being husband
8 and wife, and I agree with that clarification, I appreciate it.
9 But with that, my understanding was that this would remove any
10 potential challenge about the fact that these letters had come
11 in to the Commission. Otherwise, if they are in the
12 correspondence side of the docket, for purposes of any
13 subsequent issue on the record, it doesn't have that value. I
14 thought that the stipulation that we agreed to settle this
15 matter was that we would all agree to that fact.

16 COMMISSIONER DEASON: Staff, what was your
17 understanding?

18 MS. FLEMING: It was my understanding that this
19 language was agreed upon by both parties in an effort to not
20 prolong this hearing any longer than it should be. And it was
21 my understanding that these fifty-seven letters would be placed
22 in the correspondence side of the docket file as it is
23 Commission practice, but that we would note for the record that
24 customers that were not able to attend and objected to this
25 transfer.

1 MR. FRIEDMAN: That's fine.

2 COMMISSIONER DEASON: So we do have an agreement
3 then?

4 MR. FRIEDMAN: Sure.

5 COMMISSIONER DEASON: Very well.

6 MR. BURGESS: Thank you, Commissioner.

7 COMMISSIONER DEASON: I'm glad we were able to
8 clarify that. Other preliminary matters?

9 MS. FLEMING: I believe that the customers wanted to
10 testify in a particular order, but I would defer to OPC on that
11 issue.

12 COMMISSIONER DEASON: Mr. Burgess, are you aware of a
13 preferred order?

14 MR. BURGESS: I am. And my understanding is that the
15 customers who have signed up have agreed to this order as well,
16 so I'm basing it on that.

17 COMMISSIONER DEASON: Mr. Friedman, you have no
18 objection, I take it.

19 MR. FRIEDMAN: I can't think of any reason why.

20 COMMISSIONER DEASON: Very well.

21 Staff, any other preliminary matters?

22 MS. FLEMING: No, Commissioner, there are not.

23 COMMISSIONER DEASON: Mr. Friedman.

24 MR. FRIEDMAN: We have none.

25 COMMISSIONER DEASON: Mr. Burgess, anything other

1 than what we have discussed?

2 MR. BURGESS: I don't believe so.

3 COMMISSIONER DEASON: Well, I'm going to take this
4 opportunity, then, we have kind of gone through the formalities
5 and the preliminary matters -- first of all, can everyone hear
6 us okay? Are these microphones working fine? I'm getting nods
7 affirmatively. Very well.

8 Let me take this opportunity to welcome everyone to
9 the hearing today. We appreciate you being here. The first
10 phrase of this hearing is to hear from customers on the
11 question of the proposed transfer. We will also have an
12 evening session where customers may come and participate in
13 that phase as well. We will be going into a technical phase of
14 the hearing at the conclusion of this morning's customer phase.
15 And all customers are invited to stay and attend that as well.

16 In the way of introductions, my name is Terry Deason.
17 I'm a member of the Public Service Commission. I will be
18 chairing the hearing today. This matter will be heard by this
19 panel of Commissioners, the three of us. Seated to my right is
20 Commissioner Rudy Bradley, and seated to my left is
21 Commissioner Chuck Davidson.

22 Mr. Burgess will be, he has custody of the list of
23 witnesses who wish to testify. He will be calling that
24 according to the order which has been indicated as the
25 preference. I want to just review briefly the procedure we are

1 going to follow. When Mr. Burgess calls your name, if you will
2 come forward to my right at the table adjacent to the court
3 reporter, and if you will begin by giving us your name and your
4 address. And if you think it would be helpful to the court
5 reporter, you may wish to spell your name so that it is
6 recorded correctly in the record.

7 This is an official hearing of the Commission. It is
8 being recorded by the reporter. Your comments will become part
9 of the record in this proceeding, and it is available to the
10 Commission and to the Staff, and to the parties in filing their
11 briefs and making recommendations available to the Commission
12 in an ultimate decision.

13 We ask that you, after giving your name and address,
14 proceed with your statement. We want you to cover everything
15 that you think is important, but be cognizant of the fact that
16 there are a number of people here waiting for their turn as
17 well, so just show some courtesy there.

18 At the conclusion of your statement, if you will just
19 stay seated for a moment, because there may be some questions.
20 And since your comments will become part of the record, it is
21 necessary that you be sworn before you testify. We usually do
22 this at one time and ask all customers who will be testifying
23 to stand and take the oath at one time. We find that is much
24 more convenient and expeditious.

25 Is there anything else that I need to cover?

1 MS. FLEMING: No, Commissioner.

2 COMMISSIONER DEASON: Very well. At this point I'm
3 going to ask all the members of the public who intend to
4 testify at this hearing to please stand and raise your right
5 hand.

6 (Witnesses sworn.)

7 COMMISSIONER DEASON: Thank you. You may be seated.
8 Mr. Burgess, you may call your first witness.

9 MR. BURGESS: Thank you, Commissioner.

10 I would call Gene Churchill.

11 GENE CHURCHILL

12 appeared as a witness and, swearing to tell the truth,
13 testified as follows:

14 DIRECT STATEMENT

15 MR. CHURCHILL: My name is Gene Churchill. I live
16 with my wife Marjorie at 9 Freedom Way, Lake Placid, Camp
17 Florida Resort.

18 We feel very strongly in opposition to this sale and
19 transfer, strongly enough that we have come down from the upper
20 peninsula of Michigan specifically for this hearing. What we
21 are opposed to specifically is that at the end of the day, if
22 this sale was approved, the cost to the homeowners, just the
23 homeowners, individual homeowners would probably exceed
24 \$100,000, for which we get nothing of value. We would end up
25 with water service as we have now, we would end up with

1 wastewater service as we have now, and that is all we would
2 get, and that is the best part of it.

3 On the worst part of it is we would end up obligated
4 to spend money to keep this thing in repair, bring it back up
5 to date, that is A. B, we would end up with a mortgage for the
6 next ten years as it is written up, which probably is going
7 to -- because we are all senior citizens, it probably would
8 exceed the lifetime of some of us who would be forced into that
9 debt. And those are the reasons -- I understand there is ten
10 or twelve people behind me, so I will go as quickly as I can,
11 but that particular issue is the reason that we oppose this.
12 We do not believe this is in the public interest. Okay.

13 Now, the next big bullet that has been tossed around
14 is this voting thing, okay. There is, indeed, customer or
15 homeowner by-laws. And if you read through them, I never did
16 this, before this came up I never really took a close look.
17 When Marjorie and I were negotiating for the price of the house
18 that we are in now, the major thing at that time that we were
19 told about anything outside of what is in the by-laws is that
20 the customers at that time, the homeowners at that time had to
21 pay the attorney fees for Mr. Cozier, who was being sued by a
22 group of people call the Ad Hocers (phonetic). That was
23 stressed. And we were given a copy of the documents without
24 question.

25 What we have here, what we have going on here, and

1 let me do just a little bit of history to let you know how I
2 come to this conclusion, somewhere back in time Mr. Cozier
3 evidently somehow lost the rental lot, the ownership of the
4 rental lot to Highvest. And Highvest, as you know, is owned
5 by, in this particular case, Nancy Ayers, who is the sole
6 shareholder. So I have no idea how this happened, whether --
7 but, anyway, he ended up being the manager for Nancy Ayers for
8 the rental lots.

9 What he has done from that position as manager of the
10 rental lots is use his employer's ability to vote her lots to
11 try to force the homeowners to buy a personal asset from him,
12 the manager of the rental lots. That is probably, in my mind,
13 my opinion, a major perversion of the intent of the by-laws.

14 No reasonable person would read these by-laws when
15 they were buying a piece of property and imagine something like
16 this happening. If you go over the by-laws, any objective
17 person goes over the by-laws, you will see -- you will probably
18 come to the conclusion these are basically a sales tool. There
19 is some feel-good statements in there about people who are
20 going to buy property, and how you will be able to exercise
21 your rights and so on. I would imagine that if you wrote
22 by-laws to try to prevent every possible perversion of them,
23 you would have something the size of the IRS code book. And
24 that is, of course, not practical.

25 Can you find some way if you read these? Any lawyer

1 who is smart enough to pass the bar can find a dozen loopholes
2 in that. In fact, lay people could. The intent, as we
3 understood it when we bought in, was this: That the by-laws
4 were there -- first of all, the entire park would be sold out,
5 and we would end up with, I don't know, 375 or 385 homeowners.
6 And those homeowners would abide by these by-laws. That has
7 not happened, as everyone knows. Okay.

8 Now, the jeopardy for the homeowners, if you approve
9 this sale, is that we are going to be dealing with exactly the
10 same people that was dealt with during some sort of transfer
11 thing that was going on that come from the PSC. And you are
12 all familiar with this document, so I won't go over it, but
13 they are basically R. Anthony Cozier and Nancy Ayers. There is
14 no possible way that the homeowners of Camp Florida Resort have
15 the financial resources to get the legal resources that we
16 would need to defend ourselves against these two well-funded
17 entities.

18 One of the things that come up, and we do not
19 believe, and that is my argument, we do not believe this is in
20 the public interest. It is interesting that in this case of
21 the transfer that on Page 6 of this particular thing when the
22 Commission is talking about this transfer application it says,
23 quote, "Therefore, we find that the transfer application is not
24 in the public interest and we deny it." That is precisely what
25 we are hoping you will do in the case of this sale to the

1 homeowners.

2 There is much more I would like to say, I won't
3 because there is 10 or 12 people behind me, but perhaps I could
4 talk at some other time later.

5 COMMISSIONER DEASON: Thank you, sir.

6 Are there questions? Mr. Friedman.

7 MR. FRIEDMAN: Thank you. I do have a couple of
8 questions.

9 EXAMINATION

10 BY MR. FRIEDMAN:

11 Q Mr. Churchill, so I'm correct that when you purchased
12 your lot in Camp Florida Resort, you knew that you were going
13 to be a member of a homeowners association?

14 A Yes.

15 Q Are you a member of a homeowners association up in
16 Michigan?

17 A No.

18 Q And do you understand that homeowners associations
19 are run like any other democracy, that the majority rules?

20 A Yes. Am I allowed to comment on it, or can I just
21 say yes or no?

22 COMMISSIONER DEASON: It's customary for witnesses to
23 be able to answer yes or no; in fact, that is what we prefer,
24 and then you may explain your answer.

25 THE WITNESS: Please repeat your last question.

1 BY MR. FRIEDMAN:

2 Q I asked whether you knew that as a member of a
3 homeowners association that as in any other democracy the
4 majority rules?

5 A If it is a democracy. There are instances where you
6 can pervert the by-laws of the homeowners organization, and it
7 clearly is not a democracy. And that is what I feel is going
8 on here.

9 Q As a minority, you just are not satisfied with the
10 vote of the majority, is that correct?

11 A No, that is not the essence of it. The essence of it
12 is that this vote -- well, it is not the majority in any case.
13 It is simply Anthony Cozier using the votes of his employer to
14 force us to buy one of his personal assets, a bankrupt one,
15 incidentally.

16 Q It's bankrupt?

17 A It has been bankrupt.

18 Q It's not bankrupt -- in other words, the rates that
19 the PSC set in this staff-assisted rate case aren't sufficient
20 to keep it out of bankruptcy, is that what you are saying?

21 A I'm not sure. We have no way of -- the homeowners
22 have no way of knowing what the financial condition of that is.
23 We are not -- that is not available to us. The last I knew, at
24 some particular point in time, it was bankrupt. Is that true
25 or not?

1 Q I don't answer questions, I get to ask them.

2 COMMISSIONER DAVIDSON: You know what, this is not
3 cross-examine. You are free to ask the witness questions, but
4 he is not represented by an attorney, so sort of a hostile
5 cross-examine, I feel, is inappropriate.

6 MR. FRIEDMAN: Mr. Davidson, I don't know how I can
7 cross-examine and not have a hostile cross-examination. That
8 is what it is about. This man has made certain comments which
9 I think are highly prejudicial. I don't think he knows -- he
10 has any legitimate basis, and I need to be able to question him
11 on it. I know that you all don't like us to really
12 cross-examine witnesses, but that is what this case happens to
13 be about. And I don't know how I can do my job unless I am
14 adversarial to this witness.

15 (Simultaneous conversation.)

16 COMMISSIONER DAVIDSON: -- ask your questions, for
17 me, in as lay a fashion as possible, because he doesn't have an
18 attorney here to object. And, Mr. Beck, if you do want to
19 object to some of these questions -- I'm sorry, Mr. Burgess,
20 feel free. I apologize.

21 MR. BURGESS: Thank you, Commissioner. I appreciate
22 that.

23 BY MR. FRIEDMAN:

24 Q Now, it sounded like to me that you also objected to
25 the purchase, you thought that the property owner's association

1 was buying an asset from Mr. Cozier. Do you think that the
2 price is not fair, is that part of your objection?

3 A We could probably work that in. I had not said that,
4 but that is probably true, also. What I said was, as I
5 remember it, and we can read it from the record, is that at the
6 end of day when this is all over, the purchase price of the
7 water as well as the mortgage contract for the wastewater will
8 cost the homeowners, the individual homeowners, the 35 percent
9 of the voting block there, about \$100,000 for which we will get
10 nothing of value beyond what we already have, which is water
11 service and wastewater service.

12 However, it will bind us to pay for part of or maybe
13 all, dealing with this group, maybe all of the operating costs,
14 the repair and maintenance.

15 Q Let's go back to my first question. Are you
16 contesting that the price that the POA is paying is fair?

17 A Yes.

18 Q All right. And would you please tell me what you
19 think that price is?

20 A What the price is to the POA?

21 Q Right.

22 A If it is anything more than a dollar it is too much.
23 We should not be bound to pay for the maintenance, upkeep,
24 upgrading of a service that we already have. How can that
25 possibly be in the public interest for us to do that? You

1 would almost have to be daft to buy into a business like that.
2 You wouldn't voluntarily buy into a business like this.

3 Q Are you familiar with any acquisitions of utility
4 companies in Florida?

5 A No.

6 Q So you don't have any expertise in valuing utility
7 companies in Florida for acquisition purposes?

8 A Repeat that, please?

9 Q Do you have any expertise in valuing utility
10 companies for acquisition purposes?

11 A No, but I certainly have a good indication of what is
12 valuable to me and for my money. And this has no value to us.

13 COMMISSIONER BRADLEY: Excuse me. You know, for my
14 purposes, we are not a panel of administrative law judges. And
15 I will tell you what would be helpful to me as it relates to
16 both parties as we move through this issue that I see as being
17 very contentious. I'm concerned, naturally, about the legality
18 of the situation. But I'm more of a public policy type, and my
19 decision is going to give consideration to the legal aspects of
20 this case that we are discussing, but also I'm going to make a
21 decision as to what is best for public policy. And that means
22 that I'm going to weigh Mr. Cozier's side, and I'm going to
23 weigh the customers' side, and as a result render a decision
24 that brings some balance to the concerns of both sides.

25 So it would be helpful to me if we could not be, as

1 Commissioner Davidson first just stated, not so legalistic, but
2 if we could start to move into solutions and what might work so
3 that everyone at least can live with the decision that this
4 body renders, and so that we have equal participation in the
5 resolution of this particular dispute.

6 So it would be very helpful if we could become less
7 legalistic and more public policy oriented in our discussion.
8 Because to pin the customer up against the wall with legal
9 questions is not going to be very helpful with me as it relates
10 to what my opinion is going to be in the end here. You know, I
11 don't necessarily believe that good decisions are made when we
12 have winners and losers. I think that good decisions are made
13 when we have parties who leave with something that both parties
14 can live with.

15 MR. FRIEDMAN: And, unfortunately, we didn't mediate
16 this case, and so there is not really that opportunity to do
17 that. And, unfortunately, I'm afraid you are in the position
18 of having to say, you know, make a decision. And I believe
19 that decision has got to be based on the law, and it has got to
20 be consistent with the law. And when I see you all taking
21 notes about what this gentleman says, then that means to me
22 that he said something that is important.

23 And as a lawyer, and an advocate for my client, I
24 need to cross-examine this witness on those issues. Because
25 obviously you thought something he said was important, or you

1 wouldn't have written it down. And I need to explore this
2 man's knowledge and expertise about what he is saying. Because
3 he purports to make comments from a position of knowledge, and
4 I don't know how I can represent my client without doing that
5 kind of cross-examination.

6 And I will try to be cognizant of both yours, and
7 Commissioner Davidson's, and maybe Commissioner Deason is the
8 same way, and he just hasn't had a chance to say it yet, and I
9 will try to tone down, but that is very hard for an advocate to
10 do.

11 COMMISSIONER BRADLEY: And I recognize and realize
12 that, and that is why I'm putting this on the table, just to
13 kind of give you an indication of what my mind-set is so that
14 maybe we can move along those lines. And I most certainly
15 respect your ability as an attorney and what your obligation is
16 to your client. But I'm trying to give you some indication as
17 to what I feel would be the best course to take in this matter.

18 COMMISSIONER DEASON: Mr. Friedman, just so you know
19 where I am, you will be allowed to conduct cross-examination as
20 you see fit, I'm not going to -- obviously if there are
21 objections from counsel, I will entertain those objections.
22 But I will allow you the full ability to conduct your
23 cross-examination as you see fit.

24 I think one of the concerns that was expressed by --
25 Commissioner Bradley is that while obviously we are hearing

1 this matter subject to the law, and we will abide by that, and
2 we will make the decision accordingly, there is a provision in
3 the law about public interest. And that has to be part of the
4 determination as well. Obviously customers have input as to
5 what their views are as to what constitutes public interest.
6 But I'm going to allow you the ability to conduct your
7 cross-examination as you see fit. You have heard concerns
8 expressed by my fellow Commissioners, just react accordingly.

9 MR. FRIEDMAN: Thank you.

10 BY MR. FRIEDMAN:

11 Q Mr. Churchill, do you object to the transfer of the
12 utility assets from the Woodlands to L.P. Utilities?

13 A Explain to me what that entails.

14 Q Okay. So you don't know, you have no knowledge about
15 what that issue involves?

16 A Does that mean, then, that L.P. Utilities would be
17 operating as a legitimate utility, which it is not doing now,
18 is that what you are saying?

19 Q Well, I don't answer questions. If you don't know
20 then you can --

21 A That's convenient.

22 Q I'm sorry, what did you say?

23 COMMISSIONER DEASON: I'm sorry, he said that is
24 convenient, or something. I'm not sure, the record is what it
25 is. But let's review the procedure here for just a moment.

1 Witnesses testify, they express their views, and they are
2 subject to cross-examination. Witnesses don't ask the
3 attorneys questions. I know that it would be enticing to do
4 so. But to the extent that witnesses feel that there are
5 matters that need to be covered in the record, that need to be
6 covered in some way, you are free to communicate with your
7 attorney, and he can either try to incorporate that through his
8 cross-examination of company witnesses, or whatever means are
9 legally at his disposal to do so.

