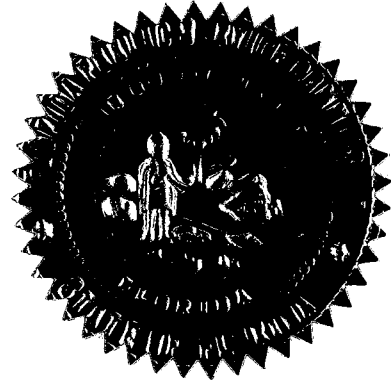


BEFORE THE  
FLORIDA PUBLIC SERVICE COMMISSION

DOCKET NO. 060262-WS

In the Matter of:

APPLICATION FOR INCREASE IN WATER AND  
WASTEWATER RATES IN PASCO COUNTY BY  
LABRADOR UTILITIES, INC.



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PROCEEDINGS: AGENDA CONFERENCE  
ITEM NO. 9

BEFORE: CHAIRMAN LISA POLAK EDGAR  
COMMISSIONER MATTHEW M. CARTER, II  
COMMISSIONER KATRINA J. TEW

DATE: Tuesday, January 23, 2007

PLACE: Betty Easley Conference Center  
Room 148  
4075 Esplanade Way  
Tallahassee, Florida

REPORTED BY: LINDA BOLES, CRR, RPR  
Official Commission Reporter  
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1 PARTICIPATING:

2                   MARTIN S. FRIEDMAN, ESQUIRE, JOHN WILLIAMS and FRANK  
3 SEIDMAN, representing Labrador Utilities, Inc.

4                   STEPHEN C. REILLY, ESQUIRE, representing the  
5 Citizens of the State of Florida.

6                   RALPH JAEGER, ESQUIRE, TIFFANY JOYCE, JENNIE LINGO  
7 and GERALD EDWARDS, representing the Florida Public Service  
8 Commission Staff.

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

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2 CHAIRMAN EDGAR: We are going to go back on the  
3 record and begin our next item, which is Item 9.

4 MS. JOYCE: Good morning. Tiffany Joyce, Commission  
5 staff. Item 9 is staff's recommendation on rate increase by  
6 Labrador Utilities, Inc. Staff is recommending to deny a final  
7 rate increase, a refund of interim revenues and a show cause  
8 issue for failure to comply with a Commission order.

9 We have Mr. Friedman and Mr. Williams on behalf of  
10 the utility, we have Mr. Reilly and Ms. Merchant on behalf of  
11 OPC, and staff is available to answer questions you may have.

12 CHAIRMAN EDGAR: Thank you.

13 Mr. Friedman.

14 MR. FRIEDMAN: Thank you. Martin Friedman, law firm  
15 of Rose, Sundstrom & Bentley representing Labrador. And also  
16 with me is John Williams and Frank Seidman in the back.

17 I want to address the show cause issue, and then I'm  
18 going to have Mr. Williams address the remaining issues. The  
19 show cause issue involves the meter replacements, and the  
20 intent of the prior order was to make sure that we had meters  
21 that were accurately reflecting what the flow was. And so you  
22 could see in the staff recommendation the large number of  
23 meters that were inaccurate that had to be replaced.

24 What I take exception to is that the company met the  
25 intent of that order, which is to have working meters on all

1 the lots where there are people. The meters that were not  
2 installed in, quote, a timely manner were meters that were on  
3 vacant lots. The other exception I take is the staff seemed to  
4 say that we should be testing, we should have tested the new  
5 meters we put in, which, which seems a bit extreme to buy a new  
6 meter that's been tested at the factory, put it in and then  
7 test it again. I don't think that's the intent of what that,  
8 what that order said. When the order said test the meters, I  
9 think that implicitly is if we thought the meter should be  
10 replaced, that we just went ahead and replaced it. And we did  
11 that to a substantial number of meters that we just didn't even  
12 test. We just replaced them with new meters. And we think  
13 that complies with the intent of the order. And so although we  
14 may not have strictly complied with testing every meter, we  
15 complied with the intent of the order, which is to make sure  
16 that we now have working meters on all of the active  
17 connections.

