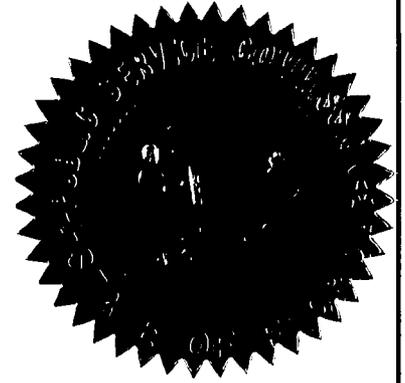


BEFORE THE  
FLORIDA PUBLIC SERVICE COMMISSION

DOCKET NO. 070580-WU

In the Matter of:

INITIATION OF SHOW CAUSE PROCEEDINGS  
AGAINST KINCAID HILLS WATER COMPANY  
IN ALACHUA COUNTY FOR VIOLATION OF  
RULE 25-30.110, F.A.C., RECORDS AND  
REPORTS; ANNUAL REPORTS; RULE 25-30.120,  
F.A.C., REGULATORY ASSESSMENT FEES; WATER  
AND WASTEWATER UTILITIES; AND OF ORDER  
PSC-04-0615-FOF-WU.



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PROCEEDINGS: AGENDA CONFERENCE  
ITEM NO. 9

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

DATE: Tuesday, December 18, 2007

TIME: Commenced at 3:00 p.m.  
Concluded at 3:40 p.m.

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

REPORTED BY: LINDA BOLES, CRR, RPR  
Official FPSC Reporter  
(850) 413-6734

DOCUMENT NUMBER-DATE

FLORIDA PUBLIC SERVICE COMMISSION 11247 DEC 28 5

FPSC-COMMISSION CLERK

1 PARTICIPATING:

2                   CHUCK HILL, RALPH JAEGER, MARSHALL WILLIS, CHERYL  
3 BANKS and STAN RIEGER, representing the Florida Public Service  
4 Commission Staff.

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

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2 CHAIRMAN EDGAR: I think we're ready for our staff to  
3 kick us off on Item 9.

4 MS. BANKS: Good afternoon, Commissioners. Cheryl  
5 Banks for Commission staff.

6 Item 9 is staff's recommendation concerning Kincaid  
7 Hills' failure to pay its regulatory assessment fees and timely  
8 file its annual reports. Kincaid Hills' failure to pay its  
9 RAFs is primarily the result of a poor financial position.

10 There are some unique circumstances concerning this  
11 case. Since coming under the Commission's jurisdiction in 1992  
12 the company has never had a base rate increase. The owner,  
13 Mr. Knowles, has never drawn a salary from the company. In  
14 2007 the company did receive pass-through and index increases.  
15 However, even after these increases Kincaid's current rates  
16 remain quite low. Kincaid's base facility charge is \$6.94 per  
17 month and its gallonage charge is 92 cents per 1,000 gallons.  
18 Kincaid only has 338 customers.

19 Based on the facts in this case, staff believes it's  
20 in the customers' best interest for the Commission to take  
21 actions necessary to bring this company to a financially viable  
22 position so that it can provide quality water service to its  
23 customers.

24 CHAIRMAN EDGAR: And I do want to say I don't see  
25 anybody here from the utility. Is there anybody here from the

1 utility? Ralph, do you know?

2 MR. JAEGER: Chairman Edgar, I talked to him last  
3 week and he indicated that this DEP inspection that he did on  
4 November 6th, they had a letter from DEP on November 20th where  
5 he had 20 days to respond, and he was in the midst of  
6 responding and talking to DEP and working with DEP to try to  
7 either fix the deficiencies or at least respond to the noted  
8 deficiencies, so he could not take the time to come here. And  
9 he said he wished he could, but he was so busy with DEP that  
10 he's trying to get that squared away.

11 CHAIRMAN EDGAR: Okay. Thank you. I just wanted to  
12 make sure that if there was somebody here from the utility,  
13 that we acknowledged that and them.

14 Commissioner Argenziano.

15 COMMISSIONER ARGENZIANO: Thanks, Madam Chair. Thank  
16 you.

17 I'm -- in reading this over I have some real problems  
18 with, with what the consumers, the customers of this company  
19 are receiving. Not only are we talking about fines, okay --  
20 and I understand this company probably will never be able to  
21 pay back fines, I understand that. But I, I have no confidence  
22 in the lack of response over a 15-year period from, from the  
23 individual, the owner, and I guess now his son is the, has  
24 taken over. That -- I don't have any confidence in just, you  
25 know, waiving the fines and, and wondering if they're going to

1 put the money into upgrading the facility. I have no idea what  
2 the facility, the shape the facility is in. By the, by the  
3 look of the environmental violations or the noncompliance it's  
4 like I'm not sure that revocation of certification or whatever  
5 you call it is not in order. The people of this company are  
6 drinking water that the trihalomethanes, I can't even say it,  
7 excuse me, the total coliform bacteria, and it goes on and on  
8 and on, and the five halo acids. I mean, the problems with the  
9 quality of the water are so troublesome to me. Has it been 15  
10 years that this is going on? And DEP compliance, I'm not even  
11 sure where DEP is on this. It looks like they shuffled it off  
12 to EPA at one point, and EPA says, well, okay, you didn't  
13 pay -- so everything comes down to a fine with either DEP or  
14 EPA. And it's like, well, you haven't paid your fine.

