

BEFORE THE
FLORIDA PUBLIC SERVICE COMMISSION

DOCKET NO. 050862-WU

In the Matter of:

APPLICATION FOR STAFF-ASSISTED RATE
CASE IN MARION COUNTY BY COUNTY-WIDE
UTILITY CO., INC.



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PROCEEDINGS: AGENDA CONFERENCE
ITEM NO. 15

BEFORE: CHAIRMAN LISA POLAK EDGAR
COMMISSIONER MATTHEW M. CARTER, II
COMMISSIONER KATRINA J. McMURRIAN
COMMISSIONER NANCY ARGENZIANO
COMMISSIONER NATHAN A. SKOP

DATE: Tuesday, July 10, 2007

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

REPORTED BY: JANE FAUROT, RPR
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1 PARTICIPATING:

2 TODD D. ENGELHARDT, ESQUIRE, JOANN CHASE, JEFF
3 STREITMATTER and LEN TABOR, representing County-Wide Utility
4 Co., Inc.

5 LEE ELIS and SCOTT KEIFER, representing Bahia Oaks
6 Homeowners Association.

7 VAN HOOFNAGLE, representing DEP.

8 STEVE REILLY, representing OPC.

9 ROSANNE GERVASI, ESQUIRE, SHANNON HUDSON, and GERALD
10 EDWARDS, representing the Florida Public Service Commission
11 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 back on the record from break
3 and we are on Item 15.

4 MS. HUDSON: Commissioners, Shannon Hudson on behalf
5 of staff.

6 Item Number 15 is an application for a staff-assisted
7 rate case in Marion County by County-Wide Utility Company. As
8 discussed in Issue 2, the major issue in this case is the
9 utility's interconnection with the City of Ocala. Staff
10 believes that it is not prudent for the utility to retire its
11 wells and interconnect with the city to supply its existing
12 customers. However, staff believes it was a prudent decision
13 to pursue the interconnection to provide supply for future
14 development. Therefore, consistent with longstanding
15 Commission practice, staff is recommending service availability
16 charges for the utility to allow future customers to pay their
17 pro rata share of the cost of the interconnection, which is
18 discussed in Issue 18.

19 Also, as discussed in Issue 19, staff is recommending
20 AFPI charges to allow the utility the opportunity to earn a
21 fair rate of return on prudently constructed plant held for
22 future use, thus requiring future customers to bear their
23 equitable share of the carrying costs related to the facilities
24 being constructed to serve them.

25 Todd Engelhardt, the utility's counsel, is here to

1 address the Commission. We also have Mr. Lee Ellis and Mr.
2 Scott Keifer of the Bahia Oaks Mobile Home Association to
3 speak, as well. Staff is prepared to answer any questions you
4 may have at this time.

5 CHAIRMAN EDGAR: Thank you, Ms. Hudson.

6 And we will begin by hearing from Mr. Engelhardt.

7 MR. ENGELHARDT: Thank you, Madam Chairman.

8 Commissioners, good morning.

9 My name is Todd Engelhardt. I'm with the law firm of
10 Akerman Senterfitt, and I'm here on behalf of County-Wide
11 Utility Company. I want to take a moment to introduce the
12 people -- other people at the table. First, to my left, is
13 Jeff Streitmatter from Kimley-Horn and Associates, the
14 engineering firm. To my right is Mr. Len Tabor from
15 Enviromasters. Enviromasters is the licensed operator of
16 County-Wide Systems, and has been for the last 15 years. And I
17 do note at the end of the table, although not part of
18 County-Wide, is Mr. Van Hoofnagle from the Department of
19 Environmental Protection.

20 Madam Chairman, if I may, I have some brief opening
21 remarks, as does Mr. Streitmatter. Also, with Madam Chair's
22 permission, my colleague, JoAnn Chase, will distribute to the
23 Commissioners and to the aides a packet full of documents that
24 are in the docket that will raise the points that we aim to
25 address today.

1 CHAIRMAN EDGAR: Okay. Let's go ahead and pass that
2 out. Thank you. And, of course, please give one to the court
3 reporter, as well.

4 MR. ENGELHARDT: Thank you.

5 CHAIRMAN EDGAR: Give us a minute so we can
6 concentrate on what you are saying.

7 MR. ENGELHARDT: Absolutely. And to make sure that
8 we all have the right documents.

9 CHAIRMAN EDGAR: Okay. I think we are ready.

10 MR. ENGELHARDT: Thank you.

11 Just to ensure that everyone has all the right
12 documents, the packet contains on the front the colored map of
13 the area. Item Number 2 begins the correspondence. Again, all
14 this is in the docket. The first item, Item Number 2 of the
15 correspondence is a letter from Mr. Streitmatter, the
16 engineering firm, along with attachments. Item 3 is a letter
17 from Paul Nevels, the Marion County Fire Marshal. Item 4 is a
18 letter from the Marion County Administrator, Patrick Howard.
19 Item 5 is a letter from Jim Taylor. Mr. Taylor is the former
20 president of the Bahia Oaks Homeowners Association.