18           The ones that we didn't meet the timing on were the  
19 ones that were vacant lots. I mean, you know, it doesn't have  
20 anything to do with anything. They've now all -- even the ones  
21 on the vacant lots have been replaced or tested. But to say  
22 that we should be penalized because we didn't meet all the  
23 testing on lots on vacant, on vacant lots that don't have  
24 customers attached to them I think, I think is being a bit,  
25 being a bit extreme.

1           And I would suggest to you that the utility has  
2 complied with the requirements of that prior order and a show  
3 cause is not necessary. And I'm going to ask John Williams to  
4 address the remaining issues. Thank you.

5           MR. WILLIAMS: The company is very disappointed that  
6 the staff recommendation is to deny this rate increase and to  
7 require a refund of the interim rates that were granted last  
8 July. We certainly acknowledge that many water meters were  
9 changed out during and after the test year and that the  
10 wastewater flow meter at the treatment plant was moved and  
11 replaced. These changes were required because of poor planning  
12 and lack of maintenance over the years by the developer of the  
13 neighborhood who owned the utility prior to the acquisition of  
14 the system by Utilities, Inc., in mid-2002.

15           As staff has indicated, metered rates were first  
16 implemented in early 2005 at the conclusion of the last rate  
17 case. Prior to that rate case the rates were extremely low  
18 flat rates that were established by the developer who operated  
19 the utility for many years below the PSC radar screen without a  
20 PSC certificate of authorization. Those noncompensatory flat  
21 rates were established without PSC approval.

22           Subsequent to Utilities, Inc.'s, acquisition of the  
23 Labrador system, the utility has been working to bring the  
24 system into regulatory compliance with PSC, as well as the  
25 environmental regulatory agencies. The utility is currently

1 meeting all state and federal standards. However, we  
2 acknowledge there is still more work to be done to improve the  
3 aesthetics of the water, the hardness that the customers raised  
4 at the customer meeting, and to perhaps exceed current drinking  
5 water standards in an attempt to meet customer satisfaction  
6 levels as expressed at the customer meeting.

7           We filed this rate case because the water system was  
8 losing money and the wastewater system was not earning a  
9 reasonable return on investment. This was confirmed by the  
10 Commission auditors when they published the audit report. It  
11 was also acknowledged by the staff when they recommended  
12 interim rates at the beginning of the case.

13           We do acknowledge there are problems with the test  
14 year consumption data due to the problems we inherited from the  
15 prior owner; however, we do not believe that these problems  
16 justify the complete denial of the needed rate relief. We  
17 believe that the Commission staff can and should make whatever  
18 conservative adjustment they believe is appropriate to  
19 consumption data and to move forward to allow the company the  
20 needed revenue increase. To do otherwise will send the wrong  
21 message to the owners of this company and to other companies  
22 when there continues to be a much needed capital investment to  
23 meet regulatory requirements and provide quality water service.

24           MR. FRIEDMAN: And one, one suggestion I think, as  
25 Ms. Merchant said, and if you don't like that argument, let me

1 give you another one.

2           One of the, one of the problems that the staff has is  
3 they don't like the 2005 data, they don't like the 2006 data,  
4 and so what they're saying is basically come back when 2007 is  
5 done. Now the company is losing money, as the auditors have  
6 acknowledged, and yet now the staff recommendation would have  
7 the company have to wait until '08 to file a rate case. And  
8 you wouldn't get interim rates probably until sometime, you'd  
9 have to wait until '07 closed out, you'd probably talk about  
10 July or so of '08 before you would, before you would have any,  
11 any of the revenue that the auditors have acknowledged the  
12 company is, is entitled to.

