

1 PARTICIPATING:

2 SENATOR MIKE FASANO.

3 WAYNE FOREHAND, representing Wayne Forehand, pro se.

4 ED WOOD, representing Ed Wood, pro se.

5 JOHN WHARTON, ESQUIRE, and STEPHEN G. WATFORD,
6 representing Aloha Utilities, Inc.

7 STEPHEN C. REILLY, ESQUIRE, Public Counsel,
8 representing the Citizens of the State of Florida.

9 MICHAEL COOKE, GENERAL COUNSEL, BART FLETCHER,
10 MARSHALL WILLIS and TIM DEVLIN, representing the Florida Public
11 Service Commission Staff.

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P R O C E E D I N G S

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2 CHAIRMAN CARTER: Good afternoon. We have completed
3 our break and we're back on the record for our agenda, and that
4 would be Item 14. Staff, you're recognized to introduce the
5 issue.

6 MR. FLETCHER: Commissioners, I'm Bart Fletcher with
7 Commission staff. Item 14 relates to Aloha Utilities, Inc.'s,
8 limited proceeding application to recover the cost of water to
9 be purchased from Pasco County and the associated plant
10 investment.

11 The utility has been pumping in excess of its water
12 use permit withdrawal limits since 1996. Aloha's current water
13 use permit has, that was renewed on November 26th, 2007,
14 contains language that the utility shall begin to purchase
15 water from Pasco County as soon as the Commission approves
16 final unappealable rates sufficient to recover the purchased
17 water and infrastructure costs. The purpose of Aloha's filing
18 is to recover the costs necessary to purchase water to bring
19 the utility in compliance with its water use permit. However,
20 any approved rate would not be implemented until the
21 interconnection with Pasco County is completed and Aloha begins
22 receiving water from the county.

23 Staff recommends this limited proceeding be
24 trifurcated into three phases. Phase One addresses the costs
25 associated with the tie-in facilities, which amounts to an

1 increase of 26 cents on the base facility charge. Phase One
2 also addresses the impact fees to the county, paid to the
3 county, the utility's purchased water gallons needed in 2008
4 and 2009, the operation and maintenance costs for the utility's
5 chloramine conversion as well.

6 Staff's recommendation addresses only Phase One costs
7 but does not address the prudence of these costs with the
8 exception of the impact fees which were deemed prudent in a
9 previously approved stipulation. The prudence of the remaining
10 costs will be addressed when the utility submits its
11 documentation for the actual costs 90 days after the completion
12 of the interconnection.

13 The Honorable Senator Fasano is here to address the
14 Commission. The utility, Office of Public Counsel and
15 customers here -- customers are also here to address the
16 Commission. Staff is prepared to answer any questions the
17 Commission may have.

18 CHAIRMAN CARTER: Commissioners, before we get
19 started, we have Senator Mike Fasano, and I think it would be
20 appropriate that we hear from the Senator first. Senator, you
21 are recognized and welcome.

22 SENATOR FASANO: Good morning. Good afternoon.
23 Thank you, Mr. Chairman, thank you, Commissioners, for allowing
24 me to have this opportunity to appear before you today. And
25 for some of you it's not the first time, for some of you it

1 probably won't be the last time. I certainly hope it would be,
2 but it doesn't sound like it's going to be.

3 Commissioners and Mr. Chairman, this year marks the
4 14th year of my tenure as a State Legislator. It also marks my
5 14th year of involvement in cases pertaining to Aloha
6 Utilities. As you may know, I'm not only a State Senator who
7 represents all of the Aloha Utilities servicing area, I'm also
8 a personal customer of Aloha Utilities as well.

9 We are blessed to have a few customers representing
10 the majority of Aloha's customers in Pasco County. They have
11 traveled here from Pasco County to speak to you personally. I
12 assure you, and I'm sure you would all agree that if we did
13 have this in Pasco County today, you wouldn't be able to fit
14 the amount of people that would come to protest this rate
15 increase request. And, of course, you'll be hearing from a few
16 of those people shortly, and we thank you for doing that as
17 well. They will each have their own stories to tell and
18 suggestions to make regarding the disposition of staff's
19 recommendation you're about to consider. They have all been
20 intimately involved in this case over the years and their
21 efforts are commendable. I come before you to plead on behalf
22 of those residents, my fellow customers and constituents, who
23 were not able to make the 200-plus-mile trip to Tallahassee.

24 Commissioners, I'm not a scientist, I'm not an
25 accountant, I will not attempt to address the minutia of which

1 fee Aloha should or should not be allowed since these are the
2 primary items addressed in the staff's recommendation that you
3 will consider today. The experts in those fields, of course,
4 will speak to those issues. However, I do come before you to
5 discuss Aloha Utilities' blanket lack of concern in meeting the
6 requirements of its legally binding settlement agreement
7 between the Commission and the customers since this hearing is
8 being held to meet a requirement of that agreement, and I would
9 ask you to keep that in mind. What you're doing today, your
10 staff's recommendation is to support something that apparently
11 was agreed to. What I'm about to tell you is Aloha has not
12 fulfilled their part of the agreement.

13 This coming spring would have been two years, a
14 two-year anniversary of the settlement signing and hoped-for
15 time line that all customers would finally receive clean, clear
16 and drinkable water on a consistent basis. Sad in a way, isn't
17 it, that the customers had to sign an agreement to get clear,
18 clean water, sign an agreement with the utility company that
19 they've been paying for years.

20 As we have learned over the past several months,
21 Aloha is nearly a year and a half behind in meeting this goal,
22 a year and a half behind in meeting this goal. Today's hearing
23 is but yet another stop along the way of the torturous road, a
24 road that at one time led to a petition before this Commission
25 for the deletion of Aloha's servicing delivery area. To put

1 this matter into some historical perspective, shortly after my
2 election in office of State Representative in 1994, I began to
3 receive phone calls from constituents who were and still are
4 customers of Aloha Utilities. I learned very quickly that the
5 problems with this utility company were not isolated just to a
6 few homes scattered around the servicing area. What struck me
7 was not only the number of complaints I began to receive but
8 the severity of the problems these people were experiencing.
9 Those problems were many and varied from relatively simple
10 complaints of low water pressure to horrendous reports of
11 black, foul-smelling water gushing from their taps. My office
12 was inundated with calls and letters from unhappy Aloha
13 customers.

14 There has been no rhyme or reason to the black water
15 incidents; day or night, summer or winter the black water
16 appears. The recurring theme of defensive attitude and lack of
17 helpfulness from Aloha's staff only exaggerate my constituents'
18 concerns. And if I may, it's only been the last few years that
19 Aloha has actually admitted that there's a problem that exists
20 in this servicing area, only the last few years. In an attempt
21 to resolve the ongoing legal battles that persisted between the
22 Commission, Aloha and the customers during those intervening
23 years the parties entered into negotiations in August of 2005
24 which continued until March of 2006. The settlement agreement
25 was the result of those efforts. The order ratifying the

1 agreement states that, quote, the settlement is a comprehensive
2 agreement that resolves all outstanding dockets and court
3 proceedings between Aloha and this Commission. Please remember
4 that. The agreement that was agreed to by the customers, the
5 Commission, by Aloha takes everything else off the table. So
6 what you're asking to do today in my opinion when you realize
7 that Aloha has not fulfilled their agreement is to, I believe,
8 circumvent that agreement between the two parties or the three
9 parties.

10 One key element of the settlement is the agreement
11 between the parties that it's prudent for Aloha to implement a
12 new water treatment method, anion exchange, to address the
13 current problems that stem from the presence of hydrogen
14 sulfide in the water. The agreement was signed by members of
15 the Better Water Now organization on behalf of the customers of
16 Seven Springs. On April 4th, 2006, the Florida Public Service
17 Commission approved the settlement agreement. Remember that
18 date, Commissioners, April the 4th, 2006. Commissioner Edgar,
19 you remember it well because you and the other Commissioners
20 that were here were absolutely disgusted with what was going on
21 with the Aloha issue. And finally the customers were able to
22 come up with an agreement with Aloha with the help of your
23 staff and the leadership of this Commission, and that was back
24 on April the 4th, 2006, almost two years ago.

25 Pursuant to the terms of the settlement agreement,

1 the previously sought deletion proceedings were voluntarily
2 dismissed by the Commission. So the customers had nothing else
3 to go back on except this agreement. However, the agreement
4 and the Commission order which approved it expressly provides
5 that if the Commission finds cause that Aloha has violated its
6 obligations under specified subsections of the agreement, the
7 Commission can initiate an enforcement action. Please remember
8 that today. You have the ability right now to start
9 enforcement actions against Aloha because they have violated
10 their agreement.

11 For such alleged violations, pursuant to Chapters
12 367.161, Florida Statutes, in short, if the Commission
13 determines that Aloha is not proceeding in good faith to
14 complete the anion exchange project within 24 months, the
15 Commission can commence an enforcement action against Aloha.
16 Under Chapter 367.161 the potential sanctions that could be
17 imposed in such an enforcement action include the imposition of
18 substantial fines and/or amending, suspending, revoking Aloha's
19 certificate of authorization to provide water and wastewater
20 services to the public. Of course, the latter would be just
21 fine for me.

22 The settlement agreement contemplated a two-year time
23 frame to design and install the anion exchange water treatment
24 process as well as the bulk purchase of additional water from
25 Pasco County. You may have noted in the staff's comments that

1 Aloha has known since 1996 they were overpumping. They're just
2 now close to, they say, hooking up to Pasco County.

3 The settlement agreement would bring a renewed sense
4 of hope for customers of Aloha who for more than a decade have
5 been forced to accept the substandard water provided by this
6 private utility monopoly.

7 The Commission staff held periodic meetings with the
8 utility and its customers. My staff's participation in those
9 meetings have kept me informed of the progress or lack thereof
10 of Aloha's efforts. Unfortunately, as the meetings progressed
11 the possibility of a timely completion of the agreement grew
12 dimmer, has near flickered out for the customers in the Aloha
13 servicing area. The reality for every customer of Aloha is
14 that as of February 12th, 2008, they are no closer to receiving
15 cleaner water than they were when the settlement agreement was
16 signed almost two years ago. 22 months, 22 months after this
17 agreement was approved the customers have received absolutely
18 nothing, nothing from Aloha but a promise that clean water is
19 coming at some point in the future. But yet today,
20 Commissioners, Aloha asks for a rate increase of almost
21 100 percent for some of my constituents, some of Aloha's
22 customers. What, what has the customer gotten this far?
23 Nothing. Zero. Yet they're potentially going to see a rate
24 increase and see nothing for it.

25 Based on its most recent progress reports, Aloha

1 Utilities is contemplating the likelihood that additional days
2 for the installation of water treatment processes are looming
3 on the horizon, delays which were foreseeable and with a
4 certain amount of planning could have at least in part been
5 avoided. By their own account, Aloha Utilities was first made
6 aware that Dr. Audrey Levine, its consultant charged with
7 designing the anion exchange system, would be leaving her post
8 with the University of South Florida to accept a position in
9 Washington, D.C. She reportedly promised to finish the report
10 for Aloha but took ten months to deliver the first part of her
11 report. The next phase of the anion exchange system could not
12 proceed without the completion of her report, for its
13 recommendations would drive Aloha's application for a permit
14 from the Department of Environmental Protection to move forward
15 with the planned process.

16 Upon delivery of Aloha's own hydrologist, Dr. David
17 Gomberg, has expressed concerns with the excess amount of brine
18 that will be produced according to Dr. Levine's research.
19 We're in a whole new world now. Now we're talking about excess
20 brine. We're not even close to getting clean water for these
21 people, these 25,000 residents plus. Until this issue is
22 addressed, the DEP permit application cannot be submitted
23 because of the potential negative impact on the environment
24 through Aloha's reuse water system. Again, not even close.

25 What has become clear, Commissioners, is that Aloha

1 Utilities should have foreseen in December of '06 that with
2 Dr. Levine's departure from USF, that perhaps it would have
3 been prudent to look at having a backup plan in the event that
4 she did not ultimately deliver her report. In any case, her
5 report came in months behind schedule, which only led to
6 further delays since Dr. Gomberg had to review her findings.
7 His initial response is that the blending of the anion exchange
8 wastewater with Aloha's existing wastewater could produce a
9 blended reuse water that might cause adverse impacts on the
10 environment. This is Aloha people speaking.

11 Additionally, I believe it's fair to say that the
12 entire feasibility of the anion exchange treatment process is
13 now in question. Prior to the settlement agreement being
14 enacted, I was a strong advocate for deletion proceedings
15 against Aloha to be undertaken. With a healthy amount of
16 skepticism based on Aloha's long history of delay tactics, I
17 did have a glimmer of hope that with the legal threat of
18 deletion or revocation looming Aloha would comply with its end
19 of settlement -- with its end of the settlement agreement. It
20 is becoming increasingly obvious, however, that Aloha continues
21 to either make poor business choices or just does not have the
22 drive to fulfill this agreement.

23 Let me read something, if I may, from your own staff
24 on Page 4 of the background, second paragraph, full paragraph,
25 beginning on the third line. "Dr. Audrey Levine, an

1 engineering professor. With the utility's knowledge, Dr.
2 Levine left employment from USF in December of '06. From
3 communication that staff has received, it appears that Aloha
4 was aware of problems with getting the contracted reports in a
5 timely fashion by June of '07, but failed to report these
6 difficulties in its quarterly progress report filed on
7 July 3 of '07. By letter dated September 5, '07, the utility
8 notified staff that it could not be assured it would receive
9 Dr. Levine's final design report in the near future and that,
10 as a result, the completion schedule would be impaired." They
11 knew back then but failed to even report it to you.

12 As this Commission is aware, I have long been a
13 proponent of Pasco County taking over Aloha Utilities and its
14 franchise. Aloha is not fulfilling its commitments to its
15 customers or this Commission. I respectfully request that the
16 Commission consider reinitiating deletion or initiating
17 revocation proceedings against Aloha Utilities. It would be
18 unfair to the customers to wait any longer, nor will it serve
19 any purpose to continue extending legal proceedings that appear
20 to be heading nowhere, nowhere. At the very least this
21 Commission should take some sort of enforcement action and
22 that's what you should be doing. You need to take enforcement
23 action against Aloha. The agreement contemplated the
24 possibility that Aloha may not live up to its end of the
25 bargain and by all appearances they have not. They have not.

1 A definite step by this Commission to sanction Aloha
2 may be the only way to move this utility off the seat of its
3 complacency. A hefty fine or more drastic action by this
4 Commission should jump-start them into action, you would hope.
5 If not, I don't know what will.

6 As a legislator I have not sat idly by waiting for
7 Aloha to move. I, like the customers, look at Aloha with an
8 extremely skeptical eye. Representative Tom Anderson and
9 myself have filed a local bill this year that, if it becomes
10 law, would appropriate funds to Pasco County to purchase Aloha
11 at its fair market value. I have no doubt Pasco would be a far
12 better custodian of the water than Aloha would ever be. If the
13 legislation action is not successful, then I will continue to
14 seek other ways to bring the customers what they need.

15 The issue today, the issue before you, Commissioners,
16 is primarily how much money Aloha should recoup through the
17 impact fees and related costs of the interconnecting with Pasco
18 County for additional waters. Whether or not -- whether or not
19 they are legally entitled to those costs, it must remain very
20 clear that Aloha will not receive a single dime of those costs
21 until it is certified by a regulatory agency that the
22 interconnect has taken place and that superior water provided
23 by Pasco County is flowing into Aloha's water system.

24 But also let me ask you this, Commissioners. Why are
25 we here? Why are we here? We're here because Aloha wants to

1 be here, not because the customer is asking for a rate
2 increase, not because the customers are coming in droves behind
3 us and saying we finally have clean water, go ahead and raise
4 our rates according to the agreement. They don't. All this is
5 is to accommodate Aloha so they can recoup costs that in my
6 opinion they should have spent a long time ago to hook up to
7 Pasco County. They knew of this problem in '96. They were
8 being -- they were overpumping then and they were being fined
9 by the water authorities back then. Now they come and they ask
10 for a rate increase with no timetable of when they'll actually
11 hook up to the county. I challenge you to ask them right now,
12 I challenge you to ask them, give us a date certain of when you
13 will be hooked up to Pasco County, and they will not be able to
14 deliver. And if that's the case, then why are we here? Let
15 them fulfill their agreement even a little bit, even just
16 one-tenth of what they should be doing, then have them come
17 back here and ask for that rate increase. And until they do,
18 we shouldn't even be considering this rate increase. And I
19 would ask you respectfully to deny the staff's recommendation
20 and tell staff, come back to us when they've hooked up to the
21 county and then we'll consider their request. But until then,
22 tell them to get their act together. Thank you very much,
23 Commissioners.

24 CHAIRMAN CARTER: Thank you, Senator.

25 Commissioners, I believe -- Commissioner Argenziano,

1 you're recognized.

2 COMMISSIONER ARGENZIANO: No response, but the
3 Senator will be here for a little while?

4 SENATOR FASANO: I will be. I have a flight at 4:00,
5 ma'am.

6 COMMISSIONER ARGENZIANO: Okay. Just before he has
7 to leave I want to --

8 CHAIRMAN CARTER: Okay. Commissioners, I think we
9 have a couple of customers that we'd like to hear from too
10 before we hear from the parties. I know it may be unorthodox,
11 but if they're here, we certainly want to hear from them. I
12 mean, unless you --

13 COMMISSIONER ARGENZIANO: Absolutely.

14 CHAIRMAN CARTER: Okay. Let's, staff, let's see if
15 we can accommodate. Who has the list? Ms. Brubaker. And
16 we'll just call them in order.

17 MS. BRUBAKER: Would you like me to call them?

18 CHAIRMAN CARTER: Yes, ma'am, I would love to have
19 you call them.

20 MS. BRUBAKER: The first speaker will be Mr. Wayne
21 Forehand, to be followed by Mr. Ed Wood, please.

22 CHAIRMAN CARTER: Would you say again, please, the
23 name, Ms. Brubaker?

24 MS. BRUBAKER: Certainly. My apologies. The first
25 speaker is Wayne Forehand, to be followed by Mr. Ed Wood.

1 CHAIRMAN CARTER: Okay. Mr. Forehand, you're
2 recognized, sir.

3 MR. FOREHAND: Thank you, Chairman and Commissioners.
4 Thank you for allowing us to be here today. I've been retired
5 a long time. I moved to the Aloha territory 14 years ago and I
6 thought, gee, I'm going to have Aloha water, this is really a
7 neat operation, until I turned on my water faucet and it was
8 black. So for 14 years I've been involved in this. I've been
9 retired a long time. I can hardly be much of a speaker after
10 hearing the Senator. The Senator is so eloquent and tells the
11 story so well.

12 What I'd like to say is that I'm here representing me
13 today and I'd like to say this limited proceeding should not be
14 taking place. The utility should not have a rate increase
15 approved today. We know that the stipulation agreement next
16 month will be proof -- a year, a year and -- it will be two
17 years next month. What I've got to say is based on reading the
18 stipulation agreement that the customers agreed with the OPC to
19 approve. It called for a rate case based on 1.5 million
20 gallons a day. And I think if you look at this, you'll see
21 that Aloha filed for 2.4 million gallons a day. There was a
22 supplemental agreement made to approve Aloha so that they could
23 go ahead and get their impact fee back for more than that in a
24 supplemental agreement in November of '06. However, I've got
25 to say that that was just for the impact fee part of it. It's

1 very clear the supplemental stipulation agreement very clearly
2 says that it refers back to the original stipulation agreement,
3 PSC Order 060169-WU, and on that basis we shouldn't even be
4 here today from the legal standpoint.

5 Second, what we find is that the utility has denied
6 access to a water consultant hired by the OPC to assess the
7 appropriateness of the chloramination and the estimated
8 operational costs. They denied the OPC consultant the
9 opportunity to view their facilities in November. They denied
10 it again in December. They denied it again in January. I
11 understand after the hearing they're going to be able to see
12 the facilities, but this is something that should have been
13 done before this hearing. That's why we shouldn't even be here
14 today. Why would a utility deny an OPC consultant the
15 opportunity to view their facilities? Is there something to
16 hide that's got to be fixed up and it's got to be fixed before
17 next week? I mean, they've had months to fix it now. I don't
18 understand. It doesn't make sense to a customer that's had to
19 listen to this. I've set up meetings to meet with the
20 consultant when he's down there, I've got meeting rooms lined
21 up and we just haven't had the opportunity. So we're aware
22 that he should have been there. We shouldn't be having a
23 hearing for a rate increase before the consultant has the
24 opportunity to view the facility.

25 The next thing I've got to say is the utility has

1 requested a rate increase based on their need of 2.4 million
2 gallons a day. The staff, however, in their recommendation
3 recognized that wasn't a fair number and they cut it back to
4 approximately 2 million gallons a day for the rate increase.
5 But I think what we've got to really recognize is that the
6 county has offered to provide 2.4 million gallons a day. Okay?
7 However, it's not on peak times.

8 And what the utility consultant, Mr. Porter, who's on
9 the line apparently, has repeatedly told the PSC staff and the
10 customers is that with this booster station they're planning
11 they're only going to have the ability to pull in about
12 1.3 million gallons a day annual average. Now we shouldn't
13 have a rate based on more water than is going to be provided.
14 This purchased water is very expensive compared to their well
15 water. They'll continue overpumping with the very inexpensive
16 water and they plan on charging the customers at a rate for
17 2.4 million gallons or the staff number of 2.0 million gallons,
18 and the difference in that the customers should not have to pay
19 for. It's completely unfair.

20 It's also not reasonable for the utility to implement
21 a temporary booster station on leased property when we know
22 it's going to have to be replaced very soon. We know that a
23 storage facility would be the proper way. If Aloha were
24 putting in a storage facility now for 2.4 million gallons, they
25 could receive 2.4 million gallons a day. That would be

1 2.4 million gallons of good, clean county water. Instead,
2 they're going to put in a booster station that's only going to
3 provide 1.3 million gallons of this good water. We'd like to
4 see good water coming in as much as possible. But the approach
5 that Aloha is doing and what they're asking for, the rate
6 increase in this rate case, is inappropriate.

7 We know that after Aloha finally gets a permit --
8 Aloha doesn't have a permit yet to build this booster station.
9 I talked to the county just Friday to find out what the status
10 was, and what I was told is that because of incomplete document
11 submissions in requesting the permit and the fact that the
12 county is recommending that a storage facility be built now,
13 not next year, that a storage facility be built now, Aloha may
14 never get a permit. They don't want to follow the
15 recommendations to the county, and it's very important to the
16 customers that Aloha would be able to take more of this good
17 county water. We know the construction for the storage area
18 would take a little bit longer than the booster station, but,
19 on the other hand, why would we build a booster station?
20 You've seen the numbers down here. They're talking somewhere,
21 it looks like six to \$900,000 on a leased piece of property.
22 They're going to lease less than a tenth of an acre of property
23 for \$1,500 a month, which is an absurd rate to be paying to
24 begin with. They ought to be going out and buying a piece of
25 property to put the storage area on.

1 The utility also knows that they need a brine mixer
2 if they're ever going to implement this anion process. This is
3 going to take a piece of property -- and they could set this
4 brine maker on an adjacent piece of property by the storage
5 area. In other words, they ought to be buying a piece of
6 property, building the storage to get 2.4 million gallons a
7 day, and providing an opportunity for the brine maker.

8 If Aloha is not thinking about a place for the brine
9 maker now, I almost wonder if they're even thinking about
10 really doing the anion exchange any longer. I don't know. I
11 think it's something that needs to be probed.