21 CHAIRMAN EDGAR: Mr. Engelhardt, I'm going to ask you
22 to stop. I think maybe we are missing a document.

23 MR. ENGELHARDT: I apologize.

24 CHAIRMAN EDGAR: Commissioner, that is the document
25 signed by Mr. Howard.

1 MR. ENGELHARDT: I apologize, Commissioner
2 Argenziano.

3 Item 5 is the letter from Mr. Taylor, the former
4 president of the homeowners association. Item 6 is an e-mail
5 correspondence coming from Marion County Commissioner James
6 Payton. Item 7 is a letter from former Marion County
7 Commissioner and current Florida Representative, Larry Cretul.
8 And Item 8 is a letter from Senator Charles Dean, State Senator
9 Charles Dean. Thank you.

10 The focus of our presentation today is to discuss
11 solely Issue 2 of the staff's recommendations. Issue 2 asks
12 whether it was prudent for County-Wide to interconnect to the
13 City of Ocala's water system to serve its current customers.
14 It is staff's opinion that while interconnecting with the City
15 of Ocala was a prudent decision for the future areas of
16 development, it was not prudent in regard to the current
17 customers of the utility. We believe staff's analysis is
18 short-sighted and bad public policy as it provides
19 disincentives for proactive planning for the future.

20 First, it's important for the Commissioners to note
21 that this utility has a long history of providing excellent
22 customer service and complying with all water quality
23 regulations with no rate cases before the PSC during its more
24 than 30 years of operation. Until the current case, there were
25 few, if any, customer complaints. Staff's recommendation in

1 Issue 1 even confirms the utility's responsiveness to its
2 customers. Additionally, the docket contains letters, some of
3 which you have in your packets from both current and former
4 residents, such as Mr. Taylor and Representative Cretul, who
5 attest to the utility's longstanding status as a well-run, good
6 corporate citizen responsive to its customers. However,
7 instead of crediting County-Wide for its diligence in acting
8 properly throughout the years, the staff's recommendation
9 serves to punish the utility for not having a long history of
10 problems in need of remedial action.

11 The staff's recommendation fails to adequately
12 account for the age and deterioration of the old wells. The
13 wells, while not technically failing pursuant to DEP's
14 standards in place at the time of the interconnection, were
15 more than 30 years old and filling with sand. Sand is not
16 something that DEP will fail a water system for, but is
17 certainly indicative of problems. The wells have been fully
18 depreciated, which simply means that they are already exceeding
19 their expected useful life.

20 Staff's analysis simply states that while the wells
21 would not meet current rules and regulations, they would be
22 grandfathered in, seemingly finding that that is good enough.
23 Even if true, this ignores a real world issue of how to
24 adequately replace these wells once they fail completely. The
25 docket and your packet contains letters from County

1 Administrator Patrick Howard and from Mr. Streitmatter
2 referencing the Marion County comprehensive plan which
3 encourages water treatment plants to interconnect as soon as it
4 is economically feasible. Additionally, the letter from County
5 Commissioner Jim Payton, or actually the e-mail from Jim Payton
6 references the fact that Marion County has been forced to
7 purchase three private utilities in the last four years because
8 the owners have been unwilling or unable to update their
9 infrastructure.

10 If followed, staff's recommendation as to Issue
11 2 could, in fact, create an even greater financial burden on
12 the current area residents, as illustrated by the color coded
13 map on the top of the packet. Staff's recommendation is that
14 the prudent course would have been for the utility to run the
15 interconnecting line solely along Highway 200, so running on
16 this slant looking at the map. This would access the future
17 development areas and bypass the current residents outlined in
18 blue entirely.

19 However, when the well system inevitably fails
20 completely, the cost of retrofitting the pipes and valves and
21 the hydrants and running them back up into the existing
22 neighborhood would be borne solely by the existing customer
23 base. Common sense dictates that such a cost will be greater
24 in the future in and of itself, not to mention the loss of the
25 economy of scale that then would work against the customers.

1 Also, forcing the current customers to wait until the
2 water wells fail completely could subject them to a period of
3 indeterminate length where they would have to boil water to
4 remove contaminants and be without access to a clean water
5 supply until this infrastructure could be constructed.

6 Finally, by interconnecting now, or when they did
7 instead of the future, the majority of the current residents
8 have for the first time fire flow and fire hydrants. Not only
9 can this help in the case of an emergency, but it also provides
10 an economic benefit in the form of reduced insurance rates for
11 some customers. Proof of this reduction has been filed in the
12 docket as well as the letter from the Marion County Fire
13 Marshal, Paul Nevels, which is in the packet, in which he
14 states his support for all improvements to water systems which
15 provide better fire protection. The Fire Marshal's letter is
16 referenced in staff's recommendation, but a pertinent part of
17 the letter is omitted, where he states, and I quote, "While
18 subdivisions such as Bahia Oaks are not required to meet the
19 existing code, Marion County Fire Rescue actively encourages
20 any improvement to water systems, specifically fire hydrants.
21 These improvements enhance public safety and provide for
22 reasonable insurance premiums for the citizens of Marion
23 County."

24 Simply put, staff has attempted to frame this case as
25 one of a greedy utility developer trying to make current

1 residents of an area pay for an infrastructure designed for
2 future development areas. However, if the utility had acted in
3 accord with staff's recommendation, then the utility would have
4 been expressing a clear preference for future development and
5 would have been denying current customers the fire protection,
6 potential decreased insurance costs, increased water pressure,
7 and continued clean, safe water, all of which were provided by
8 the interconnection.