13           And so one of the, one of the suggestions that I have  
14 floated around that apparently has not been grasped or embraced  
15 wholeheartedly by anybody other than myself, and that is to  
16 keep the docket open. I mean, keep the interim rates going.  
17 Keep -- if the staff really believes that we need to wait until  
18 2007 and use that consumption data, let's keep the status quo,  
19 let's keep the interim rates in effect, and we will file the  
20 correct information or refile the MFRs based upon what the  
21 company looks like in, in, in a 2007 test year. That, that,  
22 that protects the customers. If we're wrong, the customers  
23 will get a refund with interest. Otherwise, the company will  
24 continue to bleed for two and a half years without any way to  
25 get that revenue that the auditors have acknowledged the

1 company is entitled to.

2           And I would suggest, as John mentioned, just because  
3 you can't -- just because we don't have adequate billing  
4 determinants doesn't mean you don't give somebody a rate  
5 increase. If they're entitled to a rate increase, you figure  
6 out a way to do it. We've done it before, we did it before in  
7 this case before we had billing determinants, we did the best  
8 guess we could at that time. Unfortunately it didn't result in  
9 adequate rates, which is why we're back here so soon. And so  
10 maybe the, the way to -- and the staff is concerned, well, you  
11 know, what happens if we don't do it right this time and you're  
12 back again next year? And maybe the way to, to allay that fear  
13 is to keep the status quo, keep the interim rates in effect,  
14 and let's refile based on 2007 meter reading data, which will  
15 give the staff a level of comfort, I think, that they have  
16 sufficient data to give -- to do it right. And so that would  
17 be my suggestion. An alternative would be to remain -- keep  
18 the interim rates in effect and, and deal with it in 2007, and  
19 I think that's a satisfactory compromise. Thank you.

20           CHAIRMAN EDGAR: Mr. Reilly.

21           MR. REILLY: Yes. The Office of Public Counsel  
22 supports 100 percent everything that staff has done in this  
23 recommendation. In response to some of the comments made by  
24 the utility, it was suggested that the blame be pointed to the  
25 old owners. But you must remember that Utilities, Inc., has



1 owned this utility since 2002, so there's been many, many years  
2 where this problem could have been addressed.

3 I don't believe we can really -- with this -- they  
4 also suggested that they're underearning. I think staff has  
5 made a very articulate argument that there's really -- with the  
6 data we have, you can't really know for sure whether they're  
7 overearning, underearning or anything, nor can we even  
8 establish their right to the interim, which is why I think that  
9 the alternative suggestion made by the utility should also be  
10 rejected.

11 He made reference to Ms. Merchant's attempt at  
12 alternative recommendations. I hope that the utility receives  
13 the same result that we did on our alternative recommendation.

14 I would like to point out that the customer response  
15 to this rate increase has been like no other I've ever seen in  
16 my 20 years of being with the Office of Public Counsel. They  
17 absolutely packed that room. It was not just the numbers but  
18 the fervor, the outrage expressed is nothing like I've ever  
19 seen. And I think it has to do -- I'm going to set aside the  
20 legal arguments -- but the practical arguments, they just  
21 underwent, in fact it just came into effect in '05, this, you  
22 know, \$101,000 and 183 percent increase in water and \$195,000  
23 and 151 percent increase in wastewater. They got hit with this  
24 tremendous increase. And from their perspective the quality of  
25 service has actually gone down instead of improved. Not so

1 much -- and it really had a lot to do with the wastewater  
2 plant. And for reasons that we haven't fully explored, the  
3 odor problem has become worse and, of course, the flow problems  
4 and the meter reading problems just continued unabated.

5 I think it's important to know that inaccurate meter  
6 readings and consumption levels were such a concern in the last  
7 case, that's why the Commission ordered them to do all this  
8 meter replacement.

9 Despite this large increase, the meter reading  
10 problem, the problem with inaccurate levels of consumption  
11 which is seriously flawed data for both water and wastewater  
12 continued unabated all through, through 2005 and 2006. As late  
13 as May 2006 the RV park meter was replaced because it was  
14 defective. As late as October 30, '06, the utility still could  
15 not explain the, quote, unquote, erratic and high unaccounted  
16 for water. And as late as November 7 the utility still did not  
17 know the level of meter readings. So this totally flawed,  
18 hopelessly flawed data went all the way on through 2006, and I  
19 think it left staff with no choice. There was no way they  
20 could come to you with a recommendation concerning this rate  
21 increase given this flawed data. And it is not something  
22 that's, that the company has not been aware of, you know, since  
23 it owned the utility way back in 2002.