10 But let's don't get into a debate between witness and
11 attorney. You know, this is not, what is it, Judge Judy, or
12 something like that. We try to have some decorum here, okay.
13 Just so the witnesses know, just give your statements, and
14 answer questions. And if you can begin your answer with a yes
15 or no, that would be helpful, and then take the opportunity to
16 explain that if you feel necessary.

17 Mr. Friedman, you may continue.

18 MR. FRIEDMAN: I have no further questions.

19 COMMISSIONER DEASON: Very good. Mr. Burgess.

20 Staff.

21 MS. FLEMING: We have no questions.

22 COMMISSIONER DEASON: Commissioners. Thank you, sir.

23 Mr. Burgess.

24 MR. BURGESS: Margaret Caldwell.

25 MS. CALDWELL: Good morning, sir.

1 COMMISSIONER DEASON: Good morning. You may need to
2 get a little closer to that microphone. Maybe you can turn it
3 a little bit that way.

4 MS. CALDWELL: I'm a little shorty here. Thank you.

5 **MARGARET CALDWELL**

6 **appeared as a witness and, swearing to tell the truth,**
7 **testified as follows:**

8 **DIRECT STATEMENT**

9 MS. CALDWELL: My name is Margaret Caldwell. I live
10 at 2 Hidden Cove, Camp Florida Resort in Lake Placid. My
11 husband, Joe, and I have lived in Camp Florida for thirteen
12 years, and we have witnessed what has gone on here. We are
13 from Asheville, North Carolina, which is approximately 740
14 miles from here. It took us 13 hours to get down here.

15 My testimony is that I have three letters from
16 homeowners that I would like to read, if that's okay?

17 COMMISSIONER DEASON: Mr. Friedman, are you going to
18 object to hearsay or whatever?

19 MR. FRIEDMAN: I do object. I mean, there is a
20 procedure. And you have in the back of the -- I don't have it
21 in front of me, but you do have on the back of that report that
22 you hand out over here a procedure for people to send in
23 comments. The problem I've got is that I don't have any way to
24 cross-examine what these people say in these three letters. I
25 just don't. And so if they say something inflammatory, what am

1 I going to do, and all of a sudden that statement is in the
2 record.

3 I mean, it is hearsay. And without an opportunity to
4 cross-examine what those statements are, I just don't see how
5 it can be allowed in the record. And if she wants to put those
6 in the correspondence side of the file with the others, then I
7 certainly don't have any objection to that. But I do have an
8 objection to her reading them into the record.

9 MR. BURGESS: Commissioner, may I reply to that?

10 As we know, there is no strict prohibition to hearsay
11 in administrative proceedings. It is allowed for certain
12 purposes, and if it is corroborative of other evidence, it is
13 allowed. I represent that it is my understanding that this
14 testimony will be corroborated by other testimony later. I
15 suggest that Mr. Friedman's objection be noted for the record,
16 and if he needs to renew it after all the evidence is in and
17 believes that this is not corroborated by other evidence, then
18 he can have that opportunity. But, otherwise, I would proffer
19 it as evidence. It's allowed under administrative procedures.

20 COMMISSIONER DEASON: Staff.

21 MS. FLEMING: OPC is correct in the fact that hearsay
22 evidence is admissible to explain or supplement other evidence
23 in the record. However, it cannot be the sole basis of a
24 decision. And hearsay evidence is generally admissible in PSC
25 proceedings, and it is generally given the weight that it is

1 lue.

2 For purpose of this hearing, customer letters are
3 generally placed in the correspondence side of the docket file.
4 It is standard Commission practice. And customers that wish to
5 testify on the record are sworn prior to testifying.

6 COMMISSIONER DEASON: Ms. Caldwell, let me ask you a
7 question. Are you going to be able to be with us for awhile
8 this morning, or do you have something you have to attend to as
9 soon as you testify?

10 MS. CALDWELL: All day.

11 COMMISSIONER DEASON: Okay. You're available. I'm
12 going to ask you to get with Mr. Burgess, who is your attorney
13 in this proceeding. Show him those letters, okay, and let him
14 review those. And after he has had that opportunity, then we
15 would allow you the opportunity to come back to the stand.

16 Mr. Burgess, if you think it is -- I will leave that
17 up to you, but if you wish to share that beforehand with Mr.
18 Friedman, I will allow you to do that, if you think that is
19 appropriate. And we need to -- if these are letters that need
20 to actually be read into the record, I will allow you to pursue
21 that. If this is something that can be incorporated in with
22 the letters that have already been admitted into the
23 correspondence side of the docket, subject to the stipulation,
24 if that is an appropriate avenue I will allow you to consider
25 that as well.

1 So, Ms. Caldwell, before you actually read those
2 letters, I'm going to ask you to do that. And then depending
3 upon what that review shows, we will allow you the opportunity
4 to come back to the stand, and we will deal with those letters
5 accordingly.

6 MR. BURGESS: Commissioner, I appreciate that. And I
7 will look at the letters and read the letters specifically. I
8 have some familiarity with the subject matter. My
9 understanding is it involves transactions and interactions that
10 these people have had, that the individuals who have written
11 letters have had that they have passed on to Ms. Caldwell.

12 I would say that it is, they are about specific
13 events that have taken place, but the events bear on issues and
14 positions that are corroborated by other testimony. But I do
15 take your -- I agree with your position, and I will read them
16 at some point and then bring that back to the Commission. But
17 it may well be simply a reiteration of that, that it is
18 evidence that these people have asked Ms. Caldwell to bring
19 before the Commission about specific events that are unto
20 themselves unique to that particular event, but they are
21 corroborative of the overall issue about public interest.

22 COMMISSIONER DEASON: Very well.

23 I'm sorry, Mr. Friedman.

24 MR. FRIEDMAN: I think with Mr. Burgess' explanation,
25 that that should lay it to rest. If they involve specific

1 events between those people, how can I cross-examine about
2 those specific events that are not the same events that other
3 people are talking about.

4 COMMISSIONER DEASON: And we will deal with it after
5 Mr. Burgess has the opportunity to review the specific letters.

6 Ms. Caldwell, is there anything else you wish to
7 cover at this time?

8 MS. CALDWELL: No, sir.

9 COMMISSIONER DEASON: Okay. Thank you for your
10 patience.

11 MR. BURGESS: Judy Pernod.

12 JUDY PERNOD

13 **appeared as a witness and, swearing to tell the truth,**
14 **testified as follows:**

15 DIRECT STATEMENT

16 MS. PERNOD: My name is Judy Pernod, and I reside at
17 18 Hidden Cove, Lake Placid, Florida. Not Judge Judy.

18 COMMISSIONER DEASON: Okay. You may proceed.

19 MS. PERNOD: My name is Judy Pernod, and my husband,
20 Bob, and myself purchased in Camp Florida Resort in February of
21 1992, so we have been here almost 13 years, going on 13 years.
22 We live in Fairmount, Indiana, and that is about 1,125 miles
23 from Camp Florida. We made the trip back in 2002 for the
24 hearing on the rate study, and we feel it is very important to
25 be here today. My comments are just my thoughts on what has

1 been going on for several years. I'm going to read most of it
2 so that I get it straight, and I have the facts straight and
3 you will, too.

4 I first want to remind the Commissioners that the
5 Staff on the rate case study discovered that one of the water
6 wells was on the property of, the common ground property of the
7 Camp Florida Property Owners Association. And it is my
8 understanding that when John Lovelette, the president of our
9 POA, discovered that information, he transferred the land to
10 Cozier's L.P. Utilities, or Woodlands, whatever it was at the
11 time. I can't keep up with which business owns what.

12 The homeowners were never notified of the transfer,
13 and no money was paid to the POA for that land. Now it is my
14 understanding that John Lovelette, as our POA president and
15 Cozier employee, is wanting the homeowners to buy the land
16 back. And it is obvious that our president is not interested
17 in the POA members' concerns. I think it is obvious that he is
18 looking out for his boss.

19 And I want to remind the Commissioner that a letter
20 was sent on July 9th of 2002 to Jason Fudge, the Senior
21 Attorney for the PSC, by our attorney, Mr. James Lobozzo, and
22 he stated the facts that I have just explained, so they were
23 notified back in 2002. It also explains how Cozier is suing
24 himself. This letter says that Woodlands L.P. is suing
25 Highvest, Highvest is suing Camper Corral and Camp Florida

1 Resort, L.P., and all for unpaid debts. It is stated in the
2 New Sun that they were suing themselves, which does seem to be
3 the case.

4 And, you know, I don't know what kind of a board
5 would make a deal like that for its members; I just really
6 can't understand that. I don't have this all straight, but the
7 way I understand it, if Cozier fails to pay for his Highvest
8 lots, then the rest of the members have to take up and pay
9 that, or we would -- our homes are collateral as members of the
10 POA. That if we don't pay this, if he fails, then we are going
11 to lose everything.

12 And another thing, the way it is set up, that if it
13 forecloses, it goes back to him, or goes back to Highvest. So
14 I can't understand why we would be in, why our board would put
15 us in this position. And I guess they know it is to their
16 advantage to not pay. In my opinion, the board does not care
17 about the minority members, it thinks it can do whatever it
18 wants for the majority member, one vote one person -- not one
19 vote, one person.

20 In our park, we represent about 150 families, and
21 Highvest has around 250 votes, which represents one person's
22 vote. One vote. I'm sorry, not one vote, it represents one
23 person. Out of the 150 families, we have 20 or more single
24 income families. And the majority of our people are in their
25 70s, and they are just trying to enjoy their golden years at

1 Camp Florida Resort. And we do not want to leave this burden
2 to our children.

3 I have an example here of how things work at Camp
4 Florida Resort. In a letter dated June 16th, 2003, from
5 Highvest Corporation, signed by R. Anthony Cozier, President,
6 he states that he wants to make it clear that this corporation
7 did not approve or solicit the vote of any member of the
8 association regarding this purchase. **But eight months earlier,**
9 in a letter dated October 1st, 2002, from Highvest Corporation
10 signed by R. Anthony Cozier, President, he stated it may be in
11 the interest of property owners and users to consider
12 purchasing these utilities on a cooperative basis.

13 His secretary is none other than Terri Lovelette,
14 wife of John Lovelette, Manager of L.P. Utilities, both
15 employees of Cozier and the POA board members, and I am to
16 believe that he had nothing to do with the POA board deciding
17 for us to purchase that. It is kind of hard to believe.

18 I am going to state that I am very familiar with our
19 covenants and by-laws. And I want to state that there is
20 nowhere, no place in there that it needed to be addressed on
21 purchasing a business, because we are a nonprofit organization.
22 So there would be no reason to put anything in our documents
23 stating about us buying any kind of a business. **So, I really**
24 truly feel like that would have been enough to stop this
25 transaction right in its tracks. **If this board can make us buy**

1 an uncertified utility on our own land, then which of Cozier's
2 failed businesses are they going to have us buy next year.

3 I just wanted to tell you how thankful we are to have
4 the PSC, because we know you are truthful, and that you are
5 here to protect the customers, and we really appreciate your
6 efforts in this.

7 COMMISSIONER DEASON: Thank you. Questions, Mr.
8 Friedman.

9 MR. FRIEDMAN: Yes, sir. Thank you, Mr. Deason.

10 EXAMINATION

11 BY MR. FRIEDMAN:

12 Q Ms. Pernod, you are aware, are you not, that as a
13 minority member of the property owners association that you are
14 subject to the will of the majority of the votes?

15 A This has nothing to do with this. This should not
16 have been part of our documents because we are non-profit. How
17 do you get around the nonprofit? I'm sorry, I can't ask you a
18 question.

19 COMMISSIONER DEASON: That's a rhetorical question.

20 MS. PERNOD: I'm sorry.

21 BY MR. FRIEDMAN:

22 Q Well, I would have preferred a yes or no answer and
23 then an explanation, because I'm not sure I got your answer.

24 A Repeat your question, please.

25 Q When you joined the homeowners association, weren't

1 you aware that the majority of the voting interest controlled
2 the decisions made by the homeowners association?

3 A Yes, I was.

4 Q Are you aware of -- or let me rephrase that. Are you
5 not aware of any property owner or homeowners associations that
6 own the utilities that serve them?

7 A No, I'm really not.

8 Q And you mentioned about foreclosure. Isn't it true
9 that there could not be a foreclosure on the water system since
10 there would be no debt on the water system?

11 A How are you going to get no debt, unless you get my
12 money.

13 Q So you don't understand the transaction as being the
14 water system being transferred free and clear of any debt, you
15 don't understand that?

16 A No, I don't. I did hear something about my refund
17 for my water being used toward wastewater, if you are referring
18 to anything like that.

19 MR. FRIEDMAN: I have no further questions.

20 COMMISSIONER DEASON: Mr. Burgess.

21 MR. BURGESS: Yes, I have just one follow-up question
22 to one of Mr. Friedman's questions.

23 EXAMINATION

24 BY MR. BURGESS:

25 Q When you did join the homeowners association, did you

1 assume that the business people that you would be involved with
2 would be dealing with you in good faith?

3 A Definitely.

4 MR. BURGESS: Thank you.

5 COMMISSIONER DEASON: Staff.

6 MS. FLEMING: We have no questions.

7 COMMISSIONER DEASON: Commissioners.

8 Thank you, ma'am.

9 MR. FRIEDMAN: Bob Clifford.

10 **BOB CLIFFORD**

11 **appeared as a witness and, swearing to tell the truth,**
12 **testified as follows:**

13 **DIRECT STATEMENT**

14 MR. CLIFFORD: I'm Robert Clifford, 50 Windward Drive
15 at Camp Florida. My wife and I have lived there permanently
16 since 1994, and I am not in favor of purchasing the water
17 system. I will give you an example. I was on the initial
18 board that I worked with Mr. Cozier for the purchase of the
19 recreation area, along with the other members of the board.
20 This was in 1996. We worked for several months going through
21 the appraisals and coming up with the agreement on what the
22 price should be. And in the discussion, there was an offer of
23 giving the association \$50,000, but before that was over, that
24 was personally he was going to give, then he said that his
25 company did not want him to do that, but the company would give

1 the \$50,000.

2 And there was a parcel of land that was not part of
3 the recreation area, so it was surveyed, he said he would give
4 that, and we arrived at a price of \$395,000. And at that time
5 we were going to, we were going to give the owners an
6 opportunity to pay it off in cash, their portion, or a
7 one-year, three-year and five-year mortgage. We worked up the
8 papers to give it to the people to vote on. At that time Mr.
9 Cozier said it would not be fair for him to vote, since it was
10 a conflict of interest, so it went out for vote with the 150
11 members, and the majority agreed to purchase it.

12 When we worked up the contract, Mr. Cozier wanted to
13 add some other items to the contract such as common grounds,
14 and we could not agree to that. I mean, it was two
15 transactions. So, in essence, the sale didn't go through. The
16 court actions that we had came out and gave the decision that
17 we should be able to purchase that property for \$395,000.
18 Well, we have since purchased the area.

19 But I was also, a couple of years ago, the president
20 of the association. And I sat down with Mr. Cozier after the
21 court decision, and he wanted to work an agreement of
22 purchasing the office building, which was part of the
23 association that the title company had given him \$250,000 for,
24 and work in there an agreement with purchasing the recreation
25 area. And it netted \$324 for each member to pay off, and that

1 would be a closed deal. That got messed up.

2 So here I am confused on how we deal. Right now I'm
3 not in favor of purchasing. I asked on the waterworks what the
4 operational costs were, and I was told I didn't need to know
5 that, the PSC has given the price for the equipment. I'm quite
6 sure that if you want to buy a car, you want to know what the
7 mileage is, you want some details. I do not have any details
8 on the operation of the waterworks, so I'm not in favor of
9 purchasing it.

10 MR. FRIEDMAN: No questions.

11 MR. BURGESS: No questions.

12 MS. FLEMING: We have no questions.

13 COMMISSIONER DEASON: Thank you, sir.

14 Mr. Burgess, you may call your next witness.

15 MR. BURGESS: Mrs. Nedoroscik.

16 **EVELYN NEDOROSCIK**

17 **appeared as a witness and, swearing to tell the truth,**

18 **testified as follows:**

19 **DIRECT STATEMENT**

20 MS. NEDOROSCIK: I'm Evelyn Nedoroscik,
21 N-E-D-O-R-O-S-C-I-K. My husband, Paul, and I have lived at
22 Lake Placid Resort now for over ten years. **We are both**
23 retired. We are both on Social Security, that is what our
24 income is is our Social Security. We have been proud for 42 -
25 years of marriage that we never run up debt. We never owed.

1 Our credit was good. We might not have had a lot, but we kept
2 our bills paid.

3 Right now every time I pay my maintenance bill, I'm
4 seeing a balance left on there. It is \$261. This has been
5 going on now for about six months that I supposedly owe money
6 on a company that I understand hasn't even been licensed yet.
7 I have never bought stock in my life. I don't want to buy
8 stock in L.P. Utilities. I'm not interested in being a stock
9 owner and running up debts on something I know nothing about.

10 We received a letter with a ballot in it to vote on
11 whether we wanted to buy the utilities. I was against even
12 sending a ballot in, because it is such a kangaroo court that I
13 know my vote is not going to count. The majority is going to
14 be an empty lot and control that. But I sent the vote in
15 anyhow, no, I do not want to buy waterworks or the water
16 company.

17 This meeting come up, it says on October 20th. When
18 it come to the meeting, we all went to the meeting, we didn't
19 get to have any input, but the board decided that we would buy
20 this L.P. Utilities, and now it has also become -- by the time
21 it got to that, it said that the voters voted on it, it also
22 became owning the wastewater system. It said by owning the
23 wastewater system we will not be under the regulation of the
24 PSC, we will be operating as a cooperative. No, they don't
25 want regulation, you can't do this kind of thing with

1 regulation.

2 After this meeting -- and we were told we would be
3 billed for it, here is what your end is, and we were let known
4 that if we didn't pay our bill, we would be foreclosed on. I
5 was so upset by this stock purchase being forced on me that I
6 got in touch with the -- it's the securities and stock fraud
7 division of consumer services. They finally put me through to
8 about ten people. As I told them the thing has went up, and
9 up, and up. So I filed on them about the -- that I felt it was
10 a fraud, this company wasn't even existing. I'm being told you
11 owe money because you bought stock, you are going to buy stock.

12 Following the meeting, there was another letter came
13 out that let us know that our bill would be due in such and
14 such. If we did not pay that bill, we would be charged the
15 highest interest rates allowable by law. Now the intimidation
16 comes. I was so intimidated by that letter that I went to the
17 postal inspector and said that I was being threatened by mail.
18 Here is a stock I didn't buy, and I am being threatened at the
19 highest interest rates by law, and all of this stuff.