9 Staff's end analysis of "if it ain't broke don't fix
10 it" fails, because, one, the sand in the wells proves that the
11 system was beginning to fail, therefore, it was broke. And,
12 two, by fixing a known inevitable problem at an opportune time,
13 County-Wide used the exact kind of foresight that should be
14 employed by utilities whenever possible. By interconnecting
15 its existing customers along with its future development areas,
16 County-Wide once again acted in the best interest of the same
17 customers it has not disappointed for more than 30 years. Its
18 proactive planning to deal with the inevitable demise of those
19 wells should be applauded. Therefore, with respect to Issue 2,
20 County-Wide is asking the Commission to allow the utility to
21 recover a portion of the line to interconnect with the City of
22 Ocala through base rates.

23 I will now turn the microphone over to
24 Mr. Streitmatter who has some comments, as well.

25 MR. STREITMATTER: Thank you, Madam Chairman and

1 Commissioners, for the opportunity to appear before you today.
2 I would first like to clarify a couple of items in the staff
3 report, and then move on just to present certain facts that I
4 think are important for your consideration today.

5 First of all, regarding the issue of fire protection,
6 the staff report states that existing neighborhoods are
7 grandfathered in and do not need to comply with new regulations
8 by Marion County on fire protection. The Kimerly-Horn
9 October 2006 cost/benefit report agrees with this, and there
10 has been no disagreement on the fact that while providing fire
11 protection is a benefit to public safety, it was not a
12 regulatory requirement for this neighborhood. However, as
13 previously stated and as stated in the Fire Marshal's letter,
14 it's highly encouraged, and the fact is that whether there is
15 fire protection in the community or not, the fire department
16 has to go in and fight a fire. So it is a tremendous benefit
17 to the community to have fire protection.

18 The second point is on the application of DEP
19 regulations. The staff report states that when replacing
20 system components, these components do not need to meet current
21 DEP regulatory requirements. It has been my experience that
22 when going into a system and replacing system components they
23 do need to meet the current regulations in place at the time.
24 However, regarding the wells, in the staff report on Page 9,
25 the staff says that DEP states the utility's use of this rule

1 is not correct because existing wells would be grandfathered in
2 and would not require being moved to a new location. This
3 statement is correct in that DEP would not require the
4 replacement of the wells solely due to a new regulation.

5 However, if the wells needed to be replaced, it would then need
6 to be replaced in accordance with the current regulations in
7 force at the time of replacement.

8 I would like to move on then and just present certain
9 facts about this system. First of all, the existing water
10 supply and treatment system was over 30 years old and was in
11 need of replacement. The wells were providing significant
12 volumes of sand over the last three to four years as evidenced
13 by the sand within the hydropneumatic tank and throughout the
14 distribution system. Based on the history of another nearby
15 system, this could have lead to the collapse of the wells, and
16 mainly this system was Marion landings, which is identified on
17 the aerial location map attached to our letter, to the south of
18 County-Wide Utilities.

19 It should be noted that the two existing wells are
20 only 20 feet apart, therefore, what happens to one well could
21 very likely happen to the other well. The existing wells do
22 not meet the required setback distances to on-site sewage
23 treatment and disposal systems. In fact, there are
24 approximately 16 of these systems surrounding the existing
25 wells within the required 200-foot setback distance. When

1 replacing these wells, this requirement would have needed to be
2 addressed most likely by moving the wells to a suitable
3 location.

4 The Marion County Comprehensive Plan within the
5 potable water subelement has stated policies directed towards
6 the elimination of smaller private water systems to connect
7 their customers to regional or subregional systems. Two of
8 these policies, Policy 2.2, states, "The county will develop
9 guidelines for requiring existing water treatment plants to
10 connect to a regional or subregional system when these systems
11 are available and are economically feasible." Policy
12 2.3 states, "If an interim or package water system is approved,
13 at a minimum a plan for connection to a central system when
14 available with capacity shall be required." In fact, based on
15 information provided by Marion County since 1991, they have
16 connected 15 systems to the county system.

17 County-Wide utility was at a very unique point in its
18 history. First of all, because its system was in need of
19 replacement. Second of all, because there was a viable point
20 of connection available to it within 400 feet of its franchise
21 boundary.

22 In summary, in light of the age of the system it
23 would have been a lost opportunity had County-Wide chosen to
24 spend significant funds replacing their existing system and had
25 not taken advantage of such an obvious readily available and

1 economically feasible source of water from the City of Ocala.

2 Thank you.

3 CHAIRMAN EDGAR: Thank you.

4 MR. ENGELHARDT: Madam Chairman, that concludes our
5 presentation at this time, but I would like to reserve an
6 opportunity to respond to questions and comments made during
7 the rest of the proceedings.

8 CHAIRMAN EDGAR: Certainly. Thank you very much.

9 And I understand, Mr. Reilly, let me look to you,
10 does OPC have -- would you like to comment? You can hold if
11 you want. You want to hold? Okay. All right. And I
12 understand we do have some customers who are here?

13 MR. ENGELHARDT: Madam Chair, if I may.

14 CHAIRMAN EDGAR: Mr. Engelhardt.

15 MR. ENGELHARDT: Mr. Hoofnagle had also planned to
16 speak, but I don't believe they had introduced him, but he is
17 not necessarily a party.