24 So we, we would argue that, that legally speaking the  
25 staff is completely on point. It is, in fact, not the staff's

1 burden. It is the company's burden to prove its entitlement,  
2 that that burden has, in no way can be, can be satisfied  
3 because of this flawed data. Setting rates on flawed data  
4 would be neither fair nor reasonable for the customers or the  
5 utility really as articulated by the staff, and, therefore, the  
6 staff's recommendation to deny this final revenue increase is  
7 absolutely proper under these circumstances and we support them  
8 100 percent. Thank you.

9 CHAIRMAN EDGAR: Thank you, Mr. Reilly.

10 Staff.

11 MS. LINGO: Thank you, Madam Chairman. Good morning,  
12 Commissioners. I'm Jennie Lingo with staff.

13 Backing up for a moment, Mr. Williams and  
14 Mr. Friedman have both suggested that we just make adjustments  
15 to the billing data and move forward because the utility is  
16 losing money and the audit was evidence that, that the utility  
17 was losing money.

18 The audit, the audit is a limited scope audit. It's  
19 an internal document that's really to be used only by staff and  
20 it's really for no other purpose than that. In order for the  
21 audit to rise to a level that meets generally accepted  
22 accounting standards there would be much more work needed to be  
23 done. So an audit just sort of helps staff get an idea of  
24 what's going on, but it in no way is a determining factor as to  
25 whether or not a utility is or is not losing money.

1           With regard to adjusting the billing data,  
2 Commissioners, the ratemaking process is really two major  
3 components. One component is a calculation of the revenue  
4 requirement phase. And then the other component is once you've  
5 calculated the revenue requirement based on billing data, you  
6 then design rates and, you then design and calculate the rates.

7           But the bad billing data, we would like to point out,  
8 affects not just the rate design and rates portion, it also  
9 tremendously affects the revenue requirement portion; and that  
10 staff, because of the bad billing data, is unable to calculate  
11 the appropriate used and useful percentage, the appropriate  
12 unaccounted for water or the excessive infiltration and inflow.  
13 And any questions in that regard I would like to ask you to  
14 direct to Mr. Williams -- to Mr. Edwards.

15           And then, Commissioners, in the rate design and rates  
16 phase, certainly the, the bad billing data renders us  
17 completely unable to determine how many gallons were sold  
18 during the test year, so we are unable to calculate with any  
19 measure of comfort what the appropriate rate should be.

20           In order to adjust, in order to adjust the data,  
21 Commissioners, it really needs to be something that we know is  
22 a problem and that we can measure. And if we can measure it,  
23 we can make the adjustment. Knowing that there's a problem is  
24 the easy part in this case. We know there's a problem.

25           In the 2007 test year, the utility replaced

1 approximately 16 percent of its meters. In addition, the meter  
2 at the RV park, which is a six-inch meter which represents  
3 approximately 8 percent of its total flow, it was replaced and,  
4 it was replaced in mid-2006. So one could certainly assume  
5 that it was defective all during the, all during the test year.

6 With, with all of that said, there's no way for us to  
7 know how long the meter, how long each of the meters that were  
8 defective were in fact defective and the magnitude of the  
9 errors of each of those meters. So adjusting the data is just  
10 impossible.

11 Getting back to whether or not -- backing up a  
12 moment, Commissioners, and I apologize -- whether or not the  
13 utility is losing money or not. Because the test year billing  
14 determinant data especially with regards to test year gallons  
15 sold is so problematic, we're unable to determine whether the  
16 current rates are, in fact, compensatory or not or  
17 noncompensatory. And if they're noncompensatory, by what  
18 magnitude they are. And, again, getting back to determining  
19 the appropriate number of test year gallons with all of the  
20 meters that were defective during the test year, there's no way  
21 for us to know and look into our crystal ball and figure out  
22 how to make any sort of adjustment. That's why we're  
23 recommending that 2005 data is really irreparably flawed and  
24 should not be used.

