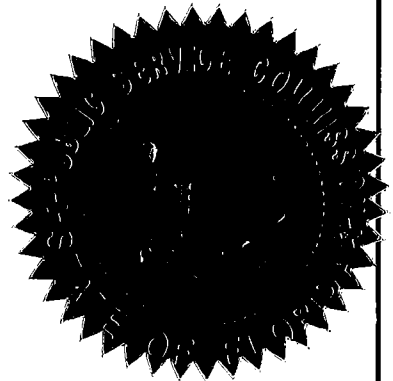


BEFORE THE  
FLORIDA PUBLIC SERVICE COMMISSION

DOCKET NO. 080064-WU

In the Matter of:

COMPLAINT AGAINST EAST MARION SANITARY  
SYSTEMS INC. BY MABELLE GREGORIO, ANGELA  
AND DENNIS FOUNTAIN, AND TERRY WILL.



PROCEEDINGS: AGENDA CONFERENCE  
ITEM NO. 4

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

DATE: Tuesday, March 4, 2008

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

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

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FLORIDA PUBLIC SERVICE COMMISSION

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1 PARTICIPATING:

2                   HERBERT HEIN, PRESIDENT, representing East Marion  
3 Sanitary Systems, Inc., participating via telephone.

4                   TERRY WILL, pro se, participating via telephone.

5                   PATTI DANIEL, BART FLETCHER, DENISE VANDIVER,  
6 KATHERINE FLEMING, ESQUIRE, and MICHAEL COOKE, GENERAL COUNSEL,  
7 representing the Florida Public Service Commission Staff.

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

1  
2 CHAIRMAN CARTER: And now we are on Item 4. Let's  
3 check -- do we have parties that were calling in? Houston, are  
4 you there?

5 MR. WILL: Yes.

6 CHAIRMAN CARTER: Who do we have on the line?

7 MR. WILL: Yes. My name is Terry Will and I filed a  
8 complaint, Number 762448W, regarding the disconnection of the  
9 water service and reconnection fee.

10 CHAIRMAN CARTER: Good morning and welcome, Mr. Will.  
11 Who else do we have on the line?

12 MR. HEIN: My name is Herbert Hein.

13 CHAIRMAN CARTER: I beg your pardon?

14 MR. HEIN: Herbert Hein.

15 CHAIRMAN CARTER: Mr. Hein; is that right?

16 MR. HEIN: Correct.

17 CHAIRMAN CARTER: Okay. Commissioners, we, we are on  
18 Item 4. Staff, would you present the item?

19 MS. DANIEL: Commissioners, I'm Patti Daniel on  
20 behalf of Commission staff. Item 4 is staff's recommendation  
21 to require East Marion Sanitary Systems, Inc., to refund three  
22 customers for charging outside the utility's approved tariff.  
23 Also we are recommending that the utility be required to  
24 respond to two show causes, one for charging outside its tariff  
25 and another for not responding to staff inquiries on a timely

1 basis. Mr. Herbert Hein, one of the call-in parties, is the  
2 owner of the utility. Mr. Terry Will is a customer of the --  
3 his interests are addressed in Issue 3.

4 CHAIRMAN CARTER: Okay. Commissioners -- Mr. Hein --  
5 Mr. Will, let's hear from you first. Commissioners, let's hear  
6 from the customer first and then we can ask our questions and  
7 go back to staff and all.

8 Mr. Will?

9 MR. WILL: Yes.

10 CHAIRMAN CARTER: You're recognized, sir.

11 MR. WILL: Thank you. I was disconnected without  
12 notice and I was charged \$241.55 for a reconnection fee. The  
13 charges include a deposit of \$100 -- I'm sorry. I hear an  
14 echo. Can you hear me?

15 CHAIRMAN CARTER: We hear you fine.

16 MR. WILL: Thank you. The charges include a customer  
17 deposit of \$141, disconnection fee of \$50 and a reconnection  
18 fee of \$15. I believe that all of this, all of these charges  
19 are a moot point because I was wrongly charged in the first  
20 place. My bill was paid on time according to the documents  
21 here. I have, I have a, an addressed envelope that has a  
22 postmark date that shows that I was, I paid my bill in a timely  
23 manner.

24 The recommendations that you have here state that  
25 East Marion Water Company overcharged me, when, in fact, I

1 believe they wrongly charged me and that's the basis of my  
2 complaint. I can prove all of my allegations; I have the  
3 envelope, I have the check. And the recommendation that I  
4 would like to see approved is for all of my money to be  
5 refunded, including some interest charges that the board would  
6 see fit. Once again, I was wrongly charged and, and my bills  
7 are paid on time. Mr. Hein has stated that, that he's  
8 communicated with me on several occasions to try to get this  
9 thing resolved, when, in fact, that, that is not true. Worse  
10 than not true, that is a lie. And that's my case.

11 CHAIRMAN CARTER: Thank you, Mr. Will.

12 Commissioners, we'll hear from Mr. Hein before we go  
13 into our questions next.

14 Mr. Hein, you're recognized, sir.

15 MR. HEIN: Hello. Mr. Will over the past 24 months  
16 has been late 16 times. Out of those 16 times we have not  
17 charged him late charges eight times. We've only charged him  
18 half the time. The problem appears to be a problem with the  
19 way our -- the mail. Mr. Will on a regular basis writes his  
20 check out on the 19th of the month. The bill comes out on  
21 either the last day of the month or the first day of the next  
22 month, the month it's due. The customer has 20 days to pay the  
23 bill. Mr. Will waits 19 of those 20 days to put his check in  
24 the mail. What he did state about him paying his check on  
25 time, he did mail it or at least according to the records he

1 wrote the check on the 19th. It was postmarked in Gainesville,  
2 Florida, on the 20th of September. The utility did not receive  
3 it until the 4th of October. And there -- you know, and  
4 that's, that's where the problem came.

5           Now we had taken and on two separate occasions  
6 requested a deposit from Mr. Will. Did not get a response. I  
7 had spoken to him personally one time and it seems like the  
8 payment history got better. And then on the time in question,  
9 the September 1, we had taken and we did send a disconnect  
10 notice as required, the five-day disconnect notice. His wife  
11 acknowledged receiving it, but because she thought she had put  
12 the check in the mail, she didn't call the utility and say,  
13 hey, we did mail it, this is when we mailed it, let's follow  
14 up. It just -- she just threw it away, and that's why he was  
15 disconnected.

16           Now as far as the security deposit, it was my  
17 understanding, and it was an error, that the deposit was  
18 supposed to be \$141. And the staff has pointed out that that  
19 is for a new customer where there has been no history, so --  
20 and they have come back and shown that based on his usage his  
21 deposit should only be \$104. And prior to the staff making  
22 their recommendation to the Commission, the utility has agreed  
23 and has already credited Mr. Will's account for the  
24 \$37 difference.

25           The other charges for reconnection fees, in

1 discussing with the staff and also rereading the tariff, the  
2 staff is correct. It should not have been charged and the  
3 utility will credit Mr. Will the difference and, and go forward  
4 from there.

5 CHAIRMAN CARTER: Thank you, Mr. Hein. Thank you,  
6 Mr. Will. Commissioners, we are in our discussion phase.  
7 Questions for either of the parties or staff?

8 Commissioner Edgar, you're recognized.

9 COMMISSIONER EDGAR: Thank you, Mr. Chairman. I'd  
10 like to ask our staff to respond to the point of difference  
11 that was raised by the speakers regarding an overcharge or a  
12 mischarge or a, let's see, wrongly charged, not overcharged, I  
13 think is the way it was put by the customer. Could you speak  
14 to that point?

15 MS. DANIEL: All right. I'll go to the customer  
16 deposit first. That was the thing that Mr. Hein had early on  
17 agreed he had misunderstood. The Commission rules provide that  
18 for new customers who don't have a payment history yet, we  
19 establish what a customer deposit would be based on what we  
20 perceive to be just an average bill. For Mr. Will though --  
21 and Mr. Hein's customer deposit was set at \$141. Mr. Will, of  
22 course, is an existing customer, he has some credit history,  
23 and as it turned out in the communications regarding the  
24 complaint, I had some information that showed me that  
25 Mr. Will's bill was average of about \$52 a month. And so we

1 let Mr. Hein know that it was more appropriate to use his  
2 average usage, a two months' average bill for the customer  
3 deposit, and he agreed to that early on.

4 Today is the first day I've heard him agree that we  
5 were correct on the reconnection charges. Mr. Hein has a \$15  
6 reconnection charge for water. For wastewater, in Mr. Hein's  
7 tariff and in most water utilities' tariff the reconnection fee  
8 for wastewater will say "actual cost." And that's because if  
9 you're a wastewater only customer, you can't turn the meter off  
10 and turn off water service. You actually have to go in with a  
11 backhoe, dig up the line, replace it once the customer pays the  
12 arrearages. In this case Mr. Will is both a water and a  
13 wastewater customer. And the tariff clearly states if both  
14 services are provided, both water and wastewater service, only  
15 one charge may be applied, and that's the \$15. So where  
16 Mr. Will was charged \$60 for reconnection, it should have only  
17 been \$15.

18 The discussion about when the payment was made and so  
19 forth, I just had to take what each party told us. I saw the  
20 postmark of September 20th. Mr. Hein indicated the office  
21 didn't get it until October 4th. It seems like a long period  
22 of time, but without other evidence, that, that really was all  
23 I had to go on to base my staff recommendation.

24 CHAIRMAN CARTER: Commissioner Argenziano.

25 COMMISSIONER ARGENZIANO: When was the bill actually



1 due?

