BEFORE THE
FLORIDA PUBLIC SERVICE COMMISSION

DOCKET NO. 080121-WS

In the Matter of:

APPLICATION FOR INCREASE IN WATER AND WASTEWATER RATES IN ALACHUA, BREVARD, DESOTO, HIGHLANDS, LAKE, LEE, MARION, ORANGE, PALM BEACH, PASCO, POLK, PUTNAM, SEMINOLE, SUMTER, VOLUSIA, AND WASHINGTON COUNTIES BY AQUA UTILITIES FLORIDA, INC.

_____/

VOLUME 9

Pages 1191 through 1431

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PROCEEDINGS:	HEARING
BEFORE:	CHAIRMAN MATTHEW M. CARTER, II COMMISSIONER LISA POLAK EDGAR COMMISSIONER KATRINA J. McMURRIAN COMMISSIONER NANCY ARGENZIANO COMMISSIONER NATHAN A. SKOP
DATE:	Thursday, December 11, 2008
TIME:	Commenced at 9:32 a.m.
PLACE:	Betty Easley Conference Center Room 148 4075 Esplanade Way Tallahassee, Florida
REPORTED BY:	LINDA BOLES, RPR, CRR Official FPSC Reporters (850) 413-6734
APPEARANCES:	(As heretofore noted.)

I N D E X

WITNESSES

I N D E X

WITNESSES

I N D E X

WITNESSES

EXHIBITS

NUMBER:	ID.	ADMTD.
99		1251
100		1263
101		1271
102		1271
103		1274
104		1277
105		1277
106		1277
107		1277
108		1285
110		1298
111		1298
112		1298
113		1301
114		1301
115		1301
116		1301
117		1301
118		1312
124		1318

EXHIBITS

NUMBER:		ID.	ADMTD.
125			1431
126			1431
146			1242
147			1242
151			1243
208	Complaints of Conte, Barager and LeFiles and Utility Response	1221	1242
209	(Late-Filed) Aqua's Response to Exhibit 208 Information	1224	
210	(Late-Filed) Aqua's Response to Requests for Permits	1235	

P R O C E E D I N G S

(Volume continues in sequence from Volume 8.)

CHAIRMAN CARTER: Good morning to one and all. We are on the record. And I think we've got -- Chris, by participation -- Commissioner Skop, are you there? Commissioner Argenziano?

COMMISSIONER ARGENZIANO: Yes, Mr. Chairman, I'm here.

CHAIRMAN CARTER: Good morning to you.

COMMISSIONER ARGENZIANO: Good morning.

CHAIRMAN CARTER: Thank you all for participating. When we last left here, we finished with Mr. Franklin. And, Mr. May, you're recognized.

MR. MAY: Thank you, Mr. Chairman. Aqua would call its rebuttal witness, Mr. John Lihvarcik.

CHAIRMAN CARTER: Mr. Lihvarcik. You may proceed.

JOHN M. LIHVARCIK

was called as a witness on behalf of Aqua Utilities Florida, Inc., and, having been duly sworn, testified as follows:

DIRECT EXAMINATION

BY MR. MAY:

Q Good morning, Mr. Lihvarcik.

A Good morning.

Q Would you please state your name and business address for the record?

A My name is John, middle initial M, as in Michael, last name is Lihvarcik, 1100 Thomas Avenue, Leesburg, Florida, 34748.

Q Have you previously been sworn in this proceeding?

A Yes, I have.

Q Did you prepare and cause to be filed 17 pages of rebuttal testimony?

A I have.

Q Do you have that rebuttal testimony before you today?

A I do.

Q Do you have any revisions to that rebuttal testimony?

A Yes, I do.

Q Would you please provide those at that time?

A On Page 17, Lines 10 through 12, please delete everything after the word "has" up until "a consumptive use." So the sentence should read, "AUF has a consumptive use permit." And that would be Item G for Kings Cove.

MR. REILLY: We need just a little bit of help on this because we don't have any page numbers.

CHAIRMAN CARTER: I was about to say the same thing, Mr. Reilly.

THE WITNESS: It would be right before my, the last page before my exhibits.

MR. REILLY: Okay. That helps.

THE WITNESS: Item G, Kings Cove.

MR. REILLY: Okay. Thank you. So it's the last page before exhibits, and which line?