15 But what about the chemicals that the people are  
16 drinking and the bacteria and the microorganisms in the water?  
17 I understand it's a low, lower income community and I  
18 understand that this is the lowest rate I've ever seen for  
19 water. I mean, I understand that. But I'll tell you what, I'd  
20 rather go out and buy bottled water than have to be subjected  
21 to what these people are probably being subjected to. And then  
22 for the gentleman not even to be here today really concerns me.

23 DEP -- and I was going to ask about the DEP letter or  
24 the, let's see, it was -- even to get down to this, I'm really  
25 frustrated with this one because I believe in -- I don't like

1 to take anything from anybody. I like to try to get them back.  
2 You think that the customers really need some help here. But  
3 I'm not sure by giving them, getting them off the hook we're  
4 doing the customers any favor.

5           They don't even have -- let me see. And the utility  
6 did not have a chlorine test kit onsite. Their logs are  
7 available. They have papers scattered about it sounds like,  
8 individual papers strewn about. I don't think the person who  
9 is running this utility is capable. That's what I come away  
10 with. And I think it's to the detriment and harm of the  
11 customers.

12           So while I understand staff's desire to make the  
13 utility whole, I have a concern with management. I'm concerned  
14 that they don't really know how to run a utility, and I'm not  
15 even sure that the utility should be salvaged at this point.  
16 So I don't think I can agree with staff, even though I  
17 understand where you're coming from. I think I'd like to know  
18 where DEP stands on this. Do they still -- has his 20 days run  
19 out?

20           MR. RIEGER: Commissioners, this is Stan Rieger with  
21 Commission staff. I've been the one most in contact with DEP  
22 as well as the health department, Alachua County Health  
23 Department, and also spoken with the EPA folks.

24           As far as DEP is concerned, I spoke with them a few  
25 days ago, and, of course, the 20-day time period had run out

1 and there's been no response back. However, DEP did know that  
2 the ownership of the utility has arranged with the county to go  
3 out and collect some sampling, and that part is being taken  
4 care of as far as collecting and testing. The results of the  
5 testing to fulfill the requirements for the testing will not be  
6 known yet for a couple of weeks, maybe in mid-January. It  
7 takes a few weeks for the turnaround of the testing results to  
8 get back. But at least that part is being taken care of. Here  
9 again, they did not, have not responded back to DEP on that.

10 COMMISSIONER ARGENZIANO: That's 15 years --

11 MR. RIEGER: Yes.

12 COMMISSIONER ARGENZIANO: -- this company has not  
13 responded or not complied, and I don't know that -- I'm not  
14 willing to give them any more time, to be honest with you.

15 On Page 5, and if you look, it starts actually on  
16 Page 4, and if you just read through those and go to Page 5,  
17 one, two, three, four, five, if you look at six, I believe it  
18 is, "The following microbiological monitoring violations  
19 occurred in 2007," and it goes on. I'm going to skip some  
20 here. "The facility exceeded the average maximum contaminant  
21 level." It goes on with the total coliform bacteria during the  
22 months and so on, it had two positive analysis in the  
23 distribution system during this month in violation of rule  
24 whatever. And then it says, "No repeat analyses were performed  
25 for two positive samples in September as required." It seems

1 like a constant and a chronic problem, and I think at this  
2 point it's -- to me, I don't understand why DEP hasn't gone  
3 under a consent order.

4 MR. RIEGER: They probably will start enforcement  
5 activity. Even though, like I said, the testing has been or is  
6 being taken care of, there's still physical aspects with the  
7 facility that need to be addressed such as auxillary power and  
8 leaking facilities, leaking tanks and stuff like that, and  
9 there's been no improvements made as of date to that.

10 COMMISSIONER ARGENZIANO: Can I ask a question to  
11 that? I don't even know what shape the facility is in. It  
12 sounds like an older, delapidated facility.

13 MR. RIEGER: It's an older facility. The wells were  
14 installed in the late 1950s, so.

15 COMMISSIONER ARGENZIANO: And I believe that --  
16 right. So at what point is it, is it, is it wasting money  
17 or -- I don't think the -- I'm just not even sure the facility  
18 should be around. I think -- I even believe that the county  
19 commission didn't want it for several reasons because of the  
20 low rates.