2 MS. DANIEL: I believe September 20th.

3 COMMISSIONER ARGENZIANO: So it was postmarked the  
4 20th.

5 MS. DANIEL: Well, as Mr. Will indicated, and this is  
6 a point that I'll be -- I'm sure there will be some follow-up  
7 with Mr. Hein. He said just a few minutes ago that sometimes  
8 the bills are sent out on the last day of the month and  
9 sometimes the first day of the next month. What he should be  
10 doing is whenever he sends the bill out, if it's on the first  
11 day of the month, there should be a date at the bottom of that  
12 bill that says "Your bill is due on the 20th," and then there  
13 would be no confusion about when that bill is due.

14 COMMISSIONER ARGENZIANO: So on the utility's bill  
15 that is sent out or statement that's sent out to the customer  
16 there's no date, due date?

17 MS. DANIEL: Mr. Hein has over the years changed some  
18 things, his application forms and so forth, so it -- let's see.  
19 I might be able to look back into some of the documentation and  
20 tell you.

21 COMMISSIONER ARGENZIANO: But on that particular  
22 statement --

23 MS. DANIEL: On that particular statement -- Richard,  
24 do you have that handy?

25 COMMISSIONER ARGENZIANO: -- was there a due date

1 indicated?

2 MR. WILL: Can I, can I answer that?

3 COMMISSIONER ARGENZIANO: In a minute, please.

4 CHAIRMAN CARTER: One second. We're talking to staff  
5 now. Just hold on.

6 MS. DANIEL: Let me see if I can find that bill.

7 COMMISSIONER ARGENZIANO: Maybe he can answer it  
8 while she's looking for the bill, whatever.

9 CHAIRMAN CARTER: While staff is looking, Mr. Will,  
10 we'll be glad to hear from you.

11 MR. WILL: Yes. Thank you. I think we need to, we  
12 need to establish what is, what is a late bill and is it, is it  
13 a postmarked date or is it when the utility --

14 CHAIRMAN CARTER: Well, the question, Mr. Will, the  
15 question, Mr. Will, is is there a statement on the bottom, is  
16 there a sentence on the bottom of your statement that tells you  
17 when there's a due date, the payment must be made by a date  
18 certain? That's the specific question we're trying to deal  
19 with right now.

20 MR. WILL: Okay. I'm going to look, sir.

21 MS. DANIEL: Commissioners, I do not have a copy of  
22 the bill that was sent to Mr. Will that would have indicated  
23 whether or not there was a date.

24 MR. HEIN: If I may address that to the staff or the  
25 Commission. I have the copy, the actual receipt that Mr. Will

1 mailed in with his bill that's a tear-off from the bill. It  
2 does have a due date on it. And what it is is we, we try to  
3 send out the bills so that the customer has it prior to the  
4 1st. And the way I read our tariff is that the bill is due  
5 upon receipt. The customer then has 20 days to pay it. And so  
6 if they receive the bill on the, on the 1st, they have until  
7 the 20th to pay it or the 21st.

8 COMMISSIONER ARGENZIANO: Excuse me, Mr. Chair.

9 CHAIRMAN CARTER: Okay. One, one moment.

10 Commissioner Argenziano.

11 COMMISSIONER ARGENZIANO: Mr. Hein, you just said, I  
12 think you just said two different things. You said there's a  
13 due date and then there's, it's due automatically upon receipt,  
14 and that's very confusing for me. If there's a due date, that  
15 would tell me as a customer that's when my payment is due at  
16 your facility or at your company. If you're saying that you  
17 send out a statement that says it's due upon receipt, well,  
18 then I, you know, that's a different, that's different. Which,  
19 which date is on there?

20 MR. HEIN: It has a definite date on there.

21 COMMISSIONER ARGENZIANO: What date was that, please?

22 MR. HEIN: The bill is dated September 1st in this  
23 case. It's -- the bill is due on the 1st of each month. We  
24 send them out so that they're due on the 1st of each month.

25 COMMISSIONER ARGENZIANO: That didn't answer my

1 question. The due date, what is the due date that Mr. Will had  
2 on that, that return receipt to you?

3 MR. HEIN: September 1st.

4 COMMISSIONER ARGENZIANO: So it wasn't the 20th. So  
5 date marked -- so if it's postmarked the 20th, then he was on  
6 time. Is that -- is that -- am I missing something here? I'm  
7 trying to figure out if it's postmarked the 20th and the due  
8 date is the 1st, well, then he mailed it on time. So I'm  
9 trying to figure out how it was late. And if I don't have it  
10 right, this is the time for you to speak up.

11 MR. HEIN: Well, what happens is -- and that's part  
12 of my, that I have to straighten out with the, with the staff  
13 somehow because the tariff is confusing to me too. But it says  
14 the bill, right in the tariff on the connection sheet that was  
15 approved by the staff, that the bill is due upon receipt but  
16 the customer has a 20-day grace period. So the due date on the  
17 bill states the 1st of the -- in this case, Mr. Will's case,  
18 was September 1st. That was when the bill was due. He is not  
19 considered late until it comes in after the 20th. On the 21st,  
20 if we have not received payment --

21 COMMISSIONER ARGENZIANO: Okay. Mr. Hein -- I'm  
22 sorry, Mr. Chairman. Now I got it. You're saying that -- let  
23 me see if I can get this straight, and I apologize. So you're  
24 saying that the bill was due, the due date was September 1st.

25 MR. HEIN: Right.

1           COMMISSIONER ARGENZIANO: And you're saying that it  
2 wasn't August 20th the postdate, it was September 20th, because  
3 he pushed it to the end of the grace period.

4           MR. HEIN: Right. Correct. That is correct.

5           COMMISSIONER ARGENZIANO: Okay. That makes up a  
6 very -- that's very different. Okay. Now I've got it. Thank  
7 you.

8           MR. HEIN: And that's where the challenge comes in  
9 because --

10          COMMISSIONER ARGENZIANO: I can't hear you.

11          MR. HEIN: -- I acknowledge that there is a problem  
12 with the postal system out here. We have had --

13          COMMISSIONER ARGENZIANO: There's so much rain,  
14 Mr. Hein, we can't hear you. Hang on one second.

15          CHAIRMAN CARTER: Just one second. We'll get our  
16 volume adjusted. Okay. Now the last statement you made,  
17 Mr. Hein?

18          MR. HEIN: I said I will acknowledge there has been a  
19 problem with mail service. We have talked to the postmaster  
20 out in Silver Springs on several occasions because what it  
21 appears is that the bills are mailed locally here, they go to  
22 Gainesville first, and then they ship them all the way back to  
23 Ocala or to Silver Springs, and somewhere in there the mail  
24 gets diverted. And that's part of the challenge with Mr. Will  
25 because he waits, he uses 19 days of his grace period to mail

1 his check so that if there is a problem with the post system,  
2 there is no more grace period. And so that's, that's where it  
3 comes in.

4 We -- you know, I don't personally take and deposit  
5 the checks. I have no reason to hold them, you know. The  
6 utility wants the revenue. But this check was not received  
7 until September -- or October 4th. And Mr. Will had received a  
8 disconnect notice on the 22nd of September, giving him five  
9 days, you know. And instead of contacting the utility and  
10 saying, hey, I put the check in the mail, you know, let's try  
11 to track it down and what's going on --

12 CHAIRMAN CARTER: Thank you, Mr. Hein. We've got  
13 some additional questions.

14 MR. HEIN: Okay.

15 CHAIRMAN CARTER: Commissioner McMurrin, you're  
16 recognized.

17 COMMISSIONER McMURRIAN: Thank you, Chairman. I had  
18 a question for Mr. Hein as well, and it's just about how he  
19 keeps up with when the payments come in. I mean, I know he  
20 said that he got the payment on October 4th.

21 Do you have, Mr. Hein, do you have a way of keeping  
22 up with exactly when your office receives the payments in from  
23 customers?

24 MR. HEIN: What happens is every day when the mail is  
25 picked up -- it goes to a post office box, so it's a secure

1 place. The mail is picked up every day. Every day the  
2 deposits are made and put in. We, we keep track -- how do I  
3 say it? We keep the customer's envelope in case there is a  
4 problem, and that's why when we received this, we noted when it  
5 was received and we contacted Mr. Will and let him know we got  
6 it that day.

7 COMMISSIONER ARGENZIANO: Mr. Chair?

8 CHAIRMAN CARTER: Commissioner Argenziano.

9 COMMISSIONER ARGENZIANO: For staff.

10 CHAIRMAN CARTER: For staff.

11 COMMISSIONER ARGENZIANO: For staff a question and it  
12 may be hard for you to answer. But if I send out a bill --  
13 let's say my credit card invoice comes in, my statement comes  
14 in. And after I'm done with the cussing and all that stuff, I  
15 send out, I send out the bill. I know I have a grace period  
16 and I'm pushing it to the end of the grace period. If I don't  
17 get my invoice or my statement back to that credit card company  
18 by the day -- if it's not in their hands on that day at the end  
19 of the grace period, then they are going to charge me a  
20 whopping finance fee or something else. So is there a date  
21 somehow established? I mean, if the man, if Mr. Will waited to  
22 his, end of his grace period for whatever reason, waited to the  
23 end of his grace period, the last day of the grace period, I  
24 would think on that twentieth day it needs to be in the  
25 utility's possession, not in the postmarked. So is there

1 something in law that says that -- I mean, is there some kind  
2 of precedent? I know if --

3 MS. DANIEL: About whether it's postmarked or date  
4 receipt?

5 COMMISSIONER ARGENZIANO: Right. Especially when  
6 you're riding on a grace period.

7 MS. DANIEL: I have not researched that issue.

8 COMMISSIONER ARGENZIANO: Because if we find out it  
9 is, then I'm going to fight with the credit card companies.  
10 (Laughter.) I'm only kidding.