THE WITNESS: It would be Line 10 and 11 where it says, "AUF has" from where it begins "already" to Line 11 where it says "obtain," you can delete all of that. So it should read, "AUF has a consumptive use permit."

MR. REILLY: Okay. Thank you.

BY MR. MAY:

Q Do you have any other corrections or revisions to your rebuttal testimony, Mr. Lihvarcik?

A I do not.

Q With those revisions noted, if I were to ask you the same questions today, would your answers be the same?

A Yes.

MR. MAY: Mr. Chairman, we would request that the prefiled rebuttal testimony of Mr. Lihvarcik be inserted into the record as though read.

CHAIRMAN CARTER: The prefiled testimony of the witness will be entered into the record as though read.

BY MR. MAY:

Q Mr. Lihvarcik, have you attached two exhibits to your rebuttal testimony?

A Yes, I have.

Q Do you have any revisions to those exhibits?

A I do not.

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

AQUA UTILITIES FLORIDA, INC.

REBUTTAL TESTIMONY OF JOHN M. LIHVARCIK

DOCKET NO. 080121-WS

Q. Please state your name and business address.

A. My name is John M. Lihvarck. My business address is 1100 Thomas Avenue, Leesburg, Florida, 34749.

Q. Have you previously submitted testimony in this proceeding?

A. Yes. I filed direct testimony as part of the Company's initial filing in this rate case, and sponsored Composite Exhibit JML-1, which consisted of Exhibits JML-1 and JML-2.

Q. What is the purpose of your rebuttal testimony?

A. The purpose of my rebuttal testimony is to address issues raised by Kimberly Dismukes, who filed testimony on behalf of the Office of Public Counsel ("OPC"). I also address issues addressed by several Staff witnesses from the Department of Environmental Protection ("DEP"), Department of Health ("DOH"), and Water Management Districts.

Q. Are you sponsoring any exhibits with your rebuttal testimony?

A. Yes. I am sponsoring **Exhibits JML-3 and JML-4**.

Q. Have your reviewed the direct testimony of Ms. Dismukes in this docket?

A. Yes.

Q. Do you have any concerns with respect to Ms. Dismukes' testimony?

A. Yes. These concerns are addressed below by heading.

AQUA CONNECTS

Q. Do you agree with the reasoning behind Ms. Dismukes' adjustment for Aqua Connects?

A. No, I do not. Aqua Connects is an important educational forum with numerous benefits. First, our customers have been through a series of owners whose presence has been short-lived. We hope to operate in Florida for a long time and want to build a positive relationship with our customers. Second, after the last rate case, we heard directly from the Attorney General's Office that we needed to do a better job of reaching out, educating, and having a dialogue with our customers. This is precisely what Aqua Connects is designed to do. It provides an opportunity for the customers to get to know more about the Company, its management team, how water and wastewater systems operate, answer billing questions, explain how meters operate, offer conservation tips, and answer general questions. I believe it is important for the Commission to encourage these types of meetings, especially in the water industry because of the increasing need for conservation awareness.

Q. Please expand on the educational benefits of Aqua Connects.

A. The education component of Aqua Connects should not be underestimated. One of the most frequent complaints from customers is that they do not believe that they used the amount of water indicated on their bill. We know from history of investigating these complaints that often customers are unaware of how much water they consume with activities such as irrigation. Aqua Connects provides a

forum to discuss with customers and to disseminate written materials to assist customers to better manage their consumption.

Q. Are rate cases or rate increases discussed at these meetings?

A. Members of the OPC and Commission Staff have attended these town-hall style meetings and are familiar with the dialogue that takes place. Many customers ask questions about their bills, as well as the need for rate increase request. We have done our best to offer clear responses to these questions.

Q. Have AUF employees been paid overtime for the Aqua Connects meetings they have attended?

A. No, they have not. Because the events are held after normal operating hours, the management team is essentially donating its time for these important events.

Q. Are the Aqua Connects meetings ongoing and, if so, will their frequency change?

A. These town hall meetings will continue on an annual basis. They are not "non recurring" in nature, and AUF has budgeted an amount of $80,000 for year 2009. In 2008, the Company employed a global approach to these meetings to reach all systems on a county-by-county basis. The approach for future years will be to target specific systems that continue to benefit from these meetings. This will allow the Company to increase the number of meetings held in targeted areas, as often as monthly. Where specific system issues or projects are identified, frequent meetings will be held in those areas to assist affected customers by addressing and responding directly to their problems, issues and concerns. Under

this approach, we expect that these meetings will increase in number and frequency from what is included in the pro forma adjustment.