20 Well, the postal inspector wasn't there that day, so
21 I took it to FDLE. They are investigating it now. **When we**
22 talk about -- when I bought into Camp Florida Resort, I thought
23 I was buying into a homeowners association where the majority
24 ruled. When the lot owners got together, one vote, one lot,
25 and I could agree with that for the good of the people. But

1 what it has become at Camp Florida Resort is that over 150
2 retired couples are being ruled by 200 empty lots in such a way
3 that if this is allowed to go through, it will only be the
4 first of many things, once they get away with it.

5 It is as if we have turned over our power of attorney
6 to put us in debt, to spend our money, to take our savings that
7 we don't have. It is going to ruin us because they will have
8 the power over my finances. Right now, if this goes through,
9 if I'm forced to buy stock in a company that I don't want, then
10 somebody has used my power of attorney in the United States of
11 America that I never gave them. I'm not nuts. But they can
12 take my money and spend it, they can run me into debt.

13 I kept myself out of debt for 64 years, but they put
14 me in debt with one kangaroo court meeting. **And I thank God**
15 that we are getting to speak to you people today, because you
16 have the power today to stop this thing, at least on this. I
17 don't know what is up their sleeve for next month, or the year
18 after. We want to live in peace. **We want to live in a**
19 community where we can do things, where those votes will be for
20 the good of the community, not to be used as pawns.

21 And I thank you for hearing us here today; and I know
22 you will be fair in your decision; and I just thank you for
23 this opportunity today to speak.

24 COMMISSIONER DEASON: Thank you. Questions. ---

25 MR. FRIEDMAN: Yes, ma'am.

EXAMINATION

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BY MR. FRIEDMAN:

Q Is it your understanding that you are being forced to buy stock in the utility company?

A Absolutely, that is what this says. The board has agreed proceeding under (inaudible) --

COMMISSIONER DEASON: I'm sorry, ma'am. If you're going to read it, read slowly, because the court reporter is having to take that down.

A (Continuing) Okay. On this meeting of 10/20/03, our only agenda item today is to consider a special assessment for the purchase of all the stock in L.P. Utilities, Incorporated. That was the purpose of the meeting.

Q And is it your understanding that you will be a stockholder of L.P. Utilities and not the POA?

A Well, if I'm part of the POA, and I'm being charged for it, I'm being assessed for it, then that purchase is being made. If we go out and buy something for the swimming pool, I consider I'm part of it. I'm an owner there. That is our common property there. If we have to have a tree cut down, or whatever, we all pitch in, and that goes on the budget, and it is paid for through our maintenance.

Q So you do understand that you personally are not going to be a shareholder in the utility? ---

A Then why am I getting a bill for \$261 in debt that I

1 never asked for.

2 Q What if, instead of the utility company, the property
3 owners association decided to put a nice big fancy gatehouse up
4 at the front, and they decided to spend \$300,000 to put a big
5 gatehouse up there. Okay, let's assume that. Would you not
6 agree that you could be assessed for your share, your pro rata
7 share of that expense?

8 A If there was a fair vote of the people of Camp
9 Florida, we would not make a purchase of a \$300,000 gate. I'm
10 paying for a gate right now, a security gate right now that we
11 can afford, that was in line with the kind of living that we
12 all wanted to do when we purchased in there. We are retired
13 people. We are on a fixed income, we don't want to be in
14 investments. We are not going to live long enough to see these
15 investments make money. But we don't want to leave our
16 children in debt. I have four children, sixteen grandchildren,
17 and a great grandchild, and I'm not going to leave one penny of
18 debt in some water stock that I did not ever want.

19 Q So was it your opinion that Highvest should not be
20 able to vote on homeowner association or property owner
21 association matters?

22 A It is my opinion that the POA, or the votes for these
23 unused lots should not be made to line Tony Cozier's pockets.

24 MR. FRIEDMAN: That's all the questions I have.

25 MS. NEDOROSCIK: Thank you, sir.

1 COMMISSIONER DEASON: Mr. Burgess.

2 MR. BURGESS: I have one follow-up question for you,
3 please.

4 COMMISSIONER DEASON: Mr. Burgess, I have a question.
5 Maybe you may want to wait and follow up with what I have to
6 ask, it may be a better procedure.

7 MR. BURGESS: Sure.

8 COMMISSIONER DEASON: What is your understanding of
9 the recourse available if you do not pay an assessment, a
10 special assessment, or your maintenance fee, or whatever, what
11 happens if there is a homeowner member that does not pay?

12 MS. NEDOROSCIK: Okay. In the State of Florida, from
13 what I understand, you can be foreclosed on for a debt on your
14 property. It's not like in a civil suit where your house is
15 protected. But that is an exception to it in the State of
16 Florida, from my understanding, is that you either pay your
17 maintenance or you can be foreclosed on. There have been
18 instances in the past when people didn't want to purchase, I
19 think it was a recreation club, or something, that was formed,
20 and some people said, "Hey, we already have a 99-year lease on
21 a swimming pool," whatever it was. Anyhow, they were trying to
22 foreclose on the people, and the people had to go out and get
23 lawyers, whatever. It has been threatened.

24 COMMISSIONER DEASON: Thank you, ma'am.

25 Mr. Burgess, you may question.

1 MR. BURGESS: That was the question I had.

2 MS. NEDOROSCIK: Thank you for hearing us today.

3 COMMISSIONER DEASON: I'm sorry, the Commissioner has
4 a question.

5 COMMISSIONER BRADLEY: And I would like for both
6 parties of interest to respond, because I'm trying to get a
7 clear understanding. Is it one vote per lot, or is it a vote
8 based upon the number of lots sold. And that is probably
9 unclear. For example, an owner can own a thousand acres, and
10 only have one vote in this democratic process, or an owner can
11 only own one lot and have one vote.

12 And what traditionally happens is that folks who own
13 one lot will constitute more numbers in terms of a majority, so
14 therefore their vote carries more weight than the individual
15 who owns collectively a thousand acres, verse a smaller lot
16 where you have one thousand individuals.

17 And someone maybe needs to help me with this, but if
18 an owner owns a thousand lots, and that person sells 100
19 individual lots, then what constitutes the majority in terms of
20 law? And that is why I said that I am more interested in
21 public policy rather than in getting involved in this dispute
22 from a legalistic perspective. Because to me a majority means
23 one person one vote. If a person owns the majority of the lots
24 that have not been sold, then that means that they own acreage,
25 in my opinion. And I'm just trying to sort through this,

1 because I want everybody to come out of this and to at least
2 have something. Something that is a win/win for both.

3 MR. FRIEDMAN: There is homeowner association law.
4 And in this particular instance, because they are platted lots,
5 that it is one lot, one vote. Each lot owner gets a vote. If
6 I own 99.9 percent of the lots, I get 99.9 percent of the
7 votes. If I own 10 percent, I get 10 percent of the votes.
8 That is pretty typical the way homeowner association law works.
9 The Department of Land Sales has got a whole bookload of law on
10 homeowner associations, and how a developer controls them, and
11 when developers must give up control over them. But this is a
12 one lot, one vote -- which I have found in the homeowner
13 associations that I have been, and condo associations that I
14 have been a member of, and I have been a member of a lot of
15 them --

16 COMMISSIONER DEASON: Mr. Friedman, you're getting
17 into testifying now.

18 MR. FRIEDMAN: He asked a question. It is one vote,
19 one lot.

20 COMMISSIONER DEASON: I understand.

21 COMMISSIONER BRADLEY: Okay. One vote, one lot. But
22 if you own all the lots initially, and you start to sell off
23 the lots in parcels, since you are in the process of selling
24 these lots, is it that you still have a majority of the votes,
25 or is it that the individuals you are selling the lots to, as

1 they -- say you own a majority, or you own one thousand lots,
2 and one person comes and buys a lot, then another person comes
3 and buys a lot, then you have two individuals who are members
4 of the homeowners association. So is it one vote against two,
5 or is it that since you have the majority of the lots, you have
6 the majority of the votes?

7 MR. FRIEDMAN: The majority of the lots, because that
8 is the way the assessments work. They also get the majority of
9 the assessments. So when you do an assessment like for this
10 purchase, Highvest that owns 62 percent of the lots and has 62
11 percent of the vote is also going to pay 62 percent of the
12 assessment. So the assessment runs along with the lots.

13 COMMISSIONER BRADLEY: Okay. But I don't think that
14 the owner can be assessed. The owner is only incurring the
15 expense of doing business. The ones who have purchased have to
16 be assessed. Because there is a difference between being
17 assessed and investing in what in you currently own in order to
18 maintain it.

19 MR. FRIEDMAN: The assessments pretty much run with
20 the votes. Each lot has an assessment, each lot gets a vote.

21 COMMISSIONER BRADLEY: But you can't assess yourself.

22 MR. FRIEDMAN: Sure they do.

23 COMMISSIONER BRADLEY: You can only assess a
24 purchaser.

25 MR. FRIEDMAN: No. The lot owner -- the lot owner,

1 and in this case Highvest, I think the evidence is going to
2 show you, owns 62 percent, or at least at that particular point
3 owned 62 percent of the lots. And Highvest gets 62 percent of
4 the votes, and Highvest pays 62 percent of the assessments.

5 COMMISSIONER BRADLEY: Okay. But what I'm having a
6 problem understanding is how I can assess myself. I can only
7 assess someone who enters into a business agreement with me.
8 For example, the county assesses you, the county assesses the
9 purchasers, but how is it that the owner can assess him or
10 herself for doing business? It would seem to me that that
11 assessment would be something that you would deal with, the
12 Internal Revenue with, or the county, or the city. I mean,
13 those would be who you are assessed by. I'm just trying to
14 wade through this.

15 MR. FRIEDMAN: This homeowner law is a different area
16 than you all are used to dealing with. But there are covenants
17 and restrictions on this development as there are on, I would
18 suggest, most developments in Florida. And those covenants and
19 restrictions govern how the voting rights and the assessments
20 of those lots are governed. And most of them, including this
21 one, each lot owner, whether he is the developer or a third
22 party, each lot owner gets one vote because each lot owner pays
23 one assessment.

24 COMMISSIONER BRADLEY: Okay. Now, my question is--
25 this. Does assessment occur after purchase or does it occur

1 prior to the purchasing of a lot by an individual that is
2 separate and apart from the owner?

3 MR. FRIEDMAN: They occur periodically during the
4 existence of the homeowners association, depending upon what
5 they -- like if they wanted to build a new guardhouse, like I
6 mentioned, then they would get together and vote, and if the
7 majority would say yes, then they would say, okay, that is
8 going to cost each of you \$100. We are going to do a special
9 assessment -- they divide it by the number of lots, and say
10 each lot then has to be specially assessed X number of dollars,
11 and they assess them. So special assessments occurs over time.

12 COMMISSIONER BRADLEY: Right. So if the association
13 gets together and decides that it is going to buy, or purchase,
14 or build as a part of its infrastructure a guardhouse, who
15 really technically is making the decision? Is it the person
16 who owns the majority of the lots, or is it the individuals who
17 have decided that they want to, in good faith, purchase lots
18 from the owner? Is the owner technically making an autocratic
19 decision, or is it a democratic decision that is being made by
20 individuals who have agreed to go into business in good faith
21 and purchase lots from the person who owns this block of lots?

22 MR. FRIEDMAN: It's a democratic process that each
23 lot owner gets a vote, and the majority of the votes control.

24 COMMISSIONER BRADLEY: So who would be making the
25 decision?

1 MR. FRIEDMAN: Whoever votes the majority of the
2 lots. In this particular situation, Highvest at this
3 particular point has a majority of the lots and votes those
4 lots. Now, they are not the only ones that voted for the
5 approval of this purchase. There were other individuals that
6 voted for it, and the testimony is going to show that that you
7 will hear later. It's not just Highvest was the only person
8 that voted for the transaction.

9 But that is a democratic process and they know that.
10 That is the way the covenants are built, that is the way the
11 by-laws are directed, and everybody knows that when you buy a
12 piece of property. It is in their deeds when they buy it that
13 it is subject to these covenants, and everybody understands, or
14 at least should understand that when you are a member of a
15 homeowners association or any organization, the majority rules.

16 COMMISSIONER BRADLEY: So under that theory, and I'm
17 just trying to understand this, under that theory the
18 purchasers really don't have a place in the democratic process
19 until they have purchased the majority of the lots from the
20 individual who owns the majority of the lots. So, technically,
21 the decisions are made by the individual who owns the majority
22 of the lots, which means that the homeowner is making decisions
23 for those individuals who are purchasing lots until they have
24 purchased the majority of the lots from that individual.

25 MR. FRIEDMAN: Sure. Sure. That's the way the

1 process works. There is nothing sinister about that.

2 COMMISSIONER BRADLEY: And I don't disagree. So my
3 question is, and this goes back to what I initially -- and I'm
4 not trying to take up too much time, I'm just trying to
5 understand.

6 COMMISSIONER DEASON: Listen, you're a Commissioner,
7 you can take up as much time as you like.

8 COMMISSIONER BRADLEY: As a public policy issue, how
9 do we have a win/win situation for everyone involved, in view
10 of the hypothesis or the theory that was just put forth in
11 terms of what legally exists here? I mean --

12 MR. FRIEDMAN: That is the problem, Commissioner
13 Bradley, is that you cannot do -- unfortunately, you are the
14 judge. And you have certain parameters that you have to work
15 under. And by the time cases get to judges, whether it is your
16 panel, or whether it is a circuit judge somewhere, he is
17 limited in what he can do, and you are limited to what you can
18 do. Mediation is the process by which these innovative
19 solutions that you talk about, win/win situations occur in
20 mediation.

21 Unfortunately, once you get to the trial, the judge,
22 as you all are, has got to rule on the law. And,
23 unfortunately, you don't have the -- you can't necessarily
24 fashion a solution. You have got to -- somebody wins and --
25 somebody loses by the time it gets to your process. And that's

1 unfortunate.

2 COMMISSIONER BRADLEY: Okay. And I understand that
3 we are quasi-judicial as well as quasi-legislative, which gives
4 us the -- puts us in the position of dealing with the
5 legalities, but also rendering a decision that is in the best
6 interest of the public.

7 So, I am not too sure at this point that I'm willing
8 to deal with this purely from a legalistic perspective. We
9 need to -- while you all are discussing, you all need to be
10 considering what needs to be done in order to mediate this,
11 because -- and that is what I started out with.

12 MR. FRIEDMAN: I wish it would have been mediated,
13 Commissioner.

14 COMMISSIONER BRADLEY: Well, is that something that
15 maybe you and Mr. Burgess can get together on?

16 MR. FRIEDMAN: I don't think ethically I can talk
17 about that, I don't know.

18 MS. FLEMING: Commission, if I may, in response to
19 your question, we did attempt to mediate this, and to no avail,
20 and that is why we are here today. So we have made attempts to
21 try to find a win/win situation, but we were unable to do so.

22 MS. NEDOROSCIK: Mr. Commissioner, when you were
23 asking about how each vote weighs according to lots, and things
24 like that, if an assessment does go out, it is supposed to be
25 evenly spread over, you know, everybody pay their fair share,

1 everybody treated equally according to all of our by-laws.

2 Now, we got a letter, it has been probably several
3 years now, probably three years ago, we had to get water meters
4 put in because I think we were told that the EPA, or whoever it
5 was, or SWFWMD, or somebody, you know, had demanded we get
6 water meters put in. You will have a water meter put in, you
7 will be billed. If it is not paid by such and such a time, you
8 will be charged interest, and all of this.

9 Everybody but Mr. Cozier got the water meters put in
10 at the time. I understand he had to be made by the Public
11 Service Commission finally to put his in. So it is not -- you
12 are not treated equal, that vote means nothing to the majority
13 voting block in that democratic system. It is not treated
14 evenly.

15 MR. BURGESS: Commissioner, may I address the same
16 points that Mr. Friedman addressed in response to Commissioner
17 Bradley's questions?

18 COMMISSIONER DEASON: Yes.

19 MR. BURGESS: Mr. Friedman essentially testified, or
20 offered statements that Mr. Cozier has more votes, and that he
21 should --

22 MR. FRIEDMAN: No, I didn't say Mr. Cozier, I said
23 Highvest.

24 (Simultaneous conversation.)

25 COMMISSIONER DEASON: One at a time.

1 MR. BURGESS: I didn't interrupt Mr. Friedman at the
2 time I disagreed with the statements he was making, I thought
3 it would be better if I waited until he finished and responded
4 to him. He testified that the majority owner has more votes,
5 and the majority owner should have more votes because the
6 majority owner is assessed more, and the majority owner is
7 assessed proportionate to the number of lots. However, the
8 circuit court stated, and this is a matter of record, and found
9 after an evidentiary trial that the majority owner
10 intentionally misrepresented the developer's obligation for
11 maintenance payments to the association, advising the members
12 that the developer had no legal obligation to pay any
13 assessments.

14 And that is exactly one of the problems they found.
15 So that is exactly the point of the case, is if they had
16 received good faith treatment and dealings, perhaps we would be
17 in a different situation. But all of these people are coming
18 up and testifying, saying please don't put us in this
19 relationship with this person because we will not be treated in
20 good faith.

21 COMMISSIONER DEASON: And I'm going to cut it off at
22 this point, these matters. I will let the attorneys have some
23 latitude in response to the Commissioner's questions, and I
24 think we are past that at this point. To the extent there
25 needs to be more clarification, we will allow the technical

1 witnesses to explore that, and then obviously you will have an
2 opportunity to file briefs on the evidence and the law.

3 Thank you. You may be excused.

4 MR. BURGESS: Commissioner, I would ask Wilma
5 Woodward.

6 **WILMA WOODWARD**

7 appeared as a witness and, swearing to tell the truth,
8 testified as follows:

9 **DIRECT STATEMENT**

10 MS. WOODWARD: Wilma Woodward. My husband and I live
11 in Chelsea, Michigan. We drove 1,250 miles to be here at this
12 hearing. And since we bought our home at 14 Hidden Harbor Lane
13 in CFR, we spend about five and a half months each year there.

14 And on the date of signing the purchase agreement,
15 which was January 5th, 1992, we were given a document titled,
16 "Florida Public Offering Statement," which states on Page 6
17 that water is provided by a water plant, wells, and water lines
18 owned and operated at that time by Camp Florida Utility
19 Association, that's a subsidiary corporation of the developer,
20 and likewise for the sewer disposal system.