25 In 2006 the utility has also made reference to the

1 fact that we recommended the 2006 data also not be used. As I  
2 mentioned earlier, the utility replaced a large six-inch meter  
3 in mid-2006. Again, Commissioners, this represents  
4 approximately 8 percent of the total flows for the -- total  
5 gallons sold for the utility, in addition to the other meters  
6 that were replaced during 2006 and was defective, we, we  
7 believe that all of this is indicative of, of the continuing  
8 problem in 2006.

9 In addition, in November of 2006 the utility  
10 submitted to staff a comparison of data of gallons sold between  
11 2005 and 2006. And it summarized its comparison by saying  
12 because 2006 data in terms of gallons sold is within 1 percent  
13 of 2005, it, it should be an indication to you that really 2005  
14 data is okay and let's just go ahead and move forward; that  
15 making us refile, for example, using 2006 data would serve no  
16 useful purpose.

17 Commissioners, we very strongly believe, we've laid  
18 out very strong arguments in our recommendation as to why 2005  
19 data is flawed. If 2006 data is within 1 percent of 2005 data,  
20 it doesn't prove up the voracity of the 2005 data. Instead, it  
21 just proves that the 2006 data is equally as flawed as the  
22 2005. That's, that's our recommendation, Commissioners, that  
23 the 2005 and 2006 data are both irreparably flawed and can't be  
24 used for ratemaking.

25 MR. FRIEDMAN: May I make one comment in response?

1 CHAIRMAN EDGAR: Yes, you may.

2 MR. FRIEDMAN: And I will make it brief.

3 Two -- the first thing is Mr. Reilly mentioned that  
4 gigantic percentage that the rates went up in the last case,  
5 and I think to put that in perspective you need to understand  
6 the starting point. The starting point in that last case was  
7 \$4.50 for water service, period. All the water they wanted,  
8 \$4.50. \$10.50 for sewer, period, flat rate. So when you look  
9 at percentages, it distorts what the actual increase really  
10 was. I mean, the increase in dollars was not significant. It  
11 was getting them to a point where they should have been. They  
12 just got used to paying almost nothing for water and sewer for  
13 a long time, and I think that sometimes when that happens that  
14 customers think they have some entitlement to continuing to get  
15 low rates. And what we're trying to do in these proceedings is  
16 to get them to a point where they're charged compensatory  
17 rates. And I disagree with, except for maybe the limited  
18 process of used and useful which Mr. Seidman is going to  
19 address, I disagree that the inaccurate meter readings, even if  
20 they are inaccurate, has any impact on being able to determine  
21 a revenue requirement. We think that there's sufficient  
22 information to determine a revenue requirement, that, in fact,  
23 the company is losing money. And I'm going to ask Mr. Seidman  
24 to address the comments that staff made regarding used and  
25 useful. Thank you.

1           MR. SEIDMAN: Well, that's sort of an indication of  
2 what I'm going to talk about.

3           The first thing I want to talk about is that was a  
4 really strong indictment of your auditing department. If I  
5 were to take Ms. Lingo's suggestions and representations at  
6 hand, I'd say close it down, you're wasting our money. If all  
7 you're getting out of your audit department is some idea of  
8 what the accounting situation is in a utility, it's not worth  
9 it. But if you've been through an audit by this Commission,  
10 you know that the audit is very, very, very strong and complete  
11 and it goes into -- especially with regard to water and sewer  
12 companies. It goes into every invoice, every expense, every  
13 capital expenditure, all of the capital components, cost of  
14 capital components. It's very, very complete.