18 CHAIRMAN EDGAR: All right. We will work our way
19 through it. Thank you very much.

20 Mr. Hoofnagle, we will come to you. I do want to
21 make sure that we hear from customers. .

22 Could I get your name, please.

23 MR. ELLIS: My name is Lee Ellis. I am the current
24 president of the Bahia Oaks Homeowners Association.

25 CHAIRMAN EDGAR: Thank you for joining us. Would you

1 like to share some comments with us.

2 MR. ELLIS: Yes, thank you.

3 You know, I don't think after looking inside the
4 water tank after it was opened up months after this started, I
5 don't think at this point anybody will deny that there is a
6 problem with that tank. Whether it was that way when it was in
7 use or not, I believe is of some question to most of us. We
8 are not well people by trade, but we are looking in a tank that
9 has been empty for quite a few months, and things tend to rust
10 when they get empty.

11 There was quite a bit of sand in it. I am kind of
12 curious as to how anybody can age that sand. You know, that
13 tank is 30-something years old. Now I know that there is a lot
14 of sand in there. I know pools use sand to filter water, I'm
15 not real sure that's a big problem. Corrosion and debris, yes.
16 But, there again, that wasn't opened up until quite a few
17 months after that plant was shut down.

18 Now, you know, you have got to wonder what happened
19 after it was drained. I do understand, I'm not a well man, I
20 am told that there is new technological to replace well heads
21 down the existing shafts. Maybe there is, maybe there isn't.
22 You know, we are on a different system now. It has happened,
23 it's over. The big question now is, in my mind, and in the
24 people that live there, you know, had there not been a new
25 development across the road from us that Mr. Leeward owned,

1 would that water line have come up that way. Would there have
2 been a cheaper way to fix it. You know, a well tank and maybe
3 even a couple of pumps has got to be cheaper than what we did.
4 I'm not saying that's 100 percent right, and I'm not saying
5 that it fits under the new comprehensive plan, but it would
6 have been a viable option maybe.

7 I know there are a lot of people in there on fixed
8 income that just don't have 60, 80, \$100 a month for water for
9 two or three people. They just don't have it. And to go from
10 a base of \$13 to what they are paying now of \$30 when it's in
11 the report here that we received that somebody is paying 66
12 cents a thousand gallons and turning around and charging us \$30
13 for it, you know, I don't think anybody denies that the guy
14 needed an increase and he needs to make money, that's what he
15 is there for, but that is a little bit stiff. That's kind of
16 hard to swallow.

17 You know, this has been a real emotional issue. You
18 know, at meetings people say things, they get carried away.
19 You know, people are mad because somebody is making too much
20 money. Everybody has got to make money, that's what we are
21 here for. You know, the man is making money on it. If he
22 would go with what they are suggesting, the man is going to
23 make, I believe it was 8 percent. You know, it's not a
24 question of making money, it is a matter of how much money is
25 what it is really coming down to. And these people just can't

1 afford what they are paying for water. There's people paying
2 more for water than they are paying for electric. That's just
3 really wrong. You know, if it was my mother living in there, I
4 would be pretty upset. I can pay the water bill. There's
5 nothing in it for me, basically, you know, but there is a lot
6 of people here that are really hurt by this, you know.

7 When the lines are going in, we see something is
8 going on, you know, whether it's intentional or not, you know,
9 there are some things being said, some things not being said.
10 Everything was in turmoil, you know. You know, it has just
11 gone too far. And to say that there is going to be an
12 insurance discount because of the fire hydrants, well, let me
13 tell you I'm with Citizens Insurance. Don't even ask them, it
14 is not even on the board. It's not going to happen.

15 And the people that do have block homes that have
16 regular insurance, okay, let's say maybe they get their
17 insurance discount. How far down the road is it before their
18 escrow is used up and they might see it? In the meantime, if
19 they have got six kids living over there in West Wind Trails
20 they are paying high water bills that they can't afford for a
21 maybe refund on their next insurance escrow business.

22 I haven't found too many insurance companies that are
23 too willing to give up money. They can't get an increase, but
24 they can sure hold back what they give you in the way of a
25 discount. That is the easiest place for them to save money.

1 But that doesn't address renters. Renters will never see that.
2 And there is not a landlord that's going to go find a renter
3 that rented from him two years ago and give him back some
4 money. That's not going to happen. That poor guy is still
5 going to pay high water rates. He's never going to see a
6 benefit from that.

7 I mean, they are just -- you know, nobody is denying
8 the guy needs to make money, but keep it at a reasonable
9 amount. You know, we just feel like in that community that he
10 is doing development and stretching his lines out at our
11 expense, on our back. And I don't know how -- you know, if you
12 live there, I don't know how you could look at it any other
13 way. That's really all I have to say. There is a lot of
14 people that are really hurting. And, you know, we are kind of
15 watching to what happens up here. You know, we just don't feel
16 like anybody is looking out for us.

17 CHAIRMAN EDGAR: Mr. Ellis, thank you very much for
18 your comments.

19 And before we move on, and we will see if there are
20 questions and comments, but what I would like to do first is
21 see if there are any other customers or others who have
22 traveled that would like to share comments. Bob, could you --
23 okay, that will work, too. Thank you.