FUEL EXPENSES

Q. Turning to another issue, on page 125 of Ms. Dismukes' testimony, she recommends that adjustments be made to several systems to amortize fuel purchases for generators. Do you agree with these adjustments?

A. No, I do not. Ms. Dismukes overlooks several important facts. Many customers who came to the service hearings expressed concerns regarding the need for a hurricane preparedness program. As part of the Company's program, the Company purchased and installed a number of generators. These generators cannot merely be stored, unused, but must be started and tested. This includes testing performed as part of the inspections required by DEP and DOH. Florida also has numerous thunderstorms which produce lightning throughout the year, which may trigger use of these generators throughout the year. The generators cannot operate without fuel; accordingly, fuel has to be purchased. Fuel purchases are necessary not only to continue to utilize these generators as needed, but also to test them throughout the year.

Q. Are there any Department of Environmental Protection rules in Florida that address generators?

A. Yes. There are several DEP rules in Florida that address generators. The first Rule is 62-555.320(14)(a), F.A.C., which states:

> (14) Standby Power.
> (a) By no later than December 31, 2005, each community water system (CWS) serving, or designed to serve, 350 or more persons or 150 or more service connections shall provide standby power for

operation of that portion of the system's water source, treatment, and pumping facilities necessary to deliver drinking water meeting all applicable primary or secondary standards at a rate at least equal to the average daily water demand for the system. If a CWS interconnects with another CWS to meet this requirement, the portion of the combined systems' components provided with standby power shall be sufficient to deliver water at a rate at least equal to the average daily water demand for the combined systems.

Further, Rule 62-555.350(2), F.A.C. (emphasis added), states:

(2) Suppliers of water shall keep all necessary public water system components in operation and shall maintain such components in good operating condition so the components function as intended. Preventive maintenance on electrical or mechanical equipment – including **exercising of auxiliary power sources**, checking the calibration of finished-drinking-water meters at treatment plants, testing of air or pressure relief valves for hydropneumatic tanks, and exercising of isolation valves – shall be performed in accordance with the equipment manufacturer's recommendations or in accordance with a written preventive maintenance program established by the supplier of water; however, **in no case shall auxiliary power sources be run under load less frequently than monthly.**

Finally, Rule 62-555.350(15)(d), F.A.C., states:

(15) Suppliers of water who own or operate a community water system serving, or designed to serve, 350 or more persons or 150 or more service connections shall develop a written emergency preparedness/response plan in accordance with Emergency Planning for Water Utilities, AWWA Manual M19, as adopted in Rule 62-555.335, F.A.C., by no later than December 31, 2004, and shall update and implement the plan as necessary thereafter. Said suppliers of water shall coordinate with their Local Emergency Planning Committee and their Florida Department of Law Enforcement Regional Security Task Force when developing their emergency plan and shall include in their plan all of the information in paragraphs (a) through (e) below.

. . . .

(d) Details about how the water system meets the standby power requirements under subsection 62-555.320(14), F.A.C., and, if applicable, recommendations regarding the amount of fuel to maintain on site, and the amount of fuel to hold in reserve under contracts with fuel suppliers, for operation of auxiliary power sources.

While DEP had a previous requirement for exercising the generator 4 hours per month, as shown above, now the rule simply requires that the generator be exercised monthly. Therefore, AUF's current company policy is to exercise each generator for 1 hour per week under load. The continued monthly testing of auxiliary generators is required by DEP rule.

Further, as addressed by DEP witness Jeff Greenwell on page 3 of his prefiled direct testimony, filed on behalf of Commission Staff, AUF was required to install an auxiliary power supply at Zephyr Shores. Therefore, this generator was required by DEP rule, and the fuel to power the generator was also required. To disallow the fuel expense would unnecessarily penalize AUF's efforts to comply with DEP standards and rules.

FLUSHING EXPENSES

Q. **On page 126 of her testimony, Ms. Dismukes' makes adjustments for line flushing. Do you agree with her adjustments?**

A. No. Ms. Dismukes states that flushing for certain systems in the test year appeared to be abnormally high. I disagree. Flushing is required to operate a well run water system and is particularly important for older systems. See Section: 62-555.350 Operation and Maintenance of Public Water Systems. For most of the systems that she has picked, the service lines are in an aged condition and prone to breaks. These systems require routine flushing to maintain water quality and chlorine residuals throughout the system and I would not characterize the flushing as high. In addition, some of the systems have dead end lines which require routine flushing to maintain chlorine residuals and water quality.