21 We understood that and agreed to it. But now we do
22 not wish to purchase this water and sewer utility. We feel the
23 way the mortgage payment is set up for purchase of the sewer
24 system, it could cause us to lose our home. Even though we
25 make our payment to the POA, Camp Florida POA, we have no

1 guarantee that the POA is going to make that mortgage payment.
2 And if that mortgage payment isn't made, then we could have a
3 lien put on our home.

4 COMMISSIONER DEASON: Ms. Woodward, let me just
5 interrupt you for a moment and make sure I understand
6 completely. It's your understanding that as a homeowner, even
7 if you make your payments, that if there are other entities who
8 are required to make payments, and they fail to do so, that you
9 can have a lien placed upon your home?

10 MS. WOODWARD: The payment for this utility would be
11 paid to the POA. As I understand it, it would be in our
12 regular maintenance fee. We make that maintenance fee payment.
13 But that does not guarantee us that the property owners board
14 would make the payment for the mortgage.

15 COMMISSIONER DEASON: Okay. Thank you.

16 MS. WOODWARD: So for that reason we just do not want
17 to buy this utility. It's a deal we would never willingly
18 make. We don't want to go into business. But it's just not
19 good business for us. And we were told by our board president,
20 John Lovelette, we would be buying stock in LPU, this is for
21 the water, but we were not told the value of the stock, or if
22 that stock could be sold or transferred. But we were sent by
23 mail a special assessment notice for the purchase of stock in
24 LPU. And if payment of \$261.78 was not received by December -
25 10th, 2003, our account would be deemed past due; an interest

1 rate at the highest allowable rate would be added to our
2 account. And accounts that are past due may be subject to
3 other actions.

4 This letter is dated October 28th, 2003, signed by
5 John Lovelette, president of CFR. And as of this date, August
6 10th, 2004, Mr. Cozier still doesn't know if the sale of LPU
7 will be allowed, but the balance is still on our account, \$271
8 and some cents, \$261.78.

9 And in dealings with Mr. Cozier in the past, we just
10 come to realize that any deal with him will benefit only him,
11 and not the homeowners of CFR. Therefore, we do not believe
12 the purchase of this utility would be in the best interest of
13 the homeowners, and we strongly urge you -- we strongly oppose
14 it.

15 COMMISSIONER DEASON: Thank you. Questions.

16 EXAMINATION

17 BY MR. FRIEDMAN:

18 Q Did you not get a letter from the POA advising that
19 they were going to waive the interest and would not seek to
20 enforce that assessment until this Commission ruled upon that?

21 A The balance brought forward on our maintenance
22 statement is still there.

23 Q But there is no interest added to it every month?

24 A Not that I can tell.

25 Q And the POA, did it not, advise you that they would

1 not attempt to collect that assessment until this Commission
2 ruled upon the acquisition; that is correct, is it not?

3 A The balance is still on the bill, though.

4 Q But no attempts have been made --

5 A Not yet.

6 Q -- to transfer it to a lien?

7 A Not yet.

8 Q Didn't they, in fact, advise you that they wouldn't
9 do that unless the Commission approved it?

10 A Word of mouth.

11 Q You didn't get something in writing to that effect?

12 A Not that I know of.

13 MR. FRIEDMAN: That's all.

14 COMMISSIONER DEASON: Mr. Burgess.

15 MR. BURGESS: No questions.

16 MS. FLEMING: We have no questions.

17 COMMISSIONER DEASON: Commissioner.

18 COMMISSIONER BRADLEY: I have a question. And I
19 realize that we are in the customer input portion of this
20 hearing, and we will get to the technical portion later on.
21 But the customer input portion generates some questions I need
22 to ask in order to, since those things have generated some
23 curiosity on my part. Who holds the account? Is it a separate
24 account, or is the account being held by the owner? ---

25 MS. WOODWARD: The \$261 special assessment?

1 COMMISSIONER BRADLEY: Yes.

2 MS. WOODWARD: It has been added onto our maintenance
3 fee bill.

4 COMMISSIONER BRADLEY: Okay. The dollars that you
5 are paying into the account, though, are those dollars being
6 held in a separate escrow account or is it --

7 MS. WOODWARD: I don't know where it is held.

8 COMMISSIONER BRADLEY: And I'm somewhat confused by
9 owner versus majority. Is the account separate and apart?

10 MR. FRIEDMAN: Mr. Lovelette, I'm sure, can testify
11 to that, Commissioner Bradley, when he gets up about how it is
12 being held. But her money hasn't been paid yet. **It is just**
13 being carried as a balance until you all rule at that time. If
14 you rule to approve it, then the assessments will go forward;
15 if not, then the assessment will go away.

16 COMMISSIONER BRADLEY: Okay. And Mr. Lovelette can
17 answer this question also, when we get to the technical
18 portion. The person, or the individual, or the company who
19 owns the majority of the lots, are they also in good faith
20 contributing money to that account, which in my opinion should
21 be an escrow account, or is that not the case?

22 MR. FRIEDMAN: They waived it when there was an
23 objection filed to that assessment. And it happened last year,
24 and I don't remember exactly whether it was Mr. Burgess, or the
25 staff, or somebody, but the POA agreed not to go forward with

1 the assessment at that time. So very few people have actually
2 paid the assessment. Somewhere in Mr. Lovelette's testimony is
3 that exact amount that has already been paid. That money is
4 being held, subject to refunding it to them under the POA rules
5 and statutes. Not under your rules, under the POA rules. But
6 the majority of the people have not paid assessments, including
7 the -- Highvest, I don't think, has paid any of theirs either.
8 They are waiting on the decision of this Commission.

9 COMMISSIONER BRADLEY: Now, how are you identifying
10 the majority, when you say the majority of the people have not
11 paid. Are you identifying that as the majority of the
12 individuals -- the individual or the company who owns the
13 majority of the lots, or the majority of the individuals who
14 purchased the lots?

15 MR. FRIEDMAN: When I speak of majority, I mean the
16 majority of the votes, the lots, whoever votes the lots out
17 there. And the only reason I say that is that I think the
18 number in Mr. Lovelette's testimony is like \$19,000 that people
19 have paid, so I'm assuming if the whole assessment was 100,
20 then 19,000 certainly is not, most of the people have not yet
21 paid. They have agreed not to force the assessment until the
22 Commission rules.

23 COMMISSIONER BRADLEY: Okay. But how are you
24 identifying most of the people?

25 MR. FRIEDMAN: Well, everybody got the assessment.

COMMISSIONER BRADLEY: Is it the ones that owns the
2 majority of the lots, or the majority of those who purchase
3 lots?

4 MR. FRIEDMAN: Well, the majority of the people who
5 purchased lots have also not paid the assessment yet. It is
6 just being carried as a balance until you rule.

7 COMMISSIONER BRADLEY: So, basically, what you are
8 saying is that the individual who owns the majority of the lots
9 also has not paid, and they are going to be assessed the
10 penalty?

11 MR. FRIEDMAN: Nobody is going to be assessed the
12 penalty, nobody is going to be assessed interest. They advised
13 them of that when they were asked by the Commission, or by Mr.
14 Burgess, or somebody, you know, that don't do it, they agreed
15 not to go forward with forcing the assessments, which means
16 liening property. They agreed not to impose the interest at
17 the highest rate allowed by law, although that is certainly
18 what the documents allow, until this Commission rules.

19 When this Commission rules, if you all agree that
20 this transfer to the POA is in the public interest, then every
21 lot out there will be assessed an equal amount of money.

22 COMMISSIONER BRADLEY: Okay. And this is a what-if
23 question. If the company or the individual who owns the
24 majority of the lots does not perform in terms of paying their
25 assessment, are they apt to be foreclosed on also, and by whom

1 would they be foreclosed on by?

2 MR. FRIEDMAN: Well, they are a separate entity from
3 the POA. The POA has the rights to place liens. What happens
4 first is you place a lien on the property, and there is a
5 provision under the POA law for placing a lien on the property,
6 and there is a procedure for foreclosing that lien.

7 COMMISSIONER BRADLEY: Okay. But if the majority --
8 if the company, or the individual who owns the majority of the
9 lots does not perform in terms of paying assessments and other
10 fees that are associated with being a member of the homeowners
11 association, who would foreclose on that individual?

12 MR. FRIEDMAN: The POA. But the point of the matter
13 is, the practical matter is, though, if you have got this
14 particular property owner who is going to pay 62 percent of the
15 purchase price, if he doesn't pay his assessment, this case
16 isn't going to close. There is not enough money. This
17 transaction will not close. You know, when you buy something,
18 you do the contracts, and then you sit down at the table and
19 sign the documents and transfer the money. That is called the
20 closing.

21 If Highvest doesn't pay their assessments, there
22 won't be enough money for this deal to close. And this deal
23 will crater if Highvest doesn't pay assessments. It just
24 financially won't work. So Highvest has got to pay for this
25 deal to go through.

1 COMMISSIONER BRADLEY: Okay. Thank you.

2 COMMISSIONER DEASON: Any further questions?

3 MR. BURGESS: Commissioner, again, I would like the
4 opportunity to respond to Commissioner Bradley's questions.

5 COMMISSIONER DEASON: I will give you that latitude.
6 Please do so.

7 MR. BURGESS: Thank you very much. According to
8 information filed in response to the Staff's discovery, 73 of
9 the customers have paid the special assessment. And I would
10 note that, according to Mr. Friedman, that for those customers
11 who objected, there was no assessment. The assessment is being
12 held in abeyance. And I have to assume that means that
13 Highvest is objecting because they have not paid their share of
14 the assessment at this point.

15 COMMISSIONER DEASON: Okay. Thank you, ma'am, you
16 may be excused.

17 MS. WOODWARD: Thank you very much.

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

20 MR. BURGESS: Yes. Thank you, Commissioner. That
21 would be Edra Easom.

22 COMMISSIONER DEASON: Please proceed.

23 **EDRA EASOM**
24 **appeared as a witness and, swearing to tell the truth,**
25 **testified as follows:**

DIRECT STATEMENT

1
2 MS. EASOM: My name is Edra Easom. I live at 6
3 Hidden Harbor Lane, Lake Placid. In January of 1991, my
4 husband and I bought a lot in Camp Florida Resort. We would
5 park our motor home on this lot most of the winters. We
6 enjoyed the peace, quiet, and security, and we enjoyed the new
7 friends and the fun of the activities. We enjoyed it so much
8 that we decided to make it our permanent home. And in 1995 we
9 bought a park model and put it on our lot.

10 We didn't know it at the time, but Mr. Cozier was
11 buying into the park. It didn't take long for him to get rid
12 of the board of directors and take charge. He manipulated and
13 used us in scheme after scheme. It was his votes that managed
14 to gain possession of property that belonged to the homeowners.
15 It was necessary for us to take him to court. There was a
16 three-day court case in June of 2000. A judgment was made by
17 Judge Durrance, Circuit Judge of Hardee, Highlands, and Polk
18 County. He stated, "The Defendant, Cozier, negotiated in bad
19 faith. And throughout the negotiations he used underhanded,
20 unethical, and bad faith tactics." These are not my words,
21 these are Judge Durrance's words.

22 Now with his votes he wants to force us to buy this
23 water and waste company. I understand we would be buying
24 stock. In my experience, I have always believed when you buy
25 stock that you had the right to choose what stock you buy and

1 how much you would buy. My husband, Bob, and I in two months
2 will be married fifty-seven years, and there is some here that
3 has been married longer than that. My husband, Bob, will soon
4 be 82 years old, and I'm not far behind that.

5 At our age, it would be foolishness to buy into a
6 company that is insecure and has already gone bankrupt once.
7 If we were younger and wanted to buy stock, it would not be
8 into a water and waste system, and we surely wouldn't want to
9 do business with someone that we could not respect or trust.

10 COMMISSIONER DEASON: Okay. Thank you.

11 Questions, Mr. Friedman?

12 EXAMINATION

13 BY MR. FRIEDMAN:

14 Q Ms. Eason, you weren't party to that litigation you
15 mentioned earlier, were you? You weren't one of the
16 plaintiffs, were you?

17 A I don't understand the question.

18 Q You mentioned something about a lawsuit earlier
19 against Mr. Cozier. You were not a plaintiff in that lawsuit,
20 were you?

21 A No, but I attended every court case. It lasted three
22 days.

23 Q But you weren't a party?

24 A No.

25 Q Now, you testified that L.P., the utility is going to

1 go bankrupt?

2 MR. BURGESS: No, I don't think that characterizes --

3 A No, I said they had already gone bankrupt once.

4 Q And when you say that, do you mean the entity called
5 L.P. Utilities went bankrupt?

6 A Was it Woodlands? I don't know if it was Woodlands
7 or -- I don't know what name they went under then.

8 Q Do you believe that if the Public Service Commission
9 set appropriate rates that the company should go bankrupt?

10 A They shouldn't.

11 MR. FRIEDMAN: I don't have any further questions.

12 COMMISSIONER DEASON: Commissioners?

13 I'm going to wait until last for you, Mr. Burgess.
14 Commissioners, any questions? Staff. Mr. Burgess.

15 MR. BURGESS: I don't have any, thank you.

16 COMMISSIONER DEASON: Thank you, ma'am, you may be
17 excused.

18 MR. BURGESS: Neil Westgate.

19 **NEIL WESTGATE**

20 **appeared as a witness and, swearing to tell the truth,**
21 **testified as follows:**

22 DIRECT STATEMENT

23 MR. WESTGATE: My name is Neil Westgate. My wife,
24 Marjorie, and I live at 244 Shoreline Drive in Lake Placid.

25 Much of what I have to say has already been said, and

1 I don't know that anything would be accomplished by reiterating
2 what has been said. My primary objection to this purchase is
3 the character and ethics of Mr. Cozier. I think that a utility
4 such as this is a public trust. And as a public trust, it must
5 be administered by someone who maintains a high ethical
6 standard.

7 Now, there are a number of things that Mr. Cozier has
8 done that wouldn't fall in the category of ethical business
9 practices. On one occasion he withheld paying his assessments,
10 and a suit was prompted to force the paying of those
11 assessments. Now, we might note that while Mr. Cozier didn't
12 pay his assessment, he didn't give up his vote, his position of
13 power. Because when this was going on, John Lovelette
14 announced at a meeting that Mr. Cozier was not going to pay his
15 assessments, and the body of the -- the other members of the
16 property owners association were going to be assessed a special
17 assessment in order to make up for the shortage that came about
18 by Mr. Cozier not paying his assessments. Now that never
19 transpired, but it was, it was threatened. It was an
20 intimidating remark that John Lovelette made at a meeting.

21 And there is another reason why I think it would be
22 unwise to buy a utility that has been managed, that would be
23 managed by the Cozier/Lovelette tandem. They have managed this
24 utility under a number of different names, and have managed it
25 to the brink of bankruptcy. Now, that speaks of their

1 competence in this area, and I think is another reason why we
2 should not have to depend on our water and sewage by people who
3 have failed to administer the business properly up until now.

4 There are other areas where Mr. Cozier has not met
5 his responsibilities, such as installing water meters in a
6 timely fashion. Evidently this is being done, or is done now,
7 but it was done under threat, it wasn't done in the normal
8 course of events.

9 Now, I have heard the expression majority rule used
10 here in a number of instances. Now, if you examine our
11 government, the people who framed our constitution allowed the
12 State of Rhode Island two senators, the State of New York two
13 senators, the State of Montana gets the same two, and the State
14 of California. Consequently no minority is disenfranchised.
15 Every citizen of the United States has the ability to influence
16 his government. We have no ability to influence Mr. Cozier and
17 his operation of the property owners association.

18 I think that is just about all I have to say on the
19 subject. Needless to say, I would like not to become a party,
20 or a business associate of Mr. Cozier or -- well, I was going
21 to say or Mr. Lovelette, but I think Mr. Lovelette is in a
22 position where he must do the bidding of his boss, so I can't
23 place equal blame on him.

24 That concludes what I have to say on the subject.

25 COMMISSIONER DEASON: Mr. Friedman.

1 MR. FRIEDMAN: I do have one question.

2 EXAMINATION

3 BY MR. FRIEDMAN:

4 Q You said you didn't want to be a business associate
5 of Mr. Cozier. Aren't you in that type of situation now as
6 joint members of a property owners association?

7 A I guess I am.

8 MR. FRIEDMAN: I have no further questions.

9 COMMISSIONER DEASON: Staff.

10 MS. FLEMING: We have no questions.

11 COMMISSIONER DEASON: Mr. Burgess.

12 MR. BURGESS: No further questions.

13 COMMISSIONER DEASON: Thank you, sir.

14 MR. WESTGATE: Thank you.

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

17 MR. BURGESS: Ron Holmes.

18 **RON HOLMES**

19 **appeared as a witness and, swearing to tell the truth,**
20 **testified as follows:**

21 **DIRECT STATEMENT**

22 MR. HOLMES: My name is Ron Holmes. My wife, Sandi,
23 and I live at 37 Windward Drive, and we have been there since
24 '96. We live there full-time, year-round.

25 I'm an accountant by trade. I have had an

1 opportunity to look at the financial records of the property
2 owners association, which is allowed in the rules of the
3 property owners association. I have looked -- one of the
4 things we looked at was the possibility of any kind of a
5 reserve. In the minutes -- let me back up a second.

6 In the minutes of the directors meeting, property
7 owners meeting on August 25th of '03 is when they voted to
8 purchase the water and wastewater systems. And in those
9 minutes John Lovelette, the president, stated that the lines of
10 the system were 12 to 13 years old, and that the lines were
11 cheap and thin, and repairs were frequent.

12 There is no reserve in the property owners
13 association, and probably there shouldn't be, so that is okay.
14 But we don't know if there is a reserve in the utility, because
15 we have not been allowed to see any of those financials. And I
16 certainly would like to see them, because I would like to lay
17 them against the other and check to see if there is any
18 duplication.

19 I do know at one point in justifying the rate that
20 the Commission came up with, the meters that the property
21 owners were forced to put in first were considered as an
22 expense, and then they discovered, oh, gosh, we made a mistake.
23 Well, I'm not sure who does the accounting, but I know, as an
24 accountant, I certainly wouldn't make a mistake like that. I
25 would know where my costs were.

1 The question was raised would the rates be high
2 enough if we -- if the thing was done properly. My
3 understanding is the reason that the bankruptcy occurred that
4 has been alluded to several times was because Mr. Cozier and
5 his lots failed to make payment for his portion. And in
6 regards to that now -- so we don't really know if there would
7 be enough, because we have never had a full income to find out.
8 In regards to that now, as I came home from work yesterday,
9 Richard, who sits over here, was walking around in my circle.
10 And since we are a gated community, anytime somebody shows up
11 that I never saw before, I go talk to them and find out what
12 they are doing there. And he explained who he was and what he
13 was looking at, and we were looking at the meters.