21 MR. RIEGER: That's correct.

22 COMMISSIONER ARGENZIANO: Which, of course, if they  
23 picked it up, I'm sure they could come in for a rate increase  
24 or an emergency increase to put money into the facility. But  
25 the other reason was because it was such an old facility and

1 was probably not worth it.

2 MR. RIEGER: It's unknown as far as the quality of  
3 the lines. We have no idea as far as how tight this system is.  
4 Will it take like an interconnect from the City of Gainesville,  
5 which is, their nearest lines are located within a mile away.  
6 Gainesville does not want it because they know that the lines  
7 probably would have to be rebuilt. It's a money pit.

8 COMMISSIONER ARGENZIANO: I mean, they don't even  
9 have an auxillary generator.

10 MR. RIEGER: There is one on-site, but it's not  
11 working.

12 COMMISSIONER ARGENZIANO: Right. Right. (Laughter.)  
13 They don't have an auxillary generator.

14 I just have real concerns. And I appreciate what  
15 staff has, has suggested, but I think at this point maybe  
16 something else needs to happen here. And I would hope, to be  
17 honest with you, that the DEP, there would be a consent order  
18 because it sounds like those people are drinking water that we  
19 wouldn't want to give to our dogs. And that's my opinion, I'm  
20 sorry, but that's how I feel. I'm sorry. My dog gets clean  
21 water. His bowl is cleaned every day.

22 CHAIRMAN EDGAR: Commissioner, I'm sure many of us, I  
23 certainly do have great concern as well about, you know, some  
24 of the information that was presented to us. And as I was  
25 rethinking this item just in my own head and driving down the

1 road this morning, you know, I think the question to me and I  
2 think maybe the question that you are posing to us as well is,  
3 is what can we do, if anything, that can put the customers in a  
4 better situation than they are now? And I guess I would pose  
5 that back to staff as well because it does seem kind of like a  
6 no-win, hands tied sort of scenario.

7 I, you know, don't know if there needs to be a  
8 concern about abandonment. You know, that does happen and  
9 clearly that's -- you know, no water is not good either. And I  
10 don't know if that's even a concern or not, so let me just kind  
11 of throw that back to our staff. And realizing that you have  
12 given a recommendation weighing many of these things but  
13 recognizing that I think many of us do have concerns, can you  
14 just speak to it a little bit more?

15 MR. JAEGER: Chairman, this is Ralph Jaeger, legal  
16 staff. I think any normal person would have probably walked  
17 away from this utility years ago. I'm not sure why he's there,  
18 except his father was the one that, I think, built it and it's  
19 sort of like a legacy. And I think he took over somewhere  
20 around 2004. We're not sure exactly when he took over the  
21 operations. And it's just in the last few months that he's  
22 really started trying to do something. But, again, we don't  
23 know what needs to be done until we have that staff assisted  
24 rate case.

25 And the county, when we asked about the county, if

1 they would take it, they said that their finances are right now  
2 where they're really hurting, and they were asking us not to do  
3 anything to cause an abandonment or to revoke and at least to  
4 get the rates right before they, before they took it over so  
5 they wouldn't have to have that political problem, I guess, of  
6 increasing rates. But mainly the county's budget, they said,  
7 was just not --

8 CHAIRMAN EDGAR: I hate it when the local governments  
9 have that problem. (Laughter.) I'm sorry, Ralph. It's been a  
10 long day.

11 MR. JAEGER: In the last, the last few months he has,  
12 you know, Mr. Knowles, Jr., has paid the \$6,200. And that's a  
13 tremendous amount of money when you think how much he's making,  
14 you know, the \$6 and something per base facility charge and  
15 92 cents per 1,000 gallons. And I think what staff is saying,  
16 he may not have the expertise -- he is an MIT graduate. But  
17 what we're trying to do is give him the money where maybe he  
18 could hire somebody that could test, test the water or get a  
19 management company where if -- and that's why we need a staff  
20 assisted rate case to see what kind of help can we get him? If  
21 we give him the money, can he hire this done or get people to  
22 do the testing and pay for a test company to do it?

23 So I think what staff is saying, yeah, we have severe  
24 concerns right with Commissioner Argenziano. When I started  
25 writing this REC, it was a revocation REC. But then after

1 talking to him and then him paying the \$6,000 -- and he is, it  
2 looks like he's trying to get the testing done, had samples  
3 taken. And I think what swayed us was EPA says, it looks like  
4 he's coming in compliance, they backed off. They were ready to  
5 go get him. DEP, they're sitting there, they've had this since  
6 I don't know. You know, they backed off years ago and gave it,  
7 you know, like you said, punted to EPA for a while, and now DEP  
8 looks like they're coming back into it.