24 And, sir, if you would please tell us your name.

25 MR. KEIFER: My name is Scott Keifer. I am the

1 Secretary of the Bahia Oaks Homeowners Association. First off,
2 I would like to say that I do respect Mr. Leeward. He is a
3 good businessman, developer. He has done a lot for our
4 community and area. I just feel that what has happened here is
5 very unfair to the people that are hooked up, and I understand
6 unfair is a very liberal word. I think there's other ways this
7 could have been handled. I think if we would have been
8 approached in the beginning instead of everything being so
9 sneaky and brought onto us, basically, as a trick. There was a
10 lot of deceit there, a lot of people misunderstood what was
11 happening. And I just think this could have been resolved in a
12 lot better way had we have been better informed as this was
13 taking place instead of it coming down to this.

14 CHAIRMAN EDGAR: Thank you.

15 Commissioner Argenziano, did you have a question?

16 COMMISSIONER ARGENZIANO: It would be after
17 testimony. It would be for staff and maybe for the --

18 CHAIRMAN EDGAR: We will hold, then. Thank you. If
19 you would, please state your name.

20 MS. SLIDER: My name is Dorothy Slider (phonetic),
21 and we have lived in Bahia also for 30 years. And we are for
22 the water change and the additional fire protection that we
23 feel that we have. And any rate from the old rate, the new
24 rate, in between would be fine.

25 CHAIRMAN EDGAR: Thank you for your comments.

1 Are there any other customers or interested parties
2 who have traveled from the area that would like to share some
3 comments with the Commission at this time that have not yet?

4 Yes, sir.

5 MR. ELLIS: I would like to say that at the
6 homeowners association meeting, the last one, the third
7 Wednesday of last month, there was a vote taken. This was
8 discussed, and the people that were in the association that are
9 in town that showed up, it was a unanimous vote to stick by our
10 guns and go with what the Commission has recommended here.

11 CHAIRMAN EDGAR: Thank you for sharing that.

12 Mr. Reilly, do you have a comment at this time?

13 MR. REILLY: Sure. A very brief comment.

14 Our office has not been actively involved in this, as
15 we do not generally get too involved in little small
16 staff-assisted because it is just almost unaffordable to do so,
17 and protest, but I would like to actually compliment staff on
18 its recommendation.

19 Our view is that this interconnection is really
20 addressing the needs of the owner of the utility, the developer
21 and the developments that are contemplated. It appears that
22 the capacity of the wells and the system that was there is more
23 than adequate to meet current demand and a fair amount of
24 growth, as well. There is no evidence, I don't think in the
25 record, that the wells themselves are really failing. There is

1 evidence in the record that the hydropneumatic tank and some of
2 those facilities were reaching its useful life, and I think
3 staff considered that and said with certain modest costs
4 improvements could have been made to the existing system.

5 The kind of compromise position, I think, staff came
6 up with was fairly creative and very consistent with the
7 statutory charge of this Commission to try to balance and
8 create compensatory rates, and balance that with affordability
9 of those rates. And I think this recommendation does that
10 pretty well, balancing affordability and compensatory. I say
11 compensatory, I don't believe this recommendation really
12 punishes the utility, which is what they have suggested.

13 What has happened is, I think, staff in its
14 recommendation recognized substantial O&M increases, as well as
15 the substantial increase of additional cost of buying the water
16 instead of withdrawing this cheaper water. So it has driven
17 this 33 percent increase. And since the O&M expenses and
18 taking into account the new reality that they are now buying
19 this water created an impact on these customers. It increased
20 pretty substantially the cost, but at the same time the staff
21 is attempting to recognize, to develop a different collection
22 mechanism for this massive investment which is really there to
23 meet growth, which in this case is particularly troublesome
24 because it is not an arm's-length transaction. It is where the
25 utility is serving the interest of the owner of the utility

1 which it can promote its major, major developments.

2 So it did create, I think fairly, a method of
3 compensation, a method of recovery which was, I think
4 creatively and cleverly done, which is through the allowance of
5 funds prudently invested and also for this increase in the main
6 extension charge. It's a combination of these monies pouring
7 in over time as these developments come on line. You know,
8 substantial monies coming on, but the main extension charge
9 which will allow growth to pay for growth, the capital costs of
10 that growth. And it will also see this allowance for prudently
11 invested funds allowed as those customers come onboard to pay
12 for that.

13 So there are mechanisms to fairly reward the company
14 for this capital cost. And, very importantly, staff didn't say
15 it wasn't prudent to interconnect from the broad County-Wide
16 system, it's just that it wants to find mechanisms to create
17 affordable rates and to have the proper customer groups pay for
18 those necessary improvements. And I think staff's
19 recommendation has done that. It has hit the customers with a
20 33 percent increase, acknowledging higher O&M costs, more
21 expensive purchasing of water from the county, other higher O&M
22 costs. You can look at the recommendation on the details of
23 it, but it says we are not going to clobber the customers with
24 these impacts because this same guy that owns it is making
25 millions of dollars via these big developments and these

1 developments should pay in proper mechanisms for those capital
2 costs.

3 And I think it was very statutorily correct and
4 rather creative and fair, a fair way to try to address this
5 issue, to do the prudent thing both in the long-term and the
6 prudent and fair thing to these customers. So, in that sense,
7 I do applaud the staff and want to make those comments.