12 As I said, the county has a good recommendation. The
13 county runs a pretty good utility operation down there. The
14 customers, they've been noted as having some of the best
15 tasting water in the whole state in Pasco County Utilities.
16 And I think they've got a pretty good business management down
17 there and they're clearly saying you ought to be building this
18 storage now, and I don't understand why the utility won't
19 follow their recommendation.

20 As the Senator very clearly said, there are some
21 environmental impediments in this much delayed anion process.
22 I don't know how that's ever going to happen. It's gotten so
23 delayed now and they're talking about trucking brine from Pasco
24 County up to Jacksonville. They're looking at some really wild
25 things that don't make a lot of sense and are bad for the

1 environment. The customers have made some recommendations
2 through the PSC staff and to this point it appears that they're
3 not even being considered.

4 The next thing is the staff has included in here a
5 lot of estimated costs by the utility. These estimated costs
6 appear somewhat excessive in many areas. We've questioned
7 them. There's some pretty slipshod accounting that has been
8 used by the utility and passed on to the staff. I know that
9 I've asked the staff many, many questions and they've gone back
10 and asked the utility, and the utility comes back, well, that
11 was a bookkeeping error, that was an error on the supplier's
12 clerk. It's just the same thing that somebody is always being
13 blamed other than the utility and this isn't right. You can't
14 just go through life blaming somebody else for slipshod work.
15 And these costs should not be considered until the, after the
16 consultant has had a chance to come down and view the facility
17 and kind of get a feel for where things are.

18 The other part of this is staff's recommendation
19 talks about a trueup in Phase Two. It also talks about the
20 trueup taking place in two months. Now you can't do a trueup
21 until the thing is operational, so you can't do a trueup in two
22 months, and this part of the staff recommendation just is
23 impossible.

24 Now the thing that we know about a trueup is that the
25 cost estimates are somewhat questionable as submitted by the

1 utility. And the staff says, well, a trueup will take care of
2 that. However, we know that a rate increase based on the
3 utility's estimates is pretty unacceptable because of the
4 history of this particular utility. Aloha appealed the last
5 refund. The PSC refund order was PSC-04-1050-FOF-WU. It was
6 returning approximately 250 to 290 thousand dollars to the
7 customers. Instead of returning the money by the order, Aloha
8 appealed. They've tied this up. What I've got to say is the
9 customers still haven't seen that refund. The PSC staff knows
10 where that refund is and they know why it's there. I don't
11 need to remind them. But the key is that this is 2008. We
12 don't want the company to come through another trueup to then
13 hold up the refund that the customers get. It shouldn't happen
14 that way.

15 This rate case, some day when it's finalized, should
16 be on fair, known figures that have been reviewed by the
17 consultant. I think, as you remember, when the settlement was
18 put together the customers weren't very trusting of the
19 utility. We very clearly told the PSC staff that we couldn't
20 work on this unless we had an outside opinion, unless we had a
21 trusted consultant that would work on this. The PSC hired
22 Dr. Taylor. Dr. Taylor probably trained most of the water
23 consultants in the State of Florida. And with that, I've just
24 got to say we should not have a rate increase today. We
25 probably shouldn't even have this hearing. I thank you for

1 listening to the customers' concerns, my concerns.

2 CHAIRMAN CARTER: Thank you, Mr. Forehand.

3 Ms. Brubaker, who's our next --

4 MS. BRUBAKER: Mr. Ed Wood.

5 CHAIRMAN CARTER: Ed Wood. Mr. Ed Wood.

6 And, Commissioners, we'll listen to the discussions
7 and then we'll get to the parties and we'll ask our questions
8 afterwards.

9 Mr. Wood, welcome.

10 MR. WOOD: Yes. My name is Ed Wood. I am a -- I
11 have been an Aloha customer for 12 years now. This is probably
12 my infinite hearing that I have been at. I have not seen any
13 progress towards getting good water in those 12 years. I agree
14 with everything that Senator Fasano said, I agree with
15 everything that Mr. Forehand said. I would only like to add
16 one thing to Senator Fasano's statement of asking for clean,
17 safe, pure water. I would like it to read, water, in addition
18 to those, water that will not damage the plumbing in my home.

19 I have gone through in the past three months havoc in
20 my home because of a water leak, a water leak that is basically
21 caused from the sulfur, the level of sulfur acid that is in the
22 water. This little object has cost me and will cost me
23 approximately \$5,000. On my street since November of 2007, two
24 and a half months that is, there have been five houses on my
25 street with the same problem. Now there has to be something

1 that is causing it. What is there in common? We all have
2 copper pipe. The second thing we have in common is that we all
3 have Aloha water. Now mine, as bad as it was and the
4 inconvenience I've had and I'm still not put together, was one
5 of the lesser problems that occurred on the block. I don't
6 believe that when we receive water like that and with nothing
7 in the future that's going to tell us that there is going to be
8 a change, I don't believe there's any reason that we're here
9 talking about rate increases. Can I come to you and ask you
10 for the 5,000 bucks that it's going to cost to refurbish my
11 house? But Aloha comes here looking for any money that they
12 can squeeze out of the customer because they need it in order
13 to operate, and we're not doing a very good job.

14 The plans that they had, Mr. Forehand went through
15 great detail with those plans of which I do not intend to go
16 over, but I would say the plans that I have heard, from a
17 business standpoint in the private sector it would never stand
18 up because you put together a plan, you put together your time
19 line, you have your goals and you meet them or somebody else
20 will be there to take your place. And I think for two years
21 now that since the people agreed to go along with the Aloha
22 proposals, I was not one of them, I think that all they've done
23 is sat there and dragged their feet and done absolutely
24 nothing. I look to you, Commissioners, that we will get some
25 relief as customers, that we will get good, clean, safe water

1 that will not damage the plumbing in our homes and that we can
2 rest easy that we're not going to get up in the morning and out
3 of bed and step into a puddle of water as I have. And that's
4 the way it is with Aloha water. Thank you.

5 CHAIRMAN CARTER: Thank you very kindly, Mr. Wood.
6 Commissioners, now we'll hear from the parties, unless you have
7 a question. I'd kind of like to let the parties speak and then
8 at any point in time obviously we're open for questions. So,
9 Mr. Reilly, you're recognized.

10 MR. REILLY: Thank you very much. Steve Reilly with
11 the Office of Public Counsel. We also have here today Kimberly
12 Dismukes and Ken Hatcher. These are two consultants we've
13 hired to help us with the bulk water docket as well as the
14 other docket, the black water docket.

15 I'm appearing today to assure this Commission that
16 our office does support a reasonable and proper rate increase
17 to permit Aloha to purchase bulk water from Pasco County and to
18 do this as quickly as we can possibly do it. We unfortunately
19 are here today to recommend against this particular over
20 100 percent rate increase that is, that is being supported by
21 staff for four major reasons.

22 The first reason is that this rate increase
23 contemplates \$900,000 of money to be collected from ratepayers
24 to pay for the construction of a temporary interconnection
25 facility as opposed to a permanent interconnection facility.

1 Secondly, we believe that this rate increase is based
2 on estimates of actual gallons to be purchased in the years
3 2008 and 2009 that we believe to be overstated.

4 Thirdly, we believe that the gallonage rate which is
5 payable to Pasco County is also overstated, that it is based
6 more on -- it should be based on the \$3.43 per thousand gallons
7 versus the recommended \$3.68 per thousand gallons.

8 And, fourthly, we do firmly believe that the trueup
9 language which is included in this recommendation does not
10 adequately protect the customers.

11 Now as to the first point, the Senator very
12 eloquently pointed out the long history of the anion exchange
13 problem. There's not as long a history with the bulk water
14 problem -- well, excuse me. They've been overpumping for a
15 long time, but the actual solving of the overpumping problem
16 was addressed by the signing of a bulk agreement that goes all
17 the way back to October of '04. So since that agreement was
18 entered into, efforts were supposed to be underway by Aloha to
19 actually accomplish this purchasing to solve their problem of
20 overpumping.

21 Now for over a year Aloha decided, and we went
22 through different, different approaches, and at one point there
23 were going to be three points of connection to buy bulk water.
24 But as early as the first of this year -- more than one year
25 ago there was going to be a single point of delivery and that

1 was going to be the purchasing of water, and that delivery
2 point was going to be near the intersection of Marathon Road
3 and State Road 54. More than a year later and after filing for
4 a rate increase to cover costs of purchasing water, and this
5 was done in September of '07, they have identified a very small
6 .07-acre site to serve as a temporary interconnection site.
7 Aloha proposes, and apparently staff has accepted, spending
8 over \$900 thousand of soft and hard costs to produce this, to
9 actually construct this temporary interconnection facility on
10 this very small site that the company intends to lease, a site
11 that will be abandoned in approximately two years in favor of a
12 larger permanent site that is, we understand from some of our
13 discovery is located fairly close to the temporary site.

14 A temporary site -- the permanent site that they have
15 in mind will ultimately accommodate the permanent
16 interconnection facility, the ultimate storage that they're
17 going to build. And it's also -- in this other docket they've
18 alluded to the fact of the efficiencies of also having the,
19 what Mr. Forehand alluded to, or the facilities necessary to
20 mix the brine and so forth necessary to flush out the anion
21 exchange facilities which will be located at the various wells.

22 We believe that it is not prudent for the customers
23 to have to pay for interconnection facilities twice. The
24 proposal to construct temporary interconnection facilities
25 should be rejected by the Commission today. It is not good

1 enough to say, oh, we've got some trueup and the Commission is
2 not voting out today the prudence of having temporary
3 facilities. I mean, that's going to be a heck of a burden for
4 us to overcome to knowingly approve this rate increase and say
5 it's subject to some cost-benefit analysis.

6 I think and I hope and I'm asking for the Commission
7 to today say that is not a reasonable approach, you've had one
8 year to identify this site, you've had one year to bring us
9 some permanent solution, and the company is not doing that.
10 What's before you today is the spending of this large amount of
11 money for a temporary site.

12 We believe the company should proceed as rapidly as
13 possible to select this specific site if it has not already
14 been -- in fact, if it has not already been selected. Because
15 in some of our discovery they've even alluded to the fact that
16 this permanent site is fairly close, that there's another
17 \$300,000 worth of piping that can be used anyway to get to that
18 site and we're still trying to discover that.

19 And that's another point that's very, very important.
20 The Commission does not have to vote out a rate today. Even
21 under the current scenario the company, even if you approve
22 everything that they want to do today, they won't have that
23 interconnection facility finished until September at the
24 earliest of '08. I'm really recommending that with this site
25 visit, which apparently is going to finally happen just two

1 days from today, I think your general counsel is going down
2 there, I'm going down there, our engineer, Ken Hatcher, is
3 going to go down there, and we are going to discover at this
4 site visit, I hope, all the data we need to do to try to get a
5 handle and get these numbers better both in terms of the
6 chloramination costs as well as all the engineering questions.
7 Really determine, for instance, what the flows are going to be
8 and what we think will form the basis of a, of a good number
9 for a, for a Phase One rate.

10 Once the permanent interconnection facilities are
11 operational, we would support the company collecting the
12 Phase One rates. And we suggest that this proceeding occur
13 soon enough in time so that those rates are fully in place,
14 fully known before the first drop of water occurs, which, which
15 we don't know how much delay that would be caused by actually
16 finding the permanent site and getting -- you know, that could
17 cause a month or two or so delay. But we do believe that they
18 should only have to pay for interconnection once.

19 And we have also, this is another point that I think
20 the Commission needs to know before they approve a rate and why
21 it's untimely and too soon to do that today -- is I think
22 Senator Fasano just recently wrote a letter to the Commission.
23 I know the customers and Senator Fasano and others are actually
24 going to be working with the county for even possibly getting a
25 reduced rate even below the \$3.43 per thousand, given the large

1 quantities of water that they're going to be purchasing, and
2 the Commission should have the benefit of that additional
3 effort. So, so we really believe that, that in essence it's
4 not fair to make the customers pay twice for this
5 interconnection facility.

6 Second point, we believe the, the proposed increase
7 also overstates the amount of gallons of water that's actually
8 going to be purchased from Pasco County. Now I've handed
9 out -- have we handed out -- we're going to hand out a few, a
10 few things for you to look at that will try to deal with this
11 issue and we'll pick it up from there.

12 The Commission staff has tried to project growth and
13 they've tried to estimate the amount of gallons that Aloha is
14 going to purchase from Pasco County, and they've estimated that
15 to be 2.06 million gallons a day for 2008 and 2.29 million
16 gallons a day in 2009. This is a very important number. The
17 amount of gallonage drives this whole rate increase because not
18 only is the amount of purchased water a huge number that forms
19 most of this increase, the, the proportion of that gallonage is
20 also the apportionment of the impact fees, the capital costs
21 and the carrying costs of those impact fees also in this rate
22 increase. So if you, if you miss that number, you're really
23 approving a rate increase which is a lot higher than it
24 necessarily has to be.

25 And once this gets handed out I'll try to deal with

1 this complex issue of can we estimate how much water we can
2 expect Aloha to purchase from Pasco County during the years
3 2008 and 2009.

4 CHAIRMAN CARTER: Commissioners, we're going to wait
5 for an opportunity for all parties as well as the clerk to get
6 a copy of this for the records, staff and the company to get a
7 copy as well. We'll proceed from there. If you'd just hang on
8 for a second, Mr. Reilly.

9 MR. REILLY: Okay. Thanks.

10 (Pause.)

11 CHAIRMAN CARTER: Does the company have a copy of
12 this as well? Do you have, do you have a copy of this
13 document, these documents?

14 MR. WATFORD: Yes.

15 CHAIRMAN CARTER: Okay. One for the clerk.

16 Okay. Mr. Reilly, you're recognized.

17 MR. REILLY: This is just a very gross, you know,
18 rough estimate. It's a very complicated situation to try to
19 estimate the amount of gallons that Aloha is even going to be
20 in a position to buy from Pasco County. I say that because
21 basically you have a pipe coming in from the county and a pipe
22 coming in from Aloha with a little meter in there. There is no
23 storage. And so essentially on an annual average daily flow
24 basis they're pumping, they can legally pump 2.04 million
25 gallons a day, and that is going to, that is going to meet the

1 needs of all the base demand, I mean, not all the base, but at
2 least up to 2.04 million gallons a day, that is going to be met
3 with the current pumping capabilities of Aloha.

4 Now to the extent that on any given hour on any given
5 day, because this fluctuates over time, they will be drawing
6 from this bulk agreement to buy from Pasco County at the rate
7 of 1,665 gallons a day. So they're -- Aloha -- Pasco County is
8 not going to be selling but at an annual average daily flow
9 rate of that 1,665 gallons a day, and that's going to be on an
10 average annual daily flow basis no more than 2.4 million
11 gallons a day.

12 And so with this, what I'm having you look at here,
13 this is just the most recent historic data that we can look at.
14 And this basically estimates on an average annual daily flow
15 basis what, what the actual pumpage is for this utility for the
16 historic year 2007. So if you look at January '07 and you add
17 up all the pumps, pumpage for all the different wells, for all
18 the different plants, because there's more than one well in
19 some of these plants, you see this number down when it comes to
20 total, you have approximately 3.464 million gallons pumped
21 average annual daily flow for the, for the January '07 and you
22 can go all the way across. The average annual daily flow for
23 the entire system is 3.25 million in February and 3.7 and so
24 forth all the way across. You see the high is 4.481 and you
25 see a lot of lows. But basically in gross terms the amount of

1 average daily flow that they will be buying from the county
2 will be that figure that's slightly highlighted, the
3 1.42 million, 1.2, 1.7, 1.9 and so forth. And we have an
4 engineer that can -- and we may have Mr. Porter weigh in on
5 this and we'll talk about it.

6 But essentially we believe that our understanding of,
7 without -- during the time there's no storage there's a
8 considerable question that in certain times of the day Aloha
9 will not be able to take any water from the county, but during
10 those times of the day and in certain more peak conditions they
11 will be able to buy certain quantities of water. But that
12 amount we estimate could be closer to 1.8 million gallons
13 instead of the 2 million gallons or 1.7.

14 Until we go down there and find out the entire
15 configuration, to find out the point of delivery, to find out
16 all the pumping scenarios and to find out -- and then study the
17 monthly operating reports and really break it down by the day
18 to see what their needs are, could we chart and more accurately
19 reflect what we think is going to be the amount of gallons. So
20 that's a, that's a thing that I think even with a little more
21 study that your staff and our office could come back to you in
22 a relatively short time and maybe do a better job of estimating
23 what we think, given the engineering realities of the
24 situation, will be the more realistic amount of gallons that
25 they'll be buying. And so that, that's one reason why we're

1 asking for you not to approve this particular rate increase
2 based on the gallonages that have been proposed by staff.

3 The third point is we believe that the gallonage rate
4 which this rate increase contemplates is not the correct rate.
5 And that is the -- I asked for Bruce Kennedy, the head of the
6 Pasco County Utility Department, to reflect in a written
7 document which is attached here to this e-mail that it's his
8 understanding he is supplying and will be supplying, under this
9 bulk agreement Phase One will be supplying flow based on annual
10 average daily flow, an average annual daily flow so that, in
11 fact, Pasco County will not be providing peak flows to Aloha.
12 And for that reason he believes, and it's my understanding,
13 that the rate that he will be charging Aloha will be the
14 \$3.43 per thousand gallons. We believe that that more correct
15 rate should be used in establishing a fairer, a fairer Phase
16 One rate.

17 COMMISSIONER ARGENZIANO: May I ask a question?

18 CHAIRMAN CARTER: Yes. You are recognized,
19 Commissioner Argenziano.

20 COMMISSIONER ARGENZIANO: Thank you. Just because
21 we're at this point where I have a question. I'm reading in
22 the letter that it says that the \$3.43 per thousand gallons was
23 based on Pasco County's bulk rate with storage. I thought it
24 was \$2.20.

25 MR. REILLY: Excuse me?

1 COMMISSIONER ARGENZIANO: I thought it was \$2.20.

2 MR. REILLY: This is, this is the rate that they are
3 charging. What you're saying is they have a rate that they pay
4 Tampa Bay --

5 COMMISSIONER ARGENZIANO: Right.

6 MR. REILLY: -- for their water, and then they sell
7 it to -- well, they have their costs. I mean, I don't want to
8 make an argument for Mr. Kennedy.

9 COMMISSIONER ARGENZIANO: I know. And I guess when I
10 first saw the \$3.68, to be honest with you, I thought that's
11 absurd. And then when I saw the \$3.43, I still think that's
12 extremely high, and I just didn't know if it was justified from
13 the \$2.20 to the \$3.43. Maybe --

14 SENATOR FASANO: Chairman, may I, may I respond?

15 CHAIRMAN CARTER: Senator, you're recognized.

16 SENATOR FASANO: It is, it is -- as far as the \$3.43,
17 that is the bulk rates, Commissioner Argenziano. I have asked
18 in working with our, some of our customers with our county
19 commission to see if we can get that bulk rate even less. They
20 pay, I believe, two dollars and forty some odd cents at Tampa
21 Bay Water. Then they resell it to, they will be reselling it
22 to Aloha, which will be passed through to its customers at
23 almost a dollar more per 1,000 gallons.

24 MR. REILLY: And that's a very important point
25 because if you don't vote out this very high rate increase

1 today and you allow us and others and staff to work on this for
2 the next even fairly short period of time, month, month and a
3 half, two months, and come back to you with a more correct
4 rate, we may or may not be in a position to actually pass that
5 on and keep these initial rates lower for the customers. And
6 the Senator is committed to do that, I am committed to do that.
7 In fact, I'm actually having conversations on that issue on
8 Wednesday, tomorrow, on that very point and some other points
9 with Pasco County. So that effort is ongoing. I concede that
10 that is certainly an uncertainty in the future, but I'm giving
11 you another reason why since this, even under the best case
12 scenario not a drop of water is going to start running until
13 the fall of '08. Why must we vote out this rate increase
14 today, I think especially in light of some of the points that
15 we're trying to make?

16 I would like to touch on before my time is completely
17 gone -- we have other concerns. We're not going to go into all
18 those concerns in terms of the reasonableness of the
19 interconnection costs, engineering costs, contingency costs.
20 All these issues can be dealt with in a correctly worded
21 trueup. If we have some problems with some of these smaller
22 issues, they can be -- even though it might be a slightly
23 higher rate than it should be, the customers would be protected
24 on a correctly worded trueup paragraph.

25 That's probably one of my last points is if you were

1 determined to, to vote out a rate today, at minimum you have to
2 address the trueup language in this recommended order because
3 it is very inadequate. First of all, if you look at the trueup
4 language, it's going to be occurring in conjunction with the
5 Phase Two proceedings which they say is going to begin in March
6 of '08, I mean, just a month or so from now.

7 It's, we have, we have language, I'm not going to
8 hand it out, but if you get to a point where you say you are
9 resolved to vote out a, some kind of an initial Phase One rate,
10 we would ask you the indulgence to allow us to pass out what we
11 think would be an adequate trueup language that you could put
12 in such an order that at minimum would protect us on all these
13 other issues. I don't want to put you through that unless you
14 are, in fact, you know, resolved to, to, to vote out a rate
15 today.

16 We are recommending that you not approve this
17 particular rate increase today, that you instruct your staff to
18 go back and look at some of the things that we've raised and to
19 come back to you as soon as practical, as soon as possible so
20 that you can get a rate in place prior to the time that a
21 permanent interconnection facility can, in fact, be properly
22 located and we can go about doing this right without -- you
23 know, in a way that's most prudent. Thank you for your time.

24 CHAIRMAN CARTER: Thank you, Mr. Reilly. Now we'll
25 hear from the company. You're recognized.

1 MR. WHARTON: Thank you, Chairman Carter. My name is
2 John Wharton, Rose, Sundstrom & Bentley, Tallahassee. I
3 represent Aloha Utilities. And with me is the president of
4 Aloha, Mr. Steve Watford. Behind me is my partner, Marty
5 Deterding, and our accountant, Mr. Bob Nixon. And Mr. Dave
6 Porter, our engineer, was in Tallahassee yesterday. He had to
7 go home due to family circumstances and he's joining us on the
8 phone.

9 Mr. Chairman, I want to be mindful of the fact that
10 we are here for a singular and specific purpose and, therefore,
11 I don't think it's appropriate to go into every single thing
12 that I have heard. We do believe that there is a response for
13 the various things you've been told. I do feel though that
14 before I get to OPC's concerns, which are directly to the staff
15 recommendation, and also to make sure that we do refocus on the
16 purpose of this and how we got here, that I do want to address
17 a few things that have been said.

18 Contrary to what Senator Fasano suggested to you,
19 Aloha is meeting the requirements of the agreement. The
20 requirement is that Aloha pursue in good faith this idea that
21 was arrived at by a panel of the customers, DEP, the water
22 management district, the Office of Public Counsel, Dr. Taylor,
23 whose credentials have been alluded to. Now we are getting to
24 the point of doing the hard science, and you heard concerns
25 about the brine and et cetera. We are trying to figure out the

1 best and cheapest way to implement what the Commission has now
2 ordered us to do.

3 You've heard things thrown out like April of '06 and
4 22 months and they knew about Levine in December of '06. There
5 are many things that have occurred in that regard. But just
6 for instance, it was May of 2007 or rather April of 2007 when
7 the county told us exactly how much water they could give us
8 and at what pressure. It was only then that we could proceed
9 with the science and the permitting and even begin to think
10 about things like design. And so I don't think any utility
11 company in the history of Florida has ever been more monitored
12 in terms of the kinds of communications that we've had with the
13 staff and that we've had with the Office of Public Counsel and
14 the meetings, the quarterly meetings and the phone calls and
15 the documents that have been exchanged, and we are moving
16 forward in that regard.