14 And, in fact, there are meters, at least in the
15 circle that I live in, there are meters that were put in
16 sometime this spring, early summer. And I went around and
17 looked at them. The meter is in a box, and it has a little
18 door on it so you can get into the box. And then when you get
19 to the meter itself, there is a little metal cover that can go
20 over the meter. And if I look at my own, I can open the door
21 with my finger with no problem, and I look in there, and the
22 little cover is open so I can readily read the meter. And if I
23 look at anybody else that is a property owner, because I have
24 looked at a couple of others, the same situation.

25 We looked at several of the meters that are in the

1 area and on lots that I know have been rented this summer,
2 because the bulk of the time, of course, the activity mostly is
3 in the winter, but there are lots that have been rented this
4 summer, and water has been used on those meters, I know,
5 because I have seen people there. Many of them I can't even
6 open the door. On the ones that I can open the door, there is
7 no, the metal cover over the meter is still there, which
8 indicates to me that those meters are not being read, which
9 tells me that he still isn't making any kind of an effort to
10 make his share of the payments.

11 Why do we want to get into a situation where we are
12 dealing with a property owner, he is one customer in the
13 process of -- in the dealings of the park, he owns 62 percent
14 of the lots, he gets 62 percent of the votes. In a business
15 dealing, he is one customer of this utility. Sure, the biggest
16 one, but one customer. And as the biggest customer, he is
17 choosing not to pay. And why would we ever want to be tied
18 into something like that. And it would appear that he is still
19 choosing not to pay, because there is no evidence that his
20 meters are being read, even though we are being billed.

21 And it can be proven that he was trying to make the
22 property owners, the 150 pay, by the fact that we are now
23 getting a refund where he charged us too much, and he had to
24 give it back. So he made an attempt once to do it, and it
25 would appear to me that this is the same situation again. I

1 have evidence that would prove to me otherwise. Therefore, I
2 do not want to be involved in this situation. Thank you.

3 COMMISSIONER DEASON: Mr. Friedman.

4 MR. FRIEDMAN: Thank you.

5 EXAMINATION

6 BY MR. FRIEDMAN:

7 Q Mr. Holmes, so other than this meter issue you just
8 talked about, do you have any evidence that Highvest is not
9 being billed and not paying for the water and sewer use on
10 their lots?

11 A I have no way of verifying, because I'm not allowed
12 to see any of the utility's financials. If I could see them, I
13 would have some way of knowing that.

14 MR. FRIEDMAN: That's all the questions I have.

15 COMMISSIONER DEASON: Staff.

16 MS. FLEMING: We have no questions.

17 COMMISSIONER DEASON: I have a question for you, and
18 then I will let Mr. Burgess -- see if he has any questions.

19 Have you inquired, or have you made a request to
20 review the financials?

21 MR. HOLMES: I personally have not. Others have made
22 that request and have been turned down. Mr. Clifford, I
23 believe, spoke to that earlier.

24 COMMISSIONER DEASON: If you truly want to see them,
25 maybe you can confer with Mr. Burgess or with our staff

1 attorney. I don't know the exact rules, but I know that they
2 have to be made to our auditors, and they have to file annual
3 reports with the Commission. Now, you're talking about the
4 regulated utility company, or are you talking about the
5 homeowners association?

6 MR. HOLMES: I'm talking about the utility company.
7 I have seen the financials of the homeowners association.

8 COMMISSIONER DEASON: Okay. If that is something you
9 truly wish to do, I would encourage you to confer with Mr.
10 Burgess and with our attorneys. I think that is something that
11 probably could be made available to you. I can't sit here
12 today and say definitely 100 percent that it is, but my
13 suspicion is that it is something that should be made available
14 or could be made available to you.

15 Mr. Burgess, do you have questions?

16 MR. BURGESS: Yes, I have a couple of questions.
17 First, I would like to perhaps follow up on what Chairman
18 Deason had asked.

19 EXAMINATION

20 BY MR. BURGESS:

21 Q If you were to be expected to be -- have a hand in
22 the ownership of an operation, would you expect to be able to
23 have full access to the books and records of that entity
24 without having to go through governmental sanctions to obtain
25 them?

1 A That would be reasonable to do, yes. Even if you are
2 a stockholder, there are certain qualifications that the
3 stockholders get financials from any company.

4 Q What is your understanding as to the previous
5 circumstance where you said Highvest was not being charged for
6 water and wastewater service, whose decision was that?

7 A At one point, and I can't cite chapter and verse, so
8 to speak, but our rates went from \$25 to \$35 a month on the
9 water. And as I understood it, that was in order for Mr.
10 Cozier not to have to pay anything on his rental lots. And I'm
11 not close enough to the legal, all I know is I got a refund
12 coming, and I know that that was the source of it, but I don't
13 know all the facts in between.

14 Q You said you have some familiarity with the books and
15 records of the POA. Do you know whether there is an escrow,
16 special assessments funds have been collected?

17 A I have not seen it.

18 MR. BURGESS: That's all I have. Thank you,
19 Commissioner.

20 COMMISSIONER DEASON: Thank you, sir. Mr. Burgess,
21 you may call your next witness.

22 MR. BURGESS: Paul Nedoroscik.

23 **PAUL NEDOROSCIK**

24 **appeared as a witness and, swearing to tell the truth,**
25 **testified as follows:**

DIRECT STATEMENT

1
2 MR. NEDOROSCIK: Paul Nedoroscik, I live at 50 Oak
3 Ridge Circle, Camp Florida Resort.

4 COMMISSIONER DEASON: Sir, could you spell your last
5 name, please.

6 MR. NEDOROSCIK: N-E-D-O-R-O-S-C-I-K.

7 COMMISSIONER DEASON: Thank you. You may proceed.

8 MR. NEDOROSCIK: I have lived in Camp Florida Resort
9 over ten years. I have listened to these people, and I agree
10 with everything they said. I believe in the constitution. I
11 believe in coming to these meetings. And I could trust in you
12 people, from what I see. I think the man did wrong since I
13 lived there. No compromising with him. And I just want
14 justice to be served, whatever you see fit. When you do
15 something wrong, you have got to pay the price. That is all I
16 have to say.

17 COMMISSIONER DEASON: Thank you. Questions?

18 MR. FRIEDMAN: None.

19 MR. BURGESS: No.

20 COMMISSIONER DEASON: Thank you, sir.

21 MR. BURGESS: Charlie Horton.

DIRECT STATEMENT.

22
23 MR. HORTON: My name is Charlie Horton. I live at 54
24 Oak Ridge Circle. That's C-H-A-R-L-I-E. I'm here to say I am
25 opposed to this 100 percent. With your permission, I would

1 like to express my biological brother's sentiments, he opposes
2 it, also. My question is if it is making money, why get rid of
3 it? Thank you.

4 COMMISSIONER DEASON: Questions.

5 MR. FRIEDMAN: None.

6 MS. FLEMING: None.

7 COMMISSIONER DEASON: Mr. Burgess?

8 MR. BURGESS: No questions.

9 COMMISSIONER DEASON: Thank you, sir.

10 MR. BURGESS: Joe Caldwell.

11 **JOE CALDWELL**

12 **appeared as a witness and, swearing to tell the truth,**
13 **testified as follows:**

14 **DIRECT STATEMENT**

15 MR. CALDWELL: I'm Joe Caldwell. I live at Two,
16 B-W-O, Hidden Cove, Lake Placid. That's at Camp Florida
17 Resort. My wife was up here and you didn't accept her
18 testimony. That was my wife, Margaret.

19 COMMISSIONER DEASON: She is going to have a second
20 chance.

21 MR. CALDWELL: Anyway, I object to this simply
22 because I don't want to be forced into business with somebody
23 else that I have no faith in. For the last -- up until I
24 retired, I called on large corporations, small corporations, in
25 Western North Carolina, East Tennessee, upper South Carolina.

1 I talked to farmers, I talked to family people, I talked to --
2 you name it and I talked to them. I have never in my life met
3 somebody who is so devious as Tony Cozier. And that is why I
4 object to being forced into a business relationship that I
5 don't want any part of. Now I will read my speech.

6 First of all, let me tell you a little incident that
7 happened just recently. I noticed on our last budget there was
8 \$5,000 on there for trash pick-up and for brush pick-up. Well,
9 we as individual property owners, we are charged by Highlands
10 County \$135 for this service. We don't get it at Camp Florida.
11 This service I don't get it. I have to carry my trash up to
12 the dumpster. I have to carry my brush over to another
13 dumpster.

14 We are being charged \$5,000 in our homeowners budget,
15 so I called Teresa Handley. Teresa Handley is a Highlands
16 County assessment coordinator. She is the girl that handles
17 all this stuff on the trash. They call her the trash lady, but
18 she is really a nice lady. Anyway, she said this was not
19 right, the \$5,000 should not be in there. I think that is what
20 it was, \$5,000. It may be more now.

21 MR. FRIEDMAN: Commissioner Deason, I think when he
22 is talking about conversations he had with somebody else, I
23 think that is hearsay, and I'm not sure that that particular
24 hearsay is going to be corroborated by anything that I have
25 seen in any prefiled testimony.

1 COMMISSIONER DEASON: Your objection is noted. I'm
2 going to allow the testimony and we will give it whatever
3 weight we deem necessary. You may proceed.

4 MR. CALDWELL: Anyway, Teresa told me that this was
5 not supposed to be done. This was a charge that shouldn't be
6 in there, and she was going to call John Lovelette and talk to
7 him about it, and she did. Anyway, Tony Cozier doesn't pay any
8 for trash pick-up. This county, it just doesn't make sense
9 that we, as individual lot owners, have to pay the county tax
10 for trash pick-up when the developer, or so-called developer,
11 when somebody like that, they don't have to pay it.

12 So this charge by Highlands County was for the
13 purpose, the extra trucks that was required, the extra pick-up
14 that was required was supposed to be paid by the major property
15 owner, according to Teresa Handley. But John has not done
16 anything about it; he don't plan to. And this is why I object
17 to doing business with these people.

18 We have discovered -- we have discussed with many of
19 our neighbors at Camp Florida Resort the sale of this utility
20 to the Camp Florida Property Owners Association. All have told
21 me that this is not a sale, but a move by one major property
22 owner to avoid future care and service by the Public Service
23 Commission.

24 I personally feel that this sale cannot be in the
25 best interest of the public. Do you, or do anybody in this

1 oom, or you, made you or your friends to buy stock into
2 omething that you or your friends did not want to purchase?
3 Have you? I don't think so.

4 The major property owner is using the Public Service
5 Commission to do his dirty work against the individual property
6 owners at Camp Florida. We only hope that the Commission will
7 see what is going on and not be blinded to these, to the
8 situation that is at hand. To burden the individual property
9 owners with excessive fees and charges that he will control.
10 At the present time we nor any individual property owner have
11 no say, we have no say. Nothing we say is adhered to.

12 What's going on at Camp Florida? We only hope that
13 the Commission will not approve this so-called sale. It is a
14 dictatorship. Don't you folks understand that? We don't have
15 any voice? We have no voice. Look who is on the board. His
16 employees, his sister, two other employees, they are not even
17 property owners anymore. I'm finished, I hope.

18 COMMISSIONER DEASON: Questions.

19 EXAMINATION

20 BY MR. FRIEDMAN:

21 Q Mr. Caldwell.

22 A You will have to speak louder.

23 Q Mr. Caldwell.

24 A Yes, sir.

25 Q You are aware, are you not, that when you bought your

1 property in Camp Florida Resort that you would be required to
2 be a member of a property owners association?

3 A I can't understand you. You are kind of mumbling to
4 me. Could you speak up a little louder?

5 Q I'm afraid I will blow out the system.

6 A No, you won't.

7 Q Weren't you aware when you purchased your property at
8 Camp Florida Resort that you were going to be required to be a
9 member of the property owners association?

10 A Absolutely. Let me tell you about it. Let me tell
11 you one thing. I took these papers home, and I let friends and
12 people look at it, and they said that is a wonderful deal. You
13 know, the very essence of the property owners association is
14 that we will all have one vote. It wasn't. It's like, oh, I
15 knew 9/11 was coming. I didn't know that some jerk is going to
16 buy all the property and make a rental lot out of it. Did
17 anybody foresee that? I didn't. So you can't say that because
18 I didn't know -- I knew what I was buying into, but I didn't
19 foresee the future that one man would control, and dictate, and
20 turn it into a one-man show.

21 Q Isn't it true that when you bought your property that
22 another developer, in fact, owned all of those lots and, in
23 fact, did control the homeowners association just like the
24 current Highvest does?

25 A I don't know if I understand your question or not.

1 Q Well, let me rephrase it then, because I want to make
2 sure you do.

3 A Jack Clark had 396 lots. Somewhere along the line
4 they found another one. Jack Clark sold all of this at night.
5 He did it underhanded. He sold it all to one guy. Mr. Cozier,
6 he purchased 242 lots, that's what the Highlands County records
7 says, if my memory is right. You know, when you get my age,
8 sometimes it slips. But let me tell you this. He now owns
9 more than 242 lots, he has no intention of selling lots. And
10 the whole essence of the resort is to sell lots to make a
11 community there of 397 families, not 397 ownerships.

12 Q Let me go back to my question.

13 A Pardon?

14 Q Let me go back to the question I originally asked
15 you.

16 Isn't it true that when you bought your lot in Camp
17 Florida Resort that, in fact, Mr. Clark, I think is the
18 individual you mentioned, isn't it true that he controlled the
19 property owners association through his votes at the time you
20 purchased your lot?

21 A Yes. But the control was supposed to pass in 1996, I
22 believe. I understood that once he had sold enough property,
23 then the property owners would take over. And we did, for a
24 very short time. That is the only time my vote ever counted.
25 When we had a legitimate board in there, not a paid -- it's

1 like hiring somebody to control what's going on down there.
2 And that is what they are doing. That is what it is. It is
3 nothing but a paid -- John is paid, Terri is paid, I guess he
4 pays his sister, and the other two members, they are employees,
5 former employees. And as I understand, they don't even, they
6 don't even own their property anymore. They are afraid of a
7 suit, or something like that, and they have transferred their
8 ownership to somebody else. I have been told that. I don't
9 know whether that is a fact or not.

10 Q How do you know that Mr. Cozier is not selling lots
11 in the park?

12 A What's that?

13 Q How do you know that Mr. Cozier or Highvest is not
14 selling lots within Camp Florida?

15 A Well, if he sells his lots he would lose his vote.
16 He's not going to sell the lots as long as he can control us
17 and get us to pay all the expenses.

18 Q Well, that's what I'm trying to explore with you,
19 sir. You made a comment that Highvest is not trying to sell
20 any lots. And what I would like to know is where you got that
21 information, and what facts you base that on?

22 A I went up to Highlands County, and I wrote down 242
23 lots that Tony bought when he first came in here. And I know
24 for a fact that he, his voting power now is more than 242,
25 right?

1 Q But my question was, because you made the statement
2 that he is not trying to sell lots and he hasn't --

3 A Well --

4 Q Please let me finish my question.

5 A That's just my opinion.

6 Q And that is what I'm trying to explore, is what fact
7 your opinion is based upon. Did you go to the public records
8 yesterday and search to see whether in the last 12 months any
9 of those lots have been sold by Highvest?

10 A I don't know. I can only tell you that I --

11 Q If you would, just please say yes or no, and then you
12 can explain.

13 A I don't have the answer to that. I'm not sure of
14 your question.

15 Q My question is did you go to the public records at
16 any time recently and investigate whether in the last 12 months
17 or 18 months Highvest has sold any lots?

18 A Let's see. The last time I went up there I called
19 somebody, and I asked them to see if John Lovelette's wife
20 owned any lots. And they run through the records and said no,
21 john and Terri did not own any lots at Camp Florida. And this
22 was right after we had had a meeting and she was elected with
23 Tony's votes. And when I later asked Terri why she lied to me,
24 why she told me she owned lots, when she didn't, she said,
25 "Well, I don't have to, I'm an officer of the corporation."

1 Q Do you remember what my question was to you?

2 MR. BURGESS: Excuse me, that question has been
3 answered.

4 THE WITNESS: No. I don't understand your question.

5 (Simultaneous conversation.)

6 COMMISSIONER DEASON: Just one second. I'm going to
7 ask you to repeat the question, Mr. Friedman, and I'm going to
8 ask the witness to pay particular attention to the question
9 that is asked, and to the extent you're able to answer that
10 question.

11 THE WITNESS: I don't understand his question.

12 COMMISSIONER DEASON: He's going to repeat it.

13 BY MR. FRIEDMAN:

14 Q I'm going to rephrase it for you, and I will try to
15 be very slow and articulate. What facts do you have to support
16 your statement that Highvest is not trying to sell and has not
17 sold any of the lots in Camp Florida Resort?

18 A Well, I can only tell you that every time we see the
19 votes -- I go by the vote, the count on the vote. How many Mr.
20 Cozier, how many votes he had. So I just assumed that he still
21 has control over these. Whether he owns them or not, I don't
22 know, but he is still the manager, and he still is responsible
23 for holding all of us at bay on what goes on down there

24 MR. FRIEDMAN: I don't have anything further.

25 THE WITNESS: I have been in business since I

1 retired, a long time. And I have yet to run into one, one that
2 is equal to this guy. Now, you can call that a compliment if
3 you want to, but I call it dirty politics, and that's what's
4 going on at Camp Florida.

5 COMMISSIONER DEASON: Staff, any questions?

6 MS. FLEMING: We have no questions.

7 COMMISSIONER DEASON: Mr. Burgess.

8 MR. BURGESS: Yes.

9 EXAMINATION

10 BY MR. BURGESS:

11 Q Mr. Caldwell, I do have just a follow-up to Mr.
12 Friedman's questions.

13 A What's that now?

14 Q This is just in follow-up to Mr. Friedman's question,
15 about how do you know, or what makes you think he is not
16 selling property.

17 Do I understand that you indicated that you knew what
18 number of lots he originally purchased?

19 A That's right, 242.

20 Q 242?

21 COMMISSIONER DEASON: Mr. Caldwell, could you speak
22 into the microphone.

23 A 242.

24 Q And do I understand further that you are saying, from
25 your understanding of the number of votes he exerts in these

1 meetings, that he now controls more than 242 lots?

2 A You're absolutely right, that's the way I feel.

3 Q And so, therefore, you conclude that he is
4 increasing, rather than decreasing, his holdings of lots in the
5 territory?

6 A Absolutely. That is how I feel. That is what I
7 think.

8 MR. BURGESS: Thank you.

9 COMMISSIONER DEASON: Thank you, Mr. Caldwell.

10 Mr. Burgess, you may call your next witness.

11 MR. BURGESS: Norm Rechtman.

12 COMMISSIONER DEASON: Mr. Burgess, how many more
13 witness do we have?

14 MR. BURGESS: I have one more after this. And then
15 Mr. Churchill had asked, and so I was going to address that,
16 whether he could offer something in the form of a wrap-up.
17 Also we had the issue of the letters that Margaret Caldwell
18 wanted to read, and I have some statements I would like to make
19 with regard to that.