9           But what we were taking our lead from is DEP and EPA,  
10 they haven't done anything yet. And usually whenever we have  
11 quality of service problems, we let them, we talk with them  
12 constantly, and any time we have a staff assisted rate case or  
13 become aware of problems, we talk to them and try to make sure  
14 they are aware of it. But they're like the lead on quality of  
15 service problems, and so we were trying to let DEP take the  
16 lead. And, I mean, that's not washing our hands of it. We are  
17 trying to do something. We're trying to get where this water  
18 is good for the customers, and we think the first step is the  
19 staff assisted rate case so he can get compensatory rates and  
20 maybe hire the necessary skill to get the job done.

21           CHAIRMAN EDGAR: Commissioner Argenziano.

22           COMMISSIONER ARGENZIANO: And I understand that. I  
23 guess that's where I'm a little nervous wondering if he has the  
24 qualifications or where will that money go once he gets it?  
25 Will it, will it, will it really ever come to fruition that the

1 facility actually gets cleaned up and fixed? And I just don't  
2 have the confidence at this point after looking at a 15 -- and  
3 I understand he wants to take his daddy's legacy, but  
4 unfortunately daddy left him a --

5 MR. WILLIS: If I could just add something to staff's  
6 recommendation here. In a staff assisted rate case there are  
7 many times we go out and look at companies that need massive  
8 improvements. We have the ability to tie those funds up to  
9 assure that if there are capital improvements, that those funds  
10 are earmarked for those capital improvements. We have methods  
11 of following up with a company to assure those are done. We  
12 can put timetables to assure they're done. There are just ways  
13 that we can handle that in a staff assisted rate case to assure  
14 that funds are going where they're supposed to.

15 But back to staff's recommendation itself, I see a  
16 cycle going here. The man has, and his father included, he may  
17 be a bad businessman, he may not understand how to run a  
18 utility company very well, but there's a cycle going on here  
19 where he has to do things and he has no money to do them. The  
20 man made \$49,000 last year based on these low rates, but he  
21 still lost \$9,000. He pays himself no salary. There's no way  
22 that he has the ability to put money into things like more  
23 testing, improvements to the system. And I just look at this  
24 like if we continue down this road, it will be abandoned.  
25 There's no opportunity here for the company to get the money to

1 do improvements, get the money to follow up with normal testing  
2 requirements without something like this going forward. He  
3 hasn't done it himself. He's applied twice in the past. He  
4 withdrew those based on probably staff telling him that you  
5 don't have, you don't have certain things done here, you  
6 haven't paid your regulatory assessment fees, and for whatever  
7 reasons those never came about.

8           We did facilitate a pass-through for regulatory  
9 assessment fees in July of this year by the statute with him.  
10 We got him to file for some index, but that's a pretty minor  
11 increase. It was probably about 4 percent from my knowledge.  
12 It wasn't very much. It just barely got him to where he can  
13 pay his RAFs now and probably pay for some back regulatory  
14 assessment fees.

15           But I look at it as somewhere, somewhere around here  
16 we have to break the cycle. We've got to at least give the  
17 company the opportunity to correct things and, if not, at least  
18 we have it where maybe the county will be willing to come in  
19 and take it at that point. But without that we may not be  
20 anywhere but in the same path. The company may see no  
21 improvement.

22           COMMISSIONER ARGENZIANO: Madam Chair.

23           CHAIRMAN EDGAR: Commissioner.

24           COMMISSIONER ARGENZIANO: And I do understand that.  
25 I just looked at the 15-year history of not being able to keep

1 timetables or, you know, so I don't really have confidence, you  
2 know, that that's going to suddenly happen. It is now the son  
3 who's taken over, I don't know how long he's actually had it,  
4 and that could make a difference. I understand if he has no  
5 money to, to make it better, how do you get it to be better?  
6 And probably the county after he does make it better will want  
7 to come in and take over the facility. So I'm kind of stuck  
8 between a rock and a hard place. I guess, I guess I understand  
9 the need to do something quickly, and if that's the way to get  
10 something done the quickest for those people. But I would want  
11 to know that I'm watching everything and giving this man some  
12 help because obviously I think he needs that.

13 CHAIRMAN EDGAR: Commissioner Carter.

14 COMMISSIONER CARTER: Thank you, Madam Chairman.

15 This case really gave me a headache and a heartache  
16 because the bottom line is that what kind of water are the  
17 people drinking? And even it's managed by the gang and it  
18 can't shoot straight. But the problem is, and I asked staff, I  
19 said, "Do we have any customer complaints anywhere?" And the  
20 answer was, "No." I guess they're probably so used to drinking  
21 contaminated water they really wouldn't know what it tastes  
22 like if they cleaned it up.

23 But I do think the staff assisted rate case, if we  
24 were to expedite that and get it done, then the county or  
25 whomever that comes in, at least they'll be able to come in and

1 say if we've got to pay for these improvements in  
2 infrastructure, at least there's a way to recapture the  
3 investment. And it's going to take a serious investment. But  
4 I would just hope that we could expedite. I mean, I mean, it's  
5 kind of like what do you do? Pardon the expression, it seems  
6 like you're damned if you do and damned if you don't because of  
7 what's happening here.