17 I also think it's very important for this Commission
18 to know that again, contrary to the suggestion, with all due
19 respect to Senator Fasano, Aloha has never denied that some of
20 the customers are experiencing discolored water in their homes.
21 What we have denied was what was said until just a couple of
22 years ago, and that was that we were delivering filthy, dirty
23 water, as the Senator often said, which is completely untrue.
24 Some of the customers are experiencing a chemical reaction
25 between chemicals in the water and their copper piping.

1 There's no doubt about that and we've never denied that.

2 It's -- at the same time that you hear complaints
3 about the fact that we are overpumping the wells so-called,
4 that we're exceeding the water use permit allocated limits,
5 there is a request that you deny the very rates that would
6 allow us to do that. And that's exactly what's already
7 happened in 2001 when we filed a rate case that was based on
8 purchasing the water from Pasco County that would have allowed
9 us to come within the permits of our water use permit and the
10 Senator came and spoke against it and the Office of Public
11 Counsel was against it and the customers came and said they did
12 not want a rate increase and the Commission denied it.

13 Now once again we're before you. This very rate
14 increase that we're before you on today is now built right into
15 our water use permit that contemplates that we will get this
16 increase and begin to purchase the water from Pasco County in
17 order to come within the limits of our WUP. Our bulk water
18 agreement with Pasco County is also dependent upon this very
19 proceeding that we will get the final unappealable rates
20 necessary to purchase the water from Pasco County, whose water
21 quality you have heard praised hear today, and to begin to
22 bring that into the system so that we can back down our wells
23 to within the limits of our water use permit.

24 There was an allegation that we knew that Dr. Levine
25 wasn't being able to do the work on time. As your staff knows

1 and as OPC knows and as some of the customer representatives
2 who have come to the meeting knows, we've explained that in
3 detail that when we reached the point that it was clear that
4 the fact that Dr. Levine had seemed to gone kind of
5 incommunicado after she had left the University of South
6 Florida and gone to work for EPA up in Washington, when we
7 thought that point was reached where it was going to cause a
8 delay, we did immediately notify the Commission. Before that
9 we weren't too happy about it, but she kept telling us things
10 that we thought if she did that, we could still be on schedule.
11 Part of that time we were waiting for the county to give us the
12 information that she needed anyway to do the reports.

13 One thing that OPC has said to you and that
14 Mr. Forehand has said to you, and that is that we -- first of
15 all, Mr. Forehand said we have said we can only take 1.3 mgd
16 from the county. That is completely wrong. I am here to
17 represent to you that it is our intention to take all of the
18 water that the staff has authorized us to purchase from Pasco
19 County. We have planned the interconnect thusly. Our
20 discussions with Pasco County have made that assumption, it is
21 our assumption on a going-forward basis, and our engineers say
22 that through the application of effort it can be done and it
23 will be done.

24 In terms of this chart that has been passed out, OPC
25 has made this assumption backwards. The county water will be

1 the primary water, not the wells, and then the wells will be
2 used during times of peak demand. Also, this is historical
3 information, not projected information. We have engineered the
4 interconnect and the discussions that we have had with Pasco
5 County, who has worked with us on engineering the interconnect,
6 and we are going to take the water that we have said we will
7 take. If we do not, we are going to immediately be back into a
8 problem with the water management district because the water
9 can only come from two places. It's either going to come from
10 Pasco County, which will allow us to reduce the pumping from
11 the wells, or the wells are going to stay over the allocated
12 amount of the WUP. So it's not just the PSC that is motivating
13 us to do that, it is also the water management district.

14 And it's a point worth making that out of all the
15 parties to this proceeding, only Aloha has no incentive to
16 delay as a matter of regulation. The water management district
17 wants us to move forward obviously, you want us to move
18 forward. We have no incentive to delay as a matter of legality
19 and we certainly have no incentive to delay as a matter of
20 finances. It's very important for you to understand that we
21 borrowed \$21 million over a year ago in furtherance of this
22 project and we've been carrying the cost of that money.

23 And, in fact, something nobody has mentioned is that
24 we on our own initiative came to this Commission when we were
25 going to have to reserve the capacity at the county and told

1 you, while we won't be able to file this rate case for a while,
2 we've learned the county is about to triple their connection
3 fees. Now we could just pass those on. That's all the same to
4 us in the end. But instead we said if we pay the money now,
5 millions of dollars, the county has told us we can lock in the
6 connection fee at the lower rate. And we did that and we've
7 been carrying that money, we've been carrying the cost of that
8 money for all this time.

9 It's our position and will remain our position that
10 the water can be taken, that the water can be taken without
11 storage now, which is something I'll go into in a minute about
12 this letter with today's date on it that is contrary to what
13 we've been told by the county. And it's also notable that if,
14 in fact, we had storage in this proposal, I have a feeling some
15 of these same people would be telling you that it wasn't
16 necessary and it was adding millions of dollars to the cost of
17 what you were putting in rates. We believe we can implement
18 this phase, take this water from the county without that
19 storage, which is why their nonstorage rates, since we won't be
20 storing any of that county water, not their storage rate is
21 what should properly be applied by the staff.

22 This is contrary to what the county has told us in
23 all of our discussions. It's a letter dated today. It's not
24 even signed by Kennedy, it's signed by somebody for Kennedy,
25 and it's contrary to what we've been told. Right. It's also

1 contrary to the bulk agreement. Our bulk water agreement with
2 the county says that the water will be at the nonstorage rate.
3 So this is something brought up that certainly could have been
4 brought up before today. And I'm not sure what the county was
5 told to make this assumption, but we won't be storing any of
6 that county water. It's going to be the nonstorage rate.

7 Another thing that was alluded to today was that
8 somehow there was a refund of monies from a prior case and that
9 the money somehow has disappeared or been secreted away. That
10 money was agreed by all the parties, and Mr. Forehand himself
11 signed that agreement, that that money would be booked as CIAC
12 once the appeal was settled and that that CIAC would
13 essentially go to contribute toward where we are now and moving
14 forward with the facility. So to make that sound like there's
15 something nefarious going on there is incorrect.

16 On the, on the issues that OPC has raised, I want
17 Mr. Watford to speak to the issue of the temporary
18 interconnect. But the second issue was that the gallons are
19 overstated. We do not agree the gallons are overstated. As a
20 matter of fact and as a matter of engineering it is our
21 intention to take that water. We do intend to take the water,
22 we need to take the water to get ourselves right with the water
23 management district, and we have planned and engineered to take
24 the water.

25 As far as the gallonage rate being overstated, not to

1 our knowledge, not based on every conversation that we've had
2 with the county, not based on what the bulk raw water agreement
3 says and not based on the nature of the fact that we're not
4 going to be storing the county water. As far as Mr. Reilly's
5 alluding to the trueup, we've never seen that language and
6 neither has anyone else.

7 To hear now that, well, we could approach the county
8 and we could get them to charge a more reasonable rate, we've
9 been saying for years that if as many angry people who come to
10 an Aloha hearing -- and I'm not saying those people shouldn't
11 come to the Aloha hearing, they should, they should turn out if
12 they want to turn out and be heard by the Commission -- would
13 go to a county commission meeting, they could get that rate
14 reduced. Why, why hasn't any of this been done any time in the
15 last year? We agree the county rate is a high rate; they're
16 marking it up. But it's the rate -- it's the only available
17 alternative to purchase the water. The Commission has found as
18 much in an order. And we have no control over the rate they
19 charge.

20 In that regard, Commissioners, before I ask
21 Mr. Watford to address the issue of the interconnect, I just
22 want to remind you and to make sure we refocus that the purpose
23 we're on here today is the first phase in approval of rates
24 which will allow us to purchase the bulk water from the county.
25 This water is to meet present customer demand, present customer

1 demand, not some pie in the sky demand. We've exceeded our
2 water use permit in order to meet present customer demand. We
3 need this water now. It is the only reasonable and available,
4 available alternative water as you have found in an order to
5 overpumping our wells. It's the same water that we requested
6 to be allowed to buy seven years ago and that was denied. And
7 we have been working with the county so that we could do the
8 only thing we can do to get within our WUPs: Purchase this
9 bulk water at the best rate they will give us. And this rate
10 increase is not only a prerequisite to that, to deny this rate
11 increase will set off a series of dominos. We will then not be
12 in compliance with the water management district, we can't come
13 in compliance with our WUP, we won't be able to move forward
14 with anion because we won't know, we'll have uncertainty, just
15 like the situation we were in a year ago.

16 So I urge you -- I don't think anyone should oppose
17 categorically at least this rate increase. We need this water.
18 And we have not driven the cost of this water, the county has.
19 And it is a contemplated proceeding that we've all been talking
20 about. Now I'd like Mr. Watford to address this issue.

21 CHAIRMAN CARTER: Before Mr. Watford --

22 MR. WHARTON: Sure.

23 CHAIRMAN CARTER: And I'll give you an opportunity
24 because I want to give you the same amount of time that I gave
25 to Mr. Reilly. But before Mr. Watford comes before us, I know

1 the Senator has to leave and Commissioner Argenziano had some
2 questions. So I'll just go ahead on and take him out of order,
3 Senator, because I know that -- Commissioner Argenziano, I know
4 you had some questions. You're recognized.

5 COMMISSIONER ARGENZIANO: Well, thank you. One we've
6 addressed was the cost that Pasco County pays.

7 SENATOR FASANO: Yes, ma'am.

8 COMMISSIONER ARGENZIANO: And I'm glad to see you're
9 working with them because it really is high.

10 SENATOR FASANO: Yes, we are. It is.

11 COMMISSIONER ARGENZIANO: And it's their constituents
12 also.

13 SENATOR FASANO: Yes, ma'am.

14 COMMISSIONER ARGENZIANO: But the other thing I
15 wanted to ask, Senator Fasano, is the impact fees, are they --
16 have you checked to see if they're in line? I mean, they're
17 really high. And I didn't know --

18 SENATOR FASANO: The impact fees that Pasco charges
19 to hook up --

20 COMMISSIONER ARGENZIANO: Right.

21 SENATOR FASANO: -- are quite high. Exactly.

22 However, it is something that I believe has been imposed by the
23 county commission for quite, quite some time. To, to change
24 that would be no different than trying to convince them to
25 reduce the bulk rate as well.

1 The concern I have though, Commissioners, and, you
2 know, I've got to be careful here because I know that Aloha is
3 still speaking, but if Aloha, if the customers -- if Pasco
4 does, the five Commissioners decide to reduce the bulk rate and
5 that means that less of a pass-through would then go to the
6 customer, my concern is at what point do the customers see the
7 relief. That's why I think delaying this rate increase today
8 is essential because, look, we saw already the refund that was
9 due the customers, it was held up by Aloha. It was held up
10 until final agreement was made years after that money should
11 have been sent back to the customer, and it still is held up
12 even though, yes, it's going to apply to the implementation of
13 the anion exchange system.

14 But the bottom line is I don't trust Aloha. If all
15 of the sudden that bulk rate changes or the impact fees are
16 reduced and refund is given, at what point do my constituents
17 see those dollars? The history of Aloha tells us not very
18 soon.

19 COMMISSIONER ARGENZIANO: May I ask just another
20 question?

21 The other thing I wanted to do -- and, Senator
22 Fasano, I know you remember this. In '97 and '98 --

23 SENATOR FASANO: Yes, ma'am.

24 COMMISSIONER ARGENZIANO: -- Representative
25 Littlefield, myself and Representative Llorente really worked

1 on basically forcing then West Coast Regional into --

2 SENATOR FASANO: That's right.

3 COMMISSIONER ARGENZIANO: -- into coming up with an
4 agreement because Pasco was literally being sucked dry by
5 everybody.

6 SENATOR FASANO: That's correct. That's where Tampa
7 Bay Water came about. Yes.

8 COMMISSIONER ARGENZIANO: Right. And everybody was
9 overpumping, to be honest, in '96. Pasco County was really
10 taking a hit.

11 SENATOR FASANO: Right.

12 COMMISSIONER ARGENZIANO: But do we know, do we have
13 an idea, and I'm trying to figure out if the water management
14 district is being fair here too, if the blend that Pasco would
15 be selling to Aloha, how much would actually be coming from the
16 well fields and how much would be a blend from somewhere else?
17 Because are you not then taking from the same place that Aloha
18 would take? And I'm trying --

19 SENATOR FASANO: Well, the thing here is the -- you
20 saw the gentleman that got up, Mr. Wood, and showed, showed the
21 pipe, of the holes coming through his pipe. And this is not a
22 unique occurrence in the Aloha Utilities area. This happens
23 often from thousands of people who have had to deal with this.
24 Again, I would challenge you to ask your staff right now, does
25 it happen anywhere else in the State of Florida? It does not.

1 But in the Aloha servicing area we've had this problem.

2 So it is my opinion that we do not see -- I will tell
3 you I never have gotten in the 14 years that I can recall as a
4 state legislator a call from a Pasco County water customer
5 saying they have dirty, black, filthy water, but I've gotten
6 thousands -- so your point as far as the mixture, our hope is
7 that Pasco County coming in will help mix that water to the
8 point where people might just actually see some clean water.

9 It is also my understanding that, I mean, that Aloha
10 has been overpumping for years, for years. I mean, they can
11 say all they want. They've been overpumping for years and they
12 started getting fined for it. And it's just now, you know,
13 until that agreement came about that they're being forced to
14 hook up to the county because it's part of the agreement.

15 My hope is that with this, with this blend we would
16 see some cleaner water to the customers. Because the, the
17 water that Aloha -- that Pasco County gets comes from different
18 wells from all over the Tampa Bay Water Authority and also
19 through the desal plant that was recently purchased. It's a
20 blend of many different types of water. They do not have, they
21 don't have all the problems that Aloha water has from the wells
22 that they get their water from.

23 COMMISSIONER ARGENZIANO: And, Mr. Chairman, if I
24 may. And that's part to the point, everyone should have clean,
25 clean water.

1 SENATOR FASANO: Yes, ma'am.

2 COMMISSIONER ARGENZIANO: But I guess part of it was
3 I was concerned that if Pasco then was just going to pump from
4 the ground, that maybe the water management district -- I don't
5 know how much in excess they are from their CUP, the
6 consumptive use permit, but I wanted to make sure that Pasco
7 was really using a blend of either rotating ROs (phonetic) or
8 RO and the desal and so on.

9 SENATOR FASANO: They are. Pasco no longer has its
10 own wells. They may have one or two, but I don't think they
11 use them. Pasco County, Pinellas County, Hillsborough County
12 all hook up to Tampa Bay, which is a blend of water that goes,
13 that goes around.

14 COMMISSIONER ARGENZIANO: Okay. Thank you.

15 SENATOR FASANO: And that's where the Aloha customers
16 would be getting their water. That's why I'm hoping I can
17 convince the commissioners to reduce that bulk rate so these
18 customers would not see -- its 25,000 people, constituents of
19 theirs as well. Trying to convince them -- I think we can
20 convince them to reduce that bulk rate.

21 COMMISSIONER ARGENZIANO: Just one final question.

22 CHAIRMAN CARTER: You're recognized.

23 COMMISSIONER ARGENZIANO: And, Senator Fasano, OPC is
24 not in agreement with today's recommendation.

25 SENATOR FASANO: Yes.

1 COMMISSIONER ARGENZIANO: But would be in agreement
2 with the company recuperating those costs, I guess, if the
3 interconnection was not temporary by your description and, and
4 in the future if the gallonage was correct. Would you feel the
5 same way? Are you in the same --

6 SENATOR FASANO: My, my, my contention here is, my
7 concern is, and you heard my opening comments, 14 years of
8 fighting Aloha Utilities. They knew they had these problems 14
9 plus years ago. It took finally you, the Commission, in
10 starting deletion proceedings before they stepped up to the
11 plate and said, okay, let's have an agreement.

12 It is my opinion that the monies that they've
13 collected, the impact fees which Aloha has, which is one-tenth
14 of what Pasco County charges for water and sewer impact fees,
15 had they charged the correct amount with all that new growth
16 out there, they would have solved these problems, they would
17 have had the dollars to do that. Now they want to go back to
18 the existing customer who has already been paying for water,
19 dirty water all these years and say, oh, do you want clean
20 water? You've got to pay some more. It's almost like going to
21 Publix and saying, I'd like a gallon of milk, here's the
22 gallon. We'll put the milk in for another \$3.50.

23 Look, I understand. We're all rational people here.
24 Aloha Utilities is -- the definition of them being a good
25 corporate citizen doesn't exist. They're, in my opinion,

1 worthless. But I have to deal with what I have to deal with
2 and the 25,000 customers have to deal with what they have to
3 deal with. They'd like clean water.

4 But let us not give them the ability to raise rates
5 until they at least meet the customers halfway. They haven't
6 met them any way in regards to the agreement. They talk about
7 that they've met their requirements of this agreement. That's
8 laughable, absolutely laughable down there at the end of the
9 table. What agreement have they, have they come to? What have
10 they done so far in regards to this agreement? Zero.

11 They're asking for a huge rate increase and the
12 customers haven't seen anything yet. At least let the
13 customers enjoy something, something that when they get their
14 bill and it's increased they can say, well, at least we know
15 why it's increased. We're actually getting clean water for a
16 change. And that's why this thing shouldn't even be here
17 today. Thank you.

18 CHAIRMAN CARTER: Commissioner Edgar.

19 COMMISSIONER EDGAR: Thank you, Mr. Chairman.

20 Senator, thank you for joining us today. I really
21 appreciate your comments. And I know that you're going to be
22 pushed, so I will be brief as well.

23 SENATOR FASANO: That's okay. I hear some of the
24 events I'm supposed to go to tonight are being canceled because
25 of the weather, so I may, I may not be getting anywhere

1 tonight.

2 COMMISSIONER EDGAR: We would love to have you stay
3 in Tallahassee for a while longer.

4 Quickly, I have not been working on this 14 years but
5 I have been working on it the entire time that I've been at the
6 Commission, a little over three years. And I don't know if you
7 remember, but my first day in the job, my first day in this
8 hearing room, the day I was sworn in we had an item before us
9 on Aloha and it was actually the item where the Commission
10 voted to initiate --

11 SENATOR FASANO: And here you thought I came just to
12 see you get --

13 COMMISSIONER EDGAR: I did. No. I knew that you had
14 a very important item here. But I was glad that you were here
15 for my ceremony as well.

16 SENATOR FASANO: Yes, ma'am. I remember it well.

17 COMMISSIONER EDGAR: But you remember it well. I
18 obviously remember it well for many reasons. And I did vote
19 and supported the initiation of deletion at that meeting;
20 again, my first meeting here as a, as a Commissioner. And at
21 the time I did that and that you were here speaking in favor of
22 that plan, you know, I had some concerns as to whether deletion
23 was going to address all the concerns, and I wasn't sure then
24 that it would and I'm not sure now that it would, and so I'm
25 still kind of grappling with it. I do think though that the

1 Commission taking that action did help bring parties to the
2 table and did help move the discussion forward.

3 SENATOR FASANO: Without question I agree with you.

4 CHAIRMAN EDGAR: Thank you. I also remember, and
5 perhaps you do as well, a few months after that, I think it was
6 in June, we had a hearing and it was my first hearing on an
7 Aloha item. And in that I issued the only dissent at that
8 point from my other colleagues, Commissioners, at that point in
9 time, and that had to do with the setting of the goal for water
10 quality standards and reporting and testing and how we would
11 move forward. So I am also frustrated that not 14 years later
12 for me personally but that three years later we are still
13 grappling with some of the same issues.

14 And it was only a few months after that that we did
15 have a customer meeting in Pasco County, and, Commissioner
16 McMurrian, you may have been there, I don't recall, but the
17 room was packed. I mean, I remember that well. It lasted for
18 many hours; the room was packed. So a few months after that
19 when we had the opportunity with our staff working very hard
20 with the company, with customers, with OPC, with your office
21 and many others to bring a proposed settlement forward, that
22 was my second year here and my first as Chairman, and I was
23 very proud that we had been able to move the ball forward and
24 at least get everybody what seemed to be on the, on the same
25 page. So the fact that now a year and a half approximately

1 later we're still grappling with some of these issues, I do
2 have some real frustration as well.

3 So I guess what I'm trying to think through -- and I
4 apologize for stepping out a moment, I was actually asking my
5 staff a question on some of the things that I was hearing here
6 this afternoon -- is how can we keep this ball moving forward
7 in a way that protects the customers but that also moves us
8 forward, hopefully not in baby steps but in larger steps, to
9 getting the bulk purchase agreement in place and that
10 additional infusion of water options to the customers? Because
11 I do think that that will help address many of the issues. So
12 any additional thoughts you have on that.

13 SENATOR FASANO: Well, Commissioner, great, great,
14 great comment and great questions. I will tell you that no one
15 is here opposed today of hooking up to the county. I wish this
16 had been done years and years ago. I truly believe that
17 Wells 7 and 8 or 8 and 9, there's a couple of wells, 8 and 9
18 are the cause of all of these problems because the problem that
19 you see -- the most problems that you see are in these two
20 particular well areas. For some reason Aloha just for some
21 reason doesn't even want to deal with issues like that. Why, I
22 don't know. But no one is here to oppose them hooking up to
23 the county.

24 What we're here opposing is even considering a rate
25 increase when they're not even close to hooking up to the

1 county. I mean, we don't even know where they stand today as
2 far as a time line of when they're going to be hooking up. Why
3 are we dealing with an issue when, as the Public Counsel
4 pointed out, so many things, so many questions still have to be
5 dealt with? Maybe the bulk rate could be changed. Maybe --
6 why are we dealing with a temporary facility? You know, I
7 mean, just those questions go on and on.

8 I have great concerns. Gosh, I do so have great
9 concerns that granting Aloha a rate increase without them
10 telling you that, yes, Commissioners, next month on, on, you
11 know, March 17th we will be, we will be getting water from the
12 county. They can't make that statement. I don't want to be
13 granting them anything until they can make that statement.
14 Then let's come back here and you give them what is due them as
15 far as what the costs they've put out. But we shouldn't be
16 here today.

17 I mean, they're a joke. They are a joke. And I've
18 had to deal with this joke for 14 years and I'm tired of it and
19 the customers, my constituents are tired of it.

20 And, you know, I never speak badly publicly of staff.
21 But when a staff person comes in my office in Tallahassee and
22 tells me that they're going to be given this rate increase, and
23 I asked that staff person, well, but they're not going to hook
24 up yet. When will they hook up? And that staff persons looks
25 at me and tells me eventually. Eventually? That's not what my

1 constituents or the customers want to hear. They want to know
2 exactly when they'll start getting that bulk water that they'll
3 be paying for and maybe just see some light at the end of this
4 tunnel. And that's what I would ask for you to do, to make
5 sure staff doesn't come back to you again until they have an
6 absolute certain date of when Aloha will be, will be hooking
7 up, getting DEP's approval to hook up to Pasco County and to
8 look at these other issues as well. I have great concerns with
9 a temporary -- I mean \$900,000 for a temporary location.
10 That's customers' money. Anyway, thank you.

11 And if I may, just lastly, the other issue, the anion
12 exchange issue. I laugh because now, now we're hearing about
13 having to deliver brine possibly up to the Jacksonville area or
14 something like that. I mean, the story goes on and on and on.
15 They knew about the Dr. Levine -- I quoted you your own
16 background from the staff that they failed to report it to the
17 Public Service Commission in their quarterly or monthly reports
18 that they knew that Dr. Levine was not going to have this
19 report done on time and they tried to hide that fact. Thank
20 you.