20 COMMISSIONER DEASON: Okay.

21 MR. BURGESS: And then I have, I'm trying to find out
22 the number of people that weren't on this original list who
23 have signed in, and I see a couple of names that I need to find
24 out are they intending to testify as customers.

25 COMMISSIONER DEASON: We're going to proceed.

1 MR. BURGESS: And, by the way, it is my understanding
2 that this witness, at this point, arrived after you swore in
3 other witness.

4 COMMISSIONER DEASON: Okay. At this point, then, if
5 there are individuals who wish to testify who were not earlier
6 sworn, please stand and raise your right hand.

7 Mr. Burgess, I'm showing only the individual that is
8 at the witness table. Okay.

9 (Witness sworn.)

10 NORM RECHTMAN
11 appeared as a witness and, swearing to tell the truth,
12 testified as follows:

13 DIRECT STATEMENT

14 COMMISSIONER DEASON: Could you give us your name and
15 your address for the record, please.

16 MR. RECHTMAN: Yes. My name is Norman Rechtman,
17 R-E-C-H-T-M-A-N. I own at 60 Hidden Harbor Lane, Lake Placid,
18 Florida, which is inside Camp Florida.

19 COMMISSIONER DEASON: Please proceed.

20 MR. RECHTMAN: I purchased my mobile home there a
21 little over two years ago. When we first were introduced to
22 the area, we had friends that frequently rented in Camp Florida
23 and invited us to come up for weekends. And we liked the
24 surroundings, and the activities on the lake, so we decided
25 after renting a few times from the office that we would look

1 around, and we first went to the office to see what they
2 offered in the way of sales.

3 It was obvious right away that the prices just for a
4 lot were excessive, and also to purchase a home it had to be
5 from the office, and the prices we felt were very high there,
6 also. We were luckily able to find a home that was put up for
7 sale by a private owner. At that time we weren't aware of all
8 the problems that have been going on, the number of years, and
9 we did purchase.

10 In the last two years, becoming aware of everything,
11 I am very regretful at this time that we did purchase, because
12 I feel that we bought into a -- it is basically what you would
13 represent as a junta. There is a kangaroo -- or not a kangaroo
14 court, but a board of directors that have been put in the place
15 by one man who is in -- that board is being controlled by one
16 person. And it is not like any homeowner association that I
17 have ever seen.

18 We own a condo in South Florida, also. And there the
19 developer through the years sold off all the properties. And
20 during that time the developer had one vote, and each property
21 owner had one vote. And, therefore, a community was able to
22 form, and everyone was able to vote on the best thing. This
23 isn't happening in Camp Florida. The individual property
24 owners that are left have no say in anything.

25 I am totally against purchasing of any type of

1 utility. The way I understand it, we are not even purchasing a
2 utility, we are just purchasing stock. And, again, we won't
3 have any say, because everything will be controlled by this
4 junta that has been set up. Just like in Cuba, there is one
5 person that controls the so-called government, and that is what
6 we have in Camp Florida.

7 Thank you very much.

8 COMMISSIONER DEASON: Mr. Friedman.

9 MR. FRIEDMAN: No questions.

10 COMMISSIONER DEASON: Staff.

11 MS. FLEMING: No questions.

12 COMMISSIONER DEASON: Mr. Burgess.

13 MR. BURGESS: No.

14 COMMISSIONER DEASON: Thank you, sir.

15 MR. BURGESS: Sara Keller.

16 **SARA KELLER**

17 **appeared as a witness and, swearing to tell the truth,**

18 **testified as follows:**

19 **DIRECT STATEMENT**

20 MS. KELLER: Sara Keller, 5 Freedom Way, Lake Placid;
21 85 Evans Road, Port Deposit, Maryland.

22 Gentlemen, I have a lot to say. I will try to be
23 quick. You have heard many examples of suspect, underhanded,
24 unethical, and self-serving measures that have been -- that we
25 have been subjected to by what I will refer to as the

1 Cozier/Lovelette team. There are many more examples that I
2 could quote to you. I will -- I was going to give you more
3 examples, but I will tone it down just to bit. Cozier -- I
4 don't need to be disrespectful, but may I do away with the
5 Mister?

6 COMMISSIONER DEASON: That is your prerogative.

7 MS. KELLER: Cozier used his majority vote to reduce
8 his obligation for maintenance fees on his 250-plus or minus
9 rental lots from 50,000 over a short period to nothing, putting
10 the full maintenance operation cost on the individual property
11 owners. I will read exactly the way it was proposed, and this
12 was the change to the by-laws.

13 "Based upon the amount of monies determined to be
14 needed for the operation of the association, the board of
15 directors shall assess against each member other than Camp
16 Florida Resort its proportionate share." This is an example of
17 the maneuvering that Mr. Cozier does -- I used the word
18 Mister -- on his majority votes. He used his majority vote to
19 impose costs for the POA attorney defending him in the infamous
20 court trial to be charged to the individual property owners
21 exempting his rental properties from this assessment. **That's**
22 another example. He used his majority vote to force the sale
23 of the front property so that he, in turn, could purchase it
24 from the POA president, John Lovelette, his employee, for
25 \$60,000 less than the title company paid him for an invalid

1 title. This is between Cozier and Lovelette. Cozier's
2 majority vote ruling.

3 He has also forced us individual property owners to
4 lease a \$15,000-a-year building which belongs to him for
5 recreational purposes. That \$15,000 was only paid by the
6 individual property owners, which was in accordance with the
7 documents. When we purchased the rec facility, then it was
8 necessary for Cozier to pay for his portion of this building.
9 The price went from 15,000 up to 30,000, with Mr. Cozier
10 contributing toward that. I could go on and on, but my purpose
11 is to show the pattern of abuse that we are subjected to with
12 his majority votes.

13 We do not want to be any further involved in an
14 operation run by Cozier and Lovelette where they have no
15 conscience, and whose God is the almighty dollar. You have the
16 power to protect us, the customers of a public utility, from
17 further exploitation. Your regulatory control is needed to
18 prevent this team from raising the wastewater fees for the
19 limited number of paying customers. Your regulatory control is
20 needed as a watchdog to see that, once again, the
21 Cozier/Lovelette team does not have the opportunity to bankrupt
22 the utility once it is owned by the POA.

23 Cozier/Lovelette will have complete control over the
24 future of a POA-owned utility. You have seen evidence that
25 John Lovelette, as manager, is incapable of forcing his

1 employer, Cozier, to pay for usage on his rental lots. The
2 reports that have gone into the Commission up through, I think,
3 almost May have indicated that there are 149 paying customers.
4 That number should be 397.

5 Each report that has gone into the Commission has
6 shown income only from we, the individual property owners. I
7 know from the mortgage that is on L.P. Utilities that it
8 exceeds the amount of income going into L.P. Utilities. Now, I
9 get this information, again, from the reports that go to the
10 Commission. That being the case, what is to prevent them from
11 doing the same thing to us if we, the POA, own the property.
12 John Lovelette has absolutely no authority or control over his
13 boss.

14 You have seen evidence of the machinations of the
15 team in their attempt to avoid paying us refunds. Woodlands is
16 bankrupted, Highvest closes, Cozier is the player, he is the
17 main person there. Highvest sells it to a Cozier-owned
18 corporation, and they tried to avoid paying us the exorbitant
19 fees that they had charged when it was under Woodlands.

20 Now, you are quite familiar with those machinations.
21 I have a credit of over \$200 still due me on my utility bill.
22 Commencing in November, they started giving us credits against
23 their usage, as they were ordered to do by the Commission,
24 \$43.88 each month. But at this point in time, this is my last
25 bill that was for July, I still have a \$200 credit. There are

1 approximately 150 other customers both present and departed who
2 still have money on that refund due us.

3 John Lovelette stated in his testimony that the
4 refunds still outstanding, upon their purchase, the POA
5 purchase of this utility, would be used to reduce the price of
6 the wastewater. Our refunds of 150 or so people are going to
7 reduce the price of the wastewater utility that is going to be
8 owned and serviced by 397 customers. This is what I call
9 highway robbery, to use our refunds to reduce the value or the
10 cost of the utility that will be owned by 397 customers.

11 Such an action, in my opinion, would be unethical,
12 self-serving, and downright thievery. I hope the Commission
13 will stand firm on your order that the refunds are to be
14 accomplished by mid-September. To date we have not found any
15 of those owners who have departed, who have sold and lost, we
16 have not found any of them who have received any mention of a
17 refund. So, again, this order is being treated with disdain.
18 This is the same way that the team continues to take a cavalier
19 approach to any and all of their obligations.

20 You have seen reluctance on the installation of
21 meters. They have put that off. They kept saying, well, we
22 are working with them, we are working with them, but the meters
23 don't happen. Well, finally you did. You said they are to be
24 installed by a certain date. You used your authority and your
25 power to overturn, or to force them to do what they were

1 ordered to do. You have heard testimony that the meters are
2 on-site, but they are not functional.

3 The argument that keeps coming up with each person
4 who comes up here is that the majority vote rules in the
5 property owners association. Well, you know, when we bought
6 into Camp Florida Resort, we became a member of the POA. But,
7 sir, we did not give up our rights as a citizen. We are a
8 citizen of the United States of America. If I don't agree with
9 something that is going on that affects me or impacts upon me
10 directly, I have the right to voice my objection.

11 Neither Mr. Friedman, Mr. Cozier, nor Mr. Lovelette
12 are going to take that right away from me today. Should this
13 transaction be approved, you will place us, the general public,
14 the general customers in jeopardy. We will not have you, the
15 watchdog of the utilities, to help us, nor will we have the
16 Office of Public Counsel. The proposal that is before you is
17 programmed to fail. Mr. Cozier has no qualms about foreclosing
18 on any of his various corporations. Just last year he refiled
19 for bankruptcy of Camp Florida Resort, one of the corporations
20 that was ordered to pay us our legal fees.

21 He has foreclosed on his own Woodlands of Lake Placid
22 for failure to pay the mortgage. Who decides if the mortgage
23 is going to be paid? We have already gone through that in the
24 testimony, it is Cozier tells John Lovelette what to do and
25 what not to do. He can just as easily foreclose on the POA, if

1 it is owned by the POA, by not paying his fees, or by telling
2 them don't pay the mortgage, and we will never know it. We are
3 not privy to the books. We will not know it. And they can do
4 this, they can do this very quietly. And I have no doubt, but
5 that is the way it is going to end up. We will pay, we will
6 buy the stock in the company, we will pay a mortgage, and that
7 money will go right down the creek.

8 I'm looking at my notes. And I said that we will
9 have no control over who is billed, how much is collected, and
10 what is paid. We will be in the dark. And we can lose it. I
11 was working with an Al Harr (phonetic) who is a resident there
12 to try to get the financial records of just the POA books. And
13 it took about three years before we finally got a chance to
14 look at a portion of the books. Ron Holmes, who testified
15 earlier, who made statements earlier, worked on those. And
16 there is a shortfall of about \$40,000. We have not received
17 any explanation of that.

18 The purpose of putting the POA into this business of
19 water/wastewater, in my opinion, is just simply to broaden the
20 financial base for them to tap our pockets. I can best
21 describe the team as wolves in sheep's clothing. The bottom
22 line is I object to the approval of the application. Without
23 your regulatory control, as a customer of the existing utility
24 I will be harmed.

25 Gentlemen, and staff, this is the third or fourth

1 time that my husband and I have driven over 1,100 miles to come
2 down to tell you of our concerns and to share information with
3 you that I feel is critical to your decision. I ask you to
4 seriously consider the information that we have submitted, and
5 recognize the hazards to which you will be exposing us as
6 customers, were you to approve this application.

7 And, finally, as this is probably the last chance
8 that we will meet, I want to thank you for your graciousness.

9 COMMISSIONER DEASON: Thank you.

10 Mr. Friedman.

11 MR. FRIEDMAN: Thank you, Commissioner Deason.

12 EXAMINATION

13 BY MR. FRIEDMAN:

14 Q Ms. Keller, you are aware, are you not, that there
15 are laws governing how a homeowners association is to be run?

16 A Mr. Friedman, I believe that I can speak quite
17 positively; yes, I am.

18 Q And you are aware, are you not, that there are
19 remedies for minority members of a homeowners association when
20 they are dissatisfied with the majority?

21 A We took this whole situation to court. Is that the
22 remedy that you are making reference to?

23 Q Yes.

24 A Yes.

25 Q And, in fact, you have introduced that remedy

1 yourself already?

2 A That is correct. And we got nothing for it, because
3 he is still avoiding to pay the court-ordered legal fees.

4 Q And the court-ordered legal fees weren't imposed
5 against L.P. Utilities, were they?

6 A No. We are speaking of Mr. Cozier, himself.

7 Q And those were not imposed against Highvest, were
8 they?

9 A No, because he foreclosed on the corporations that
10 were ordered to pay.

11 Q Now, you referenced earlier a PSC report that you
12 said did not show any revenue from the Highvest group, is that
13 correct?

14 A It reported 149 customers.

15 Q Do you know what the purpose of that report was?

16 A It was a Commission-required report.

17 Q I mean, what was it intending to show?

18 A I don't know what the purpose, why they asked for it,
19 I do know what it showed.

20 Q So you don't know whether that report was intended to
21 show the revenue from Highvest or not, do you?

22 A Well, Highvest is a customer.

23 Q But you don't know the purpose -- that is what I'm
24 trying to get at. Would that report, because of its specific
25 purpose, would the Highvest lots have shown up?

1 A They should have shown up in the report of the
2 business of L.P. Utilities.

3 Q Then explain to me what that report that you keep
4 referring to is intended to do? What was its purpose?

5 A It was to inform the Commission of the income and
6 outlay. The income, sorry.

7 Q So you think that they were filing a report with the
8 Commission. Was this on a monthly basis?

9 A Yes, sir.

10 Q So you think they were required to file with the
11 Commission on a monthly basis their total revenue?

12 A The total of the paying customers and what they were
13 collecting. Some that they were collecting at the 35 percent,
14 and some that they were collecting at a lesser. I have no
15 reason to believe that they were to omit, or exempt from that
16 report, that monthly report, the Highvest properties.

17 Q The Highvest properties don't get a refund, do they?

18 A This had nothing and did not state anything about
19 refunds. No, Highvest is not entitled to any refunds, neither
20 are the unsold lots.

21 Q You spoke about -- I got confused when you spoke
22 about the reduction in the purchase price for the POA to make
23 the refunds, and that that was something sinister, and so I'm
24 trying to understand your understanding of what that meant, how
25 that transaction was supposed to occur?

1 A In John Lovelette's testimony, or some written
2 relationship between him and the Commission, he indicated that
3 the refunds that remained unpaid upon the purchase of this
4 utility, would be applied to reduce the cost of the wastewater
5 facility. Our refunds.

6 Q So if you were going to have to make the refunds,
7 they were going to reduce the price of the utility system by an
8 amount equal to what the POA would have to make in the refunds,
9 is that correct?

10 A Well, the POA isn't required to make the refunds, the
11 refunds are required by L.P. Utilities.

12 Q But isn't that what was contemplated by that
13 contract?

14 A I beg your pardon?

15 Q Wasn't that what was contemplated by the contract,
16 was if they sold the system to the POA prior to the refunds
17 being made, that the purchase price would be reduced by an
18 amount equal to what the POA would have to do to finish off the
19 refunds?

20 A Sir, if that was included in the contract, it is
21 certainly a most evident thievery. Because the 397 lots will
22 be a part of the POA, and they would be owners of the utility.
23 The price of the utility reduced by 150 people who have been
24 overcharged is certainly not fair.

25 Q So your understanding of that is that they would

1 reduce the price to the POA, but then you wouldn't get your
2 refunds?

3 A They would use our refunds to reduce the price of the
4 purchase of the wastewater, which would benefit all 397 lot
5 owners in that resort.

6 Q So that is your understanding of what the contract
7 is?

8 A That's what Mr. Lovelette said that he would be
9 doing. And those refunds were not paid by 397 holders.

10 Q All right. So if what the contract really meant was
11 that they would reduce the purchase price because the POA was
12 going to have to finish off the refunds, then you wouldn't have
13 a problem with it, would you?

14 A Why would the POA -- excuse me, the POA should never
15 ever be in a position of paying back the refunds. The utility
16 who obtained the overcharges are the ones who should be paying
17 it back.

18 Q But if the purchase price was reduced by an amount
19 equal to it, it seems like that would be fair.

20 A The purchase price would be reduced for 397
21 prospective owners of that utility, and that is positively not
22 right in any way, shape, or form. Why should my refunds -- my
23 refunds should not go and be of benefit to a property holder
24 who did not earn those refunds.

25 Q But, Ms. Keller, you don't understand the deal --

1 A Apparently I don't understand it. But I do know that
2 my refunds should come to me as the PSC has ordered by the
3 middle of September this year. And I truly, truly hope that
4 the PSC will insist that that be cleared before any decision is
5 made.

6 COMMISSIONER DAVIDSON: And, Mr. Friedman, I want to
7 interrupt here on behalf of the customer. I'm insulted by your
8 comment. Because my understanding is much closer to this
9 customer's. And I wanted to actually get an assurance from
10 your client that they are not attempting to offset any
11 remaining refunds due by some anticipated cost of this
12 transaction. The transactions, in my view, and this is just
13 one Commissioner, are completely separate. The refunds are due
14 and owing, and they should be paid. End of story. And I'm not
15 going to argue with you.

16 MR. FRIEDMAN: No, I'm just saying as a practical
17 matter, the refunds will be made. This thing isn't going --

18 COMMISSIONER DAVIDSON: I don't care as a practical
19 matter. The refunds have been ordered, they should be paid in
20 full 100 percent. You can continue with your cross.

21 MR. FRIEDMAN: Commissioner Davidson, it is hard
22 to --

23 COMMISSIONER DAVIDSON: I'm not engaging in a
24 discussion with you. I have made my point.

25 BY MR. FRIEDMAN:

1 Q You made a comment that the meters on the Highvest
2 lots are not functioning. Was that based upon the testimony
3 that we heard today?

4 A That's correct.

5 Q So there is no other testimony or no other facts that
6 you have other than that?

7 A I haven't looked at them.

8 Q Now, you are aware, are you not, that there is not
9 contemplated that there will be any mortgage on the water
10 system?