8 But I do think that by expediting the staff assisted  
9 rate case, at least we can have proper financial plans in place  
10 such that if the county or another entity were to take them  
11 over, at least they could say, okay, this is how we can  
12 recapture our investment. And it's gut wrenching. But I think  
13 that the best thing that we could do is what staff has come up  
14 with, because I don't see, unless there's something I'm missing  
15 here, I just don't see them -- they may just continually go  
16 along as they're going unless we just interject ourselves in  
17 this case. Thank you.

18 CHAIRMAN EDGAR: Commissioner.

19 COMMISSIONER ARGENZIANO: And I feel those aches too.  
20 And, as a matter of fact, if we were drinking that water, we'd  
21 probably have some real gut wrenching. But here's -- and I  
22 understand that and I probably will have to go the same way  
23 because I don't know how you're going to fix it if we don't.

24 But why you don't hear from the consumers is there's  
25 three things there. One, it's a lower income community.

1 They're paying like, what, \$9, \$6 for water?

2 MR. JAEGER: On average about \$9.

3 COMMISSIONER ARGENZIANO: They're not going to  
4 complain about that. And they never get notices when there's  
5 contamination in the water. They have no clue. Okay? And  
6 that's one of the things I'm really -- if I got a notice that  
7 my water was, continually had problems with it, carcinogenic  
8 materials, chemicals, I mean, all kinds of stuff, I'd be  
9 calling too. But without getting those notices, that's why  
10 you're not hearing from them either. And because of that I'm  
11 hoping that we can -- DEP -- monitor what DEP is doing because  
12 they've got to do something too. But I guess, Madam Chair, the  
13 way to go is with staff's recommendation because I can't come  
14 up with a better alternative.

15 CHAIRMAN EDGAR: Commissioner Skop.

16 COMMISSIONER SKOP: Thank you, Madam Chair.

17 I have some questions for staff. But before that I  
18 just want to express that I share Commissioner Argenziano's  
19 concerns about protecting the consumers here. You know, I  
20 actually highlighted the fact they didn't have a chlorine test  
21 kit and there's numerous noncompliances, and I think that kind  
22 of stems from the fact that -- the expertise in managing as  
23 well as severely undercapitalized. So there are problems.

24 You know, personally I had hoped that Mr. Knowles  
25 would appear because I'd like to have asked some questions of

1 him and I think it would have been in his best interest to have  
2 appeared.

3 But, again, given the capitalization of the, of the  
4 utility as well as the fact that you have three governmental  
5 agencies coming down on you, I think I would have thrown in the  
6 towel long ago.

7 But with respect to Item 7 on Page 5, I'm hopeful  
8 that staff -- I mentioned the cadmium levels and that caught my  
9 attention. And I was wondering if staff would happen to know  
10 what specific area in Alachua County, because I'm from Alachua  
11 County, where this facility is located physically. Is it the  
12 north part of the county or do you guys have any --

13 MR. RIEGER: It's just outside the city limits of  
14 Gainesville on the east side.

15 COMMISSIONER SKOP: On the east side.

16 MR. RIEGER: Yes.

17 COMMISSIONER SKOP: Okay. Because I know, speaking  
18 from experience, there was an EPA super fund site in Alachua  
19 County that had dealt with cadmium. I used to work there, so,  
20 I mean, that's what caught my level. I wonder if there is some  
21 leaching.

22 But with respect to just the general overview, again,  
23 I would want to commend staff for making the best of a  
24 difficult situation. This has gone on for quite some time. I  
25 share the concerns of my colleagues to the extent that if we go

1 forward with the staff approved rate case, that I'd be very  
2 concerned that those funds were put in some form of  
3 constructive trust to be used appropriately for resolving the  
4 fines as well as putting money into the system in the proper  
5 places.

6           The other thing I would like to commend staff upon is  
7 that on Page 7 it discusses the discussions that were held with  
8 Alachua County and GRU. And apparently GRU has said thanks,  
9 but no thanks. But Alachua County is on the hook, has a  
10 statutory obligation, as staff duly points out, should  
11 abandonment take place. Now I'm kind of up in arms because,  
12 again, I don't know whether this is worth salvaging or whether  
13 we should let it implode. But in the interest of consumers,  
14 certainly having a staff assisted rate case provides a  
15 necessary capital infusion into this utility, which hopefully  
16 makes necessary improvements. And, you know, that's what I had  
17 hoped to ask Mr. Knowles whether, you know, he had the  
18 perseverance to move forward and operate the utility or whether  
19 he just wanted to throw in the towel.