21 CHAIRMAN CARTER: Commissioner Argenziano.

22 COMMISSIONER ARGENZIANO: No thank you.

23 CHAIRMAN CARTER: Commissioners? Commissioner Skop.

24 COMMISSIONER SKOP: Thank you, Chairman Carter. And
25 thank you also, Senator.

1 CHAIRMAN CARTER: I haven't forgotten you,
2 Mr. Wharton. I haven't forgotten you.

3 SENATOR FASANO: Neither have I, Mr. Chairman.

4 COMMISSIONER SKOP: I'll make this quick. Again, I'd
5 rather hear from the parties. But I guess my understanding,
6 and I just want to make sure because I'm getting old in my
7 age --

8 SENATOR FASANO: That's okay.

9 COMMISSIONER SKOP: It was my understanding you would
10 be here until 4:00.

11 SENATOR FASANO: No. I apologize. I have a flight
12 at 4:00, sir.

13 COMMISSIONER SKOP: Oh, at 4:00. Okay. So you'll
14 have to be leaving shortly. I'll make this real quick.

15 Again, I'd like to thank you personally for appearing
16 today.

17 SENATOR FASANO: Thank you so much.

18 COMMISSIONER SKOP: And also for interjecting in your
19 efforts to not only address this issue, but also to go the
20 extra mile of trying to further reduce the bulk water costs.

21 SENATOR FASANO: Sure.

22 COMMISSIONER SKOP: That's, that's commendable.

23 Just because you're going to be departing soon, I
24 understand about the interconnect and the lack of a date
25 certain and I think that's an important question to ask the

1 utility or maybe they can respond to that. Because, again,
2 that's a question that was brought forth by you, presented to
3 the Commission, maybe OPC, but it's certainly something I'd
4 like to know. Would you be comfortable if the Commission were
5 to, as Chairman Edgar, or former Chairman Edgar, excuse me,
6 Commissioner Edgar, sorry, had mentioned about wanting to move
7 this forward? Because, again, a lot of time and effort has
8 been put into the settlement agreement way before I got here.
9 So, again, I have a bunch of things to say, but I'm going to
10 reserve those. Would you be comfortable with the rate
11 increase, subject to OPC's concerns, if it were conditioned
12 upon a project milestone such as firm interconnection, like it
13 would not be forthcoming or charged prior to that
14 interconnection?

15 SENATOR FASANO: I would, Commissioner.

16 COMMISSIONER SKOP: Okay.

17 SENATOR FASANO: I would indeed. And the reason why
18 I say that is because I don't trust this company. I don't
19 trust them as far as I can throw them, and I can't throw them
20 very far. I don't trust them.

21 Why? They haven't connected yet. If we're even
22 considering not giving them a rate increase or granting them a
23 rate, you granting them a rate increase until they connect,
24 they're not here today to tell you that they're going to
25 connect. They're here to tell you that they want this rate

1 increase because they're going to connect some time down the
2 road. They're almost two years behind in their original
3 agreements. And still on the anion exchange issue, I think
4 that's almost a moot point because now, I mean, that's totally
5 lost in regards to this brine issue. Their fallback, their
6 hope, their hope and their fallback is this interconnect and
7 trying to get, trying to get water mixed into their water to
8 try and come up with cleaner water. Maybe it'll happen. Maybe
9 that'll be great and we won't have to spend any additional
10 dollars. But I could never accept granting Aloha any rate
11 increase until they deliver, until they deliver.

12 COMMISSIONER SKOP: Yes, sir. And thank you.

13 SENATOR FASANO: Thank you.

14 COMMISSIONER SKOP: And, again, I guess where I'm
15 kind of looking at this is, you know, there may or may not have
16 been some foreseeable delays and there's some, you know, making
17 progress in terms of completing the terms of the settlement
18 agreement. But also, too, one of my concerns, and these issues
19 continue to be raised, is how are we going to resolve these
20 emerging issues such as the brine and facility access and such
21 like that?

22 SENATOR FASANO: Exactly. I mean, that's not even
23 being discussed today, you know.

24 COMMISSIONER SKOP: I understand. But, again, I'm
25 trying to get --

1 SENATOR FASANO: That's, that's miles down the road.

2 COMMISSIONER SKOP: Yes, sir.

3 SENATOR FASANO: And I've got constituents back home
4 and they've got customers back home that moms call me and cry
5 on the phone because they can't bathe their child in the
6 morning.

7 COMMISSIONER SKOP: Yes, sir.

8 SENATOR FASANO: And I'm going to tell her, oh,
9 Mrs. Smith, the Commission just approved a 100 percent rate
10 increase for Aloha and you might, just might get cleaner water.
11 But we don't know because we don't know when they're going to
12 hook up.

13 COMMISSIONER SKOP: Thank you, sir.

14 CHAIRMAN CARTER: Thank you, Commissioner.

15 Commissioner McMurrin.

16 COMMISSIONER McMURRIAN: Thank you, Senator. Thank
17 you, as all my colleagues have said, thank you for being here.
18 I too have watched this issue for a lot of years both on staff
19 and on the Commission and I too am very frustrated, as
20 Commissioner Edgar said.

21 First I wanted to react a little bit to something
22 Mr. Wharton said because it sort of, sort of struck a chord
23 with me. When you said no company has ever been more
24 monitored, and I can't remember the rest of it, but I agree
25 with you. I think no company has probably ever been more

1 monitored at least by this Commission. But I guess my concern
2 is, is that over the years, and I think we are making some
3 progress, I don't think we're making it as fast as we would all
4 like to see it, but I think that over the years you've asked
5 for that monitoring. And I really, I have to say I hate the
6 posture this Commission has been placed in, that to me it's
7 counter to how I believe the regulatory process should work.
8 And I think that Aloha and any other company should manage
9 itself, we shouldn't need this much monitoring, and should
10 worry about more than meeting standards. And I think they
11 should see their job as serving customers and that that's a
12 privilege, not a right. It's not just about meeting the
13 standards. It's about serving the customer and that they do
14 deserve better, I think, than what they've gotten.

15 I say all that though because I'm concerned that the
16 remedy of deletion is going to take longer than this slow
17 process that we're in. And so I agree with some of what
18 Commissioner Edgar said there -- actually all of what she said.
19 But the point about being concerned about deletion, and at that
20 time that the Commission voted on that, I believe I was
21 watching that particular vote. But I was worried that it
22 would, it would lead to a very long road to get us to providing
23 better water.

24 SENATOR FASANO: Exactly. Yes, ma'am.

25 COMMISSIONER McMURRIAN: And so I have some of those

1 same concerns. And I guess to the point that Commissioner Skop
2 raised, I agree with him about trying to make sure that the
3 water, your concern about trying to make sure the water is
4 better before the rates go into effect. But as I understand
5 what --

6 SENATOR FASANO: Well, how about, how about it blends
7 together? No one has yet to ask Aloha -- and maybe they can
8 answer it right now. They're right there. Tell us, tell us
9 the date that you'll be hooking up to the county. Now if it's
10 in the next 30 days, then I think you have every right to
11 consider this rate increase today, but I don't think it is.
12 And I don't think they know when it's going to be.

13 And I understand about deletion proceedings. I
14 understand that. That's why I have a local bill trying to take
15 Aloha and put it into the county itself. But what about
16 enforcement action? I mean, I've not heard anyone yet talk
17 about enforcement action. They're almost two years behind this
18 agreement that they keep talking about that they have
19 fulfilled, but they haven't fulfilled one iota of that
20 agreement. What about enforcement? Go after them, for
21 goodness' sake. Send them a message.

22 COMMISSIONER McMURRIAN: Senator, I absolutely agree
23 with you that we need to at least be talking about that at some
24 point. And I think that even though -- and I know that we've
25 got other speakers left to discuss some of the issues before

1 us. I know that we have certain issues before us in this rec,
2 but I think that it would be good to hear, I want to hear from
3 the company today about what's going on with the anion exchange
4 process and what some of the delays have, at least in their
5 mind, you know, what the delays are attributable to. I want to
6 hear more about that.

7 But I do understand, at least as far as what staff's
8 rec says, I understood that the rates wouldn't be charged to
9 the customers, and I know we have to discuss about what exactly
10 those rates would be as the points that Mr. Reilly brought up.
11 But I understood --

12 SENATOR FASANO: And if we get the bulk rate down, I
13 mean, there's still other issues out there that could be worked
14 on to see reduced rates. I'd hate to come back here again and
15 say -- you know, I mean, again, I don't trust them. They'll
16 fight us every step of the way. Well, you've approved this
17 rate increase, you know. I mean, I just have concerns. If
18 they're, if they're not hooking up anytime soon, why are we
19 considering this?

20 COMMISSIONER McMURRIAN: Well, I guess, Mr. Chairman,
21 what I would ask is that at some point we get clarification
22 from staff too that even if there were, whatever the increase
23 would be, if we were to put one in effect, that it absolutely
24 would not take effect until the facilities are hooked up.
25 That's the way I understood it. But, you know, I want to make

1 absolutely sure about that as well.

2 CHAIRMAN CARTER: Commissioner --

3 COMMISSIONER McMURRIAN: And I would like to hear
4 also, I'm sorry, from the company about what the date is that
5 they see hookup actually occurring.

6 CHAIRMAN CARTER: Let me just say this. I know
7 Senator Fasano has to go. But it's my understanding that if
8 the rate increase is approved by this Commission and we do need
9 to move forward, however, we can put a provision that says that
10 no rate increase will take effect until they've hooked up with
11 the county based upon approval by DEP. And I think that gives
12 --

13 SENATOR FASANO: Mr. Chairman, what happens --

14 CHAIRMAN CARTER: -- that gives us a quality -- wait
15 a minute. Wait a minute. That gives us the quality of the
16 water because the people need clean, quality water -- let's
17 stay focused now -- clean quality water, they need to have
18 that. And also it's a time certain and it's, it's approved by
19 the DEP, and they have to have the approval of DEP before they
20 can tie in with the county. So I just --

21 SENATOR FASANO: What happens, what happens between
22 now and then that we can convince the county commission to
23 reduce the bulk water rates? What happens? Do you think Aloha
24 is going to be, is quick to come to this table? I mean --

25 CHAIRMAN CARTER: The incentive is they won't get any

1 rates, Senator, until they've tied in with the county.

2 SENATOR FASANO: Yes. But they could tie into the
3 county at a lower rate and you've approved a higher rate for
4 them.

5 COMMISSIONER ARGENZIANO: Mr. Chair.

6 CHAIRMAN CARTER: We -- what I wanted to do, and I
7 know -- I was trying to respect your time that you had to go.

8 SENATOR FASANO: I understand. I'm going to try -- I
9 tell you what, I'm going to try to get a 5:50 flight. I'd love
10 to stick around.

11 CHAIRMAN CARTER: I'm flying at 40,000 feet here,
12 Senator. I wanted to say conceptually --

13 SENATOR FASANO: I know. Yes, sir.

14 CHAIRMAN CARTER: -- just because you raise a good
15 point about when will they hook up with the county. That has
16 to be approved by DEP. When will they tie in with the county?
17 I'm saying is that there's a way to get there.

18 SENATOR FASANO: Yes, sir.

19 CHAIRMAN CARTER: In terms of the numbers, we've got
20 some experts here and they've got some experts and OPC has some
21 experts too and we can pull out our calculators and do that.
22 But I'm just saying from a conceptual standpoint is that the
23 critical thing is that the people need clean water.

24 Secondly, the critical thing is to advance this case
25 to move forward. I think that if we can have some parameters

1 or some milestones in there, we can resolve this for once and
2 for all so we don't continue to have to go through Groundhog
3 Day. And that's pretty much where we're coming from. So
4 Senator Argenziano -- Commissioner Argenziano, you're
5 recognized. (Laughter.)

6 COMMISSIONER ARGENZIANO: Yes, to both. But I have
7 the concern -- I know Senator Fasano very well and I know -- I
8 can't guarantee, of course, but I know that he may be able to
9 effect a lower rate from the county, and to me that's very
10 important because I really see this as a high rate. They're
11 their constituents also, Pasco County's constituents who are in
12 trouble, who need help right now, and I have every confidence
13 that he'll try his very best. So I don't want to lock into a
14 rate today of any kind unless -- you know, I'd like to give the
15 Senator some time and the county some time to make sure that we
16 don't lock into a higher rate when we could get a lower rate.

17 CHAIRMAN CARTER: Okay. But I just wanted to throw
18 the concept out.

19 SENATOR FASANO: Mr. Chairman, correct me if I'm
20 wrong, and maybe somebody can. I'm not an expert here. With
21 or without this rate approval today doesn't stop Aloha from
22 moving forward. They've already paid their, they've already
23 paid their impact fee, as they stated. They have yet to be
24 permitted from the county to hook up. That's what they should
25 be moving forward with. The, the decision of a rate increase

1 is not going to help or hurt them in that process.

2 CHAIRMAN CARTER: I think, I think otherwise,
3 Senator.

4 (Microphone not on.)

5 MR. WHARTON: -- in 2001 we would have been -- rates
6 increase, ultimately got the nod.

7 SENATOR FASANO: Right. And you saw that they did
8 not bother to move forward in 2001. They didn't move forward
9 in 2001 when they knew, when they knew they could have hooked
10 up to the county.

11 CHAIRMAN CARTER: All right. Let's dial it back a
12 minute. Let's dial it back a minute. Let's dial it back a
13 minute. I stopped, Mr. Wharton, because I was going to -- I
14 knew the Senator had to leave.

15 SENATOR FASANO: I thank you all. God bless you all.
16 Any consideration on behalf of the 25,000 customers in the
17 Aloha area is greatly appreciated. Thank you.

18 CHAIRMAN CARTER: Commissioner, I heard you for a
19 second. I wanted to see -- did I get your questions,
20 Commissioner?

21 COMMISSIONER ARGENZIANO: Yes. To the Senator, yes.

22 CHAIRMAN CARTER: We're going to, we're going to --
23 the parties will be here. But I just wanted -- if we had any
24 further questions of Senator Fasano, we can do that. You had
25 any -- okay. You're recognized.

1 COMMISSIONER SKOP: Thank you, Chairman Carter.
2 Again, same regard. I have the same concern as Commissioner
3 Argenziano and I think other Commissioners have expressed.
4 Certainly if we can get the best negotiated deal for bulk water
5 that inures to the benefit of Aloha's customers -- and
6 certainly I'd like to in due course hear from Aloha. Certainly
7 I would not suspect Aloha to be adverse to getting the lowest
8 possible bulk rate.

9 MR. WHARTON: It's all the same to us.

10 COMMISSIONER SKOP: Thank you.

11 CHAIRMAN CARTER: Okay. Commissioners, thank you for
12 your patience. I did want to accommodate -- I knew Senator
13 Fasano had to catch a plane and all like that, and I know the
14 Commissioners had some questions. And also to Mr. Wharton, I
15 apologize to you, but I did want to give the Commissioners an
16 opportunity to hear from all the parties and I stopped you. If
17 you want to kind of tee it up again and we'll go back. And,
18 Commissioners, I hope you're keeping notes and we can go back.
19 We all had an opportunity to make some statements now, but
20 we'll go back and pick up where we left off, and then you were
21 about to introduce, but you were going to make a statement
22 before you brought on --

23 MR. WHARTON: And while I don't necessarily think it
24 would be constructive, it would be easy to get into a tit for
25 tat and I don't want to do that.

1 But let me say two things very clearly. Thank you to
2 Commissioner Skop for raising an issue which the Senator
3 apparently is operating under a misunderstanding on. The rate
4 won't be approved 'til the water from the county begins to
5 flow. That's in the staff -- that's the way it is. You don't
6 need -- it's my understanding you don't need to do anything
7 else to do that. We won't be able to charge these rates prior
8 to the purchase of the water. And the other thing is if the
9 county rate goes down subsequently, then we'll need to -- the
10 pass-through works both ways, a positive pass-through or a
11 negative pass-through. Just tell us that if that county rate
12 goes down to immediately come in for a pass-through and have
13 that rate reduced. It's all the same, see, to Aloha, that
14 rate. It's not like we're earning on that gallonage rate. I
15 don't think that you need to hold up today in order to meet
16 those two concerns. I think one is already what's
17 contemplated, and obviously your staff would be the best to
18 address that.

19 And the second I think is easily handled through --
20 it's great to us if that rate can come down. But I've been to
21 a lot of county commission meetings and I've talked to Steve
22 Reilly about this, I think I talked to the Senator about it
23 once, I could never accomplish with Pasco County what a bus
24 load of customers could do. But maybe someone from the
25 Commission talking to the commission or whatever -- I always

1 thought that was a pretty good markup, pretty high markup by
2 Pasco County. That big old Tampa Bay Water main is really not
3 very far from where they're bringing that water and selling it
4 to us and putting a dollar on there.

5 I don't want to disagree with anything that
6 Commissioner McMurrian said, and I know she's been involved in
7 this a long time and is relating her experience. But the
8 Chairman was talking about milestones and I kind of want to
9 relate those two comments. Be careful and don't create a
10 situation like we've been in in the past where when the
11 Commission is attempting to solve this problem and they push
12 the balloon here, it bulges over here. We didn't just wake up
13 and begin to try to purchase this water from the county when
14 the deletion case came along. We were negotiating with the
15 county for how much can you give us, when, what would have to
16 be constructed in 2004. The deletion case stopped that. When
17 you don't know how many customers you're going to have or how
18 big your service area is going to be, you're put in a really
19 bad position. So just be careful in terms of putting up a
20 milestone that means the rate wouldn't go into effect until
21 something happens. And, in fact, we need that thing to happen
22 in order to move forward with anion exchange, which is the
23 preferred, as we sit here, solution. I just caution you to
24 look at the picture like that.

25 I believe this is properly compartmentalized. We

1 need this water. And I hope some day, if there's ever not a
2 pending matter, I can sit down with Commissioner Argenziano and
3 tell her my perspective about how the creation of Tampa Bay
4 Water has squeezed all the private utilities in that area,
5 because the district gave Tampa Bay Water so much water, they
6 won't allow anyone to increase their WUPs. That's why Aloha
7 has got to have this Pasco water. The district won't give us
8 any more water because the ground can't take it anymore. And
9 it's funny, I'm not sure there was any way to foresee that and
10 I wouldn't have realized it until looking back, but it's almost
11 impossible now for the private utilities. And yet Tampa Bay
12 Water won't serve us directly. It's written in their charters.
13 Just it's a situation I think you don't realize until you're in
14 the middle of it.

15 Senator Fasano said this problem was unique to Aloha.
16 This Commission had a black water committee that produced a
17 report with a map in it with spots all over the state that was
18 experiencing this same problem. And I just hope the
19 Commissioners understand that some of the things you've heard
20 about customer service and about what the customers need, I
21 don't disagree with any of that, but this is not a problem a
22 customer service person can solve if -- the whole fact that
23 there's a chemical in the water that's interacting with the
24 copper piping in some people's homes. I mean, Aloha years ago
25 proposed low interest PVC piping as helping to get rid of the

1 copper piping, but the Commission -- that just couldn't happen
2 for a variety of reasons. But I just reject the contention
3 that we've done nothing. I think your staff knows we have not
4 done nothing, that we've been moving forward on anion and to
5 implement the settlement agreement.

6 I want Mr. Watford to address this issue of the
7 interconnect because it's getting a lot of play and I think
8 that we can explain. There may be a misunderstanding,
9 fundamental misunderstanding in that regard.

10 MR. WATFORD: Good afternoon, Commissioners. We're
11 talking, it appears, about 730 or so thousand dollars of
12 construction costs. I believe it was Mr. Reilly described it
13 as an interconnect that's going to -- everything is temporary.
14 Very little of this is temporary. We have negotiated with a,
15 as a matter of fact, a county entity to lease a very small
16 piece of property for this, this facility. It's immediately
17 adjacent to the piece of property we're in the process of
18 negotiating to buy. All of the piping that you see here, with
19 the exception of a very small amount that would be at the meter
20 location itself, will all remain. It will just be extended in
21 the next phase from the end of this, this pipeline over
22 probably, I would estimate, maybe another 150 feet to get to
23 the new site. Nothing will be thrown away. Everything here
24 basically will be reused. We will have to meter this water as
25 it comes from the county to the next site.

1 This is an interim measure that will allow us to
2 begin accomplishing what it sounds like everybody wants and
3 getting the water flowing as soon as possible as well as what
4 the water management district wants. But we have these two
5 sites and they're immediately next-door to one another. All of
6 this equipment will be moved, relocated. The vast majority of
7 it will be put in place once and will stay there forever to the
8 ultimate storage and repump site that was discussed.

9 So, you know, I don't have an exact calculation, but
10 as far as even equipment -- even if it were abandoned, which it
11 will not be, you're probably talking less than \$50,000 out of
12 this 800 or \$730,000 construction cost. And I think even
13 that's probably extreme because a certain amount of that,
14 certainly the fencing could be relocated and so forth. This is
15 simply a measure to accommodate. I mean, obviously building
16 storage facilities, the site next-door is an abandoned cement
17 plant, there's a lot of, we're drilling holes out there now
18 doing site analysis and borings and so forth, analyzing on that
19 site to make sure everything is okay. But, you know, this is
20 not going to be a throwaway cost, it's not anything that will
21 go away. And, you know, I think even to the extent that that
22 were something that became a concern, you still, again, have
23 this provision of trueup that's embodied in the recommendation
24 as we speak. So there's really not a throwaway cost here.
25 This pipeline is permanent.

1 CHAIRMAN CARTER: Commissioner Argenziano.

2 COMMISSIONER ARGENZIANO: Well, I'm not sure if I
3 heard you correctly. You're leasing the property. How long is
4 the lease for?

5 MR. WATFORD: It's a three-year lease, but it's a
6 renewable three-year lease in case for some unforeseen reason
7 it needed to go on. It's a very small piece of property. I
8 think he, Steve described it as .07. I think that's about
9 right.

10 COMMISSIONER ARGENZIANO: What's the cost of the
11 lease?

12 MR. WATFORD: I'm sorry?

13 COMMISSIONER ARGENZIANO: What is the cost of the
14 lease of the property?

15 MR. WATFORD: \$1,500 a month.

16 COMMISSIONER ARGENZIANO: \$1,500 a month for three
17 years. And there's a provision to re-up the lease?

18 MR. WATFORD: If we choose to, yes.

19 COMMISSIONER ARGENZIANO: If you choose to. For how
20 long?

21 MR. WATFORD: I believe there's one more term.

22 COMMISSIONER ARGENZIANO: Okay. So you can maybe get
23 a maximum of six years. And what you're saying is that you
24 would move the connection to the adjacent property?

25 MR. WATFORD: No. No. The connection, the

1 connection is out at the right-of-way at State Road 54. That's
2 where we are interconnecting.

3 COMMISSIONER ARGENZIANO: What do you physically need
4 that property for?

5 MR. WATFORD: It's where the meter facility is going
6 to be, the meter apparatus and the regulating equipment, where
7 the SCADA system and so forth that comes in.

8 COMMISSIONER ARGENZIANO: So once your lease is up,
9 where does your meter go?

10 MR. WATFORD: It will go to that site right
11 next-door.

12 COMMISSIONER ARGENZIANO: Okay. And the cost to move
13 it in six years probably?

14 MR. WATFORD: A small amount of cost. But it'll be
15 part of the construction project of what's being described as
16 Phase Two in this project.

17 COMMISSIONER ARGENZIANO: You're saying the cost to
18 put the meters there on this leased property, you're paying the
19 lease plus the cost to do that, but that, that whole facility
20 metering, I guess, would be moved to the adjacent property.

21 MR. WATFORD: That's correct. And a lot of this is
22 hardware. It's electronic telemetry SCADA equipment,
23 modulating valves and things like that to regulate flow.

24 COMMISSIONER ARGENZIANO: So in effect, I'm sorry,
25 but in effect basically it would be temporary but not going to

1 cost you another 700 something thousand to reproduce someplace
2 else.