11 A That's correct.

12 Q And that the water system will continue to be
13 regulated by the PSC?

14 A Thank goodness. That is not to say that once it is
15 owned by the POA and controlled by Cozier and Lovelette that
16 they will not try to bring in the customers who are not a part
17 of the POA. They may try to pull those in. And if they can do
18 that, then they would, of course, get it out of the regulatory
19 control. There has been discussion about opening the
20 membership so that they could be a part of this purchase.

21 MR. FRIEDMAN: I don't have any further questions.

22 COMMISSIONER DEASON: Staff.

23 MS. FLEMING: We don't have any questions.

24 COMMISSIONER DEASON: Commissioners. Mr. Burgess.

25 MR. BURGESS: We have no questions.

1 COMMISSIONER DEASON: Thank you, you may be excused.

2 MR. BURGESS: That is all the witnesses I had on the
3 list. I did, as I indicated on the list, indicated that Gene
4 Churchill would like an opportunity to provide something of a
5 summary of what the customers have testified to up to this
6 point, and that would be a matter of whether the Commission is
7 willing to indulge us in that.

8 And then I have other witnesses who are on the list,
9 the best I can tell the customers that have signed the list are
10 Mr. Anthony Cozier, who would like to testify, and Ms. Teresa
11 Lovelette, who would like to testify, assuming that that is
12 still effective.

13 COMMISSIONER DEASON: Are those individuals present?
14 Do they wish to testify during this phase of the hearing?

15 MR. FRIEDMAN: Mr. Cozier, are you going to testify?

16 Mr. Cozier wants to say something.

17 COMMISSIONER DEASON: Okay.

18 Mr. Cozier, were you sworn earlier?

19 MR. COZIER: Pardon?

20 COMMISSIONER DEASON: I said were you sworn earlier?

21 MR. COZIER: Yes.

22 **RONALD ANTHONY COZIER**

23 **appeared as a witness and, swearing to tell the truth,**

24 **testified as follows:**

25

DIRECT STATEMENT

1 COMMISSIONER DEASON: Please state your name and your
2 address for the record.

3 MR. COZIER: Okay. My name is Ronald Anthony Cozier.
4 I live at 241 Shoreline Drive in Lake Placid.

5 Now, I know you have given a lot of latitude to the
6 other side of the issues, I hope you will extend the same
7 courtesy to me. I'm going to be very brief. But there were
8 some statements made with regard to my character. I'm going to
9 testify on my own behalf personally, on behalf of the
10 corporation that owns the utility, and on behalf of Highvest
11 Corporation, and I will notify you as I go along. But I will
12 make my statements very frank, clear, and understandable.

13 We talk about a court case, and a judge stating and
14 casting aspersions on my character. These are statements made
15 by his peers, and I am going to be very quick and brief about
16 them.

17 MR. BURGESS: Excuse me, Commissioner. I'm going to
18 have to enter the same objections that Mr. Friedman has entered
19 up to this point with regard to hearsay testimony. I don't
20 have any opportunity to respond to these. He is talking about
21 a judge, third parties in a newspaper, that I have no idea even
22 who they are are making statements. Mr. Friedman has objected
23 to specifying customers that we know who they are, and their
24 testimony that corroborates other evidence in the record. This
25 is strictly hearsay, it is not corroborative, and it should be

1 disallowed.

2 COMMISSIONER DEASON: Mr. Friedman, do you care to
3 respond?

4 MR. FRIEDMAN: Yes. I mean, it may be hearsay. He
5 has got something to say, and he is stating, he is going to
6 state what lawyers in this circuit think of that particular
7 judge, and the comments are not very flattering. And I think
8 that he has got a right to do that because of the disparaging
9 remarks that were made against him that have been attributable
10 to that court action.

11 COMMISSIONER DEASON: Staff.

12 MS. FLEMING: I would just like to point out that Mr.
13 Cozier is a customer of the utility, and generally we give the
14 customers some latitude as far as their testimony. However,
15 hearsay evidence will be given the weight that it is due.

16 COMMISSIONER DEASON: Very well. You may proceed.

17 MR. COZIER: Thank you. "Although many attorneys
18 decried Durrance, saying he is a travesty to their profession,
19 he isn't without some support. 'Worst Judge in the circuit,'
20 was a common comment. Topped only by an attorney who labeled
21 Durrance as, 'The worst judge in Florida.' Other written
22 comments included words such as devious and inept. 'He has no
23 idea what he is doing, and doesn't care,' wrote one attorney.
24 'He makes up his mind before hearing the facts of the case,'
25 another wrote. Nobody dubbed Durrance 'Jail Dale,' which they

1 did in 1993, but they did call him the Prince of Darkness.
2 'Scary, scary. An appeal waiting to happen,' wrote one lawyer.
3 'Impossible for a defendant to get a fair hearing,' wrote
4 another."

5 COMMISSIONER DEASON: Mr. Cozier, what are you
6 reading from?

7 MR. COZIER: I'm reading from a report in the
8 Lakeland Ledger.

9 COMMISSIONER DEASON: I'm right over here, sir.

10 MR. COZIER: Oh, sorry.

11 COMMISSIONER DEASON: What is the date of that
12 article you are reading from?

13 MR. COZIER: It doesn't have a date on it here, sir,
14 but I think it is in 1993, somewhere around there.

15 COMMISSIONER DEASON: I'm a little confused, because
16 I thought that you were going to be reading statements about
17 you and your character. You are reading statements about the
18 character of the judge?

19 MR. COZIER: This is a man who passed judgment on my
20 character, yet his own peers, see what they say about him. So
21 I ask you who is the immoral person in this?

22 MR. BURGESS: Commissioner, I would renew my
23 objection. With this it makes it all more so. He has not even
24 identified one of them yet. It says, "One attorney; another
25 attorney says this," from a newspaper report that we don't even

1 know what it is, and we don't even know what date it is.

2 MR. COZIER: I can give you a copy of it.

3 MR. BURGESS: About somebody who is -- we are not
4 even speaking of the specific judge so much as a document that
5 he has issued for which this Commission must take official
6 notice.

7 COMMISSIONER DEASON: I agree, Mr. Burgess.

8 Mr. Cozier, I'm going to ask you to proceed to the
9 other parts of your statement.

10 MR. COZIER: I'm through. Thank you, sir. I just
11 wanted to make that point. And of course I could go into
12 all -- I mean, they have made statements, and I could offer
13 explanations, I won't. It doesn't matter. And really and
14 truly, quite frankly, I don't think it should even be allowed
15 in this thing, because this is not the issue at hand.

16 Now, going to L.P. Utilities, they own the utility,
17 it is now governed by the Public Service Commission. I have no
18 intention whatsoever of running and operating a utility. I
19 bought it purely because I thought it was beneficial to the
20 owners of Camp Florida Resort for this utility to be owned by
21 the developer or the majority owners. Highvest Corporation now
22 represents 240-odd future owners of this resort. All we are
23 doing here is giving them the opportunity to say at some period
24 of time whether they want to own the utility, or whether they
25 want to sell it. That is all we are doing.

1 We made an offer to the POA, they approached me about
2 it, certain members of the POA. I have given them the utility
3 at far below its value. I have lent them the money to buy it
4 at a reasonable rate of interest on a ten-year period, which
5 means that within four or five years, there is a lot of equity
6 in that utility, so that whoever comes along and buys these
7 properties can say at some future date we don't want a utility.
8 We will vote and sell it. Or we want the utility. I have
9 given them that right. They want to deny that right, and they
10 want to deny me the right. They want me to pay 62 percent of
11 the assessments, but they want to give me one vote, that is not
12 going to happen in America.

13 If you want my one vote, you charge me one
14 assessment. I bet you right now not one of them out there
15 would say, yes, we will do that. Stand up if you will do it.
16 Not one will do it. Let me pay one assessment, and I will take
17 one vote. I don't want the votes. What do I want them for?

18 They cast aspersions on my staff. Not one member of
19 my staff can stand up and say to me today, "Mr. Cozier, you
20 demanded that we go and say this, or do this." Not one. I
21 wouldn't insult them by doing it. And what is further, I
22 wouldn't insult myself by doing it.

23 As far as selling the utility, I'm going to sell it.
24 If they want to buy it, fine. Somebody else will buy it. It
25 is a hell of a good deal. I don't want to sell it. I don't

1 want to own it right now. I have one of the largest yachts in
2 the United States of America. The only water I want to hear
3 about is the Carribean Sea and the Atlantic Ocean. That is the
4 only water I want to hear about. And it is up to them. It is
5 a good deal for them, if they only sit down and look at the
6 positive side of things instead of continuing with this
7 negative attitude.

8 They talk about selling lots. You can't sell lots to
9 people when they continue with this nonsense. I keep telling
10 them that time and again. I set up periods of assessments
11 where I said, look, let's sell lots so that these assessments
12 can go off, and the developer should not have to be paying any
13 assessments at all. I think we are the only development in the
14 United States that the developer pays assessments. But they
15 want to take my vote away. I mean, come on. Let's get
16 reasonable here. Let's get to the truth.

17 You have got one of the most beautiful resorts in
18 Lake Placid, and I made it that way. And the majority of
19 people in there are enjoying themselves. They talk about, oh,
20 he rented a recreation facility. Yes, I did. I fixed it up
21 and I rented it to them so that the majority of the residents
22 in there can enjoy themselves. They don't want to go in there,
23 and the people don't want them, quite frankly, they don't want
24 them in there.

25 But they are enjoying themselves. You want to find

1 out how they are enjoying themselves, come down there in the
2 winter when they all come, and come and join their parties and
3 see how they are enjoying themselves. They don't want to enjoy
4 themselves. And they are paying a very minimum amount for that
5 enjoyment. And I made it that way.

6 And as long as I'm leading that resort, it is going
7 to be top resort, top. They are not going to run it down.
8 Because I am accustomed to only doing things one way, the right
9 way and the best way. That is the way I am brought up. I'm
10 not going to allow them to drag it down.

11 And it is up to you. You will decide whether the
12 majority of the people in that resort should have the right to
13 own their water and sewer facility, which I think they should
14 do, or you will concede to the minority. And my friend, that
15 is a sad day. Because, you know, we are a democracy. And
16 right now young men and women of the American Armed Forces are
17 losing their life in Iraq because we are showing them the road
18 to democracy. We overthrew a dictatorship. And in this
19 country, the majority rules, the will of the majority rules, as
20 long as we don't have any chads around to stop it.

21 Gentlemen, that is all I have to say. I thank you
22 for your time, and I appreciate the efforts of the staff of the
23 Public Service. I have no problems with you, except for one
24 thing, and that is they said I was charging too much for water,
25 too little for sewer. I said, "Well, can't we balance -- oh,

1 no, no, no, they didn't come to balance it, I've got to pay."
2 I paid. I have no objection to paying. I can afford to pay.
3 I paid it, but I don't think it is right.

4 And I can tell you something, too. They were paying
5 \$35 a month for water and sewer, I took care of everything
6 else. They watered their lawns, they did whatever they wanted.
7 Everybody was happy. Today people are unhappy. Why? Because
8 some people are now paying because of this rate thing \$40 or
9 \$50 a month instead of 35. And they feel unhappy because, why,
10 these people can come down here for three or four months a year
11 and they can walk in their house and turn their water on. They
12 don't want to pay.

13 And to add insult to injury, some of these people
14 when they come in now, so as not to use water, they are going
15 to the rest areas, they leave the comfort of their own home.
16 The privacy of their own home and go in the rest areas to save
17 water. And not only that, to add salt to the wounds, they come
18 out with buckets of water to take to their house. Can you
19 imagine that? Can you imagine that? Well, I tell you. I
20 mean, what do I tell you? I doesn't bother me one way or the
21 other, quite frankly.

22 COMMISSIONER DEASON: All right. Thank you.

23 MR. COZIER: Thank you very much.

24 COMMISSIONER DEASON: Mr. Burgess, do you have
25 questions?

1 MR. BURGESS: No, I don't have any questions.

2 COMMISSIONER DEASON: Mr. Friedman. Staff.

3 COMMISSIONER DAVIDSON: A couple of questions if you
4 can answer it, maybe Mr. Lovelette will answer this during the
5 case. But it is indicated in the documents that were filed
6 that there are 397 votes in the association?

7 MR. COZIER: Correct.

8 COMMISSIONER DAVIDSON: How many of those votes does
9 Highvest have?

10 MR. COZIER: Probably right now 220 or something.

11 COMMISSIONER DAVIDSON: It was indicated in the
12 testimony that 276 votes were in favor of the transfer, 85 were
13 against the transfer, and 36 abstained. Of the 276 votes for
14 the transfer, how many of those would have been Highvest?
15 Again, you estimate 220?

16 MR. COZIER: I would say that. I really don't keep a
17 count of that.

18 COMMISSIONER DAVIDSON: Were all of the other votes
19 in favor of the transfer, to your knowledge, votes of lot
20 owners completely separate and apart, independent of Highvest,
21 just other lot owners out there?

22 MR. COZIER: Yes, sir, they are.

23 COMMISSIONER DAVIDSON: They are not your employees,
24 officers, directors, they are just --

25 MR. COZIER: No, no. There are other people in there

1 who, in fact, came to me to say would I consider selling it to
2 the association instead of putting it up for public sale. And
3 I think that was a proper approach, and we discussed it. And I
4 can tell you, I sit down, I get some of the biggest objections
5 from my own staff. I don't stifle their voices. That is not
6 my -- I don't want yes people. I like people who come out. As
7 a matter of fact, I would fire them if they were yes people,
8 you know.

9 COMMISSIONER DAVIDSON: That was Page 11 where I was
10 asking those numbers. And perhaps -- that was Page 11 of your
11 direct testimony, so perhaps in the next stage of the case.

12 I'm just curious as to the breakdown of the 276 between
13 Highvest and sort of other customers like these who are here.

14 MR. FRIEDMAN: It will come out with Mr. Lovelette.

15 COMMISSIONER DAVIDSON: That's perfect. Thank you,
16 that's all.

17 MR. BURGESS: May I ask a question about -- I
18 apologize.

19 COMMISSIONER DEASON: Commissioner Bradley has a
20 question.

21 COMMISSIONER BRADLEY: A question, Mr. Cozier.

22 MR. COZIER: Yes, sir.

23 COMMISSIONER BRADLEY: Is there anything, or any
24 possibility, or does there exist the possibility that you and
25 the customers might reconcile your differences and come to a

1 solution that everyone can live with?

2 MR. COZIER: Sir, it didn't happen. To be very frank
3 with you, sir, in the first court case when a lot of
4 reconciliations were -- as a matter of fact, there was one time
5 when they had a very prominent jurist sit down to reconcile
6 these issues, and he could not understand why they couldn't be
7 reconciled. These people just wanted to go to court. They
8 just want to go before the Commission.

9 And, quite frankly, the judge, the rulings of the
10 judge, I only went to the appeal court on one issue, which the
11 appeal court overthrew his judgment. The rest of it, as far as
12 I'm concerned, benefitted me financially. I didn't object.
13 The appeals lawyer that we had said why don't you appeal the
14 whole thing? And I said, "What for?" I said, "The other
15 issues are going to benefit me."

16 Like they said, you know, they bring up the thing
17 that I made it look like it was some underhand deal. The judge
18 ruled that the front office, a commercial property, was part of
19 the common area. I mean ridiculous. I said okay. So I went
20 to the title insurance company and I said I have title
21 insurance that tells me I own this property. They said, "Yes."
22 I said, "Pay me." And I said to the property owners that came
23 there, I said, "Look, it is common area. The documents say
24 that as the developer I can use any part of the common area so
25 long as I have lots for sale. Is that right?" Yes. Well, I

1 am sitting right here and conducting my business. Oh, no, you
2 can't do that. I said, "Why not? The documents say I can do
3 it." So some others came to me and said, "Look, we can't use
4 this as a recreation area. It is offices, why don't you buy it
5 from us?" And I said, "No. Sell it. I don't want to buy it."
6 I can go anywhere in the park and sell lots, I don't want to --
7 I said, "But if you are going to sell it to somebody outside,
8 make sure and tell them that I have the right to use it."

9 So eventually they came to me and said, please, buy
10 this property. So I eventually told them, I said, all right, I
11 will pay X dollars for it, because the park needed -- the roads
12 needed to be resurfaced, the rest areas needed to be redone,
13 the recreation facility down at the pool needed to be done. I
14 said, okay, I will buy it and we will use that money to do
15 those things. Why would I have appealed that? I was the
16 beneficiary.

17 COMMISSIONER BRADLEY: Let me ask a question.

18 MR. COZIER: So, the question, there is always ways
19 of compromise. But in this situation the compromise is that
20 the majority of people have voted that -- including not only
21 me, but other members in there, they feel that it is in their
22 interest to own that facility, those utilities. The utilities
23 are controlled by the Public Service Commission. The
24 utilities, if it weren't controlled by the Public Service
25 Commission, it is controlled by the owners.

1 They question of the meters. Now, Mr. Bradley,
2 common sense. You have a pump, a main pump that has a meter on
3 it. Every gallon of water that comes out of that pump is
4 metered, okay. You have so many people that own homes, say
5 150, for getting close-to figures. Now, if you put meters on
6 these 150, and you meter them, you are going to come out every
7 month with so much water used by these 150 people, is that
8 correct? Do I make myself clear here? Right.

9 Now, if you take that figure from the metered, the
10 pump meter and the pump, you take that from that, wouldn't it
11 be obvious that this is the water that the developer has used
12 on his lots? And really and truly is it fair? Because the
13 lots that I use are mainly in the winter months, they encourage
14 people to come to the park for the purposes of enjoying
15 themselves, and they are, and they are starting to buy homes,
16 and they are starting to buy some of their homes. One
17 gentleman testified he couldn't buy it from me, he couldn't
18 afford it, but he could go and buy somebody else's. And that
19 is what is happening.

20 These people who come there in their RVs, and
21 whatnot, look around, as he did, he came up from Miami, or
22 wherever, and he liked it, and he enjoyed it, and he bought
23 somebody's property. Because the price of mine is this, the
24 price of my park model is this, and that is the price. And
25 being a democratic country, he was able to go around the corner

1 and buy somebody else's. I think that is beautiful. I'd like
2 to shake his hand. You know, that is the purpose of democracy.

3 COMMISSIONER BRADLEY: Let me ask a question.

4 MR. COZIER: Yes.

5 COMMISSIONER BRADLEY: Having been involved in this
6 discussion with the customers for the extent or the time period
7 that you have been, and as of right now, today, I know that you
8 have probably given a lot of thought to the particulars of the
9 dispute that exists between you and the customers who we have
10 heard this morning. Is there anything that you can think of
11 right now that you would be able to put on the table today, at
12 this moment, based upon your knowledge of what has occurred,
13 that might reconcile or maybe settle some of the issues that
14 are paramount to what we are considering?