8 CHAIRMAN EDGAR: Thank you, Mr. Reilly.

9 I was going to say that I think I heard a compliment
10 to our staff which we always appreciate. I note that as you
11 pointed out, we are always struggling to get a balance for fair
12 rates with affordability and also for good public policy which
13 does involve the short-term and long-term planning.

14 Okay. What I would like to do now is, Mr. Hoffnagle,
15 thank you for your patience. I understand that you are with
16 the Department of Environmental Protection. Welcome. We are
17 always glad to hear from representatives of our sister
18 agencies, and if you would tell us what your position is and
19 address us with your comments.

20 MR. HOOFNAGLE: Thank you, Madam Chairman. My name
21 is Van Hoofnagle. I'm the administrator for the drinking water
22 program for the DEP. Over my 20-plus years, I have had several
23 opportunities to address the Commission, and it was like old
24 homecoming week, except everybody has changed seats. It seems
25 me and Troy are the only ones that are standing still. My

1 congratulations.

2 I do represent the DEP. DEP has had some involvement
3 in the project, specifically through our Southwest District in
4 Tampa. And we were asked by the PSC for information and input
5 regarding existing facilities, as they were when they had a
6 separate plant at the mobile home park in Bahia Oaks. We also
7 reviewed both the Kimerly-Horn Engineering report as well as
8 the memorandum from the staff to you all dated May 7th, I
9 believe, or May 5th of 2007, regarding staff's recommendations
10 and so forth.

11 The statements attributed to and made by the DEP upon
12 our review in our office are correct. We stand by them.
13 Specifically, the major points that the plant itself, when it
14 was a separate plant, was in compliance with standards. Also,
15 in the rule interpretations, that when a plant is -- wells are
16 rehabed or plant components are replaced, like for like, that
17 they do not have to meet the present or new regulations. That
18 was made in reference to the 200-foot setback for the wells.
19 Statements made by County-Wide regarding the fact that if they
20 had to replace those wells, yes, they would have to meet the
21 new and present regulations. So those statements are correct.

22 And, also, I believe there were sanitary surveys
23 performed by our department a couple of years ago that also
24 found no major deficiencies. I think something was noted
25 regarding the rust on the tank and so forth. So our interest

1 on this particular case would concur with the statements that
2 are made in those particular recommendations and report.

3 I was asked by Lila Jaber and JoAnn Chase
4 representing the utility if I could come and give a more
5 broadbrush overriding DEP concerns regarding the overall issue
6 of regionalization and consolidation. In our regulations,
7 which mirror in large part federal regulations, we have several
8 programs that do encourage future planning and looking at the
9 horizon for future service and so forth. We, quite honestly,
10 don't do your job, which is to distinguish who shall pay for
11 what and when, but we have a capacity development program which
12 mirrors a lot of EPA's four pillars of sustainability that
13 dictates that a utility must look at their managerial,
14 financial, and technical ability to meet the law and be in
15 compliance with our regulations now and in the future.

16 Also, in our permitting regulations we do ask when
17 folks expand their facilities they have adequate capacity for
18 future growth. And more specifically, in our SRF program, our
19 state revolving fund program, of course, they go through a
20 facility plan and they look at a 20-year horizon as the most
21 cost-effective alternative for servicing the project area,
22 again without particular regard of who pays for what and when
23 and how and where.

24 And we have had in the past lots of fun discussions
25 with PSC on margin of reserve. I remember those days. It's

1 probably still a issue, and useful life and so forth. The
2 existing facility at County-Wide is over 30 years old. And
3 while it's understandable that the system has not collapsed to
4 date and is in compliance, all of these particular programs
5 would look at an overall better way of servicing the larger
6 project area. So I think what I'm trying to say here is, our
7 concern more broadly is with the incentives or disincentives
8 that other agencies, whether the Fire Marshal, the Department
9 of Health, or the PSC take in serious consideration their
10 protocols and practices not to have disincentives for
11 consolidation and regionalization of facilities.

12 When I started in this program in 1991, we had about
13 five thousand and a half water systems. And each year we grew
14 and grew and grew. I remember doing a report in '95 indicating
15 that by today's date we would have, like, 9,000 systems.
16 Something happened about eight years ago when a lot of these
17 procedures that we have and programs kicked in where we saw the
18 opposite trend. We saw consolidation occur. And we have been
19 losing or consolidate about 100 systems a year throughout the
20 state. And our historical experience has been that 90 percent
21 of our problems do involve small systems that do have capacity
22 issues, that do have financial issues, and we spend about
23 90 percent of our time dealing with financially strapped or
24 smaller communities. Especially, of course, the privately
25 owned, often not by companies such as County-Wide, or Aqua, or

1 so forth, but we have found that we have better luck and
2 success in compliance when systems to consolidate or become
3 regionalized.

4 And I'll be here to take any questions regarding our
5 regulations, or what limited knowledge I have specifically
6 about DEP's involvement with this particular issue in front of
7 you. Thank you.