3 MR. WATFORD: Oh, absolutely not. That's what I
4 said. I mean, about the only thing that would be expendable is
5 what you see, and I don't know if you have it or not, but under
6 the site work category, the actual slab that it's sitting on,
7 you know, site grading and so forth. All of the other
8 equipment will be relocated to the other site when that
9 construction takes place in Phase Two.

10 COMMISSIONER ARGENZIANO: Because the only cost then
11 would be your leasing for maybe six years or three years.

12 And just one other question, if I may, and I don't
13 know if you're the right person to answer this because I've
14 been trying to figure this out. What is your current mgds on
15 your CUP, on your CUP?

16 MR. WATFORD: On the WUP? 2.04 mgd.

17 COMMISSIONER ARGENZIANO: And what in excess are you
18 of that per day?

19 MR. WATFORD: I don't have that number right here in
20 front of me. But in round terms basically what the staff is
21 saying is that we're 2.09 above that at the present time, and
22 that's correct.

23 COMMISSIONER ARGENZIANO: 2.09 additional above --

24 MR. WATFORD: That's correct. That's correct.

25 COMMISSIONER ARGENZIANO: Okay. So you're basically

1 doubling your daily mgds.

2 MR. WATFORD: We're approaching that.

3 MR. WHARTON: Yes.

4 COMMISSIONER ARGENZIANO: And that's -- now when
5 you -- how long has your permit been in effect?

6 MR. WATFORD: The one that was mentioned earlier just
7 went into effect in November.

8 MR. WHARTON: Just got renewed.

9 MR. WATFORD: It just got renewed in November.

10 COMMISSIONER ARGENZIANO: At the 2.04 mgd per day?

11 MR. WATFORD: That's correct.

12 COMMISSIONER ARGENZIANO: Didn't the, didn't the
13 water management district accommodate for the new hookups? Or
14 how -- I'm not sure --

15 MR. WATFORD: Absolutely not. No. The water -- I'm
16 sorry.

17 COMMISSIONER ARGENZIANO: I'm sorry. I don't know
18 how you're allowed to hook up more people than you have a
19 consumptive use permit for. That's what I'm trying to get to.

20 MR. WATFORD: The way, the way that the water
21 management district addressed that is they said we would be
22 buying that water from Pasco County.

23 COMMISSIONER ARGENZIANO: You would be --

24 MR. WATFORD: We will be buying any water in the
25 future above the 2.04 million gallon demand that's in our

1 present WUP that will have to come from an outside source,
2 Pasco County.

3 MR. WHARTON: Just as a matter of historical
4 interest, Commissioner Argenziano, John Parker, who was an
5 amazing employee at the water management district --

6 COMMISSIONER ARGENZIANO: I know who he was.

7 MR. WHARTON: -- who was killed in a car accident
8 about six months ago, testified under oath in the 2002 case
9 that he had told us don't come in and ask for any more water
10 from the ground. You're not going to get it because of where
11 your wells are located.

12 MR. WATFORD: And that's basically their policy, as
13 you had alluded to earlier.

14 COMMISSIONER ARGENZIANO: I know. And the
15 Legislature directed that because the pumping was -- as I said
16 before, with all, you know, due respect, everybody was
17 overpumping in Pasco back then, and Hillsborough and Pinellas
18 were sucking Pasco dry. So we had to prompt that to happen and
19 then, of course, they came into their agreements and everything
20 else.

21 MR. WHARTON: Tampa Bay built a desalination plant.

22 COMMISSIONER ARGENZIANO: Right. And the reuse and
23 the reservoir and everything else. But I guess -- and that was
24 intended to reduce the reliance upon the groundwater.

25 But I guess what I'm trying to get at, which I'm

1 unaware of being a fairly new Commissioner here, is how -- and
2 maybe it's better addressed to the water management district or
3 staff to maybe get an answer to me, and I know they experienced
4 the same thing in the Villages. When you're going above your
5 consumptive use permit -- or in Sugarmill Woods right now, same
6 thing, they're above their CUP. How do you accommodate for
7 growth that's going to come where the water management district
8 gives you that consumptive use permit? Isn't, isn't the
9 growth, yearly growth included into that permit? And then
10 isn't there ample time to say that, you know, once you get to
11 this point, that's it on the groundwater reliance? And I'm
12 just not sure how the whole thing actually --

13 MR. WHARTON: Commissioner, there are essentially two
14 things that you prove when you get a water use permit. The
15 first is the one you're addressing, the concept of need.

16 COMMISSIONER ARGENZIANO: Right. It's a three-prong
17 test.

18 MR. WHARTON: But the second is the concept of
19 adverse impacts on the environment and on the resource. That
20 has been the stopping point for Aloha. And at first maybe I
21 thought you were asking, well, then should the district have
22 stopped growth? But there really is -- that's not --

23 COMMISSIONER ARGENZIANO: No.

24 MR. WHARTON: They just say that's all the water you
25 can have. What you do with it -- I mean, Aloha has a statutory

1 obligation to serve and it's just come together into the
2 present situation.

3 MR. WATFORD: And by extension, the three-phase
4 agreement that we have with Pasco County for the purchase of
5 our bulk water which should basically take us through the build
6 out of our utility, obviously the water management district is
7 very aware of that and actually participated in a lot of the
8 discussions that led up to that. So where they see every
9 gallon of water coming for our company above the 2.04 will be
10 under that bulk agreement, which obviously requires us to come
11 back here and run it through the Public Service Commission. As
12 a matter of fact, the bulk water agreement we have with the
13 county requires that as well.

14 COMMISSIONER ARGENZIANO: Okay. Thank you.

15 CHAIRMAN CARTER: Thank you, Commissioner.

16 Commissioner Argenziano -- excuse me. Commissioner
17 McMurrian, you're recognized.

18 COMMISSIONER McMURRIAN: Thank you. I apologize if I
19 missed this earlier but -- and my questions are much more basic
20 than Commissioner Argenziano's about the, the leasing of the
21 land. It may be in here somewhere but I can't recall. What
22 changed that made the utility now look at leasing land versus
23 purchasing land as originally included in the application? And
24 then also I'll need some help understanding, Mr. Reilly, the
25 \$900,000 to pay for the construction of the temporary. I want

1 to -- and if you all can help me with that too, I'd like to try
2 to piece all that together.

3 MR. WATFORD: Well, as you might imagine, what tends
4 to govern property acquisition is property owners. And where
5 we determine based upon a long period of time of going back and
6 forth with Pasco about where they could provide us service is
7 in front of, it's on a road called Marathon Boulevard that
8 Steve Reilly mentioned earlier. That is where the interconnect
9 needs to be for the county system for them to be able to
10 provide us the maximum amount of capacity. It's also
11 advantageous for us in that regard. But it puts you right in
12 front of an industrial park. Very expensive property. We
13 really didn't want to go buy something, you know, .07 acres
14 worth of property that we would in essence lose the value of,
15 if there were such a piece of property available for sale in
16 there, and there's not.

17 As I mentioned earlier, we are in negotiations. It's
18 a corporate entity, so it's taken a little bit of time on the
19 Phase Two site, which is the storage and repump site. But
20 where we're actually putting the interconnect, it's a county
21 entity. It's mosquito control for Pasco County. They have
22 agreed to lease a little corner of their, I think it's a three-
23 or four-acre site that they have for their office. They have
24 agreed to lease us a little corner there to put this site on
25 for the next few years until the other site is complete and

1 constructed.

2 And one other thing I wanted to mention, and maybe I
3 wasn't clear on that when, when I was addressing Commissioner
4 Argenziano, I can't tell you in exact percentages, but the vast
5 majority of the costs associated with this are not on that
6 temporary property. The vast majority of this cost is running
7 the line from State Road 54 and Marathon Boulevard intersection
8 down Marathon to where this site is. The amount that's going
9 to actually be on what we're calling a temporary property here
10 is very, very small. It's actually just a little building and
11 the controls that are there, which, as I mentioned earlier,
12 will be ultimately pulled up and moved next-door when we
13 actually begin constructing the Phase Two facility.

14 COMMISSIONER McMURRIAN: And so, Mr. Watford, when
15 you said earlier that even if it were abandoned, it would be
16 less than \$50,000, are you saying that's really the, I guess,
17 outer limit of what it would cost to use this temporary site?

18 MR. WATFORD: Well, there's the -- and I'm not
19 referring to the lease price. I mean, the lease price is the
20 lease price for the months that we use it obviously. I'm
21 talking as far as the costs from the cost estimate. All of
22 this other equipment will be moved next-door and utilized at
23 the permanent facility.

24 COMMISSIONER McMURRIAN: Okay. That helps. And,
25 Mr. Reilly, if you -- have you got any reaction? Because in

1 your comments I know when you listed your four items you
2 mentioned \$900,000 to pay for the construction of the temporary
3 site. And how does that --

4 MR. REILLY: I believe that's in the filing. I mean,
5 they've asked for, I think, considering hard and soft costs and
6 hard -- with constructing the site, I think there's around a
7 little over \$900,000 associated with the, quote, temporary
8 interconnection facility.

9 What's so hard for us to argue today, and the Senator
10 alluded to that -- no, excuse me. Wayne Forehand alluded that
11 we've been trying to get down there multiple times, November,
12 December, January. We have finally now been granted access to
13 these sites this coming Thursday. And I just, I really ask for
14 you to delay, to really wait and see what we do, in fact, find.
15 But that's the figure. It comes from the filing.

16 But they were talking about -- does that answer your
17 question on the \$900,000 or --

18 COMMISSIONER McMURRIAN: Thank you. I guess I'm
19 still confused about the difference in -- I guess the \$900,000
20 you're referring to is to pay for the construction and some of
21 what we were talking about with Mr. Watford really was, you
22 know, if down the road after they're through -- you know, if
23 they move away from the lease and move it to a permanent site,
24 what the, what the costs could be associated with that.

25 MR. REILLY: We've not had a chance to go down there

1 and look, but all I have is their responses to staff's data
2 request and to our discovery. And you read it and they say
3 we're talking about moving all the facilities there for ease of
4 operation. They kept talking about moving all the facilities.
5 That if we had to buy -- we didn't want to buy land, we wanted
6 to lease it, because if we bought land, quote, unquote, if I
7 can find the quote, it says, "there would also be the cost of
8 disposing that property expense and potentially rehabilitating
9 the property." Because it's almost like -- at least the
10 responses we've gotten is that they would be physically moved
11 and that this is just temporary. And that, in fact, the site
12 which has not yet been identified, and we're already into this
13 for over a year, there's a site somewhere close by that they
14 intend to have the meter, the interconnection facility, the
15 storage facility and ultimately the brine facility all on this
16 one site, that they feel that is prudent and reasonable to have
17 one site, and we agree with that. But we don't believe it's
18 prudent to go to this extra step. We think that, that they
19 should have to do this once and not go through this entire
20 additional step of, of having this temporary interconnect.

21 CHAIRMAN CARTER: Before Commissioner McMurrian asks
22 you her almost final question, we've been going at it for a
23 couple of hours now, Commissioners. I think it's time to take
24 a pause for the cause. I'm looking at 3:36. Let's come back
25 at about 3:46. We're on temporary recess.

1 (Recess taken.)

2 CHAIRMAN CARTER: We are back on the record.

3 And when we took a break, Commissioner McMurrin, you
4 were asking questions. You're recognized.

5 COMMISSIONER McMURRIAN: Thank you. And this is for
6 the company, whoever needs to answer it.

7 Mr. Reilly reminded me of something that I kind of
8 wanted to ask about earlier in some of the comments. A couple
9 of different speakers, I think, mentioned that they didn't have
10 access to go look at the facilities and all until Thursday. So
11 can you respond to that? I mean, what was the hold up there
12 and what exactly is it that we are going to be -- that Mr.
13 Reilly is going to have someone look at?

14 MR. WHARTON: I'll be very frank with you,
15 Commissioner McMurrin. First, it is completely voluntary.
16 OPC has already served a set of discovery on us. We answered.
17 And they have no right to serve discovery on us in this
18 process. The uniform rules only apply in administrative
19 proceedings once the agency has proposed action, and then you
20 get into a 120 process under the Administrative Procedure Act.
21 Then the uniform rules say that the discovery contemplated by
22 the Florida Rules of Civil Procedure applies.

23 I called one of the Commission attorneys over here
24 and he said he had never heard of anyone sending anyone
25 discovery while their application was pending. And we are

1 having it thrown back in our face here. We're not in an
2 administrative hearing. If we go down that road, then if they
3 can send us interrogatories, which they did, could they take a
4 deposition while the application is pending? Does that mean
5 everyone who files an application before the Commission, that
6 anyone could come in?

7 Now, the staff is different. The staff has got a
8 power in 367 that says you can come on our property, you can
9 have us file reports, et cetera. So we answered one set of
10 discovery here voluntarily, and at the request of the General
11 Counsel we are going to tour the facilities with OPC, and the
12 General Counsel has asked if he could attend, and that is fine
13 with us, on Thursday. But that, frankly, is the answer.

14 I mean, I was an attorney here at this Commission in
15 1986 and '07, and have been working at Rose Sundstrom and
16 Bentley since then. We have never answered discovery while the
17 application was pending from OPC or anyone else. The rules of
18 discovery really don't apply, and OPC really doesn't have that
19 power.

20 We are working together on anion, and we are working
21 together on some of these other matters, but the relationship
22 of the utilities and OPC is what it is, and then the Commission
23 acts in the public interest. That's why we have been hesitant
24 to voluntarily let OPC and their consultants, particularly
25 given that on-going relationship that you have to be realistic

1 about in this situation. That's the answer.

2 COMMISSIONER McMURRIAN: I just wanted to say -- and
3 I understand what you are saying, and I understand where you
4 are coming from, but to the extent that we can all start
5 working together as much as possible -- you have got a right to
6 challenge things that aren't in line with the Commission's
7 procedures or the State's procedures, but to the extent -- I
8 heard what you said that it is voluntary about Thursday. I
9 hope from here on out that we can do more voluntary
10 investigation into what's going on and that we don't spend our
11 time, frankly, worrying about --

12 MR. WHARTON: I understand what you're saying,
13 Commissioner McMurrrian, but when one party is trying to work
14 together, and the other party is agendized, then you put
15 yourself in a vulnerable position. We don't think OPC is
16 working in our best interest by showing up and trying to deny
17 this rate increase. But we will take your comments to heart,
18 and take it very seriously. And Thursday -- Mike Cooke
19 facilitated Thursday's site visit, and so we're trying to do
20 that.

21 COMMISSIONER McMURRIAN: We appreciate that. And
22 just for the clarification, Chairman, my comments were directed
23 at, frankly, everyone involved in this. I hope that we all can
24 work together; because, again, as the Chairman said, what we
25 want to get to is the end result that is the best thing for the

1 customers and we want to do it as fast as possible. So I
2 didn't mean to stir up a hornet's nest with that question, I
3 just really did want to know what the problem is. But it
4 sounds like we are going to move past it.

5 CHAIRMAN CARTER: Commissioners, here's what I would
6 like to do. First of all, I stopped Mr. Wharton, because we
7 wanted to get Senator Fasano accommodated with his time, and
8 all like that. And I do want to go to staff, but before I do,
9 I want to -- I don't know if you had an ample opportunity to
10 respond to all the issues. I know that you abbreviated that,
11 but at this point in time I would like to give you an
12 opportunity to respond to the issues that were raised and then
13 we will go to staff for questions from Commissioners. You're
14 recognized.

15 MR. WHARTON: I really just want to concisely and
16 briefly reiterate that the concerns that I have heard from the
17 bench that the rate might go up is something that -- or that
18 the rate might go down, rather, is something that could be
19 taken care of. We will come in if the rate goes down. We will
20 file the necessary pass-through such that that is reduced at
21 that time. I think it is wholly speculative that that could
22 ever occur at this point, and it is what it is. And right in
23 our bulk agreement that I'm sure we have provided to staff and
24 to the Commission in the past it is contemplated that staff is
25 using the right rate.

1 The other point was on the interconnect, and I think
2 that is something that we have addressed, and on those
3 facilities will not be wasted. They are not redundant. Using
4 this piece of land for mosquito control allows us to move
5 forward now, and we need to purchase this water now.

6 I think in terms of the overstated gallons, I cannot
7 state strongly enough that our engineers with their knowledge
8 of the utility believe that we will be able to take the water
9 from the county as staff has recommended. In fact, that
10 physically we could take more, but obviously we're going to
11 only be able to take the amount, 2.06 mgd in '08 and 2.29 in
12 '09, which staff has given us a rate for. And that we do
13 believe the true-up provisions in staff's recommendation do
14 protect the customers in terms of the ultimate cost of the
15 facilities.

16 CHAIRMAN CARTER: Thank you.

17 And, Commissioners, obviously I want to make sure
18 that we all have all of the facts before us and give all
19 parties an opportunity to be heard. I did kind of break the
20 train there because I wanted to accommodate Senator Fasano, and
21 those of us that had questions for him, but I also want to
22 respect the rights of the parties to be heard.

23 At this point in time, Commissioners, we were going
24 to go to staff, because Commissioner Edgar had some concerns,
25 and we were going to go to staff. And I'm sorry, Commissioner,

1 but we got -- I think I threw us a curve ball and we got from
2 there; and if you want to, we will start off, once again, with
3 staff. You're recognized.

4 COMMISSIONER EDGAR: Thank you. Just a couple of
5 questions, responding to some of the things that we have heard.
6 There has been some discussion about the true-up mechanism that
7 is laid out in the item or that would be contemplated, and so I
8 would like you to address that with a little more specificity
9 for me, would be one. The second question would be when -- if
10 the discussion, if the staff recommendation were to be approved
11 today, when would that rate increase actually go into effect.
12 And, when I say that, I guess when would it actually begin to
13 be on the customers' bills? And how is that -- when the rate
14 increase would actually be reflected on the bills, how does
15 that relate to the timing of the agreement with Pasco County
16 and the actual additional water, the bulk water being sold and
17 then passed on to the customers?

18 MR. FLETCHER: Yes, Commissioner.

19 With regard to the true-up, what is in the
20 recommendation is the true-up now that is in the true-up of the
21 tie-in facilities that has been mentioned here. That will
22 occur in the Phase Two. With your question regarding the rate,
23 when it would be effective, that was addressed in Issue 5 where
24 upon DEP's certification that the tie-in facilities are
25 completed, then the rate will go in effect. I mean, once they

1 are completed and the water is flowing, that is when the rates
2 can be implemented for Phase One.

3 COMMISSIONER EDGAR: And not before that?

4 MR. FLETCHER: And not before that.

5 COMMISSIONER EDGAR: So the question of -- and I'm
6 not sure who posed it, but I think I heard it, of, you know,
7 what are the customers getting for this rate increase, and the
8 answer, or an answer that I think I'm hearing from you is the
9 additional water from Pasco County and they would not be
10 charged prior to that.

11 MR. FLETCHER: Correct.

12 COMMISSIONER EDGAR: Okay. And then back to the
13 true-up. And, Mr. Reilly, maybe I need to -- first, I would
14 like to hear from staff, but then maybe to hear from you, as
15 well. You had mentioned, I think, in your opening comments
16 that some changes to the true-up language would, in your
17 opinion, need to be made, and I just wasn't clear as to whether
18 or to why. But as part of that, then, if Pasco County, if the
19 negotiations and discussions that Senator Fasano and others
20 have with the county to see about maybe lowering the bulk rate
21 that they are currently assessing, or have said that they would
22 assess, if indeed that rate were to be able to come down, then
23 how would that change be reflected in the increase to the
24 customers, if, indeed, we were to approve what is before us
25 today?

1 MR. FLETCHER: If there is a decrease in the rate
2 charged by the county, the utility can notify the Commission
3 through a pass-through provision that includes the increase or
4 decrease in the purchased water, that provision allows for
5 that. So if they were to lower the rate they could come in for
6 the pass-through for the decreased water rate, and then the
7 rates would subsequently be adjusted to account for that.

8 MR. WILLIS: If I could just add to that. If there
9 is further negotiations prior to that, and I'm referring to
10 what Mr. Reilly passed out, I'm not sure at this point whether
11 this means that the 2.43, \$2.43 per thousand gallons means now
12 or with storage. After I read this over and over again, I
13 don't know. I would have to call Pasco County myself. So I'm
14 not willing to say that this, today, really means that Pasco
15 County is willing to sell for \$2.43. But, if they are willing
16 to pay, willing to sell for \$2.43 or something less prior to
17 the rate going into effect --

18 COMMISSIONER EDGAR: Mr. Willis, and I think perhaps
19 Commissioner Argenziano has the same question. The letter that
20 I'm looking at says it is currently set at 3.43 per thousand
21 gallons. Is that what you are looking at?

22 MR. WILLIS: Yes, that's what I am referring to.

23 COMMISSIONER EDGAR: Okay. Thank you.

24 MR. WILLIS: But if we get assurance that this truly
25 is the rate that Pasco County will charge starting out with no

1 storage, which is not what we have been told, we can bring a
2 recommendation down that will change this rate prior to it
3 going into effect. There's nothing, and I don't think the
4 utility would complain, that we are doing nothing but
5 reflecting an actual change in a rate prior to that rate going
6 into effect. We would just amend the order, bring a
7 recommendation down to amend the order setting a rate with the
8 actual rate that was now going to be applied. And we certainly
9 will have ample time between now and when the actual
10 interconnection is actually put into service to do that very
11 thing.

12 COMMISSIONER EDGAR: Thank you.

13 Mr. Chairman, just a brief comment. I guess what I'm
14 struggling with is wanting to make sure, to the extent that we
15 can, that, of course, the best rates possible to the customers
16 would be incorporated into any action that this Commission were
17 to take. And I'm very sensitive to the request from OPC and
18 from the Senator and from customers to maybe give them
19 additional time. And I always want to give people additional
20 time when they need it, because often I need additional time
21 for things. But yet I have some concerns about holding up some
22 of the larger pieces of this process. And my understanding is
23 that one of the reasons to move forward, if we were to do that,
24 would be to put in place part of the formula, the number of
25 gallons and some other things, so that the anion exchange could

1 also move forward. And so I'm just trying to grapple with how
2 to accommodate both of those pieces of this larger project and
3 process, and I look forward to the other questions. Thank you.

4 CHAIRMAN CARTER: Mr. Reilly, you're recognized.

5 MR. REILLY: Yes. When we suggested that Aloha would
6 not be able to use the 2 million gallons a day, and it would be
7 something less than that, we had kind of conflicting arguments
8 made in response to my argument. I understood Mr. Wharton to
9 say, no, we are going to use all of those gallons because we
10 are going to use that county water to meet our base flows, and
11 we are going to use our wells to meet our peak demands. He
12 said that in response to dispel my argument here that they
13 weren't going to really be able to take this water.

14 Then later in the argument you also heard Mr. Watford
15 say just the opposite. He said we are going to use
16 2.04 million gallons a day for our base and we are going to use
17 the county water to assure that we don't over pump, and that is
18 what this has always been about.

19 And I tell you, you should not approve this rate
20 increased today that contemplates these kind of flows, because
21 that's what it contemplates. It would be basically sanctioning
22 the concept of using the county water for their base flows,
23 which would be imprudent, unreasonable, and a great concern to
24 the customers because the cost of getting that water out of the
25 aquifer is going to go up. When we start treating it and

1 dealing with the quality problems, it is going to go up.

2 But right now it is ten cents a gallon -- ten cents
3 per thousand gallons, and you can compare that to 3.43. It is
4 not reasonable, it is not prudent for this Commission to
5 sanction, you know, a scenario where they are going to be
6 buying their base flow from the county. It's critical that all
7 of this bulk water that we are arranging to get is to solve the
8 overpumping problem. The overpumping problem is when they are
9 pumping more than 2.04 million gallons.