11 MS. DANIEL: My, my guess would be it's got to be in  
12 the utility's hand or it's not received.

13 COMMISSIONER ARGENZIANO: I just think, Mr. Chairman,  
14 and I'm trying to really filter this out, I was originally  
15 thinking for some reason that it was sent out the month prior.  
16 But riding on the grace period and then getting it postmarked  
17 at the last day probably is late in my opinion.

18 CHAIRMAN CARTER: Okay. Commissioners, any further  
19 questions?

20 Commissioner Edgar, you're recognized.

21 COMMISSIONER EDGAR: Mr. Chairman, if we've tried to  
22 ask all of our questions, realizing that the staff has put a  
23 lot of time, I know, into working with the utility and working  
24 with the different customers who had contacted us, and I also  
25 note the, at the back of the item the attachment that goes



1 through the dates and a lot of detail as to some of the back  
2 and forth and trying to get to the, to accuracy with all of it,  
3 if it's the appropriate time, I would make a motion in support  
4 of Issues 1, 2 and 3 which deal with the specific customer  
5 complaints in favor of the staff recommendation, with the  
6 addition of asking the staff if they could add the interest  
7 pursuant to whatever is the appropriate way to accrue that.  
8 And I note that in particular with Issues 1 and 2 a substantial  
9 amount of money in my mind, \$800, \$500 for the utility to hold  
10 is, it's a lot of, a lot of money. And then I would say that  
11 Issues 4 and 5 on the show cause we haven't really discussed,  
12 so I'm thinking that we could maybe dispose of Issues 1, 2 and  
13 3, if my colleagues are comfortable, and then ask our staff to  
14 speak to the show cause issues 4 and 5.

15 COMMISSIONER ARGENZIANO: Mr. Chair?

16 CHAIRMAN CARTER: Commissioner Argenziano.

17 COMMISSIONER ARGENZIANO: And while I've read through  
18 and can see the back and forth, in my experience it's always  
19 better to discuss that when you have the people in front of you  
20 because you get a better idea. What's on the book sounds  
21 great, but I like to, I like to go back and forth and ask.  
22 That's what works the best for me. So having read it and  
23 highlighted much of it, I, I want to hear more about what's  
24 going on because we have imposed, we have some fines imposed  
25 and so on, and it probably will, I think if I hear more about

1 the other issues, it would probably help me to form my final  
2 decision on what's taking place here. So I've already found  
3 out something that I didn't realize before even though I read  
4 through this. So if you want -- if we could do that, I would  
5 appreciate that.

6 CHAIRMAN CARTER: Do you have some additional  
7 questions for staff or the parties?

8 COMMISSIONER ARGENZIANO: No. We still have a few  
9 issues at hand.

10 MR. WILL: Could --

11 CHAIRMAN CARTER: Okay. One second. One second.  
12 Commissioner Edgar.

13 CHAIRMAN EDGAR: I'm sorry. I was just going to --  
14 maybe I didn't do a very good job of explaining my motion. 1,  
15 2, 3, which deals just with the customer rebate, and then what  
16 I was asking is that if we can dispose of 1, 2 and 3, if we are  
17 at that point, if we need more discussion, of course, I'll look  
18 to the Chair and we'll do that, but holding on 4 and 5 yet for  
19 us to have some further discussion is what I was proposing.

20 CHAIRMAN CARTER: Commissioner Argenziano, are you  
21 comfortable with that?

22 COMMISSIONER ARGENZIANO: I believe so.

23 MR. HEIN: I would, I would like to ask the  
24 Commission --

25 CHAIRMAN CARTER: One moment, please.

1 Commissioner Skop.

2 COMMISSIONER SKOP: Mr. Chair, I'd like to second  
3 that. I think that we need to do what's right for the  
4 consumers here.

5 CHAIRMAN CARTER: And, Commissioners, just for the  
6 sake of clarity, we're dealing with Issues 1, 2 and 3.

7 COMMISSIONER EDGAR: Yes, sir.

8 COMMISSIONER ARGENZIANO: Got it. My ears are  
9 clogged.

10 MR. HEIN: How do I address the Commission properly?  
11 I mean, I'd like to ask that. I don't know how to do that. As  
12 far as Issues 1 and 2, I would like to discuss that with the  
13 Commission. That was -- that's a bigger issue than Mr. Will's  
14 issue.

15 COMMISSIONER ARGENZIANO: Mr. Chair?

16 CHAIRMAN CARTER: Yes, ma'am.

17 COMMISSIONER ARGENZIANO: I'm hear to listen to the  
18 individuals.

19 CHAIRMAN CARTER: The -- staff, in the -- I kind of  
20 wanted to kind of remain silent, but I think that the problem  
21 is maybe a lack of a system.

22 COMMISSIONER ARGENZIANO: I'm sorry?

23 CHAIRMAN CARTER: Maybe, the problem may be a lack of  
24 a system in terms of being able to quantify this.

25 Mr. Hein?

1 MR. HEIN: Yes, I'm here.

2 CHAIRMAN CARTER: You said we're dealing with Issues  
3 1, 2 and 3 and you want to be heard on that before we take our  
4 vote.

5 MR. HEIN: Well, 1 and 2 on the irrigation meter.  
6 That, that, I think, led up to the staff making the  
7 recommendation for the show cause and --

8 CHAIRMAN CARTER: We're not, we're not at the show  
9 cause yet.

10 MR. HEIN: Right. But the issue itself on Issue 1  
11 and 2 and the amounts of money charged are at issue, and I  
12 think that I would like to give the Commission a background and  
13 explain where the misunderstanding or error on the part of the  
14 utility came in. I think that's essential for the Commission  
15 to understand that.

16 CHAIRMAN CARTER: Okay. Here's your big chance.

17 MR. HEIN: Okay. Back in 2002, the utility asked for  
18 a staff assisted rate case. I had, had not had any dealings  
19 with the Public Service Commission other than approval to  
20 purchase the utility. In fact, that came about after the fact.  
21 But in 2002, the utility approached the Public Service  
22 Commission to do a staff assisted rate case, paid the fees and  
23 had that done. Halfway through that process it appeared at  
24 least to the utility there were numerous items that were being  
25 overlooked or not addressed. At that point, the utility hired

1 Rose & Sundstrom to try to discuss with the staff on how to  
2 address what the utility considered was an oversight on the  
3 staff's part. That did not happen. The utility -- I actually  
4 ended up getting punished for trying to bring that to the  
5 staff's attention.

6           During the homeowner's meeting that the staff held  
7 here locally, irrigation meters were brought up and yet no  
8 tariff was set. The staff is telling the Commission that I  
9 charged outside of my tariffs, and in a sense it is correct  
10 because I have no irrigation meter tariff. The tariff that  
11 they're alluding to, the \$70, is based on potable water and  
12 it's based on the customer paying tap-in fees, it's based on  
13 the existing plumbing that's in the ground and the meter boxes  
14 and the, and the other plumbing needed to install one meter.  
15 What the staff -- they have said, they've acknowledged that it  
16 costs more than \$70 to put in an irrigation meter. I had asked  
17 to be, to be able to get costs involved, and it was, it's been  
18 a long process trying to figure out how to get a price for an  
19 irrigation meter.

20           The company -- the staff has went and told the  
21 Commission the company earns, I think it was \$62,000. That was  
22 gross revenues. Last year the company for the first time had a  
23 profit, and it was under \$11,000 that the company earned on the  
24 water and sewer side. And specifically to, and I don't know  
25 whether it's Issue 1 or 2, but the Fountain irrigation meter,

1 their own plumber just to hook into an existing line was going  
2 to charge the customer \$480. Now our cost, we charged the  
3 customer \$597. And when we were done with it, we found out we  
4 had way undercharged. But because I had set the rate, I didn't  
5 go and talk to the customer and back bill them. The customer  
6 has enjoyed the usage of that irrigation meter for in excess of  
7 a year. They didn't file a complaint when it was first  
8 installed, they didn't file a complaint until a year later on a  
9 \$500 -- they paid \$597 to get an irrigation meter installed,  
10 and to date they have saved -- the utility has lost, I have the  
11 figures here, has lost \$254.87 they've recouped in savings on  
12 that irrigation meter. Now the staff wants to say we have to  
13 take and give everything but \$70 back; never mind the staff  
14 acknowledges it costs more than \$70 to install a meter and do  
15 the plumbing and things necessary. And while I want to conform  
16 with the staff and the Public Service Commission rules, I guess  
17 I'm asking the Commissioners and the staff for help to, to  
18 address this. I want to provide quality service, I want to  
19 follow the rules, but I want to do it in such a way that the  
20 utility isn't constantly losing money, that the one or two  
21 customers that have irrigation meters are actually being  
22 supported by the rest of the customers. And from what I'm told  
23 or led to understand, that should not be the case.

24           And in the case of Gregorio, if they did not think  
25 the \$897 was a correct charge, had they said something

1 up-front, and it's my fault, I'll take the responsibility, we  
2 would have had at least the opportunity to go to the staff and  
3 say, "I don't see anything in the tariff for an irrigation  
4 meter. How do I handle that?" And that's what I should have  
5 done.

6 And, but when I did talk to the staff, how they just  
7 keep saying all I can charge is \$70, even though they  
8 acknowledge that \$70 tariff is not based on an irrigation  
9 meter. Just because it says meter installation fee, they've  
10 used that to broadbrush the irrigation meter. And that is why  
11 in my response to the staff's recommendation I'm asking the  
12 Commission to take and research this. I provided -- I finally  
13 got some estimates on what it would take to install irrigation  
14 meters. But I would ask the Commission and the staff for some  
15 help in getting this tariff set for irrigation meters so that a  
16 utility doesn't continually lose money on a few customers.