15           I suggest to you that the Commission has sufficient  
16 information to determine whether or not this utility is  
17 entitled to a rate increase. The alleged flaws that are  
18 discussed all have to do with the side of the issue with regard  
19 to determining how to collect the revenue requirement that the  
20 utility is entitled to, how to distribute those revenue  
21 requirements over the customers. If we had no information on  
22 flows at all, which was the case for years in the utility, we  
23 could still make a flat rate determination because we know how  
24 many customers there are. But we do have some information on  
25 the flows and we know there are flaws in them. I mean, there's



1 no denying that. But this is a result of the fact that this is  
2 an ongoing thing to take a utility from a point where it had no  
3 metering done for purposes of billing, meters sitting in the  
4 ground for years unattended, replacing them, testing them,  
5 whatever has to be done, doing it over a long period of time,  
6 longer than the Commission staff wanted, but over a long period  
7 of time because we have a customer base here that is not there  
8 all year-round and there's no sense going ahead and replacing  
9 and testing meters at locations when the customers are not  
10 there because you have no flows with which to test.

11           So we know that those problems exist. But yet even  
12 with those problems there the staff was able to come up with a  
13 rate in the last rate case with much less information than it  
14 has now. And I still contend that a design could be done, and  
15 I don't agree with the fact that 2006, the fact that 2006 is  
16 within 1 percent of 2005 is an indictment of 2006, that that's  
17 just a conclusion. I think there's enough information there to  
18 go ahead and to produce a rate. There certainly is enough  
19 information to determine whether or not we're entitled to a  
20 rate increase. There's enough information, I believe, to  
21 produce a rate. And you have the ability and you have the  
22 responsibility to monitor the income that comes in under those  
23 rates and determine whether or not they're effective. And in  
24 the meantime after that, you know, if you want regular  
25 reporting, that's fine. We can see how those flow values,

1 meter readings true-up over the year. But in the meantime, if  
2 you do nothing, as Mr. Friedman has indicated, you've left the,  
3 you've left the utility with, with lost income that could not  
4 possibly be made up. If you, if you do it the way we're  
5 suggesting it, you protect both sides in this case. Thank you.

6 CHAIRMAN EDGAR: Thank you, Mr. Seidman. And I will  
7 say that I have a high degree of confidence in both the  
8 thoroughness and the detail of the audits that are done by our  
9 staff.

10 Ms. Lingo, would you like to, to make comment?

11 MS. LINGO: Yes, ma'am. Perhaps I didn't phrase  
12 correctly wording that was in a brief from this Commission in  
13 the Southern States rate case, a case that when it was appealed  
14 to the 1st DCA using this brief was affirmed per curiam. The  
15 audit itself disclaims such use in that it represents an  
16 internal accounting report prepared after performing a limited  
17 scope audit, and I'm going to go on and paraphrase. Additional  
18 work would have to be performed to satisfy generally accepted  
19 accounting standards. The audit merely indicates staff's  
20 belief, subject to stated exceptions based on sampling, that  
21 the utility's books and records were maintained in compliance  
22 with Commission directives. By its terms the audit does not  
23 attempt to justify the rate increase.

24 So, again, getting back to the audit justifying the  
25 rate increase, that's not necessarily true. And certainly in

1 this case we would believe it doesn't because of the poor  
2 billing data.

3 CHAIRMAN EDGAR: Commissioners? Commissioner Tew.

4 COMMISSIONER TEW: I have a few questions and some  
5 comments, if that's okay, Chairman. Thank you.

6 This is for the utility. I have several questions  
7 about the meter testing and I'll just shoot them all out and  
8 then I'll let you respond.

9 The first one is, you know, isn't it prudent utility  
10 practice to test even new meters to make sure they work  
11 properly? And I guess a subpart of that is didn't the order  
12 require testing of all meters, whether they were new -- and I  
13 don't think it addressed age, but you can speak to that.

14 Secondly, if the meters on the vacant lots didn't  
15 really mean anything, why did you ever test them? And then,  
16 third, I've been curious as I read through this, and I've been  
17 following this case a while, as to why your company didn't seek  
18 some sort of relief of the testing requirements. I noted that  
19 there was at least one letter mentioned in the staff  
20 recommendation, but I'm curious as to why, if, as you suggest,  
21 you met the intent of the PSC's requirement, why didn't you  
22 file something and, and state such and ask for some kind of  
23 relief from that order requirement? And then I have some  
24 comments after that.