8 CHAIRMAN EDGAR: Thank you, Mr. Hoofnagle.

9 Commissioner Argenziano.

10 COMMISSIONER ARGENZIANO: Yes, I have a few questions
11 and some comments.

12 For DEP, what is the lifespan of a well?

13 MR. HOOFNAGLE: The lifespan of a well?

14 COMMISSIONER ARGENZIANO: Uh-huh.

15 MR. HOOFNAGLE: I'm not -- I do not know that
16 specifically. Generally, we have looked in our regulations
17 that equipment might be five years or ten years, the overall
18 plant capacity and the system would be 20 years, and
19 distribution lines could be as old as 40 or 50. The wells --

20 COMMISSIONER ARGENZIANO: And components not
21 necessarily are replacement wells.

22 MR. HOOFNAGLE: No, components are not necessarily
23 replacement wells, right.

24 COMMISSIONER ARGENZIANO: Right. There is a big
25 difference, and that's my concern.

1 And what I'm hearing, and I guess maybe what I'm
2 hearing over and over again is there is sand found, and sand
3 found. There is sand found in a lot of wells. We live in a
4 karst area, and the lens of the freshwater and the aquifer is
5 up and down and up and down. And any time there is a drought,
6 you are going to find sand, too. It could be also indicative
7 of collapse of the casings, isn't that correct?

8 MR. HOOFNAGLE: That's correct. With wells, it's a
9 little bit trickier than a concrete structure, which you can
10 view and reinforce concrete and steel and so forth. With wells
11 you are subject to a lot of constraints of nature, like you
12 suggest, of droughts, of floods, unexpected cave-ins and so
13 forth. And sand may be indicative of problems to come if they
14 had some way of measuring this over time.

15 COMMISSIONER ARGENZIANO: Right. My point is that
16 sand is not indicative of a failed well.

17 MR. HOOFNAGLE: No, it is not.

18 COMMISSIONER ARGENZIANO: And the lens, I think,
19 according to many studies, and I can't remember if there was a
20 Rider (phonetic) study back in '94 that the Withlacoochee Water
21 Supply Authority used for that general area showed that the
22 lens of the freshwater and the aquifer had shrunk quite a bit,
23 causing sand in a lot of wells. So I just wanted to make clear
24 that it wasn't just finding sand that means that the wells need
25 to be replaced, it could be the components that need to be

1 replaced.

2 And I think that what you said that, you know -- I
3 think that the utility was using half of its CUP?

4 MR. HOOFNAGLE: Excuse me, ma'am?

5 COMMISSIONER ARGENZIANO: The consumptive use permit.
6 I guess that's for the utility more than for DEP.

7 CHAIRMAN EDGAR: Mr. Engelhardt, can you speak to
8 that?

9 MR. ENGELHARDT: Yes, they did.

10 COMMISSIONER ARGENZIANO: So you still have quite a
11 bit more on your consumptive use permit, so I don't see a
12 capacity issue, and I don't see a financial issue except for
13 the fact that they hadn't raised rates in a long time. And I
14 was just listening to your suggestions of, you know, the
15 problems that were there, and now hearing DEP saying capacity
16 issues, I don't think there were capacity issues in this
17 utility.

18 MR. ENGELHARDT: If I may, Commissioner. I would
19 like to ask Len Tabor, the operator, to address some of those
20 questions, because he is more versed on that.

21 CHAIRMAN EDGAR: Mr. Tabor.

22 MR. TABOR: Yes, Madam Chairman. I had a little
23 trouble hearing you.

24 We had a problem with the wells. I'm the one that's
25 in the trenches out there. I don't know if we had a hole in

1 the casing -- by the way, I have been involved in water and
2 sewer operation for 40 years. And I went to these customers'
3 homes that had the complaints with the wells. I installed sand
4 screens that we went to the local hardware stores and
5 purchased, like Home Depot and places like that, and we put
6 them after the meter so that the washing machines on these
7 elderly people that Mr. Ellis was talking about, I actually
8 went in their homes and actually cleaned the screens.

9 It was creating a pressure problem at the end,
10 because the impellers on the pumps were getting eaten up by the
11 sand. The east well was the worse in pumping sand. I also
12 installed blow-off lines in the distribution system. So at
13 nighttime -- I would go out at night when people were going to
14 bed and I would turn on these blow-off lines to try to remove
15 the sand that was in these lines. So I know that -- I know
16 from experience that the wells were -- the one well was
17 definitely failing.

18 I also operate the Marion Landing, one that did fail,
19 and we redrilled, but we had the room to redrill at that place.
20 So they say they don't know that the wells were failing. Yes,
21 I will attest that they were. And if I could bring those
22 people that I put all these screens on, those old ladies that
23 were -- no disrespect to the elderly ladies, because I did help
24 them unhook their screens and clean them from their washing
25 machines. If they were here, they would tell you that they had

1 a bad problem. Now, since -- and I have nothing to gain
2 financially either way here. I'm still out there, and it is to
3 my credit that County-Wide did not have a problem with DEP,
4 because I'm the licensed operator that has seen that the water
5 was safe for the residents to drink. But we did --

6 CHAIRMAN EDGAR: Mr. Tabor, let me go ahead and see
7 if Commissioner Argenziano had a few more questions so that we
8 can then respond to them together.

9 COMMISSIONER ARGENZIANO: Well, I just would like to
10 make the comment that sand in a well or in a washing machine is
11 not indicative of a bad well always. It's not only --

12 MR. TABOR: That's true.

13 COMMISSIONER ARGENZIANO: And I think you said that
14 you replaced one well, and I'm just curious, did you change the
15 depth on the new well?