17 CHAIRMAN CARTER: Mr. Hein. Mr. Hein.

18 COMMISSIONER ARGENZIANO: Mr. Hein, I know that staff  
19 has, has told you that you could request an increase on that  
20 meter installation charge and have not yet, you have not yet  
21 filed a request.

22 MR. HEIN: Well, that's not quite correct. When I  
23 spoke to the Public, the staff about doing that, I was not  
24 originally told I could do that. I asked if I could do that  
25 and I was, I was not given an answer. I was told this is all

1 that's there. This is what you have to charge.

2 And the other thing is I have requested it. It was  
3 part of -- when I sent my response to the staff recommendation  
4 to the Commission I did request a tariff increase for a meter  
5 installation charge. That was faxed or e-mailed to the staff  
6 and also to -- I want to say Tim Devlin, but I'm not sure right  
7 now.

8 COMMISSIONER ARGENZIANO: When was that, Mr. Hein?

9 MR. HEIN: That was just done, I believe, either  
10 Friday or Monday.

11 COMMISSIONER ARGENZIANO: So it took you a long time  
12 to get that request in. Did staff get the request?

13 MR. HEIN: And I would like to answer that, and I  
14 agree with you. What the problem was is every time I called an  
15 underground company, they would tell me, no, a plumber has to  
16 do that. I had to -- and when I called the plumbing companies,  
17 they said, no, an underground company had to do that.

18 COMMISSIONER ARGENZIANO: But shouldn't -- but, Mr.  
19 Hein --

20 MR. HEIN: I finally had to get both plumbers and  
21 underground people out there to show them.

22 COMMISSIONER ARGENZIANO: But, Mr. Hein, what does  
23 that have to do with asking the Commission for, requesting the  
24 Commission for an increase in that charge?

25 MR. HEIN: I couldn't, I couldn't ask them what to



1 do, how much to charge until I got an estimate.

2 CHAIRMAN CARTER: Commissioners, I'm just -- I find  
3 it incredible -- so whenever people say things about our staff,  
4 I obviously want to give staff an opportunity to respond, but  
5 that sounds incredible to me that any request to our staff  
6 would, would fall on deaf ears. So, staff, at this point in  
7 time, would you -- just a response to that.

8 MS. DANIEL: Commissioners, I believe we've got some  
9 correspondence in the docket file. I don't have the exact  
10 dates in front of me, but there's correspondence indicating in  
11 the letter to Mr. Hein that you may file for tariff relief.

12 COMMISSIONER ARGENZIANO: A brief question.

13 CHAIRMAN CARTER: You're recognized, Commissioner  
14 Argenziano.

15 COMMISSIONER ARGENZIANO: Did Mr. Hein send you in a  
16 request?

17 MS. DANIEL: Commissioners, I have copies, and if  
18 you'd like to see them, I'll be happy to pass them out.  
19 Mr. Hein on Friday faxed us a response to this recommendation.  
20 It's a two-page letter with two attachments which appear to be  
21 invoices for installation of irrigation meters.

22 On the second page of the letter in the first full  
23 paragraph there's a sentence that reads, "The utility has  
24 submitted as of today's date a request to increase meter  
25 installation fees and other miscellaneous service charges and

1 an additional fee for the estimated cost of tapping the main  
2 line," et cetera, et cetera. That is his tariff request. I  
3 have put him in touch with the folks that deal with tariff  
4 filings. I believe perhaps last night at 6:00 he might have  
5 made that contact. And I know --

6 CHAIRMAN CARTER: Have you -- excuse me for  
7 interrupting. Have you received --

8 MS. DANIEL: A tariff filing?

9 CHAIRMAN CARTER: Had you received a request from --  
10 before, I think you said, Friday?

11 MS. DANIEL: No, sir.

12 COMMISSIONER ARGENZIANO: Right. And, Mr. Chair --

13 CHAIRMAN CARTER: Commissioner Argenziano.

14 COMMISSIONER ARGENZIANO: -- his answer to that was  
15 he couldn't find out, he couldn't get a definitive, I guess,  
16 cost to do what he needed to do. But for this request, this  
17 goes to the future. It can't go back to the past because his  
18 tariff was what it was.

19 MS. DANIEL: It is what it is.

20 COMMISSIONER ARGENZIANO: Okay.

21 MR. FLETCHER: Commissioners, if I may. I received a  
22 voice mail from Mr. Hein yesterday and I returned his phone  
23 call, and in the voice message I left the provisions which he  
24 can file a tariff filing. It's incomplete in his response to  
25 the recommendation here just with the two quotes for the

1 irrigation meter. There are certain minimum filing  
2 requirements that you have to have for the tariff filing: The  
3 revised tariffs, you definitely have the cost justification  
4 that's missing here for the miscellaneous service charges that  
5 he's requesting a change on as well, and then there are also  
6 noticing requirements, and that is under, I explained in the  
7 voice mail that it's under the provision for a tariff filing,  
8 Chapter 367.091, Provision 6. And I just left my name, number,  
9 in order if he had any questions regarding exactly what needed  
10 to be in the filing.

11 CHAIRMAN CARTER: Commissioner Argenziano.

12 COMMISSIONER ARGENZIANO: Well, just to that point, I  
13 realize this is a very small company, so he may not have things  
14 available to him that larger companies would or he may have  
15 difficulty actually getting that cost. So that can always be  
16 worked out, I'm sure, especially since you've offered  
17 assistance, but it still goes to the future.

18 MR. FLETCHER: Correct.

19 COMMISSIONER ARGENZIANO: You can't turn around now,  
20 and, Mr. Hein, I hope you understand that, because, you know,  
21 you've got this request in, you cannot go retroactive because  
22 that's the way it is unfortunately. So I guess at this point I  
23 would suggest that you get those costs, get them in line and  
24 get staff to help as much as they can in getting that request  
25 taken care of.

1 CHAIRMAN CARTER: Commissioner McMurrin.

2 COMMISSIONER McMURRIAN: Thank you.

3 Mr. Hein, I was going to say essentially the same  
4 thing that Commissioner Argenziano just said. I think that I'm  
5 definitely sympathetic to the fact that it may cost you more  
6 than \$70 for this, for this installation. But I think that, I  
7 think that all utilities are charged with the knowledge of the  
8 Commission's rules and statutes, and we can't really make  
9 exceptions with respect to the fact that, you know, it costs  
10 you more, yet your tariff said \$70. I think we have to, we  
11 have to uphold those tariffs that are on file, and that's fair  
12 to the customers because that's the only notice that we have  
13 and they have of what those charges are. So that's where I'm  
14 coming from.

15 And I guess I'll just ask staff too, when we approve  
16 a certificate for a company, there is language in that order or  
17 even in the certificate itself that puts utilities on notice  
18 that they're supposed to be aware of all our rules and orders  
19 and it puts the burden on them to be aware of all these rules,  
20 and so that they should know that if they need to change these  
21 charges, that they need to be aware of that and they come to  
22 us. And even informally, Mr. Hein, contact staff and, and let  
23 them know you need help and I'm sure they will be glad to  
24 accommodate you. But I just wanted to make sure that's the  
25 case with respect to certificates.

1 MS. DANIEL: Commissioners, there's a letter that  
2 goes out with every new or transferred certificate that  
3 contains about two inches of information, copies of rules and  
4 statutes and tariffs and letters with names and phone numbers  
5 and information about annual reports and everything we can  
6 possibly imagine to get a new utility owner up to speed.

7 COMMISSIONER McMURRIAN: Thank you.

8 CHAIRMAN CARTER: Thank you. Commissioner Skop. One  
9 moment. Commissioner Skop.

10 COMMISSIONER SKOP: Thank you, Chairman Carter.

11 I'd like to concur with Commissioner McMurrian's  
12 comments. Essentially, again, we can't look back to the past  
13 and we need to refund the customers' money. To the extent that  
14 the tariffs weren't in place on a forward-going basis,  
15 certainly we can have staff take a look at what the appropriate  
16 costs for the irrigation meters are. But, again, at the  
17 appropriate time I'd like to move forward with the motion that  
18 we have properly seconded to refund the money to the consumers.

19 CHAIRMAN CARTER: Commissioners, I think we've beat a  
20 dead horse to sleep on these first three issues here. We've  
21 had a motion and properly seconded. Do any of the  
22 Commissioners have any further questions on the first three  
23 issues?

24 COMMISSIONER EDGAR: Mr. Chairman.

25 CHAIRMAN CARTER: Commissioner, you're recognized.

1 COMMISSIONER EDGAR: Just it was my --

2 MR. WILL: Mr. Will would like to speak.

3 CHAIRMAN CARTER: Not at this time, Mr. Will.

4 COMMISSIONER EDGAR: Since it was my motion, I just  
5 wanted to make sure it was clear to my colleagues that I made  
6 one slight change to the staff recommendation, which was the  
7 addition of the calculation of interest. And then I am  
8 comfortable to go forward with the motion on Issues 1, 2 and 3.

9 CHAIRMAN CARTER: Commissioners, let's --  
10 Commissioner Argenziano, you're recognized.

11 COMMISSIONER ARGENZIANO: And I do, I guess I do  
12 understand that. And I understand the customer requiring their  
13 money back and I understand Mr. Hein because the customer did  
14 benefit. It's unfortunate that Mr. Hein did not request the --

15 CHAIRMAN CARTER: The rate increase.

16 COMMISSIONER ARGENZIANO: -- the rate increase.  
17 Thank you. It just wouldn't come out. So I understand. I  
18 want to make that, that understood here.