20           But one of the things that I thought was of interest  
21 is that the staff assisted rate case, assuming it was approved  
22 and went forward, would provide an incremental revenue boost,  
23 which may make it more attractive to a regional utility like  
24 GRU to consider taking it over or, likewise, Alachua County.  
25 And I don't know who you've spoken to, whether you spoke to

1 Commissioner DeLaney or if anyone has spoken to the legislative  
2 delegation, Representative Chestnut or Senator Oelrich. But  
3 certainly, you know, if Alachua County has some potential  
4 obligation there should this go into abandonment, then perhaps  
5 that can be a deal sweetener to, for them to look to GRU to say  
6 what will it take you to go in this direction ultimately?

7           So, again, I would commend staff for taking a  
8 holistic approach to looking at all the options on this.  
9 Usually we don't have that luxury on some of the water cases  
10 that we've experienced. But, again, we need to do what's right  
11 to protect the consumers and, you know, certainly a staff  
12 assisted rate case, I think, would be the way to go. I'm not  
13 so sure that there are not other equally compelling courses of  
14 actions with respect to revocation proceedings, or a DEP  
15 consent order has been mentioned, or abandonment. Because,  
16 again, if I wasn't making any money, what's my incentive to  
17 work? I'd throw in the towel.

18           But certainly I think the, all channels are open for  
19 the, for the staff assisted rate case, and certainly perhaps  
20 more discussions could be held with the county with respect to  
21 their willingness to enter into some discussion with GRU if  
22 this becomes a problem on a forward-going basis, because I  
23 seriously question whether this is a going concern. And I  
24 think that's what I wanted to ascertain is Mr. Knowles' intent  
25 and whether he wanted to persevere and make a good faith effort

1 based on representations before the Commission or whether, you  
2 know, maybe we need to look at some other more stringent  
3 alternatives to do what we need to do to protect the consumers.

4 But with that, if the will of the Commission supports  
5 adoption of the staff recommendation, I'm willing to support  
6 that in its entirety. Thank you.

7 CHAIRMAN EDGAR: Commissioner McMurrin.

8 COMMISSIONER McMURRIAN: Thank you, Chairman. I had  
9 two or three questions along that same line. I guess I just  
10 wanted to ask the question, if Mr. Knowles abandoned this  
11 utility today, would the county be able to serve those  
12 customers tomorrow?

13 MR. JAEGER: Basically if he abandons it, then he  
14 gives up his title to the plant and lines is the way that, the  
15 way I understand the statute. Basically then the county can  
16 come in and operate is the deal. If you do a revocation, he  
17 retains title to the lines and the plant. And so that was one  
18 argument against revocation because it may be in litigation for  
19 them or they have to do something to try to get title or they  
20 have to do a condemnation.

21 But I think your question was the county has the  
22 obligation to either be the receiver or find a receiver, and  
23 they would have to operate the system if there is an  
24 abandonment if nobody else would, if they couldn't find  
25 somebody else.

1           COMMISSIONER McMURRIAN: Okay. And I do have another  
2 question or two. I think it's one.

3           The other language there about a large investor-owned  
4 utility talked to them about a purchase and apparently the  
5 owner of Kincaid, Mr. Knowles, wasn't interested in the selling  
6 price. If we have the SARC and we are looking at all the  
7 financials, whatever shape they're in, for this utility and we  
8 come up with some amount for rate base for this utility, do you  
9 think that will aid in some kind of discussions about him  
10 possibly selling to someone who seems to have more experience?  
11 I don't remember reading this long of a list with many other  
12 utilities, so.

13           MS. BANKS: I would not get that impression. I think  
14 that the difference in price where they were both at, from my  
15 understanding, was too great. And I'm not sure, you know, it's  
16 based on the rate base of the utility and the value. I don't  
17 think that the issue was based on the pending rates in place.  
18 It was based on the value of the plant.

19           COMMISSIONER McMURRIAN: And if -- Chairman, I'm  
20 sorry. If we were to do a SARC and we established that kind of  
21 value, do you think that would help in those discussions to  
22 where they would both have, both parties that were interested  
23 in buying and selling, if they are, and I'm not sure -- he  
24 doesn't seem willing from what it says here. I think it would  
25 be harder to make an argument that this is not a good enough

1 offer if someone has looked at all the books and records and  
2 established some form of rate base.

3 MS. BANKS: I think the difference in price has to do  
4 with the willingness to sell. So I think Mr. Knowles had  
5 established a price in his mind probably, and I don't know, I  
6 mean, I wasn't there during their discussion, but I'm going to  
7 assume that what happened is that he tossed out a ridiculously  
8 high price because he didn't want to sell. And then if all of  
9 the sudden an offer was made to accept that price, then, you  
10 know, then everybody has got a price, I imagine.

11 COMMISSIONER McMURRIAN: Thank you.

12 CHAIRMAN EDGAR: Commissioner Argenziano.

13 COMMISSIONER ARGENZIANO: Just one other question to  
14 staff because now I've read so much about the other stuff I  
15 can't remember the total recommendation as far as the fines.  
16 Because to me now, I would rather them not pay any fines and  
17 that money go to better uses like cleaning up the water and  
18 making the facility work properly. Is that part of the  
19 recommendation on the fines?