10 And then you talk about your Phase Two rates and your
11 true-ups. Read the language in this true-up. There is no
12 true-up currently provided for the buying of water from the
13 county. If they missed that number and it causes a much higher
14 rate, there is no true-up for the purchasing of water. The
15 true-up -- and I'm reading the language -- there will be a
16 true-up for the actual cost of the tie-in facilities, rate case
17 expense, and revenue reduction adjusted for the 2009 required
18 rate of return to staff recommended weighted cost of capital.
19 Those are the subjects of the current true-up of this
20 recommended order.

21 Now, I'm strongly arguing that you should not vote
22 out a rate with all of these incredible number of unknowns. To
23 give everyone at least a month or two to get you better
24 information so that we can make that rate correct. But,
25 goodness gracious, if you are going to vote out any order, you

1 have to go to this next step of considering our correct true-up
2 language which truly protects the customers. This true-up
3 language does not protect the customers. It does not go broad
4 enough.

5 And on top of that, the true-up happens far too soon.
6 The true-up of this recommendation starts in March of '08.
7 That's a month or two from now. We aren't even going to know
8 what the actual cost of the interconnection is until October of
9 '08. The true-up that is in this recommendation is useless to
10 the customers.

11 COMMISSIONER EDGAR: Mr. Chairman.

12 CHAIRMAN CARTER: You're recognized, Commissioner.

13 COMMISSIONER EDGAR: Thank you, because I think that
14 was partially in response to one of my comments or questions.
15 Again, if -- and I realize that I haven't made a decision, and
16 I know we haven't collectively -- if we were to move forward,
17 and I'm still trying to think that through just because of my
18 earlier comments that I am concerned -- I haven't decided, but
19 I am concerned that if we don't, it may hold up some of the
20 other larger, for lack of a better word, pieces of this, the
21 ultimate goal that we are trying to get to, which is better
22 water quality at a reasonable cost.

23 So, I guess, you know, what protections are there,
24 would there be for the customer? And one of those, I think, is
25 on point to Mr. Reilly's comments, so could I ask the staff to

1 respond to that, again, in a little more detail.

2 MR. FLETCHER: Yes, Commissioners. Right now for
3 Phase Two we have included just the true-up of the tie-in
4 facilities. There can be language added to the PAA order for
5 the purchased water expense, as well, to address any true-up
6 for the purchased water expense or any estimated cost that is
7 included in Phase One, a true-up to occur in Phase Two. That
8 could be added to the PAA.

9 MR. COOKE: Commissioners, if I could add. I would
10 recommend language that would require the company to come in
11 and request that the true-up occur if there is a decrease in
12 the cost of the county water. We could put that in the order.

13 COMMISSIONER EDGAR: I would just say that if we were
14 to move forward with what is before us today, or if not today,
15 but it were to come before us at some point again in the near
16 future, I would have the same question today and later which
17 is, again, that I am completely clear and hopefully that we all
18 are clear as to what protections there are for the customers,
19 and what, if any, additional clarification or addition would be
20 appropriate.

21 CHAIRMAN CARTER: Commissioner Argenziano.

22 COMMISSIONER ARGENZIANO: Is there a cost incurred
23 for either the pass-through or for the company to come back to
24 the consumer and the company recover that cost of having to
25 come here and go through that?

1 MR. FLETCHER: That would be addressed as regulatory
2 Commission expense, the cost of filing and --

3 COMMISSIONER ARGENZIANO: Which, then, they would be
4 able to recover from the consumer?

5 MR. FLETCHER: Yes. It would be reviewed for the
6 prudent and reasonable cost, and whatever the Commission
7 determines is prudent and reasonable regulatory Commission
8 expense for that filing, that would be passed on to the
9 ratepayers.

10 COMMISSIONER ARGENZIANO: So to, I guess, follow
11 through with what Commissioner Edgar was indicating, there
12 could be costs, then, associated with having to come back, as I
13 guess there normally would be to the consumer, to the customer.

14 MR. WILLIS: Commissioner --

15 MR. COOKE: I see three levels of protection. One is
16 we could put language in the order that requires them to come
17 in and seek within a time certain a revision to the rate based
18 on a decrease in the amount. And, yes, I think that would
19 arguably result in some rate case type costs. Presumably that
20 would be the decrease in the amount of the rate that's getting
21 passed through. You would also have normal true-up that would
22 be occurring under this process. And the March date was in
23 there because originally this was going to come before you
24 awhile ago. It was tied to the April time frame that we
25 believed was going to happen with regard to the tie-in for the

1 facility.

2 We are not, obviously, going to bring that true-up in
3 to the Commission until the connection -- if this gets voted
4 out, until that connection actually occurs and those costs are
5 known. The true-up will not happen until that point.

6 COMMISSIONER ARGENZIANO: And if I may ask where is
7 OPC on that?

8 MR. REILLY: We have language on a proper true-up.
9 It is kind of involved, and I don't know if we can get into it,
10 but, I mean, that is just not the recommendation we are dealing
11 with and it didn't go into enough to protect the customers. We
12 are real concerned about the flows which drives this whole rate
13 increase. If it's several hundreds of thousands of gallons
14 less for average annual daily flow, it just affects the whole
15 rate.

16 And, we are getting two conflicting arguments as to
17 whether they are going to use this as base flow or peak flow.
18 And I guess that would be a good question I would like to pose
19 to the company is which is their position. We would strongly
20 disagree with using county water to meet base flow. We have
21 always -- we thought everyone agreed that we were seeking this
22 county water to avoid overpumping.

23 COMMISSIONER ARGENZIANO: Well, maybe the company
24 could answer that.

25 MR. WHARTON: We need all the water. There's nothing

1 conflicting about that. We need all the water. The point
2 about using the county as a primary source is to address this
3 argument about how much they can give us at what pressure at
4 what time. We can use our wells when we say. That's why I
5 said we take the county, treat the county and utilize the
6 county water as a primary source and then use our wells
7 secondary. But we need all the water.

8 These are historical figures they have handed out
9 using the projections that we thought would be even higher,
10 that we need 2.09 of the county water plus our WUPs in '08. We
11 need 2.26 of the county water plus our WUPs in '09. There is
12 not some water left over. I mean, we are double the WUPs. We
13 need all the water.

14 But the way we're going to do it is what's going to
15 allow us to take it, given our facilities and the vagaries of
16 the pressure and the location, which is part of the argument
17 they have made to you that they didn't think we could do it.

18 COMMISSIONER ARGENZIANO: Okay. Mr. Chair, given
19 that answer, I would like OPC's response to that.

20 MR. REILLY: Well, we don't agree that they need all
21 the water. I mean, from all the flows that we are looking at
22 and even some reasonable projections, it would indicate to me
23 that after they have the 2.04 million gallons, at any given
24 point in time they are not going to be getting that kind of
25 level of usage. So, I mean, we are going to go down there,

1 we're going to look at the system on Thursday, and that's what
2 our engineer believes.

3 COMMISSIONER ARGENZIANO: The question I asked them
4 before is what is their consumptive use permit of million
5 gallons per day, and it was 2.04.

6 MR. REILLY: Correct.

7 COMMISSIONER ARGENZIANO: And you were going above by
8 an additional 2.9, 2.09?

9 MR. REILLY: Correct. 2.29.

10 COMMISSIONER ARGENZIANO: So then they would be
11 using -- to me it would be using just the same amount,
12 actually, a little bit more of county water to go above the
13 CUP.

14 MR. REILLY: You would just have to look at the
15 monthly operating portion to see what they are actually using.
16 It is our understanding that at any given point in time they
17 can only take the water if they have a place to put it. And at
18 a given point in time during 2008, time and time again they are
19 not going to be -- they are going to be using some of it, they
20 will be using some of that 2.4, but there is going to be many,
21 many days that they will not have any place to put that water.
22 At that moment in time, since there is no storage for two
23 years, there is just a meeting of two lines, it can only go
24 this way if they have got a place to put the water. And if at
25 that moment and during that hour or that minute that there is

1 no place to put the water, for that part of their annual
2 average daily flow they will not be taking the water.

3 COMMISSIONER ARGENZIANO: Before I lose it, so then
4 what you are saying to me is that on a daily basis they are not
5 exceeding the CUP, it is at certain times. So there will be
6 times that they are not exceeding the CUP and your fear is that
7 they will be then using the county water which is at a greater
8 expense.

9 MR. REILLY: We need them to use the county water so
10 they don't overpump, but --

11 COMMISSIONER ARGENZIANO: Right.

12 MR. REILLY: -- I think that the calculation is to
13 estimating what kind of water they are going to be needing from
14 the county in 2008 and 2009. To the best of our engineer and
15 our count is that it is overstated and it is going to create a
16 rate increase which is greater than it needs to be. And that
17 is something that we would ask the Commission to look into
18 before they voted this out today. That's our argument.

19 MR. FLETCHER: Commissioners, if I may.

20 CHAIRMAN CARTER: You're recognized.

21 MR. FLETCHER: OPC, in their analysis, they actually
22 are comparing historical '07 flows and there are no concessions
23 for growth in their analysis. Staff, had tried -- or in
24 calculating the number of gallons needed in '08 and '09 on Page
25 16 of the recommendation, Attachment A, what we were looking at

1 is taking the historical five-year data point from '03 to '07,
2 those actual gallons, and just like we do for rate cases and
3 file and suspend and the MFRs, we look at a five data point set
4 and we use simple linear regression to determine the amount of
5 gallons required, and that is what we have done for 2008 and
6 2009.

7 And, if you follow through, it's in the middle of the
8 page, 2008 per staff, and it's the bold purchased water
9 expense, and it's entitled total amount required. That's the
10 amount in gallons, total gallons required in '08, listed the
11 1,496,843. That's actually in billion for the year. And what
12 we have done is their water use permit limits are on the second
13 title there, total allowed well withdrawals. That has been
14 mentioned earlier here today, the 2.04 million gallons per day,
15 that's 744,600,000 there, that's expressed on the annual amount
16 for the total year. That's their total WUP withdrawal limits
17 on an annual average daily flow basis.

18 And then the excess that's going to be required from
19 the county, that's how we determined it. We determined the
20 total amount required less the WUP, and that's the gallons that
21 are going to be required. There may be days, certain days
22 where the county is going to have pressure problems on their
23 side where the utility might have to draw from their wells to
24 accommodate the lesser amount at a certain time during the day
25 that they cannot receive from the county. But on an annual

1 average daily basis throughout the year, staff has made the
2 calculation of the gallons required to be purchased on the
3 annual average daily basis.

4 Again, there may be times that they have to,
5 throughout the day, purchase more from the county. It may not
6 be a constant flow rate throughout that day, but it should all
7 work out on the annual average daily basis of the water that is
8 needed to be purchased from the county. They need to be in
9 compliance with their WUP.

10 CHAIRMAN CARTER: I'm coming on this end, but I want
11 to make sure that Commissioner Argenziano has gotten an answer
12 to her question.

13 COMMISSIONER ARGENZIANO: Well, Mr. Chair, I think I
14 would like to hear OPC's response and how they calculated.

15 MR. REILLY: There is going to be growth on these
16 figures. These are historic figures and that is conceded, but
17 you can see the numbers on an average -- even on an average
18 annual daily flow basis, it's the amount needed from Pasco
19 County in January 7th, .14, .12, 1.8. I mean, these figures
20 are going to go up some, but not to the extent that the staff
21 is suggesting.

22 But even more important than that, and we don't agree
23 with the projections, and perhaps the growth has been perhaps
24 overstated, but setting all of that aside, what is really more
25 critical, and this doesn't do it either, you really need to

1 go -- and that's why I think a little more time would permit
2 it, we really need the monthly operating reports. We need the
3 daily. You need to break it down to establish that if, in
4 fact, the assumption is correct and they are going to use the
5 2.04 million gallons a day for base flow, and that this water
6 coming from the county is going to meet their peak flows, they
7 are only going to be able to get it on a point in time where
8 the amount needed by the system at that moment in time is
9 greater than 2.04 million gallons a day and less than
10 4.4 million gallons a day. That's the window of opportunity.

11 So as you move that screen across the entire year of
12 2008, at any point in time you can only bring water in when you
13 are over that and under that. Because even when they have a
14 real peak time and it goes over 4.5, then the ability of Pasco
15 County to meet that demand, at least currently without storage,
16 will not be met and they have got to get their pumps going
17 again to meet that other amount.

18 So this is a crude instrument, because we didn't have
19 the monthly operating reports, and with my engineers saying --
20 and, again, we haven't even raised additional problems. We are
21 talking about a perfect world as though this point of
22 connection is so -- that this water could really get from this
23 point way over on the end of the territory, and get all the way
24 over here where it's needed. So there is even going to be more
25 slippage where they can't use that water even in our strict

1 mathematics, oh, we can take it. But the problem is you really
2 need it over here in the Seven Springs area where it's a long
3 way away.

4 So as a practical matter, it's probably going to be
5 met by this well over here that is a lot closer. This is why
6 we need the engineer to go down there and get all of their
7 as-bills, get all of their well capabilities, find out, you
8 know, exactly where this interconnection is going to be and
9 start running modeling.

10 We will pay for that engineer to do that. We can
11 come up with a usage that is probably closer than this effort
12 that's here today. And, so, that's my kind of crude response,
13 is it is going to be a figure that is somewhere between this
14 1.6 and 2-something. But what it is makes a huge difference
15 because it impacts -- and there's no true-up. I mean, they can
16 talk all about changing this order and changing their
17 recommendation, but the recommendation before you today
18 provides no protection for the customers on this issue.

19 The true-up is only on these few subjects, and they
20 said, well, we were going to change it, but this recommendation
21 was only going to be here two weeks ago. I mean, a couple of
22 weeks difference doesn't make a difference of March.

23 Philosophically, we do have it. When you do get to a
24 point and you want to do an order, we have true-up language
25 that will protect the company and the customers. We haven't

1 gotten to that point, I hope.

2 CHAIRMAN CARTER: Thank you.

3 Commissioner Skop and then Commissioner McMurrian.

4 COMMISSIONER SKOP: Thank you, Chairman Carter.

5 Just two quick follow-up questions to staff touching
6 on points that, I think, Commissioner Edgar and Commissioner
7 Argenziano raised. With respect to the base water charge, it
8 still may be the subject of ongoing negotiations. If we were
9 to move forward today, what is the time frame in which our
10 order would be issued? Would that be like 20 or 30 days, I
11 believe?

12 MR. FLETCHER: Twenty days for the order to be issued
13 and then 21 days for the protest period.

14 COMMISSIONER SKOP: And if the base or the bulk water
15 rate were to go down during the time which the order was being
16 crafted, could it not be incorporated into the final order
17 potentially, depending upon -- or is that too short of a time
18 to --

19 MR. FLETCHER: What we can have is perhaps a
20 provision in the PAA order. It all depends on the timing and
21 whether Pasco County can commit to a set rate without the
22 storage. You can have a provision in the PAA order to suggest
23 that the utility immediately will file with us the information
24 regarding the exact rate, and we can bring back to the
25 Commission another recommendation to adjust the rates at that

1 point. But it's important that based on the construction
2 schedule, I don't think -- the rates are not going to be
3 implemented until sometime it appears in -- just on the
4 projections, because they haven't gotten past the Pasco County
5 approval of the tie-in facilities, that will not occur until
6 April. So, I doubt that -- I mean, the rate won't be
7 implemented, but from that point, from April -- or from now
8 until April, if the bulk water rate is lowered, we can bring it
9 back to the Commission.

10 COMMISSIONER SKOP: And, again, I think what I was
11 asking for was probably overly optimistic. But, again, it was
12 more of a what if. I mean, I'm an optimist. When I go
13 fishing, I take a camera and a frying pan. But the other part
14 of that is -- and I think Commissioner Edgar touched on this,
15 and I think it's a very good point, what is the impact to the
16 overall settlement agreement or the more important pieces to
17 this if we don't move forward in terms of -- because, again, I
18 think that a lot of work has gone into the settlement
19 agreement, and I will speak more to that later. I mean, I want
20 to yield to my colleagues to ask questions, but I do have some
21 things that I want to say before we move to decision. But I
22 need to understand the impact. And I think our General Counsel
23 would probably be best to perhaps speak to that.

24 MR. COOKE: Well, let me also just put my two cents
25 in on your first question, which is, I think, you could direct

1 us to issue -- I mean, it is your order, it is not staff's
2 order, it is whatever you all vote that we reflect in our
3 order. And I don't think it would be a delegation for you to
4 tell us to use whatever number the county wants to apply as a
5 cost, dollar-wise, as long as it is verifiable by us and put
6 that into the order before it actually got issued. I would
7 think I would be comfortable with that, number one.

8 Number two, with regard to the impacts, I think you
9 are asking essentially about the anion process. I'd like to
10 hear what the company says in response to that, but the design,
11 which has been done is based upon treating a certain volume of
12 water from the wells, and that volume of water is, in turn,
13 contingent upon the ability to get water from the county, as
14 well. In other words, they are overpumping, and if they can
15 stop overpumping there will be less volume of water from the
16 wells that would need to be treated, and that is, as I
17 understand it, what the anion design has been based on, that
18 type of assumption, engineering assumption.

19 So I think there is an impact in terms of uncertainty
20 as to where the company should go, where the parties -- I
21 should emphasize the parties. It's the parties' settlement.
22 It's OPC's settlement, it's the intervenor's settlement, it's
23 the company's settlement. And they need to -- my approach, and
24 I think staff's approach to that settlement agreement has been
25 to try to act as an honest broker and keep the process moving

1 so that clean water can be done. They need to tell us where
2 they want to go with it at this stage. But I do think it has
3 an impact, technically, on what can be done with the anion
4 system and the uncertainty that that would generate.

5 COMMISSIONER SKOP: Thank you. And one quick
6 follow-up to staff, too, and then that will probably end my
7 questions for staff, and I'll speak at the appropriate time.
8 But with respect to the settlement agreement, and, again, I
9 came from the engineering community where we had flow charts
10 and schedules and such. Is there any schedule for critical
11 events that has been prepared in relation to this settlement?
12 I mean, like I'm going to use Microsoft Project as an example.
13 I mean, you can make Gantt charts and figure out critical paths
14 and then explain variances, but it seems to me like there are
15 some key milestones. And either those get delayed for whatever
16 reason, but it would be nice to have -- at least for me as a
17 new Commissioner -- have sufficient visibility, and certainly
18 maybe my colleagues would like to have, because, again, if we
19 run into variances, in terms of, well, we didn't meet this
20 date, then that is probably a point in which we could interject
21 ourselves and say, okay, what's the holdup. And I just wanted
22 to ask that question, which I think is a fair one.

23 MR. COOKE: I think there are two types of
24 milestones. One is in the settlement itself which talks in
25 general about the amount of time that the process should have

1 taken. And I agree with Senator Fasano that there have been
2 delays. And I agree with Senator Fasano that some of those
3 delays arguably can be attributed to the company. I don't
4 agree that necessarily -- or at least I think we would have
5 difficult attributing all of those delays to the company.

6 But the aspect that involves Doctor Levine, I would
7 be comfortable if you wanted us to, with pursuing enforcement
8 on that. I don't think the deletion is -- and we can talk
9 about that if that is an area that you want to go, but, you
10 know, I think for legal reasons and other reasons it's probably
11 not the better course. But a fine, a show cause is something
12 that could be considered.

13 So there are time frames within the settlement
14 itself. And, generally speaking, it is a 24-month time frame
15 that the effective date of the settlement agreement was
16 essentially July of '06. The first, I believe, six months were
17 intended to be design. Design has occurred. However, a glitch
18 has arisen in that the original intent in terms of disposal of
19 the brine apparently cannot be accomplished because of the
20 amount of the brine that's generated.

21 There are also four months attributed or allotted for
22 permitting. Permitting can't start until this brine issue is
23 resolved essentially. I guess, theoretically, we could go
24 ahead and apply for a permit. We might actually get one. We
25 could seek variances. The problem is I think technologically

1 the parties are comfortable with the fact that if it does go
2 forward and does get permitted there is a potential to impact
3 the groundwater negatively, and that could cause us to have to
4 stop operating the system. So that's not a good option. That
5 is an option.

6 There are various options that have been discussed,
7 and I don't want to get too sidetracked into the settlement
8 agreement itself. The last 14 months were for construction.
9 Were for contracting, purchasing, construction, et cetera.
10 Now, within the course of trying to implement this, the company
11 has come up with various Gantt type of scheduling charts, and
12 all of that is an engineering type of approach that has been
13 done and is discussed, but really it is the 24 months that we
14 are going by.

15 COMMISSIONER SKOP: Thank you.

16 And, again, I was just looking for some sort of
17 enhanced visibility of key milestones, because I'm hopeful that
18 we can move forward and hopefully get this issue resolved. I
19 know a lot of work has been done with it by yourself and staff,
20 and my colleagues. But, hopefully, I would like to ensure that
21 this gets resolved adequately and to the satisfaction of
22 Aloha's customers prior to the time I retire. But we need to
23 do something.

24 So, I mean, having that visibility tool would be a
25 good one because that is an accountability matrix to me. If

1 they are supposed to do something by such and such date and
2 they don't meet that target, then they're accountable. What is
3 the schedule variance attributable to. I mean, that is just
4 common sense, Project Management 101. And, you know, I'm just
5 wondering whether we have that visibility. Because, I mean, I
6 understand generally from reading that, you know, we are
7 supposed to do this, and this, and this. But, again, having it
8 in a concise thing and maybe having it periodically revised on
9 a periodic basis to have that enhanced visibility to see how
10 quick we are meeting these goals moving forward.

11 I understand the brine issue. That's a very, very
12 important issue that is emerging, and I'm hopeful that the
13 parties, all the parties, including the intervening parties,
14 can have some input to resolve these issues. Because, again,
15 that is my concern is how are we going to resolve these
16 emerging issues on a forward-going basis, notwithstanding the
17 existing settlement agreement. So I'm hopeful that we can
18 reconcile this. Because, again, the Commission does have other
19 options available to us, and, again, I will speak more to that,
20 but I'll yield my time.

21 CHAIRMAN CARTER: Commissioner, let me go to
22 Commissioner McMurrian and then I will come back to you.

23 COMMISSIONER ARGENZIANO: Absolutely.

24 CHAIRMAN CARTER: Commissioner McMurrian, you're
25 recognized.

1 COMMISSIONER McMURRIAN: Thank you.

2 I think the discussion has moved a little bit past
3 this, but I still wanted to try to ask this question, and
4 hopefully it will come out making more sense than -- this is
5 for staff. Given that the pumped water is much cheaper than
6 the bulk rate, we were going back to some of the arguments that
7 Mr. Reilly made earlier, I guess I need to just ask it this
8 way: Are customers going to pay more than they should for the
9 amount of water that would come from that bulk rate, from the
10 bulk rate?

11 Because it sounds like what Mr. Reilly is saying, or
12 at least what I think I hear him saying is that sometimes you
13 might -- customers perhaps might be paying for more of that
14 bulk rate water than they actually need on a given day. But is
15 there a way for all of that to be trued up? And I guess my
16 experience is probably more with the fuel clause, and we always
17 end up truing up over time to what is actually burned and used,
18 you know, to serve the customers.

19 Is there something in place that makes sure that
20 customers don't pay any more than they need to for the amount
21 of water that is needed on a given day? Does that make any
22 sense?