19 Mr. Hein, you have to understand that even though the  
20 customer enjoyed the benefit of that, which is true, the,  
21 because you did not have that rate increase in or request in,  
22 you can't turn the clock back. And I just wanted to say that  
23 again just to make sure he understood that, and that -- and  
24 then we'll move on with the motion, I guess, Mr. Chair.

25 CHAIRMAN CARTER: Commissioners, any questions? It's

1 been moved and properly seconded. All those in favor, let it  
2 be known by the sign of aye.

3 (Unanimous affirmative vote.)

4 All those opposed, like sign.

5 And, Commissioners, we will be in discussion on and  
6 we'll ask staff to kind of direct us through Issues 4 through  
7 6. And let me kind of get my notes together on this. Staff,  
8 you're recognized.

9 MS. FLEMING: Katherine Fleming on behalf of  
10 Commission legal staff.

11 Commissioners, Issue 4 is an issue regarding a show  
12 cause. Staff is recommending that show cause be imposed on  
13 this utility, a fine of \$1,500, and this relates specifically  
14 for the utility charging rates and charges outside its tariff  
15 with respect to the customer complaints addressed in Issues 1,  
16 2 and 3.

17 CHAIRMAN CARTER: Commissioner Argenziano.

18 COMMISSIONER ARGENZIANO: This one I have a problem  
19 with. And I understand staff and I understand it's been an  
20 ongoing issue and staff has felt that Mr. Hein has not  
21 responded sometimes or would not respond. I don't have that  
22 benefit. I trust staff. But I think it's such a small company  
23 and I have a problem at this point -- I think a fine -- I'd  
24 rather move on making sure the customer gets paid what they  
25 need and ask the company to proceed, the utility to proceed

1 down the road trying to make things better and, you know, we'll  
2 watch them. I just have a problem with, I guess, socking it to  
3 a small company at this point.

4 CHAIRMAN CARTER: Commissioner Skop.

5 COMMISSIONER SKOP: Thank you, Chairman Carter.

6 Again, I just wanted to ask staff a question to make sure that  
7 this utility has not been a repeat offender, if this is a  
8 first-time offense, and I'd like to direct --

9 MS. DANIEL: Commissioner Skop, I reviewed the order  
10 from the 2002 staff assisted rate case. I don't have it in  
11 front of me. But my recollection was at the customer meeting  
12 there were some customer concerns raised about Mr. Hein's  
13 policy for disconnecting customers. And in that order the  
14 Commission declined to show cause Mr. Hein but admonished him  
15 to be sure to carefully review the rule addressing refusal or  
16 discontinuance of service. So a show cause has been brought  
17 forward before on Mr. Hein and the Commission declined to fine  
18 him at that juncture with merely an admonishment.

19 COMMISSIONER SKOP: Okay. And, Mr. Chair, a  
20 follow-up question to Mr. Hein.

21 Mr. Hein, can you hear me?

22 MR. HEIN: Yes. Go ahead.

23 COMMISSIONER SKOP: You recognize as a utility  
24 operator that when staff requests data, that you have an  
25 obligation to provide that data in an timely manner?



1 MR. HEIN: I'm sorry. I didn't hear that all.

2 COMMISSIONER SKOP: Okay. Mr. Hein, do you recognize  
3 as a utility operator that when staff requests data, you have  
4 an obligation to provide that data and respond to that request  
5 in a timely manner? Do you understand that?

6 MR. HEIN: Yes, I do, and I'm willing to do that.

7 COMMISSIONER SKOP: Chairman Carter, based on staff's  
8 response to my question and Mr. Hein's acknowledgment -- again,  
9 I'm all for show cause under the right circumstances, but in  
10 this instance, clearly with the refunds being issued to the  
11 consumer, we're doing right by the consumer, we're protecting  
12 their interests, and I just question whether show causing would  
13 serve a purpose in terms of being maybe more harsher than it  
14 needs to be in this circumstance. However, if, if the will of  
15 the body is to move forward, certainly we could take a look at  
16 that. But, again, based on the lack of violations per se,  
17 perhaps any penalty might be held in abeyance based on  
18 forward-going performance or something like that. But  
19 generally I can -- excuse me. Generally I concur with  
20 Commissioner Argenziano's comments to the extent that this may  
21 be more of a severe penalty than is necessary to the extent  
22 that it's -- given the cost of the meters and doing right by  
23 the consumers by refunding that amount, I think that speaks  
24 volumes and sends the proper message in itself.

25 CHAIRMAN CARTER: Thank you, Commissioner.

1 Commissioner McMurrrian.

2 COMMISSIONER McMURRIAN: Thank you, Chairman.

3 Mr. Hein, do you have the staff rec in front of you  
4 perhaps?

5 MR. HEIN: No, I do not.

6 COMMISSIONER McMURRIAN: Okay. Well, there is a,  
7 there is a paragraph at the end of Issue 5, and I'll just, I'll  
8 just read it because I want to make sure you understand this  
9 paragraph. Because I tend to agree with Commissioner  
10 Argenziano and Commissioner Skop, but I think this is  
11 important.

12 It reads, "Therefore, East Marion should be required  
13 to send to the Commission audit staff within 30 days of the  
14 Commission's order becoming final the following documentation:  
15 One, general ledgers for the years 2005, 2006 and through  
16 October 15th, 2007. Two, details of other revenues for the  
17 years 2005, 2006 and through October 15th, 2007. Three,  
18 customers' bills that support the other revenues for the years  
19 2005, 2006 and through October 15th, 2007."

20 Mr. Hein, do you, are you going to be able to provide  
21 that information to the Commission's audit staff in the time  
22 frame that this recommendation suggests?

23 MR. HEIN: What I would like to say is the general  
24 ledgers were mailed. Those are something that normally the  
25 accountant prepares. We had -- I had never received them from

1 the accountant. The accountant uses them to do the tax  
2 returns. But I did, did get them printed and they are in the  
3 mail. The staff should receive them either today or tomorrow.  
4 And also what was provided was something called a billing  
5 register which shows for those three years, that pertinent time  
6 frame, what each customer was charged for their bills and any  
7 other miscellaneous charges.

8           Once the staff reviews that, if there's something  
9 else they need and I have it, I'll be glad to provide that.  
10 But they should have that, like I said, they should have that  
11 today or tomorrow.

12           COMMISSIONER McMURRIAN: Mr. Chairman, I'd like to  
13 ask staff to respond to that. I want to be clear about what  
14 you need and make sure we get a commitment from, from Mr. Hein  
15 that we're going to get that. Because I agree there's -- I'm  
16 willing to forego the show cause amounts for the same reasons  
17 that my colleagues have suggested, but I do want to get  
18 whatever information we need to answer the questions that are  
19 outstanding. So can you help me determine whether what he said  
20 that he's provided is going to be enough? And I know that you  
21 will work, continue to work with him to get what information  
22 you need, as he suggested.

23           MS. VANDIVER: Yes, Commissioner. This is Denise  
24 Vandiver on behalf of Commission audit staff. These are the  
25 initial requests that we had asked the company to provide in

1 October. Until we see these, we won't know if we'll need  
2 additional information. It sounds like what he's providing  
3 will give us what we need at this point. We may very well have  
4 follow-up, which hopefully we'll be able to work out with him  
5 also.

6 COMMISSIONER ARGENZIANO: And, Mr. Chair.

7 CHAIRMAN CARTER: Commissioner Argenziano.

8 COMMISSIONER ARGENZIANO: I'd just like to mention to  
9 Mr. Hein that, as Commissioner Skop said, you really need to  
10 respond. And if you can't respond or have, maybe just don't  
11 have the information, at least convey that to staff. Let them  
12 know that you are working on it. Because if you don't respond,  
13 that sends a very bad message.

14 MR. HEIN: And I'd like to respond to that. I have  
15 stayed in touch with Ms. Vandiver. Before I talked to her I  
16 didn't even know what a general ledger was. So it took some  
17 time for me to get with an accountant because there's -- I had  
18 to change the accountant because he doesn't follow up or  
19 provide the work that is needed not only to me but to -- we've  
20 had problems with the Public Service Commission getting their  
21 annual reports on time. So I've made a claim to the  
22 accountant.

23 COMMISSIONER ARGENZIANO: And, Mr. Chair --

24 MR. HEIN: I have stayed in touch with Ms. Vandiver  
25 trying to understand her needs and have followed up and

1 provided, and I'm willing to do that.

2           COMMISSIONER ARGENZIANO: And that's -- Mr. Chair.  
3 That's all I'd say. Staff are humans; they have things that  
4 happen in their life, too. If you were to come back to them  
5 and say, look, I don't even know what a general ledger is,  
6 that's okay. You know, they'll have an understanding that at  
7 least you're trying. I'm never afraid to ask the questions.  
8 So just please make sure that you respond and let them know if  
9 you just don't understand something or don't, don't know what  
10 they're talking about. I think that's the best way to help the  
11 communication lines.

12           CHAIRMAN CARTER: Thank you.

13           Commissioner Skop, then Commissioner Edgar.

14           Commissioner Skop.

15           COMMISSIONER SKOP: Thank you, Mr. Chair.

16           And just speaking to that, Mr. Hein, also to  
17 recognize that you're a small utility operator and we do  
18 greatly appreciate small business. And, like I say, staff is  
19 available for these rate cases and here to help you. So,  
20 again, if you do have questions, reaching out to staff is  
21 probably the best option to the extent that they're here to  
22 help facilitate compliance. And I think it would be greatly  
23 beneficial if you would tap that resource. Thank you.