16 MR. TABOR: I'm sorry, I didn't hear --

17 COMMISSIONER ARGENZIANO: When you replaced the one
18 well that you said that you did --

19 MR. TABOR: No, we didn't replace -- oh, you mean at
20 the other facility? At the Marion Landings facility that they
21 were talking about, just south of the Bahia Oaks, we moved and
22 changed -- yes, we did change the depth of the well. Oh, yes,
23 yes, we did that. And we have good clean water.

24 COMMISSIONER CARTER: Thank you.

25 CHAIRMAN EDGAR: Thank you, Mr. Tabor, we appreciate

1 that information.

2 Commissioner Carter, did you have a question?

3 COMMISSIONER CARTER: More of a comment, Madam
4 Chairman.

5 I was glad to see Mr. Reilly. He and I have talked
6 ad nauseam about these staff-assisted rate cases, and I have
7 read staff's recommendation. And, you know, based upon what
8 staff has done is they have not ignored the fact that this is a
9 good company, that they have done good things and all like
10 that. They have not ignored the fact that there is growth, and
11 what have you. But they have done a best-case scenario.
12 Because on the one hand is that we recognize that, you know,
13 the system that is connected to Marion County may provide
14 additional benefits from the pressure, so that is reflected in
15 rates that are recommended by staff.

16 And I think Mr. Reilly is correct, staff has done an
17 outstanding job in striking the proper balance on this case
18 here. I think that there is going to be some growth, so the
19 developer will be able to result -- will be able to recoup his
20 investment in that. The other thing is that the current
21 iteration of customers, they get some benefit from this, and I
22 think that the rate structure that has been recommended by
23 Staff is the best of both worlds.

24 Additionally, is that it does, as Mr. Reilly said,
25 allow some O&M costs. It allows the company to recoup their

1 investment. But it is not an opportunity for them to win the
2 Irish Sweepstakes. It's an opportunity for a best-case
3 scenario. And, Madam Chairman, when you get to the appropriate
4 time, I'm prepared to recommend staff, move staff's
5 recommendation on this case.

6 CHAIRMAN EDGAR: Thank you, Commissioner Carter.
7 Commissioner Skop.

8 COMMISSIONER SKOP: Thank you, Madam Chair.

9 I would like to concur with some of the comments made
10 by Commissioner Carter and also Commissioner Argenziano. I
11 think the way that I look at this holistically was the fact
12 that the existing well had adequate capacity to serve its
13 current customer. It was doing so relatively well. There was,
14 apparently, according to staff, the ability to expand the
15 consumption, if necessary, and the developer opted to
16 interconnect, which it's their decision to make.

17 On the flip side, mentioning what Commissioner Carter
18 alluded to, the customers do get some benefit from this. It is
19 a collateral benefit. There are some fire hydrants, and they
20 get some increased water pressure, so I think that supports,
21 perhaps, some increased rates to the extent that staff has
22 described. But staff -- again, I do agree with Commissioner
23 Carter, staff struck the proper balance on this.

24 Consumers get some benefit, but, again, I think in
25 the interest of being fair and equitable, the bottom line is

1 that the, you know, interconnect clearly supported future
2 growth, and I don't think that was necessary to do that. So I
3 think that staff's recommendation is right on the mark, and I
4 would support Commissioner Carter's proposal, or to make a
5 motion at the appropriate time.

6 Thank you.

7 CHAIRMAN EDGAR: Thank you.

8 Commissioner McMurrian.

9 COMMISSIONER McMURRIAN: I would just add that I
10 can't say it any better than my colleagues have said it
11 already, and the only question I had was with regard to the
12 sand, and I think Commissioner Argenziano covered that well.
13 And I would support staff's recommendation.

14 CHAIRMAN EDGAR: Okay. Commissioner Carter.

15 COMMISSIONER CARTER: Madam Chairman, I would move
16 staff's recommendation in this case to its entirety.

17 COMMISSIONER SKOP: Second.

18 CHAIRMAN EDGAR: We have had full discussion. We
19 have a motion and a second.

20 All in favor of the motion say aye.

21 (Unanimous affirmative vote.)

22 CHAIRMAN EDGAR: Opposed?

23 Show the motion adopted. Thank you to all of our
24 participants.

25 MR. ENGELHARDT: Thank you, Madam Chair.

1 STATE OF FLORIDA)

2 : CERTIFICATE OF REPORTER

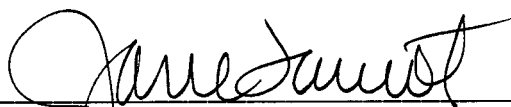
3 COUNTY OF LEON)

4
5 I, JANE FAUROT, RPR, Chief, Hearing Reporter Services
6 Section, FPSC Division of Commission Clerk, do hereby certify
7 that the foregoing proceeding was heard at the time and place
8 herein stated.

9
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
16 I FURTHER CERTIFY that I am not a relative, employee,
17 attorney or counsel of any of the parties, nor am I a relative
18 or employee of any of the parties' attorney or counsel
19 connected with the action, nor am I financially interested in
20 the action.

21
22 DATED THIS 16th day of July, 2007.

23
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25


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