23 MR. FLETCHER: I guess what's in there now is just
24 based on the average. You could have a true-up provision in
25 Phase Two of what was actually pumped in the Phase One rates,

1 if they were to go into effect, and then you look at 12 months
2 of the actual consumption. There could be a true-up provision
3 added to the PAA order to account for any differences in the
4 estimated gallons or projected gallons for the Phase One.

5 COMMISSIONER McMURRIAN: There's not something to --
6 and there may be good reason, I don't know, I am just trying to
7 make sure I understand this -- but there's not something to
8 account for that now in what would be proposed?

9 MR. FLETCHER: Well, it would be difficult to judge
10 on a day-to-day basis, because the county has indicated that at
11 certain times during the day, due to pressure problems on their
12 side of the point of connection, you know, each given day there
13 might be where they had to pump more from their wells in order
14 to account for less water received. So that would be difficult
15 to judge on a day-by-day basis because the demand is going to
16 change there.

17 I don't know that there would be a mechanism there to
18 account for that on a daily basis. I think what the staff
19 envisioned with their projected gallons is that we are going to
20 look at this on an annual average daily amount to get them in
21 compliance with their WUP, because that is the basis of their
22 WUP limit is the annual average daily basis. I don't know that
23 you could monitor it to specificity on a daily basis to account
24 for that.

25 COMMISSIONER McMURRIAN: Thank you, Mr. Fletcher.

1 I'm just trying to make sure I understand. So at
2 least now, I guess the average mechanism that staff is dealing
3 with tries to account for the sort of pluses and minuses of
4 what you would use, what you would actually be using.

5 MR. FLETCHER: Correct.

6 MR. REILLY: I don't think that's true. There's data
7 that we tried to get but we didn't have it for today. There
8 are monthly operating reports that -- it doesn't give you the
9 hour, but it gives you the daily flows. It does give you the
10 daily flows. And we could do a lot better job of analyzing
11 this thing, especially after we go down and do our inspection
12 to see what the overall -- we could get a better handle on this
13 problem.

14 My greatest concern is that this Commission votes out
15 anything approaching this rate increase and keeps this true-up
16 provision. We have nothing left to do. I mean, we would
17 really -- I mean, we have nothing left to do but to protest,
18 and that is what we are trying not to do. I'm here trying to
19 work out some way not to protest this order, some good proper
20 order coming out establishing this rate increase. Because to
21 do that would derail everything. Because to do that triggers a
22 whole eight-month process where you have to go to hearing and
23 fight all of these things out. And I don't want to go to
24 hearing. I don't want an eight-month process where we are
25 forced to protest this order.

1 I'm desperate to get an order out that we will not
2 protest, because we have the window. Our settlement agreement
3 says if you put this PAA out, we have 21 days within which to
4 protest. And I have told General Counsel and I have told the
5 company, we do not want to protest this order. Why? Because
6 we want to get a good rate in place that will keep the process
7 going and let us get the bulk rate and let us solve all of our
8 problems and let us do anion exchange.

9 But if you don't -- and that's why I said, regardless
10 of what you vote out, if we can't get a decent true-up to
11 protect the customers on some of these issues, I don't know
12 what else -- I'm not promising, but I don't know what else,
13 meeting with our clients, what we will have to do. And I'm
14 very hopeful that we can get an order that we will not have to
15 protest. And that's --

16 MR. WILLIS: If I just add one thing.

17 CHAIRMAN CARTER: Turn your mike on.

18 MR. WILLIS: Try again. If I could just add one more
19 point here. Reading from the actual permit that was renewed on
20 November 26th, 2007, it is Part 12C, the permit from the water
21 management district actually requires that Aloha purchase a
22 minimum of 2,400 gallons per day of water from Pasco County.
23 That's on an annual average daily flow basis. So it may be one
24 day they are not taking the full amount, the next day they are
25 going to have to make up for it because the water permit says

1 they have got to take it. They don't have a choice. My
2 reading of this says point blank, and I'm not -- I'm reading
3 exactly as it says. Part C, "Begin purchasing a minimum of
4 2,400,000 gallons per day of water from Pasco County on or
5 before April 11th," which, of course, isn't going to happen,
6 and they have out provisions to request an extension of this.
7 But that is exactly what the permit says.

8 CHAIRMAN CARTER: I promised Commissioner Argenziano,
9 unless you are still on that same point.

10 COMMISSIONER McMURRIAN: Go ahead.

11 CHAIRMAN CARTER: Okay. You're recognized,
12 Commissioner McMurrrian.

13 COMMISSIONER McMURRIAN: Thank you.

14 Thank you, Mr. Willis, too.

15 I guess what I keep hearing Mr. Reilly going back to,
16 and I guess it is confusing me a little bit is about the
17 true-up language. And I guess I hear, and maybe I have got
18 this wrong, but I guess what I'm hearing in our discussions
19 back and forth about this true-up language is that it sounds
20 like the Commission and staff have been talking about ways to
21 make sure we're best protecting the customer with whatever
22 action we take today.

23 Now, I'm not saying that your language is not better
24 than some of what we are talking about. I don't know, I
25 haven't seen it. But, I guess, I think at least for my

1 purposes I think that's where we are trying to get to. That if
2 we are going to go forward and have some kind of increase, that
3 we best protect customers. If there is a way to get a better
4 bulk rate, that that is all the customers would ever have to
5 pay for.

6 MR. REILLY: Well, certainly if we are going forward
7 with a rate today, minimally I would like to get into the issue
8 of true-up and how to protect the customers. There was some
9 question about when -- this is going to trigger when water is
10 going to start to flow. The response to our unofficial
11 discovery, I can read from it, it says that if the company --
12 the company has not gotten Pasco County to sign the permit
13 application to even start construction on the interconnection.
14 If they had done it on January 25, according to this discovery
15 response, they believed they could have it completed by
16 September 1, 2008. So that's why I have continued to represent
17 that this Commission does have until very realistically
18 probably October of '08 to really try to get right this rate
19 that will not be protested by Public Counsel and get it well in
20 place before it's needed.

21 But we are not talking about April or May, we are
22 talking about September. Realistically, October. Who knows,
23 the way that this thing has always gone, well into the fall.
24 To be forcing a rate to be voted on today that far ahead to me
25 is something I'm arguing against. Especially now that we

1 finally have access and we're looking at these flows, and we
2 can -- maybe even the parties could get together and almost
3 agree on what the optimum usage is. But we definitely don't
4 want them being forced to buy 2 million gallons a day if this
5 is what -- I mean, they haven't followed their consumptive use
6 permit for ten years, you know, so why are we going to start
7 now and force them to buy at \$3.42 per thousand gallons when
8 they could be pumping it for ten cents per thousand gallons.

9 So I really plead with you not to unnecessarily vote
10 out, you know, perhaps a higher rate than needs to be today
11 when you have this much time. Even by their own admission, six
12 months construction time when they finally get to the point
13 where they are going to construct it. And it just forces our
14 hand to really derail the whole thing, especially if we don't
15 get to this true-up. We are left with no choice, and then we
16 are in an adversarial proceeding for eight months, and then
17 they will go back to their management and say, oh, we can't do
18 anything because Public Counsel has protested the Commission's
19 order. And then we are back in another nine-month hiatus. I
20 ask you not to do that.

21 MR. WHARTON: Mr. Chairman, if I may, briefly.

22 CHAIRMAN CARTER: You're recognized.

23 MR. WHARTON: What Mr. Reilly is asking you to do,
24 and he's making the same argument redundantly now, he's asking
25 us to get into a costly litigation with the water management

1 district. And it is one -- I have stood up in front of the
2 water management district after this Commission with not one
3 single same Commissioner on it denied us the 2002 rate increase
4 and said, "What are we going to do? They said no." And they
5 said, "We're going to take you to circuit court and sue." That
6 is the dilemma we have been in between these two agencies.

7 I mean, the WUP says what it says. We're pretty well
8 assuming that they are going to be reasonable people, and
9 rather than force us to take 2.4, they're going to allow us to
10 take 2.09 in '08, or 2.06 in '08 and 2.29 in '09. But we agree
11 with the staff's analysis in that regard, that's the water that
12 we need. I mean, Mr. Watford can address this whole
13 operational thing about taking the water, and we do a similar
14 thing now where we have a contract in our Aloha Gardens section
15 of the service area where we pump 80 and take 20 for use.

16 CHAIRMAN CARTER: Commissioners, I want to recognize
17 Commissioner Argenziano, then Commissioner Skop, and then we
18 will go from there.

19 Commissioner Argenziano, you're recognized.

20 COMMISSIONER ARGENZIANO: Thank you, Mr. Chairman.

21 And I'm having some difficult times. I don't know, I
22 look at that there were time lines that were not met. Not
23 always the companies's fault, some things were. And I
24 understand that the company feels that they would like
25 certainty and be able to recoup costs. But, you know, I wasn't

1 here back then when any of these Commissioners, as you are
2 talking about, when you were denied recovery. But I think part
3 of me says that -- and I think I heard Senator Fasano say the
4 same thing before, that, you know, if you are spending
5 prudently, we know you need the water, that I would like to
6 know that there is a connection taking place and that the water
7 is flowing before I agree, you know.

8 And at the same time looking at, you know, saying we
9 have got to move on. We have the anion exchange problem, which
10 I'm having real difficulty now, hearing the things I heard
11 today. Because if it comes down to the brine being trucked to
12 Jacksonville, I think that is totally not viable anymore, cost
13 efficient-wise or practical. And, again, I guess you want --
14 you're asking me to have faith in you at this point and grant
15 you the rate increase. And I guess I'm asking you to have
16 faith in me that I will think later on, once the connection and
17 the water is actually flowing, that perhaps then you do that
18 increase.

19 My concern is what OPC has expressed a few times, and
20 now hearing that the water management district has said that
21 you have to take a certain amount of water complicates things
22 even farther. But, you know, so I'm not sure if we have until
23 October of '08 that we should be rushing anything at this
24 point, because I don't see where it pushes the anion process
25 any closer to getting done, because it has got problems of its

1 own and it may never be viable.

2 But, at this point, I guess, I'm stuck on needing
3 more information, possibly true-ups, and the gallonage, and
4 what is the rush to do it today, I guess? That's what it comes
5 down to. I'm sure the company has a point of view, and I'm
6 staff does, and I've heard OPC's, but at this point I'm
7 probably not likely to go ahead with what is proposed in front
8 of us.

9 CHAIRMAN CARTER: Thank you.

10 Before Commissioner Skop, I think in the context of
11 one of the questions that was asked of the General Counsel's
12 office, I think it was in the litany with Commissioner
13 McMurrian in terms of the kinds of things that can be put into
14 the order, because the settlement is between OPC and the
15 company, but some things that we could put in the order to
16 protect the customers. For example, if there's a reduction in
17 the cost from the county, then they would have to immediately
18 provide information to us. Secondly, is there is in the order
19 a requirement for true-ups. I think I heard Mr. Cooke say
20 that.

21 And what I haven't heard is, and this is not for
22 staff, but what I haven't heard is I don't think that neither
23 OPC nor the company should try to put us in a posture to break
24 their agreement. They signed the agreement, so they're stuck
25 with it. But what we have here now before us is an opportunity

1 to advance. People need clean water. I mean, that's paramount
2 to me. The people need clean water. They're going to have to
3 get it from Pasco County. I mean, that's just the way it is.

4 Secondly, in the context of early on I probably said
5 it inartfully, but staff says that the 2008 rates should not be
6 implemented until Aloha provides proof that the Florida
7 Department of Environmental Protection has certified the
8 completion of the tie-in facilities with Pasco County. That
9 gives me some assurance that before the rates -- and I'm not
10 talking about the rates right now, I'm just saying procedurally
11 before any rates go into effect, they have to have the water
12 from the county so the people have quality water. Okay.

13 COMMISSIONER ARGENZIANO: To that point, though, that
14 may be well and good, but would it be at 3.68 per thousand
15 gallons or would it be at ten cents per thousand gallons?

16 CHAIRMAN CARTER: What I'm thinking is based upon
17 what Mr. Cooke said is that if we had that in our order, then
18 whatever that cost comes in from the county then they would
19 have to immediately bring it back in to us. So if there is a
20 reduction, then the rates would be reflective of that.

21 Mr. Cooke, did I hear you correctly on that?

22 MR. COOKE: I think we may be talking about two of
23 the issues separately. The gallonage issue -- I'm not an
24 engineer and I'm only going to confuse this further if I try to
25 address that. The issue on what rate the county wants to

1 charge Aloha, I think we can readily deal with. I believe
2 there are a number of ways to do that. One is for you to tell
3 us -- that before we issue the order that you direct us to
4 include in the order any number that the county -- that we
5 verify with the county is the number they want to charge if
6 it's lower. That we can do.

7 Second, we can put in the order language that says if
8 there is a decrease in the rate that gets charged after the
9 order becomes final, that the company is required to come back
10 to the Commission within a certain time period and seek a
11 modification so that we can revise that number.

12 Three, I don't think this is going to happen between
13 now and perhaps September, and we on our own would likely bring
14 this back if it happens between now and then. There are just a
15 number of ways to deal with that issue. I'm comfortable with
16 that. The gallonage, it's not something I want to --

17 COMMISSIONER ARGENZIANO: Mr. Chairman, if I may?

18 CHAIRMAN CARTER: You're recognized.

19 COMMISSIONER ARGENZIANO: Well, that is a concern
20 that OPC has raised that shouldn't just be thrown out. I
21 probably need more information on that, also. But, again, what
22 assurance -- I didn't even see a time frame of when the
23 connection is going to take place. So we are moving forward
24 saying let's get clean water to people when we don't even know
25 when that is going to occur. So my concern is if we don't even

1 know when that is going to occur, and it has been the practice,
2 I think, of this Commission to allow prudent costs to be
3 recovered, then the company should -- to me at this point
4 should understand that if you have costs that were spent
5 prudently, they will be recovered. But at this point, without
6 some information, without having better information on the
7 gallonage issue, which I think is a concern, I don't see us --
8 I understand the reason to say let's move ahead, because these
9 people need clean water. But, then again, I see the people in
10 the audience who came here shaking their heads going, well,
11 when will we get it.

12 So if you authorize this rate increase today, even
13 with some of the language that we could put in there to make it
14 better, they don't even have a guarantee of when they are going
15 to get it. So I go back to OPC who is saying, well, we have
16 until October, why rush it now. Let's get it right or get the
17 additional information, when he may not be correct. It may
18 turn out that it's exactly the way the company says this is the
19 water we need, and I'm not sure as to why I'm moving forward
20 today without having a guarantee when that water is going to
21 get turned on for those people.

22 MR. COOKE: We are bringing it for a vote one way or
23 the other because of the stipulation. I mean, that's the
24 reason it is here today, that's a stipulation between OPC and
25 the company. As far as it not happening until September, I

1 mean, if the company will go forward on its own and do this
2 without this rate increase, then it may happen within the same
3 time frame. If this Commission votes it down, it will be up to
4 the company to decide what it wants to do at that point in
5 terms of whether to protest the order, et cetera. And, you
6 know, that's all I can say.

7 COMMISSIONER ARGENZIANO: Okay.

8 CHAIRMAN CARTER: Before I go to Commissioner Skop,
9 the thing about it, as I said earlier, is that I don't want
10 either one of the parties using the settlement agreement
11 against the other party. The settlement agreement requires us
12 to make a decision. It's paramount to me that the people get
13 clean water.

14 Secondly, is that I'm comfortable with the provisions
15 that Mr. Cooke has spoken to, that we can do those, and also
16 I'm comfortable with the fact that OPC will be diligent, as
17 they always are, in representing the people. If there is a
18 problem, I think that when we go through the true-up they're
19 going to have to prove every jot and every tittle. And I think
20 we can get there.

21 But my concern, Commissioners, is without the
22 settlement agreement before us -- we should deal with the
23 settlement agreement, but also, too, is that in the process of
24 dealing with the settlement agreement is that we should be
25 advancing toward a conclusion. We should be advancing toward a

1 conclusion on behalf of the people. Because the people -- if
2 we delay another eight months, then here we are saying, well,
3 it is not 14 years, it is 14 years and eight months. And I do
4 believe that based upon what is in front of us today, with what
5 we have heard, what we know, and what we have read, I think we
6 can fashion something to at least move it to where the people
7 are getting clean water and there are some protections in there
8 so that the people are not paying an excessive cost for the
9 water.

10 COMMISSIONER ARGENZIANO: (Inaudible.)

11 CHAIRMAN CARTER: You're recognized.

12 COMMISSIONER ARGENZIANO: And with all due respect, I
13 disagree. And I disagree for the reason that the settlement
14 agreement, the provisions of the settlement agreement haven't
15 panned out. Whether whose fault they are or not, they haven't
16 panned out, so the settlement agreement to me is moot at this
17 point. And I am all for -- I believe everybody is entitled to
18 clean water, especially when you're paying for it. And I
19 understand you want to move forward. I don't see us moving
20 forward today unless I have a definite date of when that water
21 gets turned on.

22 So with all due respect, Mr. Chairman, I understand
23 we are individual Commissioners, I think until I have -- if I
24 had at this point today a better understanding of the gallonage
25 issue and a date certain of when that water is actually going

1 to be turned on, then maybe with those provisions I could vote
2 for the recommendation.

3 So without having that understanding of when that
4 water is actually going to be turned on, I think that in good
5 faith you're asking me to allow you a rate increase, and I
6 understand why, but I'm asking you in good faith to show me
7 that you have done something to move for actually getting to
8 that clean water, and then I will be there for you on those
9 prudent costs that you need to recover when the time comes.

10 MR. WHARTON: And may I respond, Mr. Chairman?

11 CHAIRMAN CARTER: You're recognized.

12 MR. WHARTON: I would urge you, and, in fact, I wish
13 I would have had the opportunity to urge you before today,
14 because we do oppose any delay, to speak to your staff. I
15 mean, you have to vote your conscience, Commissioner
16 Argenziano, and I understand that, and your understanding of
17 the facts, but we have spent a ton of money moving toward the
18 settlement agreement.

19 And this isn't just this esoteric thing, the
20 settlement agreement. You have ordered us to go forward with
21 anion, and we are going forward with it, and it is a new way of
22 applying this process. It is not completely unique, but it is
23 somewhat unique. And your staff and the OPC has heard the
24 people we are contacting, and the things we are doing, and the
25 things we are designing. And the fact that we have run into

1 this problem, first of all, it appears to us right now anion
2 will work. The issue is one of money. Is it worth it? Maybe
3 trucking the stuff to Jacksonville isn't going to work, but it
4 is not that the anion system won't do what we believed it would
5 do.

6 Now that we are doing the science, we are trying to
7 come up with realistic alternatives that maybe you don't have
8 to -- maybe you can treat it on-site. Maybe there are
9 different alternatives that we have talked about. But I just
10 want to caution the Commissioner that we have done a lot. That
11 your staff knows we have done a lot, and that the settlement
12 agreement can't be moot as a matter of practically or reality
13 because while sometimes I hear OPC talk about, well, maybe we
14 ought to revisit whether eight and nine off to be taken off and
15 Senator Fasano says -- we don't have that luxury.

16 You have issued an order, you gave marching orders to
17 go forward on anion, and we are doing that. And there have
18 been some delays, and we acknowledge that, but we are doing
19 that. We are in contact with your staff and OPC and customer
20 representatives. We are also in contact with the water
21 management district about this purchased water. And I just
22 want to stress that that characterization, and I understand why
23 Commissioner Argenziano characterized it as she did, but is
24 somewhat alarming to us, because we have spent quite a bit of
25 money and we are in the middle of that process and we can't

1 stop because we are under an order from the Commission to go
2 forward.

3 COMMISSIONER ARGENZIANO: Mr. Chairman.

4 CHAIRMAN CARTER: You're recognized.

5 COMMISSIONER ARGENZIANO: With all due respect, I'm
6 not saying you did not spend money. I even said before I
7 understand that some of the delays were not even your fault,
8 but the point is that your settlement is between you guys, not
9 me, okay? I'm sitting here today saying, okay, what do I
10 really need out of this? Clean drinking water for those
11 people, and at the best cost, a prudent cost to them.

12 Sometimes it is going to cost more because
13 unfortunately in Florida we have a lot of stinky water.
14 Hydrogen sulfide is prominent in a lot of areas in Florida.
15 That's the case. But I don't see -- in good conscience, I
16 don't see that happening today with this recommendation, and
17 that is not out of disrespect for the staff. They do a great
18 job. I don't see it pushing us forward to actually getting to
19 that water connection. And until I feel that -- and with all
20 due respect to everyone else's opinions, and I'm not saying the
21 company hasn't tried, I think in many places you had a lot of
22 bad luck. Not that you have been a great company, either, but
23 there has been a lot of bad luck involved in some of the things
24 with the professor who was working on your report and so on.

25 But, just to repeat, I know you have spent money, I

1 know there are things that were out of your control sometimes,
2 but at this point I don't see where this moves us to -- I wish
3 you would have came here today with a definite this is the day
4 we are turning the water on, this is when it is going happen,
5 and I would have felt like that is a step in a great direction
6 not only for the customer who is out there paying it, but for
7 me, too, as a Commissioner.

8 MR. WHARTON: If I may, Mr. Chairman.

9 CHAIRMAN CARTER: You're recognized.

10 MR. WHARTON: We're projecting right now, and this is
11 like the date that there has been this suggestion that we
12 wouldn't give out, we talked to staff about it, we are
13 projecting right now sometime in mid to late August. And some
14 of that stuff is out of our hands. How long will DEP sit on
15 this permit? But that's what we believe in terms of the
16 interconnect.

17 But, just as a final comment, I want to stress that I
18 think, again, we are kind of blurring these issues. While we
19 do believe the purchased water and going forward today in a
20 positive vote is a necessary prerequisite to anion, we need
21 this water whether or not we are going to do anion. We need
22 the water because we don't have enough water to meet present
23 demand.

24 COMMISSIONER ARGENZIANO: One other question.

25 CHAIRMAN CARTER: You're recognized.

1 COMMISSIONER ARGENZIANO: Just out of curiosity,
2 since you have areas that have a lot of the hydrogen sulfide,
3 and that is a real problem to consumers, is it possible that,
4 you know, you could be purchasing the higher -- you know, the
5 more expensive water from the county to try to solve some of
6 those problems of the hydrogen sulfide, because I don't see the
7 anion project coming any time soon? I hope it does. I hope
8 you find a solution to that, but my fear would also be that to
9 solve the smelly problem and the black water problem is that
10 diluting it or mixing it with more of the higher expensive
11 water would solve some of your problems there.

12 MR. WHARTON: Well, we will already be in a position
13 where we will need to purchase more water from the county in
14 the next two phases. But, again, the committee that the
15 Commission facilitated that the General Counsel was in on and
16 that Doctor Cato (phonetic) retired and we all got together
17 believed that out of the various options this was the best way
18 to go forward. You know, this problem does defy easy
19 characterization in that someone on a street can have it and
20 the other people on the street not have it.

21 And in terms of utilizing that resource, those
22 available wells where none others are available, and buying
23 that more expensive water, and the water is going to continue
24 to go up, presumably, from Pasco County. We believe this is
25 the best way to go forward, and that was the agreement of all

1 the parties in the settlement agreement.

2 CHAIRMAN CARTER: Okay. We are going to go to
3 Commissioner Skop and then back to Commissioner Edgar.

4 Commissioner Skop, you're recognized.

5 COMMISSIONER SKOP: Thank you, Chairman Carter.

6 I'm trying to get at, I guess, three points.

7 Listening to the discussion before us today, there were three
8 issues raised, two of which were raised by Senator Fasano.
9 First and foremost was that I think he was against any rate
10 increase prior to firm interconnection. I think as Chairman
11 Carter has pointed out, that is adequately addressed within the
12 staff recommendation that no proposed rate increase would occur
13 until that physical interconnection happens. So that issue, I
14 think, is properly addressed, or has the potential of being
15 properly addressed within the order.