24           MR. HEIN: Could I ask one question to that?

25           CHAIRMAN CARTER: If I were you, I'd just kind of

1 wait for a minute, Mr. Hein.

2 MR. HEIN: I'll wait. I'll wait.

3 CHAIRMAN CARTER: I'm not your, I'm not your  
4 attorney, although I do play one on TV. Just kind of hold up  
5 for a moment. At this point in time it's primarily the  
6 Commissioners.

7 Commissioner Edgar, you're recognized.

8 COMMISSIONER EDGAR: Thank you, Mr. Chairman.

9 And, you know, let me just throw out maybe a slightly  
10 different perspective for discussion, I hope, for a few  
11 minutes. I, I agree with all of the comments that I've heard  
12 about it being a small company. I recognize, I mean, 98  
13 customers I think is what it is, very small, and clearly we  
14 want the utility to be able to provide good service and be in a  
15 financial situation to be able to meet the needs of its  
16 customers. And if, if indeed \$2,000 total show cause is not  
17 the appropriate amount, then, again, we certainly can discuss  
18 that.

19 But I would -- you know, I'm troubled by some of the  
20 language that I see here in the discussion before us. And I'm  
21 looking right now at the bottom of Page 11 where it says that  
22 on October 2nd Mr. Hein was faxed a copy of the complaint from  
23 a customer, no response was received, followed up with a  
24 certified letter being sent requesting response to the customer  
25 complaint. The certified letter was returned. A second

1 certified letter and a fax regarding the complaints was sent to  
2 Mr. Hein. That certified letter was also returned. You know,  
3 customers that have made complaints, it seems to me, should  
4 have their complaints responded to. It also seems to me that  
5 requests for information or for follow-up action from our staff  
6 should be responded to as well. And if our -- if a certified  
7 letter can't get to the utility, then I don't know what  
8 customers are supposed to do to have their concerns addressed.

9 I am very comfortable with, you know, what we have  
10 done thus far as far as trying to work with this utility,  
11 directing our staff to work with them, directing the utility to  
12 work with our staff on a go-forward basis. And, again, \$2,000  
13 may not be the appropriate amount, realizing the size of the  
14 company and some of the other circumstances. But then again I  
15 look at the bottom of Page 12 and, you know, here is a  
16 statement. It appears that the utility has persistently  
17 delayed and withheld its responses. Staff took all available  
18 measures to me, a number of phone calls and certified letters.  
19 It's, you know, that's significant if you can't get a response  
20 after that. And I do have a concern that customers who have  
21 been overcharged have to come to the Commission to get their  
22 money, which is their money, to get their money back.

23 So I'm not sure what the appropriate go-forward is.  
24 Again, I just wanted to point those things out since they're  
25 before us. It's not that I want -- I want everything that we

1 do to try to make things better, address the circumstances that  
2 we have. But from the information we have before us, it does  
3 seem that this utility has not responded appropriately, and I  
4 don't -- you know, I'm glad that we are here to help customers  
5 get a refund when they are due. But, quite frankly, if a  
6 refund is due and that is brought to the attention of an  
7 operator, a customer should not have to go through all the time  
8 and energy to resort to come here if that's been brought to  
9 their attention.

10           So for 4 and 5 maybe, you know, a halfway would be to  
11 waive the show cause amount that our staff has recommended in  
12 4 and keep the smaller amount in 5, which is \$500 and deals  
13 specifically with the violation regarding addressing customer  
14 complaints. That might be one way kind of, kind of in between.  
15 But some of this information that is before us I find  
16 disturbing. Thank you.

17           CHAIRMAN CARTER: Commissioner Argenziano.

18           COMMISSIONER ARGENZIANO: And I agree. In reading  
19 through this it definitely, it definitely is somewhat  
20 disturbing. But also understanding what a small utility goes  
21 through and sometimes how hard -- and I'm not disregarding  
22 Mr. Hein's, I think, failure to, to communicate properly, but  
23 I've seen that just asking a few questions, sometimes there are  
24 unfortunate circumstances. And I think that what I'm trying to  
25 say today is, you know, you're on, you're on kind of probation



1 in my book right now because I have not heard from Mr. Hein  
2 about this. And to me, in any court you hear from both sides.  
3 I can't make a judgment. I can say this is what staff has  
4 presented for me. They have no reason to lie. But there may  
5 be circumstances that a small utility sometimes goes through,  
6 and in just asking a couple of questions I've already figured  
7 out on one. I mean, it was -- I was coming in believing  
8 that -- Mr. Will, I'm sorry, but I think your payment was late.  
9 You were riding on a grace period and it was late. So I had a  
10 different opinion after I questioned both sides.

11 Now with that said and with Commissioner Edgar's  
12 pointing out these, these failures, I think I'd like to hear  
13 from Mr. Hein about why he has not responded to these, you  
14 know, areas, the customer complaints and exactly what  
15 Commissioner Edgar had read. I think there are two sides to a  
16 story. And it may not be. It may be that it was his failure  
17 and he should have not, he should have known better, but I  
18 would like to hear that. And I would still offer that it is  
19 such a small utility, and I think, from what I understood, the  
20 customer pretty much overall, you know, may be better off with  
21 that smaller utility than a larger utility that may find, they  
22 may find their rates going up quite a bit higher as the  
23 surrounding utilities are. So if I may, Mr. Chair, I'd like to  
24 hear from Mr. Hein.

25 CHAIRMAN CARTER: You're recognized. Mr. Hein?

1 MR. HEIN: And I appreciate the opportunity. That  
2 has been one of my concerns with the customers. And what I'd  
3 like -- even though the issue is not a Public Service  
4 Commission issue, what I'd like to bring to the Commissioners'  
5 attention is that specifically Mr. and Mrs. Gregorio and  
6 Mr. and Mrs. Fountain and Mr. Will is engaged in a lawsuit  
7 against the homeowners association of which I'm president. I  
8 believe this flows from that and I will tell you why.

9 Mr. and Mrs. Fountain had an irrigation meter since  
10 July of '06. Have not, didn't file a complaint until a year  
11 later. They never contacted me. Neither did --

12 COMMISSIONER ARGENZIANO: Mr. Hein -- Mr. Chairman,  
13 can I interrupt? Mr. Hein, I need to interrupt you, because I  
14 understand what you're saying and there may be other mitigating  
15 circumstances or other reasons or whatever. But my question to  
16 you is why did you fail to respond or did you -- because of a  
17 lawsuit to the, to the customer or unopened certified mail sent  
18 back to the Commission? That's what I need from you.

19 MR. HEIN: And I can answer that. First of all, I  
20 have -- I did not receive a complaint from the customer. I  
21 have talked to the staff.

22 MR. WILL: That's a lie.

23 COMMISSIONER ARGENZIANO: I don't know what to tell  
24 you at this point.

25 MR. HEIN: Let me finish, please. I'd like to at

1 least -- the customer in Mr. Fountain's case and Mr. and Mrs.  
2 Gregorio's case, they did not contact me. They went directly  
3 to the staff. I understand the staff's concern that I'm  
4 ignoring them. It is not my intent to ignore.

5           The Commission and the staff should be able to tell  
6 from looking at the revenue from the company, I do not earn a  
7 living from this company totally. I travel. Those certified  
8 letters that were returned -- I have a service that collects  
9 mail, and I'm supposed to sign for this. And it was my  
10 understanding that somebody there signed for it and then said,  
11 oh, we're not allowed to, because I'm, I'm supposed to get  
12 that, so I acknowledge it. There have been more than one  
13 instance where I have responded to the staff, and 90 percent of  
14 our communication between the staff and myself is either made  
15 by fax --

16           CHAIRMAN CARTER: Mr. Hein, thank you. Thank you,  
17 Mr. Hein.

18           Commissioners, I think, I think we're still beating  
19 that dead horse, and I don't think we're getting really what we  
20 need on this.

21           MR. HEIN: All I wanted to say is --

22           CHAIRMAN CARTER: No. No. No, Mr. Hein. Hold on a  
23 second.

24           I think from our discussion, Commissioner Skop,  
25 Commissioner Argenziano and Commissioner McMurrian have said,

1 particularly in reference to the bottom of Page 14,  
2 Commissioners, I think with a time certain we may want to look  
3 at that.

4 Commissioner Edgar.

5 CHAIRMAN EDGAR: Mr. Chairman, I'd like to throw  
6 something out as just an effort to try to pull in some of the  
7 pieces that we've heard and then we can just see where, see  
8 where it goes.

9 I would make a motion that on Issue 4 we note the  
10 apparent violations but waive the show cause amount that has  
11 been recommended by our staff. So there would be no, no amount  
12 due on 4.

13 CHAIRMAN CARTER: Okay.

14 CHAIRMAN EDGAR: On 5, that we concur with the staff  
15 recommendation, which would therefore be a show cause total of  
16 \$500 in recognition of a number of things, but more  
17 particularly the fact that I understand and sympathize with  
18 somebody who travels and tries to run a business. But I do  
19 think that it is necessary for a utility operator in this state  
20 to be able to be contacted by customers.

21 So, again, I would waive the amount recommended in  
22 Issue 4, concur with the staff recommendation in Issue 5, ask  
23 that the staff reiterate to the utility those items that they  
24 are required to file with our staff as listed on the bottom of  
25 Page 14 and as discussed by Commissioner McMurrian with

1 Mr. Hein, and, and then go with the staff recommendation on  
2 Issue 6, which would be to leave the docket open pending the  
3 refund amounts.