25 MR. FRIEDMAN: I hope I got all these down. If I

1 don't, I'm sure you'll let me know.

2 I don't think it's routine practice for utilities to  
3 test new, out-of-the-box meters. I don't -- unless somebody  
4 can tell me otherwise, none of -- I don't know that any of our  
5 clients, and we represent a lot of water and sewer utilities,  
6 test out-of-the-box meters. I think that testing is done at  
7 the factory and I think the utilities have found that testing  
8 has been reliable.

9 The replacing the meters on the lots, why did we do  
10 that if it didn't make any difference? We did them last  
11 because eventually somebody is going to move into that house  
12 and those meters do need to be reliable. So -- and the order  
13 did require us to do that. My point is, was, was that we were  
14 late on replacing those meters, and it has nothing to do with  
15 the problem of the, of the billing determinant issue.

16 As far as the extension of time, I was not personally  
17 involved in that. The company directly dealt with staff. My  
18 understanding is there was an informal -- I don't think they  
19 filed a motion with the Commission to amend the order to do  
20 that. I do believe that the staff and the company agreed  
21 informally that they would extend that time, and I think that  
22 part of the reason for that was the fact that this is a very  
23 seasonal customer base and, as a result, a lot of customers  
24 aren't there. And to test the meter you need to have a water  
25 source on the other side of the meter, and so I think that was

1 probably the reason why it needed to go into the winter season  
2 to do that.

3           What did I miss?

4           COMMISSIONER TEW: I think that was it. Now that he  
5 has responded, I'd like to ask staff especially with regard to,  
6 you know, informal discussions. Was that your understanding,  
7 that, that you had an agreement that the utility would be  
8 filing information later than what was required in the order?

9           MR. EDWARDS: Commissioner, Gerald Edwards, staff.  
10 It was my understanding that they would have approximately 150  
11 customers that were going to be unavailable at the time for  
12 testing the meters, so they were going to have to test them at  
13 a later date. So, yes, I believe it was an informal decision  
14 between staff and the utility.

15           MR. JAEGER: Commissioner, to add to that, I think it  
16 was on June 15th was the letter, and the expiration -- you  
17 know, they were supposed to have everything tested by June 30th  
18 of 2005. And in that letter they did indicate, I think, what  
19 we euphemistically call snowbirds had turned off and gone north  
20 and so they were going to have to go until November. And so we  
21 understood that in November they would get it done, and I don't  
22 think -- I wasn't a part of the case, I wasn't there and I  
23 didn't have the discussions, but it was the understanding in  
24 the letter that November was when they were going to get it  
25 done.

1           Then next June, a year later from the first letter,  
2 we get something saying we did it as of May 2006, which was  
3 11 months past the due date. And so that's where we said,  
4 well, a five- or six-month extension we probably, you know, we  
5 weren't going to be too concerned, but without anything further  
6 they just all the sudden said we completed it in May of 2006,  
7 11 months later, without getting any extension or without any  
8 motion or any request for a variance or difference. And I'm  
9 not really sure about the spirit of the deal, whether they've  
10 tested all the meters and these 100 meters that were, I think  
11 there was like, there were some meters that are on vacant lots  
12 and all that. And mainly what we're going on, they just -- it  
13 wasn't until a year after the due date that they said they had  
14 accomplished everything.

15           MR. EDWARDS: Commissioner Tew, to further discuss  
16 the meter testing, we received a meter report June 23rd, 2006,  
17 it was dated June 23rd, 2006. And in that report it was  
18 supposed to have the information regarding the number of meters  
19 which were tested, the degree of error and if they replaced  
20 them. And basically the report stated that they had 19 meters  
21 reading slow, 126 meters reading fast, and they tested a total  
22 of 800 meters. The test dates ranged from 2000 to 2002, which  
23 this meant that they tested the meters well before they were  
24 even actually required to by the PSC. So, therefore, staff  
25 questioned the report itself. It had to be an error also.