MARKET BASED SALARY ADJUSTMENT

Q. On pages 100 and 101 of her testimony, Ms. Dismukes takes exception to AUF's proposed market based salary adjustment. Do you agree?

A. No, I do not. AUF has issues attracting and retaining qualified Facility Operators and Utility Technical personnel. AUF's main competition is municipally-owned systems which typically offer salaries at a higher pay grade. Further, these municipality operators are not required to operate satellite systems and mainly work at a centrally located Water Treatment or Wastewater Treatment Plant. As demonstrated on attached **Exhibit JML-3**, Average Time to Fill Vacancy's from 2006 to 2008, the time to fill vacancies varied from 141.83 days in 2006 to 68.14 days in 2008. These numbers do not reflect the time to fill the Facility Operators positions that require a DEP License to operate water and wastewater facilities. These positions also have additional geographical challenges for systems located where it is difficult to find an operator living within the area, or to find an operator willing to relocate. The time to fill these positions range from 34 days to 363 days.

Q. What actions has AUF undertaken to address these staffing issues?

A. The Company decided to contract for a Market Base Study to evaluate AUF's salary structure and benchmark our Company against other utilities and the industry generally. To prepare for the study, we reviewed our job descriptions to evaluate whether they truly reflect the work performed by Facility Operators and Utility Technicians, and the appropriate required licensing, education and job experience. Subsequently, Saje Consulting Group, Inc. was hired to conduct the

Market Base Study. In its final report, Saje Consulting Group was asked to benchmark our Company against the industry standards, evaluate our current salaries, and make recommendations in areas where salaries should be increased. I have attached the documents related to this study, **Exhibit JML-4**.

Q. What decision did AUF make in response to this Study?

A. AUF believes that Saje Consulting Group's recommendations should be implemented so that the Company may continue to attract, retain and maintain a stable workforce. In Order No. PSC-02-0787-FOF-EI, the Commission approved a similar adjustment for Gulf Power Company. In doing so, the Commission stated:

> An analysis of Gulf's pay policy to the market was conducted in August of 2001. The report confirmed Gulf's total compensation pay policy was within +/-5% for all job groups, on average, to the actual market pay levels.
>
> Gulf's philosophy is to pay employees at the 75th percentile. To only receive a base salary would mean Gulf employees would be compensated at a lower level than employees at other companies. Therefore, an incentive pay plan is necessary for Gulf salaries to be competitive in the market. Another benefit of the plan is that 25% of an individual employee's salary must be re-earned each year. Therefore, each employee must excel to achieve a higher salary. When the employees excel, we believe that the customers benefit from a higher quality of service.

The Commission continued by stating:

> We also believe that to analyze each individual's compensation for whether the base salary and incentive compensation, within each job group, is appropriate would be beyond the scope of the data collected from the individual utilities in the industry. Lastly, the utility is within +/- 5% of the market values for their overall compensation policy. As a result, its employees will be paid based on market value and the customers will receive quality service and low rates.

I believe it is not only reasonable, but also necessary to implement this market based increase. It is extremely important to attract and retain qualified operators for our water and wastewater systems throughout Florida. This is imperative to continue to meet the environmental standards in this industry. It is also consistent with the Commission's decision in Order No. PSC-08-0327-FOF-EI, where the Commission stated: "We find that the Company has taken appropriate action to assure that its employee salaries are on the same level as other utility employees so that the Company will be competitive in hiring and retaining well trained and effective employees."

REBUTTAL TO DEP AND DOH WITNESSES

Q. Mr. Lihvarcik, have you reviewed the testimony of the witnesses from the DEP and DOH?

A. Yes, I have.

Q. Is there anything in that testimony with which you agree and that you would like to comment on?

A. Yes. I appreciate the positive statements made by the witnesses regarding the Company's operation performance.

Q. Are there any specific issues with which you do not agree that you would like to address?

A. Yes, there are. The specific issues with which I do not agree, including those that are factually incorrect, are stated below, by witness:

1. **Jeff Greenwell**

On page 3, lines 12-25 of the prefiled direct testimony of Staff witness Jeff Greenwell, he discusses the enforcement actions for the Zephyr Shores system. The Company notes that prior to the warning letter being issued, Aqua had an interconnect with the city that met the requirements associated with increased reliability needed for a community (greater than 350 connections) water system. The city changed its disinfection to chloramines because of its TTHM problems. Once the city converted to chloramines, the valve between the city and Aqua had to be closed. Aqua was left without the required reliability for Zephyr Shores, and the new well and generator was installed.