4 CHAIRMAN CARTER: Commissioners, before we get a  
5 second, let's -- Commissioner Skop, you're recognized.

6 COMMISSIONER SKOP: I think Commissioner Argenziano  
7 had a question, and I have one also.

8 CHAIRMAN CARTER: Commissioner Argenziano, you're  
9 recognized.

10 COMMISSIONER ARGENZIANO: Well, I just, I guess I  
11 have a hard time with that because -- and I understand -- I  
12 just don't know what the fine does. I don't think it does any  
13 good to fine a small company unless there's really egregious  
14 activity, and I'm not saying that not responding to consumers  
15 is not egregious. But what I'm hearing is that there have been  
16 a lot of unfortunate things going on in this case. There's  
17 people with lawsuits who have, have used, have had the benefit  
18 of equipment, there's a whole bunch of things going on here,  
19 and I'm just not sure that the fine really does anything. So  
20 you take it down from \$1,500 to \$500, I'm not sure what that  
21 really means.

22 And I believe -- I don't know. I don't know. I  
23 don't know. I just have a real problem with that. What I  
24 would prefer to do is make sure that Mr. Hein complies. If we  
25 stick with the consumers getting their money back, which they

1 deserve at this point absolutely, and then within whatever  
2 order we have, he has to comply with whatever else needs to be  
3 done. And putting him on notice that I understand you're a  
4 small utility, but customers have a right, as Commissioner  
5 Edgar has pointed out a few times now, that they have a right  
6 to be able to get in touch with you and complain or whatever.  
7 But at the same time, if you look at the circumstances and  
8 there are a couple of customers who have complained and they  
9 happen to have a lawsuit against the same guy, there may be  
10 something else going on here that I'm just not sure that I want  
11 to get mixed into. So while giving the customers back their  
12 money is to me the number one thing today, but to say that a  
13 fine is going to change or going to make any difference, I'm  
14 not sure it does. I think what it does is just hurts the  
15 smaller entity. And I'd rather it go today with the  
16 understanding that, you know, you didn't get fined today but  
17 you could tomorrow or you could have problems tomorrow if that  
18 continues and maybe give them a chance. I haven't been here,  
19 before this company before. What's before me today is somewhat  
20 disturbing. But this just seems like the whole underlying --  
21 there's a whole maze of things going on and I'm just not sure  
22 that the fine really does anything.

23 I sat here not too long ago when a very large company  
24 came in that's had very many, many years of unacceptable  
25 behaviors and I didn't see any fines. So it's like, wait a

1 minute. Let's see what we can do with the same kind of type of  
2 enforcement and see if we can do it to this smaller company and  
3 say, hey, get it together. Today is your last warning. And  
4 the customers deserve the responses to questions, but we also  
5 need to figure out if there's any underlying reasons why some  
6 of those complaints come in too. And I'm not saying that  
7 they're not legitimate, but that's my feeling on that today. I  
8 don't understand the difference between \$1,500 and \$500.

9 CHAIRMAN CARTER: Thank you, Commissioner.

10 Commissioner Skop.

11 COMMISSIONER SKOP: Thank you, Chairman Carter.

12 Again, I think I'm looking at this and trying to look at it in  
13 terms of being objective and what's best to send the  
14 appropriate punishment and signals for corrective action as  
15 well as without unduly harming a very small utility provider.  
16 On Issue 5 I'm a little bit more open towards perhaps a fine to  
17 the extent that they're consumer-driven complaints.

18 On Issue 4, I don't know what purpose a fine would  
19 serve per se. But, again, I'm reluctant to relinquish this  
20 Commission's power on Issue 4 or 5 to the extent that if  
21 continued behavior occurred, that we would not have the  
22 opportunity to, to use what we have before us today to subject  
23 the utility to the appropriate fines at a later time. So I  
24 think Commissioner Argenziano brought up the concept of a  
25 probation period. And, to me, if we could move forward with

1 the show cause on Issue 4 and 5 or bifurcated them in some  
2 manner acceptable to the Commission, because I think  
3 Commissioner Edgar had brought forth some ideas, but perhaps  
4 staying the fine or what options, you know, staff might  
5 propose.

6 But, again, I do think the show cause is important.  
7 I'm not necessarily convinced that in the, in light of awarding  
8 the consumers complete refunds with interest that we have not  
9 already sent the appropriate financial penalty to a small  
10 utility. But, again, I'd like to reserve our options under the  
11 show cause and I think that, you know, a lot depends on the  
12 utility. Mr. Hein has given us some assurances that he intends  
13 to correct some of the problems that staff has experienced.  
14 But, again, in reading the staff recommendation, there have  
15 been numerous instances where he's not responding.

16 So, again, I tend to agree more with Commissioner  
17 Argenziano to the extent that I don't know what purpose  
18 additional fines would serve to the extent that the message, I  
19 think, has already been clearly sent. The penalties and  
20 interest on meters that clearly, as staff has admitted, cost  
21 more than \$70, that's a big penalty in itself with interest.  
22 But, again, I'd like to keep this Commission's options open.  
23 Again, you know, we have had instances where, particularly in  
24 water and wastewater, where, you know, we need to send some  
25 appropriate signals. So, again, I'm not sure what the right



1 solution is. I'm pretty open-minded. But, again, show cause  
2 may be good; it's just a matter of what, what penalty, if any,  
3 needs to be applied or whether that should be stayed or held in  
4 abeyance pending any future violations within a period of time.  
5 But I just kind of wanted to throw that out there as a point of  
6 consideration. Thank you.

7 CHAIRMAN CARTER: Thank you.

8 Commissioners, let me just see if I can bring it in  
9 for an understandable perspective on where we are.

10 From what I'm, from what I'm hearing and what I've  
11 heard, I think that on Issue 4 we're saying that, that on the  
12 matter to show cause that we would not go forward with that; on  
13 Issue 5, that we would go forward with that sans the \$500 fine;  
14 and on Issue 6, that we would keep the docket open. And I  
15 think that, you know, from your discussion and your questions  
16 and your perspective, it seems to make a lot of sense in terms  
17 of where we are now. It also keeps, keeps the home fire  
18 burning. It has a definite date that Mr. Hein needs to  
19 respond, as Commissioner McMurrin illuminated quite  
20 forcefully, and he's got 30 days to respond to staff on that.  
21 And I think, I think the Commissioners, based upon where we are  
22 today and the time that we've put into this and the customers  
23 have received their refunds, and I think that based upon that  
24 and my understanding of listening to you, I think that's,  
25 that's a good strategy, Commissioners.

1 Commissioner Skop.

2 COMMISSIONER SKOP: Thank you, Chairman Carter. And  
3 I think that's a good summation of some of the positions. Just  
4 as an alternate proposal, maybe I'd like to throw this out on  
5 Issue 4 basically --

6 COMMISSIONER EDGAR: Mr. Chairman, if I may, just a  
7 point of order. I did make a motion, it is pending, and I will  
8 withdraw my motion for lack of a second, which perhaps puts us  
9 in a better posture for an alternate.

10 CHAIRMAN CARTER: Thank you.

11 COMMISSIONER SKOP: Thank you.

12 CHAIRMAN CARTER: But, Commissioner, before I hear  
13 you, based upon my listening to all the four of you, before we  
14 go with an alternative motion, I think that we probably want to  
15 bring closure to where we are, don't you think, Commissioners?  
16 Particularly on -- we -- from the discussion we'll not go  
17 forward with the show cause on Issue 4. On Issue 5 we would go  
18 forward, but without the \$500. And on Issue 6 we would keep  
19 the docket open. That's what I heard.

20 COMMISSIONER SKOP: Mr. Chairman --

21 CHAIRMAN CARTER: Did I not hear that or did I hear  
22 that wrong?

23 MR. COOKE: No. And we want to carry out what the  
24 will of the Commission is. We just want to be clear about a  
25 show cause, which is it is essentially an opportunity for the

1 respondent to come back to us and determine, give us  
2 information, if they want to, whether or not the fine is  
3 justified. So --

4 CHAIRMAN CARTER: So I should have said, yes, I  
5 should have said that 4 was yes then?

6 MR. COOKE: Well, what I'm hearing, if I can take the  
7 liberty, what I'm hearing is the majority wants to vote no on  
8 staff's recommendation on 4 and not pursue a show cause for  
9 that; that there is still some concern --

10 CHAIRMAN CARTER: Is somebody writing this down?

11 MR. COOKE: -- there's still concern on Issue 5. And  
12 --

13 CHAIRMAN CARTER: Okay. The Issue 5 was the  
14 financial aspects of it. From listening to the Commissioners,  
15 the only point of demarcation was the \$500, but --

16 MR. COOKE: There's \$500 and there's also the issue  
17 of getting additional information. And I think that -- I'm not  
18 sure it makes a lot of sense to issue a show cause without any  
19 fine, I guess is what I'm struggling with. You could vote no  
20 on that or you could vote yes with the \$500 fine and give the  
21 respondent an opportunity to come in and contest that, if they  
22 were, the company were to choose that. You could lower the  
23 amount of the fine. But I guess I'm a little more comfortable,  
24 if the fine is a problem -- I'm not sure what the purpose of  
25 issuing the show cause is without there being some penalty

1 involved in that process.

2 We could also order, the Commission could order that  
3 this information be provided within a certain period of time.  
4 And then if that did not come in, we could always bring this  
5 back. I mean, if there are ongoing violations -- staff is  
6 clearly going to monitor this situation.

7 CHAIRMAN CARTER: Commissioner Argenziano.

8 COMMISSIONER ARGENZIANO: That's what I was saying  
9 before, it could be within the order basically saying this is  
10 what you have to comply with and you're on this probation  
11 because it can come back. That's exactly what I had in mind.