1           So I received a second report, and in that report the  
2 data stated that the meter, that they had 16 meters reading  
3 slow, 93 meters reading fast, 515 meters total tested, tested  
4 totally, and the dates on that was 2004 to 2005.

5           Okay. I contacted them, staff contacted them about  
6 that error. I received a third report. And that one, it has  
7 the same numbers as the first report, but the difference was  
8 the test dates. The test dates tested from 2004 to 2006.

9           Now regarding the six-inch meter that they put in for  
10 the park, just looking at the data in that, in those, all three  
11 reports, it states that the six-inch meter that Ms. Lingo  
12 referred to was replaced, the first report stated it was  
13 replaced 5/9/2002. The second report says, meter not tested  
14 and not replaced. The third report says that the meter was  
15 replaced 5/10/2006. So as you can see -- and they have  
16 admitted there are a lot of errors in this data, and the data  
17 flows are very important. They're important to the utility  
18 because it's revenues, it's reported to our sister utilities --  
19 sister agencies simply because those data flows reflect whether  
20 or not, for example, water, whether or not they're going to  
21 allow you and the percentage of water that they're going to  
22 allow you to take out of our aquifer. And for us these numbers  
23 are very important to determine to set rates.

24           COMMISSIONER TEW: One comment. I think the  
25 attorneys sitting by Mr. Edwards are starting to rub off on

1 him. But anyway, thank you for that.

2 I would concede that there are some mitigating  
3 factors with regard to the meters, but I also know that in  
4 Issue 4 on the show cause issue that it's \$500 that's  
5 associated with the meter testing concerns that staff has. And  
6 it sounds like there are definitely some issues there that we  
7 hope the utility is going to address and we won't see this in  
8 the future. So that resolves my, that resolves my concerns  
9 there.

10 But I did want to address one other thing that  
11 Mr. Williams had, had touched on for the company. And I'll  
12 just say that John and I in his prior role have had several  
13 discussions about the benefits of economies of scale and scope  
14 of larger, more established utilities acquiring smaller private  
15 utilities. And I generally accept that as true still, but I  
16 have to tell you I don't think that staff's rec runs counter to  
17 that philosophy, and I think that the rec that they've provided  
18 to us today were a product of the utility's actions. And,  
19 frankly, I suggest that your company start addressing the many  
20 concerns of the customers. I have to echo some of the things  
21 Mr. Reilly said. I, of course, wasn't in attendance, as you  
22 all know, at the customer meeting. But I've heard from  
23 several, several customers of this utility, and I have to say  
24 that they are very articulate concerns, varied concerns, and  
25 they certainly got my attention. So I'm hoping that you will



1 all work on that. And, John, I think that you can help with  
2 that and hope that you will. And I think that you also need to  
3 do a better job of addressing the concerns of the Commission,  
4 and I think that that is the basis for having the show cause  
5 issue here, I think that having repeated problems getting the  
6 information we need to deal with these cases. So that's all,  
7 Commissioners, but I am in support of the staff rec.

8 CHAIRMAN EDGAR: I was going to say it almost sounded  
9 like there was a motion in there, but -- Commissioner Carter.

10 COMMISSIONER CARTER: I move staff's recommendations  
11 in this item.

12 COMMISSIONER TEW: Second.

13 CHAIRMAN EDGAR: All in favor of the motion, say aye.

14 (Unanimous affirmative vote.)

15 Opposed? Show it adopted.

16 (Agenda Item 9 concluded.)

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1 STATE OF FLORIDA        )  
                                  :  
2 COUNTY OF LEON         )

## CERTIFICATE OF REPORTER

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

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

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

17           DATED THIS 29<sup>th</sup> day of January, 2007.

18  
19                                    Linda Boles  
20                                    LINDA BOLES, RPR, CRR  
21                                    FPSC Official Commission Reporter  
22                                    (850) 413-6734  
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