Regarding the Village Water wastewater system, Mr. Greenwell states on page 4, line 9 of his testimony that AUF sold a sprayfield property in this system to the Southwest Florida Water Management District. This is not correct. The sprayfield was on leased property and the previous management was unable to renew the lease. Also, on page 4, line 13, Mr. Greenwell claims that the effluent disposal ponds are not properly operated and maintained. AUF contends that it is operating as the system was designed and permitted.

On page 4, lines 18-19 of his testimony, Mr. Greenwell mentions a pond overflow in September 2008. There are several reasonable factors which led to the overflow. First, it occurred after Tropical Storm Faye dumped 10.9 inches of rain. Second, our operators reported that under the direction of DEP the two ponds were to be interconnected and DEP requested a crossover pipe be installed. There was not a permit modification required or issued by DEP, and the invert elevation of the crossover pipe was too low. On October 24, 2008, Aqua received

authorization from DEP to raise the invert elevation of the cross-over pipe. This change in invert elevation will provide an additional 2.6 million gallons of storage.

Mr. Greenwell also indicates on page 4, lines 19-21 of his testimony that Aqua has not provided reasonable assurance the ponds are adequate. He fails to mention, however, that the Company has acted under DEP's direction. The Company sought and retained a professional engineering firm that is specifically experienced in phosphate mining to provide a geotechnical report and hydrology report. Both studies submitted were favorable, and DEP had issued a draft permit just before Tropical Storm Faye. Nonetheless, the pond had an overflow because overflows are common during large rain events. DEP has proposed, and AUF is installing, additional peizometers to monitor the ground water elevation for at least a year to determine if the ponds are adequate.

For Jasmine Lakes, Mr. Greenwell states on page 5 of his testimony that the ponds are required to be rested and rotated. It is unclear if DEP has the authority to require ponds constructed prior to April 1989 to be rested and rotated. Aqua is working with the DEP's Office of General Counsel to resolve this question. AUF has entered into a contract to address the wastewater ponds. These items are included in the pro forma plant and will be completed prior to the end of December 2008.

Both Chapter 17-610, and its successor Chapter 62-610, of the Florida rules contain "grandfathering" provisions: Rule 17-610.110 (2) F.A.C., states:

> (2) Unless specifically provided otherwise, requirements in this rule shall apply to all new reuse and land application systems for which

> construction permit applications are approved by the Department after April 5, 1989. This rule also shall apply to all existing facilities when such facilities are to be modified or expanded, but such applicability shall apply only to the expansion or modification thereof, or if treatment processes are altered such that the quality of reclaimed water or effluent or reliability of such processes is adversely affected. Where violations of permit conditions or water quality standards have occurred, appropriate requirements in this rule may be deemed applicable to existing facilities by the Secretary or designee.

Chapter 62-610 has a very similar grandfather clause—Rule 62-610.100(9)(b) states:

> Unless specifically provided otherwise in this chapter, requirements in this Chapter shall apply to all new reuse and land application systems for which construction permit applications or initial permits which authorize construction are approved by the Department after April 5, 1989. This chapter also shall apply to all existing facilities when such facilities are to be modified or expanded, but this chapter shall apply only to the expansion or modification thereof, or if treatment processes are altered such that the quality of reclaimed water or effluent or reliability of such processes is adversely affected. Re-rating of an existing reuse or land application system or site such that the permitted capacity of the system or site is increased shall be considered an expansion, even if there is no increase in physical size of the system or site.

It is also unclear on what basis Mr. Greenwell is sighting AUF for not meeting Secondary Standards for Groundwater monitoring. The location of this facility is near the coast and, like many other places, is most likely experiencing salt water intrusion. Moreover, this facility is grandfathered by Chapter 62-520:

> 62-520.520 Exemptions from Secondary Drinking Water Standards Outside a Zone of Discharge in Class G-II Ground Water.
> (1) An existing installation discharging to Class G-II ground water is exempt from compliance with secondary drinking water standards unless the Department determines that compliance with one or more secondary standards by such installation is necessary to protect ground water used or reasonably likely to be used as a potable water source.