16 The second issue that I saw was the bulk rate. And
17 again, Senator Fasano raised that issue, and Commissioner
18 Argenziano took that up, and I firmly support that, that we
19 need to get the best rate possible as a pass-through cost. I
20 think there is adequate protection to the consumer that could
21 be drafted within our order to achieve that. I think that we
22 have great people working on that, not only our staff, but the
23 Senator, and the company. Certainly I think you guys have a
24 fiduciary responsibility to negotiate the best possible
25 pass-through costs for your customers. So you guys should be

1 actively engaged in that process.

2 The third issue that has popped up that I think has
3 significantly complicated what has come before us, and I think
4 our General Counsel picked up on this, and Commissioner
5 Argenziano has rightfully so, is there is the issue that OPC
6 has raised, and I don't know whether this issue has been raised
7 prior to today, but certainly it should have been raised with
8 respect to the true-up.

9 Now, the way I see it on the true-up, and correct me
10 if I'm wrong, Mr. Reilly, but OPC's concern seems to center not
11 around the interconnection, because, again, I think that that
12 can be adequately addressed by our order, and not around the
13 bulk rate which can be adequately addressed through
14 negotiations and incorporated, but whether Aloha will be
15 purchasing more water at a higher cost and basically
16 substituting well water for higher cost procured water.

17 And correct me if I'm wrong, but, you know, at the
18 end of the day, Aloha is going to have to prove that their
19 actions were prudent. And why that can't be the subject of a
20 separate proceeding or on-going review and it has to be
21 interjected into this, I don't know. I mean, correct me if I'm
22 wrong, but today seems to be the day of adversarial posture.
23 Because, I mean, I have heard a couple of times that it feels
24 like we are having the full court press put on us. I mean, in
25 the issue before people were raising issues.

1 You know, I'm trying to find a happy medium that
2 everyone can live with. Certainly I think it is an important
3 issue to be raised. But if it is a matter of prudence review
4 from OPC, certainly I'm wondering whether that can't be
5 accomplished -- it seems to me that that is a very valid issue,
6 but I am wondering whether it needs to be interjected into what
7 is before us to the extent that if Aloha is doing something not
8 prudent in terms of buying a whole bunch of water and
9 substituting it for more expensive water for cheaper well
10 water, then that might be an issue that could be addressed on a
11 forward-going basis in terms of whether their actions were
12 prudent.

13 Likewise, as Commissioner Argenziano also raised,
14 this anion exchange thing is kind of moving along, but there
15 are some emerging issues such as the brine. Well, you know,
16 blending of water could mitigate some of the pipe erosion
17 issues that I think Mr. Forehand has mentioned, and also
18 Mr. Wood has mentioned, but that may be a more expensive option
19 than trying to do what is in the settlement in terms of anion
20 exchange.

21 But I guess what I'm trying to understand, and,
22 again, there are three issues, and I think a lot of these
23 issues we can get a firm handle on. So I have some comfort in
24 moving forward, but likewise I'm not certain that we need to do
25 so today not in a negative manner, because I think we have got

1 a firm grasp on the two issues before us. But this third issue
2 that Mr. Reilly has interjected, you know, it's an important
3 issuing, but is this the proper -- I mean, do we need to hold
4 up the show? You know, because I hear rumblings of we are
5 going to protest, we are going to protest, we are going to
6 protest.

7 Well, you know, we are trying to find a collective
8 win/win effort for Florida's consumers here. And I understand
9 that if there are going to be issues that need to be raised
10 about true-ups and whether actions are prudent or not prudent,
11 certainly, by all means, that is your discretion, and I want to
12 do that, but it is almost like a veiled threat that we are
13 going to hold this hostage to some degree. So, if somebody
14 could elaborate, I would be happy to hear it.

15 MR. REILLY: I will take a stab. It was an honest
16 statement. I really believe no matter how high or how wrong an
17 initial rate is approved by this Commission today, as long as
18 there is an adequate true-up, protection to the customers you
19 could almost see your way not to protest. Because as long as
20 they are protected, yes, they would be paying more money than
21 they had to for months and months and months, but as long as it
22 is trued up and then there is an opportunity to test the
23 reasonableness, and ensure if you have a rate that really
24 properly acknowledges that Aloha should be pumping this cheap
25 water, at least to meet their base needs, the 2.04, and they

1 should not be buying any water except to meet their overflows,
2 as long as we have that true-up provision to guarantee that, no
3 matter how high a rate you vote out today, at least it is
4 potentially nonprotestable.

5 But I have that language, and I supplied this
6 language to staff yesterday, you know, to what we suggested
7 would be adequate true-up language that no matter what you
8 voted out, at least it would be something I could take to the
9 customers and say, you know, I don't agree with this vote, but
10 we still contest the reasonableness of the interconnection
11 costs, it is still preserves our right to test -- as Senator
12 Argen -- excuse me, Commissioner Argenziano says, test the
13 reasonableness after the fact, then we are protected. And I
14 did offer this language. I know staff has been looking at it,
15 and I don't know that they agreed with my every word, but they
16 said they agreed philosophically with it, and that's as far as
17 I got before we got to the agenda.

18 CHAIRMAN CARTER: Commissioner Skop.

19 COMMISSIONER SKOP: Thank you, Chairman Carter. And
20 I appreciate the patience of my colleagues on this, again,
21 because I'm trying to flesh this out, because I think that Mr.
22 Reilly raises a legitimate concern. I'm just kind of
23 questioning when the concern was raised. Whether that is
24 something that staff has taken a look at, whether, you know,
25 perhaps we could all get comfortable moving forward.

1 But, again, if this was just raised like yesterday, I
2 mean, maybe staff didn't have time to look at it completely.
3 But in principle, you know, I'm trying to make everyone happy
4 and protect the consumers, because I have some words to say
5 about that, too. But, again, I see this third issue as that
6 there is adequate protection. Like we always do, all
7 contractual arrangements are subject to prudence review, or
8 something simple. But it seems that this is being made a lot
9 more complicated, perhaps, than it needs to be. But I am all
10 for protecting the consumer, we need to do that.

11 And if we need to maybe take a little bit of a delay
12 to get everyone comfortable and work out some language, then I
13 am for that, too. Because, again, I don't see a gun to my
14 head. You know, it seems like there is consensus here on
15 interconnecting is the right thing to do. When we
16 interconnect, then that may be the perfect time to raise rates.
17 There certainly is consensus on we want the lowest bulk rate
18 possible to protect the consumers from pass-through costs.

19 So that's the two issues, but the third issue is
20 something that we need to be able to hammer out. And if that
21 is going to take some time, then maybe we need to do that to
22 build consensus. Because I think we have it here, but I think
23 we are faced with OPC. We need to make them, you know, address
24 their issue and make them comfortable. And I'm not so sure
25 that staff has had the opportunity to do that given, perhaps,

1 the short notice. So if staff could elaborate on that, I would
2 appreciate it. Thank you.

3 MR. WILLIS: If I could take a first stab at it.
4 One, I think we can easily build into our Phase Two true-up an
5 appropriate calculation, and all the parties can take a stab at
6 it as part of Phase Two on whether or not the actual gallons
7 that we are estimating should be taken right now is the
8 appropriate gallons. But that could be part of the true-up for
9 Phase Two. That provides the adequate protection.

10 If during the time period everyone wants to get
11 together and decide that it's either correct or not correct, it
12 can be brought up as part of Phase Two, which is the true-up.
13 We can add the appropriate language to the order to include a
14 true-up of the appropriate gallons to be purchased. I don't
15 know why that wouldn't handle the problem.

16 MR. DEVLIN: Mr. Chairman, just to feed off of what
17 Mr. Willis said, I think Commissioner Skop did hit on maybe the
18 most difficult issue to evaluate ex post after the fact for
19 true-up. What I would propose, I think there is a way to come
20 up with some language that would protect the interests of the
21 consumers and trying to get at this gallonage issue that
22 Commissioner Skop is speaking to.

23 If we could take, I know it is late in the day, maybe
24 five minutes and gather the troops and maybe we could fashion
25 some words that we could come back and present to hopefully be

1 coherent and on point.

2 CHAIRMAN CARTER: Commissioners, let's take about
3 five minutes. If we can do it in five minutes, it's
4 worthwhile.

5 COMMISSIONER ARGENZIANO: May I?

6 CHAIRMAN CARTER: Commissioner Argenziano, you're
7 recognized.

8 COMMISSIONER ARGENZIANO: Just one question to that.
9 If OPC has provided -- I'm not saying his language is perfect,
10 but can you look at that and see if there is something -- give
11 us your opinion on what OPC has provided.

12 MR. DEVLIN: Yes, Commissioner.

13 CHAIRMAN CARTER: We would like all of the parties to
14 see that. Commissioners, we are on -- I'm looking at 5:11. We
15 will come back at 5:21. Recess.

16 (Recess.)

17 CHAIRMAN CARTER: We are back on the record.

18 And the last time we took our break, we were going to
19 give the parties an opportunity to look at some language that
20 will bring closure to what we're discussing today. And, let's
21 see, Marshall, Mr. Willis, you're recognized.

22 MR. WILLIS: Thank you, Chairman.

23 Before you has been passed out is language that the
24 parties and staff have worked out, which I believe everybody is
25 in agreement with. The language basically -- the pertinent

1 language is the last paragraph down at the very bottom of the
2 page that basically indicates that the Commission will perform
3 a true-up of the actual costs incurred 12 months after the
4 implementation of Phase One, 2009 rates. As you are aware, the
5 recommendation has in Phase One a rate that will go into effect
6 in '08, and one that will go into effect in '09. This requires
7 a true-up after that '09 rate will go into effect.

8 Phase Two, which is discussed later on, is as it is
9 in the recommendation. Phase Two will include a small true-up
10 on its own which will be a true-up of the actual tie-in costs,
11 the capital costs for tying into Pasco County. And it will
12 also include the other items that were mentioned in staff's
13 recommendation, which is the capital costs for the
14 chloramination facilities. That will happen just like it
15 states it will as Phase Two. But the language that you have
16 before you really addresses where an actual true-up will come
17 after the '09 rate is actually in place, and that's what all
18 the parties are now in agreement with, how it will be handled.

19 CHAIRMAN CARTER: Commissioners, before I come to
20 you, let me just go to be sure for the record asking the
21 parties does this reflect their agreement.

22 Mr. Reilly, you're recognized.

23 MR. REILLY: Yes, it does. Hopefully, and we have
24 worked as hard as we can to make sure everything is covered, to
25 allow us to go to the customers and say at least we can

1 recommend to you not to protest this order. That we feel that
2 we have language in here that at least gives you an
3 opportunity, a point of entry to, you know, test some of these
4 things. So the answer is yes, this is language we worked out
5 this afternoon, and it hopefully gives us an opportunity, you
6 know, to recommend, you know, that they not protest this --
7 that they recommend that we not protest this order. And I
8 can't tell you what they are going to tell me to do, but that
9 is essentially -- I appreciate this language, and it does help,
10 it helps protect the interest of the customers. I believe this
11 language does help do that.

12 CHAIRMAN CARTER: Okay. Mr. Wharton.

13 MR. WHARTON: We have reviewed this language and this
14 is the refund true-up language that the parties agreed upon.

15 CHAIRMAN CARTER: Okay. Commissioners?

16 Commissioner Argenziano.

17 COMMISSIONER ARGENZIANO: Very quickly, because I
18 know it is getting late. I just appreciate everybody
19 cooperating and trying to come to some kind of solution and
20 moving forward and helping the company and the consumers get to
21 where we need to be, I assume. So, thank you. And thank you,
22 staff, for pulling it together so quickly.

23 CHAIRMAN CARTER: Thank you.

24 Commissioner Skop.

25 COMMISSIONER SKOP: Thank you.

1 And I think that the parties stated that they, the
2 last I heard, were acceptable with the language. I just had
3 some quick comments if this would be the appropriate time.

4 CHAIRMAN CARTER: You're recognized.

5 COMMISSIONER SKOP: I do appreciate the parties
6 diligently working together to reach a compromise. Again, this
7 issue apparently emerged either late yesterday or during the
8 course of this proceeding, but it is always better to have
9 compromise to promote us reaching a decision on a favorable
10 basis instead of other alternatives.

11 Just real quickly, I wanted to thank Mr. Wood for
12 being here today. I also wanted to thank Mr. Forehand for
13 being here today. It's always good to hear from customers
14 engaged in the process to ensure that the terms of the
15 settlement agreement are adhered to, and I appreciate your
16 diligence and your dedication in that regard.

17 And just briefly, because I kind of held back, but
18 just 20 more seconds and this be done. I do support the
19 settlement agreement. Being a new Commissioner, again, I think
20 it is important to respect what has been done before me. There
21 is a lot of work that has been put into this, and I want to
22 thank our General Counsel, Mike Cooke, and staff, as well as my
23 colleagues for all of their diligent efforts in the past.

24 That being said, just as a matter of principle, I'm
25 not exactly sure that the Commission should -- and this issue

1 hasn't come up, but I'm not sure that the Commission should
2 ever relinquish its ability to meet with its customers because,
3 again, we do work for the consumers of the state of Florida
4 equally. So, again, in terms of future agreements, I would
5 always want to reserve the right to be able to meet with
6 customers and not be precluded from having customer meetings.

7 Also, just in passing, I do expect Aloha to honor the
8 terms of its settlement agreement fully. Performance issues
9 have come into question. I think it would be very beneficial
10 to outline some key milestones and track our progress on how we
11 are doing and how we are going to resolve these issues that
12 have emerged such as the brine and other issues like that.
13 Again, if the goal of the Commission and the parties is to
14 bring forward the settlement and get things implemented that
15 improve the water quality for the benefit of the consumers, we
16 need to move forward and put these delays behind us.

17 So that's all I wanted to say, other than even though
18 we are precluded from having customer meetings, certainly as an
19 individual Commissioner, I'm always free to go down and have a
20 meet the Commissioner type thing, which I might do sometime,
21 because getting more information is better than having none.
22 And certainly there's a lot I could educate myself on in terms
23 of how people feel on this issue. But I'm glad that we reached
24 a compromise, and hope that extends to my colleagues. And I
25 just wanted to add those thoughts and commend, again, the

1 consumers for coming out today, because that's really
2 important. Thank you.

3 CHAIRMAN CARTER: Thank you, Commissioner.
4 Commissioner Edgar, you're recognized.

5 COMMISSIONER EDGAR: Thank you, Mr. Chairman.

6 And I, of course, echo the comments of my colleagues.
7 It has been a long day and it has been a good day. I think
8 that to the discussion that we have had this afternoon, that we
9 really have been saying many of the same things and have had
10 the same goals. I know we have talked about wanting to move
11 the process forward. We have all talked about wanting to do
12 everything that we can to have protections for the customers,
13 and also to allow a little bit of flexibility as we all move
14 forward together with this process. And that includes
15 flexibility for the customers, and for the company, and for
16 negotiations to continue to try to get the best rate always.
17 And to put in language for the true-up and recognizing the
18 prudence review authority of this Commission.

19 So, I also thank everybody for their patience. You
20 know, when this settlement agreement came before us, we
21 recognized that it was a compromise document and that all
22 parties had to probably give a little to reach some consensus.
23 But in my mind, when I supported it, it was to be a framework
24 to move forward. And there may have been some slippage
25 unfortunately, but yet hopefully the framework moving forward

1 will still be there and will be a good guide. I am hopefully
2 of that.

3 So, Mr. Chairman, if this is appropriate, I will
4 start here, and I would make a motion that we support the staff
5 recommendation with the additional language that has just been
6 discussed and was worked out by the parties and has been
7 distributed, with that additional language to be included in
8 the Commission's order, and recognizing, in particular, the
9 intent language in the first paragraph that describes some of
10 the reasoning for going forward at this point.

11 COMMISSIONER SKOP: And I would be happy to second
12 that so long as the settlement language -- I think that
13 addressed Commissioner Argenziano's concerns also, right?

14 CHAIRMAN CARTER: Commissioner Argenziano, you're
15 recognized.

16 COMMISSIONER ARGENZIANO: Let me just say this, I
17 would prefer -- I would have preferred to see a refile after
18 the interconnection took place. But because this language is
19 added in there, I feel it is a step in moving things forward.
20 So with everybody in good faith here, I will go ahead and vote
21 for this with that language, but just getting on record that I
22 probably would have preferred it the other way. But you can't
23 always get what you want. So, thank you.

24 CHAIRMAN CARTER: Sounds like the Rolling Stones, you
25 can't always get what -- now it's getting late.

1 COMMISSIONER SKOP: With that, Mr. Chair, I would
2 like to second Commissioner Edgar's motion.

3 CHAIRMAN CARTER: Okay. Commissioners, we have had a
4 great discussion, a great debate. We have got a motion and a
5 second. All those in favor of the motion let it be known by
6 the sign of aye.

7 (Unanimous affirmative vote.)

8 CHAIRMAN CARTER: All those opposed, like sign.

9 Thank you to the parties. Thank you to our friends
10 and neighbors from Pasco County coming up to be with us. Thank
11 you to the company. Thank you to OPC, and thank you to our
12 staff. And with that we are adjourned.

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1 STATE OF FLORIDA)
2 :
3 COUNTY OF LEON)

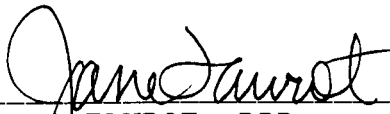
CERTIFICATE OF REPORTERS

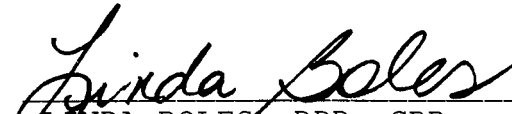
4 WE, JANE FAUROT, RPR, and LINDA BOLES, RPR, CRR,
5 Official Commission Reporters, do hereby certify that the
6 foregoing proceeding was heard at the time and place herein
7 stated.

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

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

18 DATED THIS 19th DAY OF February, 2008.

19 
20 _____
21 JANE FAUROT, RPR
22 FPSC Official Commission
23 Reporter

24 
25 _____
26 LINDA BOLES, RPR, CRR
27 FPSC Official Commission
28 Reporter

(850) 413-6732

(850) 413-6734

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2-12-08 Agenda-ac

REILLY.STEVE

From: Mariana Vitorino [mvitorino@pascocountyfl.net]
Sent: Tuesday, February 12, 2008 10:08 AM
To: REILLY.STEVE; Robert Sigmond
Cc: Joseph Richards
Subject: Aloha Utilities
Attachments: Steve Reilly - Aloha Letter.pdf

Mr. Reilly:

I have attached the letter referring to Aloha Utilities, at your request.

If there is anything else you need, please let me know.

Thank you.

*Mariana V. Vitorino
Executive Secretary
to Bruce E. Kennedy, P.E.
Assistant County Administrator
Utilities Services Branch
Pub. Wks./Utilities Bldg., S-213
7530 Little Road
New Port Richey, FL 34654-5388
Tel. (727) 847-8145
Fax: (727) 847-8083
E-Mail: mvitorino@pascocountyfl.net*



DADE CITY (352) 521-4274
 LAND O' LAKES (813) 996-7341
 NEW PORT RICHEY (727) 847-8145
 FAX (727) 847-8083

UTILITIES SERVICES BRANCH
 PUB. WKS./UTILITIES BLDG., S-213
 7530 LITTLE ROAD
 NEW PORT RICHEY, FL 34654-5598

SENT VIA E-MAIL

February 12, 2008

Mr. Steve Reilly
 Associate Public Counsel
 Office of Public Counsel
 c/o The Florida Legislature
 111 West Madison St., Room 812
 Tallahassee, FL 32399-1400

Re: Aloha Utilities

Dear Mr. Reilly:

Pasco County will be furnishing bulk water service to Aloha Utilities based upon a maximum flow rate of 1,665 gpm, for a total maximum daily quantity of 2.4 mgd aadf. Aloha will continue to provide storage and pumping facilities to meet their peak demands. Based on Aloha's maintenance system storage, Aloha's bulk rate would be based on our bulk rate with storage, currently set at \$3.43 per 1,000 gallons. This bulk rate is subject to annual adjustment each fiscal year.

I hope this clarifies the issue of the rate that will be charged Aloha for the purchase of bulk water from Pasco County during the Phase I period.

Sincerely,

Robert J. Sigmund (for)
 Bruce E. Kennedy, P.E.
 Assistant County Administrator
 Utilities Services

BEK/mvv/myydocs/reilly-steve, Aloha

cc: Robert J. Sigmund, Utilities Fiscal/Business Services Director

060122WH
 conduct
 2-12-08 Agenda-AC

ANALYSIS OF AMOUNT OF WHAT ALOHA CAN TAKE FROM PASCO COUNTY SCENARIO															
PWS ID	PWS Name	Plant	Jan-07	Feb-07	Mar-07	Apr-07	May-07	Jun-07	Jul-07	Aug-07	Sep-07	Oct-07	Nov-07	Dec-07	Total
Average Daily Production (gallons per day)															
6512214	SEVEN SPRINGS	1	868,483	859,000	1,025,322	1,116,166	1,087,806	1,201,033	1,178,741	1,134,645	1,039,366	1,050,677	1,088,033	1,031,290	12,680,562
6512214	SEVEN SPRINGS	2	415,270	407,117	487,851	583,346	608,225	583,303	567,861	548,509	564,820	586,945	607,886	570,351	6,531,484
6512214	SEVEN SPRINGS	5	489,322	425,928	524,454	489,726	611,751	494,136	400,235	371,416	424,220	490,025	569,906	476,948	5,768,067
6512214	SEVEN SPRINGS	6	340,483	309,178	387,645	359,433	447,677	356,533	284,677	281,193	295,866	347,225	408,733	345,838	4,164,481
6512214	SEVEN SPRINGS	7	417,129	418,535	458,580	506,666	641,516	450,700	431,419	479,548	396,466	387,322	431,500	329,419	5,348,800
6512214	SEVEN SPRINGS	8	337,612	338,607	370,870	417,366	534,483	346,800	343,451	380,709	314,800	299,741	345,500	265,161	4,295,100
6512214	SEVEN SPRINGS	9	---	---	---	---	---	---	---	---	---	---	---	---	---
6512214	SEVEN SPRINGS	10	596,064	501,464	528,451	473,200	549,935	471,200	464,096	456,741	407,100	376,387	377,833	483,935	5,686,406
	Total		3,464,363	3,259,829	3,783,173	3,945,903	4,481,393	3,903,705	3,670,480	3,652,761	3,442,638	3,538,322	3,829,391	3,502,942	44,474,900
Total Allowable Well Withdrawals			2,040,000	2,040,000	2,040,000	2,040,000	2,040,000	2,040,000	2,040,000	2,040,000	2,040,000	2,040,000	2,040,000	2,040,000	24,480,000
Amount from Pasco County			1,424,363	1,219,829	1,743,173	1,905,903	2,441,393	1,863,705	1,630,480	1,612,761	1,402,638	1,498,322	1,789,391	1,462,942	19,994,900
Staff Amount form Pasco County 2008			2,060,000	2,060,000	2,060,000	2,060,000	2,060,000	2,060,000	2,060,000	2,060,000	2,060,000	2,060,000	2,060,000	2,060,000	24,720,000
Excess Amount in Staff Rec 2008			635,637	840,171	316,827	154,097	(381,393)	196,295	429,520	447,239	657,362	561,678	270,609	597,058	4,725,100

Note:

1. Plant No. 9 is the Pasco Co. Interconnect
2. The plant numbers do not correspond to the well numbers.