12 MR. COOKE: And it gives it even more strength if  
13 it's in the order.

14 COMMISSIONER ARGENZIANO: Exactly.

15 CHAIRMAN CARTER: Well, Mr. Cooke, I'm glad that you  
16 were listening because you seem to have encapsulated it far  
17 better than I have. But I do think that's the will of the  
18 Commission from my understanding.

19 COMMISSIONER ARGENZIANO: But, Mr. Chair --

20 CHAIRMAN CARTER: Commissioner Argenziano.

21 COMMISSIONER ARGENZIANO: I would like to hear what  
22 Commissioner Skop had.

23 CHAIRMAN CARTER: Commissioner Skop's alternative,  
24 you wanted to hear that?

25 COMMISSIONER ARGENZIANO: We may really mess

1 everything up here. I don't know. But maybe --

2 CHAIRMAN CARTER: Let's do this. Let's lock this one  
3 down so we at least have something so we can come back to it.

4 Mr. Cooke, are you comfortable with where we are on  
5 that before we go entertain, before we entertain the  
6 alternative?

7 MR. COOKE: I'm sorry, Commissioner. I was having a  
8 side conversation to make sure that we're on the same page.  
9 Can you repeat that question?

10 CHAIRMAN CARTER: I'm saying are you comfortable with  
11 where we are on this perspective before we entertain an  
12 alternative perspective, before I recognize Commissioner Skop  
13 for the alternative perspective?

14 MR. COOKE: I think I'm comfortable. I guess I just  
15 wanted to make clear that the show cause, the whole intent is  
16 to give the company an opportunity to respond.

17 CHAIRMAN CARTER: Okay. And I think that we're all,  
18 I think we're on the same page with you on understanding that.  
19 Commissioners, is that correct? And I've kind of made a  
20 mountain out of a molehill, but I think we're clear on that.

21 Commissioner Skop, you're recognized.

22 COMMISSIONER SKOP: Thank you, Chairman Carter.  
23 Again, I think that my concerns have been addressed in terms of  
24 the alternate. Again, I think it's important for show cause to  
25 at least have some teeth or not be stripped from its teeth, and

1 I think the comments made by Commissioner Argenziano and also  
2 by our General Counsel kind of summarize my thinking in terms  
3 of -- you know, perhaps our General Counsel could formulate the  
4 appropriate motion based on what was just recently discussed,  
5 put the onus on him. But I think he captured the essence of  
6 some concerns that I had and I think that we should be able to  
7 get through this in quick order. But --

8 CHAIRMAN CARTER: Okay. Here we are. Commissioner  
9 Edgar, you're recognized for the motion.

10 CHAIRMAN EDGAR: Mr. Chairman, I quite frankly think  
11 that my original motion was the appropriate one for all the  
12 right reasons. (Laughter.)

13 You know, again, we have had some discussion with  
14 some of my colleagues wanting additional information and I  
15 certainly understand that. I do think the show cause mechanism  
16 is the mechanism that is in our rules to facilitate exactly  
17 that result. I think that having a fine of \$500 is, quite  
18 frankly, trivial under the circumstances and that that fine  
19 would not be issued if indeed the utility were to in this  
20 instance be responsive, as they have not been in the past. But  
21 clearly there was no support for that very reasonable approach,  
22 so I will try again.

23 CHAIRMAN CARTER: Try the unreasonable approach.

24 (Laughter.)

25 COMMISSIONER EDGAR: And in the effort of full

1 collegiality with, quite frankly, some dismay, because I think  
2 it is important that we enforce our own rules and I think that  
3 \$500 is pennies under the circumstances. However, since there  
4 was no support, I will make a motion that we direct our staff  
5 to contact the utility and have them, have the utility submit  
6 the information that is listed on Page 14 that will allow our  
7 staff to move forward with the work that they need to do with a  
8 utility that is certified to operate in this state. And that  
9 if there are other complaints that are brought to us by  
10 customers or other concerns that the staff sees from that  
11 material or otherwise, that they bring it before us again for  
12 further discussion and potential future action.

13 CHAIRMAN CARTER: Hang on a second. I don't, I don't  
14 think that's the motion. Mr. Cooke, can you help us out here?

15 MR. COOKE: Mr. Chairman, I do think that's the  
16 motion. I think that you are denying staff's recommendation on  
17 Issues 4 and 5 with the alternate that Commissioner Edgar just  
18 outlined.

19 CHAIRMAN CARTER: Say again?

20 MR. COOKE: I think that --

21 CHAIRMAN CARTER: Because it didn't sound like that  
22 before. Maybe it was just too long.

23 MR. COOKE: The Commission, the Commission is denying  
24 or rejecting staff's recommendation for show cause on  
25 Issues 4 and 5. Alternatively, the Commission is directing

1 that the utility submit the information that's outlined within  
2 the body of Issue 5 within, I think it was 30 days, and that  
3 the Commission -- and that the staff continue to monitor the  
4 complaint situation. And if that information is not provided  
5 within the time period or there are additional complaints, that  
6 we bring this back for further, further review by the  
7 Commission. I do believe that captures it, Mr. Chairman.

8 CHAIRMAN CARTER: Does that sound right?

9 Okay. Commissioner Argenziano.

10 COMMISSIONER EDGAR: Mr. Chairman, I thought that's  
11 what you were asking for.

12 CHAIRMAN CARTER: Yeah. You know, from South Georgia  
13 with my short attention span, it threw me.

14 Commissioner Argenziano.

15 COMMISSIONER ARGENZIANO: I'm sorry, but just a  
16 comment to make sure that my colleague understands that while I  
17 thought my suggestion was the right one for all the good  
18 reasons also, and my dismay was that maybe you didn't see some  
19 of the reasons why my suggestion was the one that I thought was  
20 right. I just want to make sure you understand that I  
21 understand your concerns, but I want to make sure that because  
22 I feel the way I do, it does not diminish or make you think  
23 that I don't care about the customers. Because I heard a  
24 little bit of "I'm surprised that you didn't care about this."  
25 I do, very much so. So I want to make it very clear there's



1 other reasons involved, and customer satisfaction is, is utmost  
2 important up here with me. And I just want to make that known  
3 that that is -- even though we may have differing opinions on  
4 how to get there, my goal has always been, and I think yours is  
5 also in your suggestion, to make sure that the customer and the  
6 utility are treated fairly. But I just want to make sure that  
7 you understand that because I have a different suggestion, that  
8 in no way means that I do not care about the customers and the  
9 ongoing problems that this company may be having. So for the  
10 record.

11 COMMISSIONER EDGAR: Commissioner Argenziano, thank  
12 you for those because I did not take it that way at all. I do  
13 think show cause, again, is a mechanism that this Commission  
14 has in our rules and, therefore, I did think it was an  
15 appropriate mechanism. But I don't think that a different  
16 approach is, is at all, is at all anti-consumer. Thank you.

17 So, again, yes, I quite frankly would still like to  
18 see a show cause amount. However, I can count, and realizing  
19 that there did not, there was no support for that, I have made  
20 this alternative motion in the effort to try to bring together  
21 the different thoughts that I thought I was hearing. And so if  
22 I said it in too long a way, I apologize, Mr. Chairman.

23 CHAIRMAN CARTER: No problem.

24 COMMISSIONER EDGAR: And so that motion is pending  
25 for your --

1           CHAIRMAN CARTER: Okay. Commissioner McMurrian.

2           COMMISSIONER McMURRIAN: Chairman, I can second the  
3 motion. And I just wanted to add -- I was fairly silent, as  
4 Commissioner Edgar noted. I wanted to say I didn't think that  
5 the proposal she threw out was at all unreasonable and I will  
6 say that. I do think we have to take very seriously when there  
7 aren't responses to customers. I guess my concern was we would  
8 have, we would open a show cause proceeding, we'd get  
9 essentially the same information that we heard from Mr. Hein  
10 here today, we'd end up fining him \$500 and really take a lot  
11 of work to get there in a sense. To me, in this case I'm  
12 willing to forego this \$500 and the show cause proceeding. But  
13 I do agree that it's important to enforce our rules, and I  
14 think that your idea to include interest going back to the  
15 customers was a very good one and something I definitely had  
16 not thought of. And I feel like that in this situation that  
17 that takes care of it enough, and I appreciate your willingness  
18 to try to throw out something though that we all could work  
19 toward. And, again, I don't think it was unreasonable. But I  
20 do support this new motion, and so you have my second.

21           CHAIRMAN CARTER: Thank you. And, Commissioners,  
22 just before we vote, I'm getting ready to call for the vote, I  
23 just want to say for the record and for everyone that's either  
24 listening or here presently, the first thing that we did  
25 unanimously was to ensure that the customers got a refund. So,

1 I mean, it was unanimous, 5/0, that the customers got a refund  
2 plus interest. And I think that shows, that shows above and  
3 beyond that we are deeply concerned about the rights and  
4 responsibilities of our fellow neighbors. Some people call  
5 them citizens but they're really our neighbors. And so I  
6 wanted to kind of say that just for the record.

7 Now the vote before us, all those in favor, let it be  
8 known by the sign of aye.

9 (Unanimous affirmative vote.)

10 Those opposed, like sign. Show it done.

11 Mr. Cooke, get your drafting pen out.

12 MR. COOKE: Yes, sir.

13 CHAIRMAN CARTER: Okay. We are now -- how about  
14 let's give the court reporter a five-minute break, five PSC  
15 minutes. We're on recess.

16 (Recess taken.)

17 (Agenda Item 4 concluded.)

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1 STATE OF FLORIDA       )  
                                  :  
2 COUNTY OF LEON        )

CERTIFICATE OF REPORTER


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

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

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

17           DATED THIS 7<sup>th</sup> day of March, 2008.

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