Rule 62-555.200 provides the definition of "existing":

> 62-522.200 Definitions for Ground Water Permitting and Monitoring.

> (1) For the purposes of Chapters 62-520 and 62-522, F.A.C., "Existing Installation" means any installation which had filed a complete application for a water discharge permit on or before January 1, 1983, or which submitted a ground water monitoring plan no later than six months after the date required for that type of installation as listed in Rule 62-528.700, F.A.C., (1983) and a plan was subsequently approved by the Department, or which was in fact an installation reasonably expected to release contaminants into the ground water on or before July 1, 1982, and operated consistently with statutes and rules relating to ground water discharge in effect at the time of the operation.

Finally, Palm Terrace is another system in which it is unclear if DEP has the authority to require ponds that were constructed prior to April 1989 to be rested and rotated. The same grandfathering applies to monitoring of secondary standards with Palm Terrace, as is applied to Jasmine Lakes.

2. **John Davis**

Staff witness John Davis, in his prefiled direct testimony on page 2, line 13, suggests that the Company has failed to provide all of the information to respond to his Exhibit JD-1. It should be noted that the Company is currently working on gathering all of the requested data for this new well. Regarding Mr. Davis's assessment on page 2, line 16-18, that minor maintenance issues such as undersized or missing well pads were noted during inspections in 2007 and 2008, the mandatory requirements for well pads and well vents for these wells are "grandfathered in." The Company has increased the well pad size as reasonably as possible. However, some older wells simply cannot meet more recently adopted requirements due to obstacles beyond AUF's control; for example, property boundaries and buildings cannot be moved to accommodate these well pads.

3. **Richard Lott**

In Staff witness Richard Lott's testimony, on page 2, line 11, he indicates that the only Water Construction permit that is still active is for the Valencia Terrace Plant. The Company notes that a contractor has been assigned to complete this job, which was held up because the pump to be installed at the well was not an item that was available and had to be built.

In Mr. Lott's testimony on page 2, lines 17 – 25, he indicates that the Bellair and Ocala Oaks water treatment plants had maximum daily flows that exceeded the permitted capacity of the plants during the previous three years. After receiving notice in October 2008, the Company began working on the letter to submit to DEP informing DEP that these systems are built out. Regarding Mr. Lott's testimony on page 3, lines 4-8, regarding Summit Chase having unmetered, unbilled irrigation use, AUF intends to meet with the Summit Chase Home Owners' Association to discuss this issue. The data currently indicates that they are being irresponsible in their irrigation usage, which the Association needs to correct.

4. **Michael Hambor**

In Staff witness Michael Hambor's prefiled direct testimony, on page 2, lines 12 -16, he states that a warning letter was issued for late receipt of a Monthly Operating Report (MOR), which late results were due to a change in personnel and the closing of the local office. It should be noted that the MOR was late due to AUF's previous contract operator, not in-house personnel, and there was no local office for AUF.

Mr. Hambor also mentions the need for a cross connection control plan at page 2, lines 14-16. AUF is currently working on bringing the entire state of Florida into compliance. Bringing all existing customers up to the cross connection requirements is a great undertaking. DEP currently has underway a task force to decide what level of protection that residential customers should have when they also have a separate irrigation well. AUF is waiting for this DEP decision prior to sending out letters to existing customers.

Regarding Mr. Hambor's testimony at page 2, lines 18 – 23, which suggests that AUF "elected to close the local office (Boynton Beach)," this is incorrect. There was never a local office in Boynton Beach. Boil water issues were passed from the contract operator directly to me, and then to the regulatory compliance officer. I agree with Mr. Hambor, however, that we have resolved any prior boil water notification problems that may have existed in past years.