20 MR. JAEGER: Basically we're not imposing any other  
21 fines. What is there is a statutory penalty and interest that  
22 we cannot waive, and we have to go to the Department of  
23 Financial Services for them to either do further collection  
24 efforts or to tell us to write it off. And it would be up to  
25 them. They can do whatever -- if they want to do collection

1 efforts, they can, or they would write it off. And so all  
2 we're doing is saying, you know, send the old stuff, 2003 and  
3 back, over there and tell them to do whatever they want or tell  
4 us to write it off. And we are still hanging on to the penalty  
5 and interest. There's only \$225 of principal and all the rest  
6 is penalty and interest. We could send that over and tell  
7 them, do what you can with that, if you want to. I mean, that  
8 would be --

9 COMMISSIONER ARGENZIANO: No. No. No. No. Madam  
10 Chair. No. I guess what I was getting at was that the reason  
11 they've never been able to come in for rate cases was because  
12 they couldn't pay the fines. So I don't know what the interest  
13 rate is that they're being charged or maybe it's just that 15  
14 years of interest has accrued, but that's what I meant. Would  
15 it be sent over there for them to make that determination, and  
16 do we have any recommendation where we're sending it? Like,  
17 hey, dump these fines and let the money go to better use.

18 MR. JAEGER: I think we just send it over and say,  
19 this is what is owed us. We've tried, we can't collect it, and  
20 either tell us we can write it off or you try collecting. I  
21 think that's the way it's done.

22 COMMISSIONER ARGENZIANO: But to that point, are we  
23 going to go back around then back to where we can't get them  
24 the rate increase they need if Financial Services says, no,  
25 we're going to try to collect? You know what I mean?

1           MR. JAEGER: I think we would still go forward, of  
2 course, with our staff assisted rate case and figure out what  
3 was needed. And I think that would be just off to the side,  
4 and whatever they -- they may put pressure on him and it may  
5 cause problems with the bank. That's, that is a concern if  
6 he's having to get some kind of financing through a bank and  
7 they're coming and saying we need to collect this \$21,000  
8 that's still due.

9           COMMISSIONER ARGENZIANO: But I, that's -- Madam  
10 Chair, that's where I thought maybe, and I don't know if it's  
11 ever been done this way before, that when we send this over we  
12 can have a little side note saying, hey, we're at a point here  
13 where this may be abandonment, and if we can't -- because  
14 obviously he couldn't come in, they couldn't come in for the  
15 rate increases before because he couldn't pay the fines. Am I  
16 correct?

17           MR. WILLIS: Well, that's part of it. Part of it is  
18 he never had his annual reports on file and he hadn't paid his  
19 regulatory assessment fees, which are requirements of getting  
20 the staff assisted rate case or part of it.

21           COMMISSIONER ARGENZIANO: Okay.

22           MR. JAEGER: Part of the consideration.

23           MR. HILL: I think we can do that, Commissioner. We  
24 used to, when we would send these over we used to ask and say  
25 we want to just write this off and we used to tell them we

1 were, as opposed to letting them sick their dogs and whatever.  
2 So I believe that we can suggest that.

3 COMMISSIONER ARGENZIANO: Right. Okay. Thank you.

4 CHAIRMAN EDGAR: Commissioner Skop.

5 COMMISSIONER SKOP: Thank you, Madam Chair. Just two  
6 quick questions and hopefully we can bring this into landing.

7 To Cheryl, with respect to the asking price, and this  
8 touches on Commissioner McMurrin's point, do we have any  
9 knowledge or idea of what the multiple of price that they were  
10 looking for in terms of revenues that this thing takes in or is  
11 it just we'd be guessing?

12 MS. BANKS: Yeah. We would be guessing.

13 COMMISSIONER SKOP: Okay.

14 MS. BANKS: I don't know what Mr. Knowles -- I mean,  
15 I think -- you know, my memory is getting bad as I get older.  
16 I remember hearing four times rate base, but that all depends  
17 on what Mr. Knowles believed the value of the rate base was.  
18 So I think that was the question that was thrown out, that the  
19 company said that was excessive.

20 COMMISSIONER SKOP: Okay. And then secondly with  
21 respect to a concern, I think, just, Commissioner Argenziano  
22 just raised. On Page 3 and 4 with respect to the 2004 through  
23 2006 annual reports and regulatory assessment fees, you know, I  
24 think that they've paid part of those and we're trying to get  
25 part of them through a payment plan. But, again, you know, if

1 I would want to modify anything on the staff recommendation, I  
2 would kind of consider the merits of even going after that and  
3 just write that off or request that be deemed noncollectible  
4 such that the additional revenue coming in now could be applied  
5 to fixing some of the problems in the interim. And I just, you  
6 know, we tried for 15 years, we got some money. But if we're  
7 going to do a write-off or request a write-off, it's not going  
8 to relieve him of the obligation. It's not, I guess, in my  
9 discussion with Marshall forgiveness of debt, it's just they're  
10 handing it over to a collection agency who's going to continue  
11 to hound him too. So I don't see the situation changing other  
12 than he doesn't owe us directly, he owes a third party. But,  
13 you know, definitely on the verge of insolvency and severely  
14 undercapitalized and we've got to do something. So thank you.