15 MR. COZIER: Well, sir, I honestly -- I mean, I have
16 given them a price that the Public Service Commission stated is
17 the value of that property, which is far below its value, I can
18 tell you that right now. I wish we could buy that system for
19 that price. But I said, look, I just want out. Contrary to
20 their opinions, money is not everything. The important thing
21 is that I still have 220 lots to sell. **And I want to give**
22 **those people when they come there the correct answers.** I want
23 to say to them you are the owner of these utilities. Because
24 they are going to say, Well, what about water and what about
25 sewer? And I want to say to them you are the owners of this

1 facility.

2 I have given it to them at the fairest price
3 possible. On top of that, I have given them ten years to pay
4 for it at 6.99 percent interest, tied in for ten years. I
5 haven't said to them 6.99 today, and whatever happens tomorrow,
6 depending on how I wake up, and the market is, and I say that.
7 I said no, I have tied it in for ten years. In ten years they
8 are going to own that free and clear. They are not passing on
9 any debt to their families, or children, or grandchildren as
10 they want to make you believe. There is no pass on of debt.

11 COMMISSIONER DEASON: Okay. We need to kind of
12 wrap-up. Thank you for your testimony.

13 Mr. Burgess, do you have a question?

14 MR. BURGESS: I do not, thank you.

15 COMMISSIONER DEASON: Very good. I'm glad. Thank
16 you, sir.

17 We have been going now for over three hours, and I
18 need a break, and I'm sure the court reporter needs a break, as
19 well. I know you mentioned there was a wrap-up witness. I am
20 just going to propose that if there needs to be any wrap-up, we
21 can wrap it up at the end of the evening customer hearing, if
22 that is necessary. There's the question of the letters. We
23 will take that up first thing when we reconvene after we take a
24 lunch break.

25 Okay. We are going to take a lunch recess, and we

1 will reconvene at 2:15.

2 (Lunch recess.)

3 * * * * *

4 COMMISSIONER DEASON: Call the hearing back to order.

5 Okay. As we adjourned for the lunch break, I
6 indicated that the first order of business would be to take up
7 the question of the letters that Ms. Caldwell had referenced in
8 her testimony.

9 Mr. Burgess, you have reviewed those letters, have
10 you?

11 MR. BURGESS: Yes, I have reviewed the letters,
12 Commissioner. And what I would represent to the Commission is
13 that we have had two witnesses who have testified, Ms. Woodward
14 and Ms. Nedoroscik, about their understanding that liens would
15 be placed against their property if they didn't pay the special
16 assessment. What we have is people who have -- there are two
17 people who are not here because they have sold their property,
18 so they are not in the area, they are not involved anymore,
19 they are not customers, who have testimony about liens in their
20 situation. We have people who have spoken with them, we have
21 people who have received letters from them.

22 The information that these people would present
23 corroborates the testimony that is on the record that has been
24 testified to directly. So it is technically hearsay, but --
25 hearsay is allowed when it corroborates. And it is about a

1 specific issue that the Commission has expressed an interest,
2 and that is are liens being placed against property if the
3 special assessment isn't paid? And what we have is a special
4 circumstance of people who because they have sold their
5 property obviously aren't here, and couldn't be expected to be
6 here short of being subpoenaed. And so we are looking to get
7 their story into this to fill out this particular issue.

8 COMMISSIONER DEASON: Okay.

9 MR. FRIEDMAN: The reason I don't think that the
10 letters are admissible, or should be admitted in spite of the
11 flexible hearsay rule is that those letters don't say that
12 there was a lien placed on the property, because there were no
13 liens placed on the property. And these letters discuss an
14 issue of how to deal with that assessment during the transfer
15 of a piece of property, but they don't corroborate any
16 testimony about a lien being placed on property.

17 Now, we know what a lien is and what that means.
18 That is different from what those letters are talking about.
19 There are no liens placed on any of these properties as a basis
20 of that assessment, and you can ask Mr. Lovelette that when he
21 testifies, if you would like.

22 MR. BURGESS: Commissioner, we might have an
23 agreement. If Mr. Friedman agrees that these people could not
24 sell their property until the assessment was paid, then I think
25 we can reach an agreement. If that is all he is saying is he

1 doesn't like the use of the term lien, but, yes, these people
2 could not pass title until they paid the assessment, and they
3 are gone before the transfer is ever made, well, then we have
4 an agreement.

5 MR. FRIEDMAN: That is not what we are here for. We
6 are here to -- and you can ask Mr. Lovelette about this if it
7 is really something that is of concern to somebody. It just
8 came up, so it is not included in any his prefiled testimony.
9 But now Mr. Burgess is going beyond what those documents say.
10 The documents do not talk about placing a lien on the property,
11 and that is what the prior testimony was about. These people
12 said, man, they will place a lien on my property.

13 COMMISSIONER DEASON: Staff.

14 MS. FLEMING: I would just like it reiterate that
15 hearsay is admissible to the extent that it is supplemented by
16 other evidence. And we did state earlier that liens would not
17 be placed on the property if and when the Commission approved
18 this transfer.

19 COMMISSIONER DEASON: I'm sorry, could you repeat
20 that last statement?

21 MS. FLEMING: That liens would not be placed on the
22 property -- if the Commission decides to approve this transfer
23 and the customers do not pay these assessments, liens may
24 possibly be placed on these properties for failure to pay the
25 assessment.

1 As far as these letters are concerned, I am still in
2 the posture that they should be treated as the other 57
3 customer letters were treated, but the Commission does have the
4 discretion to allow this into the record.

5 COMMISSIONER DEASON: Okay. I'm going to rule that
6 the letters **can be admitted**, and I note the objection. And I
7 think the, from what I understand, the letters are -- let me do
8 this, let me look at the letters. I apologize, I'm just going
9 to take a couple of minutes to do that quickly. (Pause.)

10 Okay. I am going to allow these letters to be
11 admitted into the record. Mr. Burgess -- the objection is
12 noted. Mr. Burgess, is it necessary to read these into the
13 record, or can I just give them an exhibit number and include
14 them that way?

15 MR. BURGESS: It's fine with me if you just give them
16 an exhibit number. I don't feel the need to have them read
17 into the record.

18 COMMISSIONER DEASON: Okay. We already have a
19 preliminary numbering system for the exhibits, so we have
20 preliminarily given numbers 1 through 12, and we will deal with
21 that in due course when we get to the technical phase of the
22 hearing. Therefore, I am going to assign Exhibit Number 13 to
23 a letter dated August 2nd, 2004, and it is signed by a Jeffrey
24 and Ilenc Cleveland (phonetic). That is Exhibit Number 13.

25 And then there is a letter dated July 20th, '04,

1 signed by Phyllis Lee (phonetic), and that will be assigned
2 Exhibit Number 14.

3 (Exhibit 13 and 14 marked for identification and
4 admitted into the record.)

5 COMMISSIONER DEASON: And just so it is clear, these
6 are letters that are addressed -- one is addressed to whom it
7 may concern, and that is Exhibit 14; and Exhibit Number 13 is
8 just -- at the beginning it just says, "We request that the
9 following information be made known to the PSC."

10 Mr. Burgess, I'm going to put the burden on you to
11 make sufficient copies of these exhibits, and to make sure that
12 the court reporter receives copies and all of the parties. And
13 I assume you have shared this with Mr. Friedman, but if he
14 needs it during the course of the hearing today at some point,
15 I would think it would be incumbent upon you to make sure that
16 he has either these or at least copies of these.

17 MR. BURGESS: Yes, sir, I have shared them with Mr.
18 Friedman. And, yes, he is free to use them and peruse them as
19 he pleases further.

20 COMMISSIONER DEASON: Very well. Can you come and
21 take that at this point?

22 MR. BURGESS: Yes, sir.

23 COMMISSIONER DEASON: And since the letters have been
24 identified and admitted, I don't believe it's necessary to have
25 Ms. Caldwell come to the stand again, is that correct?

1 MR. BURGESS: That's correct, as far as we are
2 concerned. We do have someone who is the recipient of them, if
3 the Commission has any questions of that person. Otherwise, I
4 think we are ready to move into the --

5 COMMISSIONER DEASON: Mr. Friedman, I will give you
6 the opportunity, since these letters were brought forth by a
7 witness, if you need to ask her any questions as to the origin,
8 her understanding, or the veracity, or whatever, I will give
9 you that opportunity at this point.

10 MR. FRIEDMAN: No, I don't think that would serve any
11 useful purpose. I will ask Mr. Lovelette to explain that
12 procedure.

13 COMMISSIONER DEASON: And I will give you some
14 flexibility in that regard. Okay. Let me go ahead and make a
15 note of these exhibits.

16 Okay. Mr. Burgess, at this point are we concluding
17 the customer phase of the hearing except for the evening
18 session?

19 MR. BURGESS: Except for the evening, correct.

20 * * * * *

21 (Service hearing reconvened at 5:40 p.m.)

22 **GENE CHURCHILL**

23 **appeared as a witness and, swearing to tell the truth,**
24 **testified as follows:**

25 **DIRECT STATEMENT**

1 MR. BURGESS: Mr. Churchill, you were sworn earlier?

2 MR. CHURCHILL: Yes.

3 MR. BURGESS: And I just want to -- you heard the
4 exchange, Mr. Friedman is concerned about whether you are going
5 to come up and use this time to develop responses to the case
6 that he has put on. And so I would just, again, remind you of
7 the representation that this is testimony that you had intended
8 to present prior to even entering into the technical phase of
9 the hearing, so --

10 MR. CHURCHILL: Yes, I understand.

11 In fact, after Ms. DeRonne's testimony, I really only
12 have one issue that I want to address, and that is these liens
13 that can be placed on the property -- if this goes through,
14 liens can be placed on the property if a homeowner doesn't make
15 their payment. What that amounts to, as far as I'm concerned,
16 is putting up our homes as collateral to guarantee this loan.
17 I think in lender's terms this is probably
18 cross-collateralization -- it's hard this time of day. And the
19 homeowners have probably an estimate of about \$7.5 million
20 dollars worth of property. In essence, what has happened here
21 is they are putting up that property through these possibility
22 of liens to guarantee a \$100,000 loan, or whatever it is.

23 I can't see how it could possibly be in the public
24 interest to place us in a position where we have to put up our
25 homes to guarantee this loan.

1 COMMISSIONER DEASON: Thank you.

2 Mr. Friedman, you may ask questions.

3 EXAMINATION

4 BY MR. FRIEDMAN:

5 Q Mr. Churchill, is that situation that you outlined
6 any different than if the property owners association decided
7 to build a nice big fancy gatehouse out at the front and went
8 and borrowed \$100,000 to do so?

9 A Substantially different in my mind. What you are
10 talking about here is forcing the homeowners to buy a business
11 that we don't want and we don't believe is in the public
12 interest. Okay. This is an ongoing expense. In your analogy,
13 you build a gatehouse up there and it sits there. It probably
14 has a few dollars worth of maintenance each time, or liability,
15 or risk. A business has daily risks and costs and liability,
16 so I don't accept your analogy. No, I don't think that is the
17 same.

18 Q Do you not consider the property owners
19 association -- property owners association as a business?

20 A I do not. I absolutely do not. There is nothing
21 about the homeowner association that we are involved in that is
22 run anywhere near any successful business that I have even a
23 marginal amount of information on.

24 Q Have you been a member of a homeowners association
25 anywhere else?

1 A I have not.

2 Q But you knew when you bought your lot, did you not,
3 that there was going to be an obligation to pay assessments and
4 quarterly maintenance fees?

5 A We went over that earlier today. Yes, we can go on
6 ad nauseam on that, but --

7 Q Well, you testified ad nauseam.

8 A What happens is this being forced to buy this
9 business under these conditions could have never been foresaw
10 by anybody making a reasonable objective judgment on what those
11 documents said at the time we bought in.

12 Q But, yes, you knew about that potential at the time
13 you purchased?

14 A I fully agree that if the maintenance of the park is
15 not paid for and kept up in a proper manner, that then the
16 people should be assessed that, and a lien should be placed on
17 their property. We are talking about forcing us to buy a
18 business that we don't want. And if we don't do it, you are
19 going to put a lien on our house. I think that is ludicrous
20 and definitely not in our best interest or in the public
21 interest.

22 Q And you state that because you are the minority
23 people who voted in that election to determine whether to
24 purchase it or not?

25 A No, I did not state that.

1 MR. FRIEDMAN: I don't have any further questions.

2 COMMISSIONER DEASON: Staff.

3 MR. FRIEDMAN: We don't have any questions.

4 COMMISSIONER DEASON: **Commissioners.**

5 COMMISSIONER DAVIDSON: I've got just one quick
6 question for Mr. Friedman. If you know, and it just goes to
7 the lien issue. If you know, and if not maybe this can be
8 addressed in the papers, assuming that Highvest has about 60
9 percent of the voting lots, is it accurate to state that if at
10 some point in the future there was a lien put on the
11 properties, the vast majority of the lien, let's say a lien for
12 \$100,000, 60 percent of it would be on Highvest properties?

13 MR. FRIEDMAN: Assuming that Highvest did not pay its
14 assessment. So you have got to take one step back. The POA is
15 the entity that pays the bills and it issues the assessment.

16 COMMISSIONER DAVIDSON: Correct, assuming no
17 assessment is paid.

18 MR. FRIEDMAN: If nobody paid an assessment then,
19 yes, 62 percent of the nonpayment in lien would be imposed
20 on --

21 COMMISSIONER DAVIDSON: I mean, \$7 million worth of
22 property is not going to be liened under the agreement for
23 \$100,000 in debt. Assuming the worst-case scenario. I mean,
24 I'm not familiar with --

25 MR. FRIEDMAN: If you don't pay --

1 COMMISSIONER DAVIDSON: No, I understand, but --

2 MR. FRIEDMAN: I have seen -- unfortunately, I have
3 seen \$100,000 houses foreclosed on because of a, you know, \$400
4 lien by a homeowners association. Not in here, but in some of
5 my other work. If you don't pay it, you get a lien and it has
6 got nothing to do with the value of your property. Some of
7 these homeowner associations are very strict about paying. **And**
8 if you don't pay, you get a lien, then they have the
9 opportunity to foreclose the lien. Obviously that foreclosure
10 is subject to any existing mortgages on the property.

11 COMMISSIONER DAVIDSON: Under this transaction is it
12 accurate to state that if Highvest simply chose not to pay any
13 of the assessment, and let's say the total debt owed was
14 \$100,000 after all adjustments, 60,000 of that would be
15 attributable to the Highvest lots, correct?

16 MR. FRIEDMAN: Correct.

17 COMMISSIONER DAVIDSON: And if Highvest simply chose
18 not to pay, it would risk having those lots foreclosed?

19 MR. FRIEDMAN: Yes, subject to a lien and
20 subsequently foreclosed, correct.

21 COMMISSIONER DAVIDSON: Thanks.

22 COMMISSIONER BRADLEY: Well, it would risk having
23 those lots be foreclosed. What would be the impact upon the
24 other 40 percent?

25 MR. FRIEDMAN: The same. If they didn't pay, they

1 would be --

2 COMMISSIONER BRADLEY: No, no, no. I think I -- and
3 maybe I misheard what your question was, but my understanding
4 was that if Highvest owns 60 percent of the capital -- well, of
5 the lots, Highvest defaults, how does that default affect the
6 other 40 percent?

7 MR. FRIEDMAN: If they paid their assessments, it
8 wouldn't effect them at all.

9 COMMISSIONER BRADLEY: Okay.

10 MR. FRIEDMAN: You only get a lien if you don't pay
11 your assessment and that is individual to each lot that gets
12 assessed.

13 COMMISSIONER BRADLEY: Okay. But take it a step
14 further. But 60 percent default could cause that particular
15 company to go out of business, which means that the other 40
16 percent would also lose their investment, is that correct?

17 MR. FRIEDMAN: Yes. I mean, if it has that type of
18 financial effect, sure.

19 COMMISSIONER DEASON: Okay. Thank you, sir.

20 MR. CHURCHILL: Thank you.

21 COMMISSIONER DEASON: Okay. At this point we are
22 going to stand in recess until 6:00 p.m., which according to my
23 watch is only about ten minutes away. And I would just note
24 that I intend to reconvene sharply at 6:00, and we are going to
25 hear whatever witnesses are present. And if there are no

1 additional witnesses present, we are going to adjourn. Because
2 there are a number of people who need to travel and have
3 concerns about the storm in the Gulf, and the impact it may
4 have on themselves and their families. So with that, we'll
5 stand in recess until 6:00.

6 (Off the record.)

7 COMMISSIONER DEASON: If I could have everyone's
8 attention and ask you to take your places. We will call the
9 hearing back to order. We are now beginning the 6:00 o'clock
10 customer hearing in this matter. We will dispense with reading
11 the notice and the formalities unless we have customers who
12 have just joined us for the first time this evening.

13 Mr. Burgess or Staff, are there any --

14 MR. BURGESS: I'm not aware of any customers that
15 have come in. And I have spoken with some of the customers
16 that were here indicating they don't expect -- there are no
17 customers that they know of that they are expecting to come in
18 for the evening.

19 COMMISSIONER DEASON: Very well. At this point,
20 then, I would like to take this opportunity to thank everyone
21 for your participation, the customers, and your patience being
22 with us all day. I thank the company, and Public Counsel, and
23 our Staff. We will review the schedule that this case will
24 follow, and then after that we will adjourn.

25 MS. FLEMING: The transcript of this prehearing is

1 scheduled to be filed on August 4th, 2004. Excuse me, August
2 18th, 2004.

3 COMMISSIONER DEASON: She is fast, but not that fast.

4 MS. FLEMING: I have faith in her. The briefs are
5 due September 1st, 2004. Staff's recommendation is to be filed
6 October 7th, and the agenda will be October 19th with a final
7 order on November 8th.

8 COMMISSIONER DEASON: Very well. That's the
9 schedule. With that, this hearing is adjourned.

10 (The hearing concluded at 6:05 p.m.)

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1 STATE OF FLORIDA)

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CERTIFICATE OF REPORTER

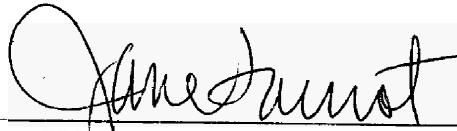
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5 COUNTY OF LEON)

6 I, JANE FAUROT, RPR, Chief, Office of Hearing
7 Reporter Services, FPSC Division of Commission Clerk and
8 Administrative Services, do hereby certify that the foregoing
9 proceeding was heard at the time and place herein stated.

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

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

20 DATED THIS 18th day of August, 2004.

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JANE FAUROT, RPR

Chief, Office of Hearing Reporter Services
FPSC Division of Commission Clerk and
Administrative Services
(850) 413-6732