15 MS. BANKS: Mr. Knowles will still have to submit  
16 \$1,000 in order to get the staff assisted rate case, so we will  
17 have to wait for that money to arrive.

18 CHAIRMAN EDGAR: Commissioner Argenziano.

19 COMMISSIONER ARGENZIANO: That won't take 15 years,  
20 will it?

21 MS. BANKS: I'll be retired.

22 CHAIRMAN EDGAR: Commissioner Carter.

23 COMMISSIONER CARTER: Ask Mr. Knowles, Jr., for the  
24 money. Okay?

25 I think, Madam Chairman, as we cut across the field

1 on this one, is I think Mr. Hill has given us a good  
2 suggestion, that in our recommendation that, one, is to try to  
3 expedite the staff assisted rate case. But, secondly, as we  
4 send this information over to Financial Services, why not put a  
5 paragraph and say, look, you know, they won't be able to do  
6 that. Here's the situation. We're concerned about the quality  
7 of water for the customers, which is why we've interjected  
8 ourselves in it to provide a staff assisted rate case, and we  
9 think it's in the best interest of the state and all the people  
10 involved that we do it that way. And I think that that way you  
11 don't give them something to where they say, oh, here's another  
12 collection sitting out there. So no need to send this out --  
13 15 years? You know, we're wasting -- now we've got another  
14 state agency wasting resources. So I think that would be  
15 inappropriate. So what we should do is expedite the staff  
16 assisted rate case, and that's consistent with your  
17 recommendation. Also, as we send the letter over to the  
18 Department of Financial Services, give some kind of qualitative  
19 meaning to why we're sending it over there and with a  
20 suggestion or recommendation that they just write it off.

21 Thank you, Madam Chair.

22 CHAIRMAN EDGAR: Commissioner Carter, I'm going to  
23 take that in the form of a motion to approve the staff  
24 recommendation for Issues 1 through 5, with additional  
25 direction to our staff to expedite the staff assisted rate case

1 when we get to that point, and additional coordination with DFS  
2 per the discussion that we have had. Is there a second?

3 MR. JAEGER: Chairman, excuse me. I'm sorry. I hate  
4 to interrupt.

5 CHAIRMAN EDGAR: I was on a roll.

6 MR. JAEGER: Item -- I'm sorry. On Issue 2 we're  
7 actually saying do a payment plan for the remaining '04, '05,  
8 '06 penalty and interest. Do you want to send that over for  
9 permission to write it off and do you want to take out -- like  
10 in Issue 1 we say "for further collection efforts," take that  
11 out and just do it a write-off? So we want to write off  
12 everything, just start with a clean slate, is that what we're  
13 really recommending?

14 COMMISSIONER CARTER: Yes.

15 MR. JAEGER: Okay. So no payment plan, permission to  
16 write off and recommend that they do write it off because of  
17 the situation of this utility. Okay.

18 CHAIRMAN EDGAR: Okay. I am seeing nods for the  
19 record across the bench that that is indeed the understanding  
20 that was behind the motion that was made.

21 I had a motion. Did I have a second?

22 COMMISSIONER SKOP: Second.

23 CHAIRMAN EDGAR: I did have a second. Thank you very  
24 much. Seeing no further discussion, all in favor, say aye.

25 (Unanimous affirmative vote.)

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Opposed? Show it adopted. Commissioners, we are  
adjourned.

(Agenda Item 9 concluded at 3:40 p.m.)

1 STATE OF FLORIDA )  
2 COUNTY OF LEON )

CERTIFICATE OF REPORTER

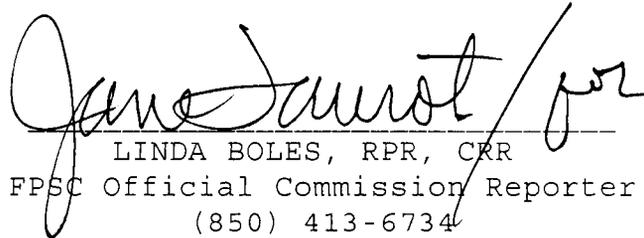
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I, LINDA BOLES, RPR, CRR, Official Commission Reporter, do hereby certify that the foregoing proceeding was heard at the time and place herein stated.

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

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

DATED THIS 28<sup>th</sup> day of December, 2007.

  
LINDA BOLES, RPR, CRR  
FPSC Official Commission Reporter  
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