WATER MANAGEMENT DISTRICT

Q. Would you like to comment on the testimony from the Water Management District witnesses?

Yes, I would. The specific issues with which I do not agree, including those that are factually incorrect, are stated below, by witness:

1. Staff witness Catherine Walker

a. Summit Chase/Tavares Ridge

On page 8, line 10, of her prefiled direct testimony, Catherine Walker states that the Summit Chase District Permit expired and that no application for renewal has been received by the District. The permit application was, in fact, submitted to

the District on March 13, 2008. The District submitted a request for additional information (RAI) for the renewal on April 10, 2008.

b. Friendly Center and East Lake Harris

To the extent that Ms. Walker suggests on page 8, lines 12-16, that one is solely connected to the other, while these two systems are interconnected with each other, both have treatment systems with their own wells.

c. St. Johns Highlands - Hermits Cove

On page 8, lines 17-18, Ms. Walker states that St. Johns Highlands is connected to Hermits Cove. It should be noted that Hermits Cove has the wells and treatment facility; St. Johns Highlands gets all its water from Hermit's Cove. Also, on page 9, lines 2-4 of her testimony, Ms. Walker mentions late meter test results. AUF is organizing the dates of the meter calibrations for all its water facilities. These calibrations will be sent to the appropriate district office on time in the future.

d. Ravenswood

On page 8, line 8, Ms. Walker mentions that Ravenswood requires District permitting. AUF notes that it has retained CPH Engineers, and they have completed the permit application.

e. Tomoka

On page 8, line 9, Ms. Walker that Tomoka requires District permitting. AUF notes that District staff met with the Company on October 30, 2008 at the site to determine if a permit was required or not. Phil Fairbank of SJRMD emailed Aqua on October 31, 2008, to present options for the Company to discuss. AUF has

decided file an application for a consumptive use permit and is responding to Mr. Fairbank accordingly.

f. 48 Estates

It appears from page 8, line 21 of Ms. Walker's testimony that she could not determine whether 48 Estates needs a permit. Upon research in the field, AUF determined that this system has a 4-inch well casing and believes that it does not require permit coverage.

g. Kings Cove

On page 8, line 21, Ms. Walker states that Kings Cove requires permit coverage. AUF has ~~already committed to contracting with an engineering firm by January 15, 2009 to start the application process needed to obtain~~ a consumptive use permit.

2. Staff witness Jay Yingling

On page 12, lines 7-9 of the prefiled direct testimony of Staff witness Jay Yingling, Mr. Yingling states that the Annual Report for 2007 has not been submitted for Lake Josephine. This Annual Report was submitted by the operator in the past. This has been discussed with the operator, and he has agreed to complete this report as soon as possible.

Q. Does this conclude your testimony?

A. Yes, it does.

BY MR. MAY:

Q Have you prepared a very brief summary of your rebuttal testimony?

A I have.

Q Would you please provide that at this time?

A Good morning, Mr. Chairman, Commissioners.

In my rebuttal testimony I address issues raised by OPC witness Kimberly Dismukes and the issues addressed by several staff witnesses from DEP, DOH and the Water Management Districts.

To address the issues raised by Ms. Dismukes, my rebuttal testimony discusses Aqua Connects and also the adjustments she claims were appropriate to fuel expenses, flushing expenses and our market base study.

Regarding the DEP and DOH witnesses, I appreciate the positive statements made by the witnesses regarding the company's operation performance, but discuss specific points regarding compliance raised by Jeffry Greenwell, John Davis, Richard Lott and Michael Hambor. In my rebuttal I also comment on the testimony from Water Management District's witnesses Catherine Walker and Jay Yingling. This concludes my summary. Thank you very much.

MR. MAY: Aqua would tender Mr. Lihvarcik for cross-examination.

CHAIRMAN CARTER: Mr. Reilly, good morning. You're

recognized.

MR. REILLY: Thank you. We have no cross for Mr. Lihvarcik's rebuttal.

CHAIRMAN CARTER: Ms. Bradley, good morning.

MS. BRADLEY: Thank you. No questions.

CHAIRMAN CARTER: Thank you. Staff.

MR. JAEGER: Yes, Chairman, staff has some questions.

CHAIRMAN CARTER: You're recognized.

CROSS EXAMINATION

BY MR. JAEGER:

Q Mr. Lihvarcik, are you aware that the staff of the Florida Public Service Commission forwarded complaints to Aqua to investigate and for a response?

A I am aware.

Q And didn't you sign most of the letters that responded to those complaints?

A I did.

Q And did you or your staff investigate the complaints forwarded?

A Yes, we did.

Q I mean, was it you or your staff or a combination?

A What we did was we made an agreement with the PSC staff that we would not be held under the 15-day response requirement on these complaints. But what we would do is we would aggressively go out and contact the, make contact with

the customer, let them know we received their complaint, and then we would be working on their complaint.

Our goal was to reach out and contact 100 percent of the customers that filed complaints. Today sitting here can I tell you that we contacted 100 percent of the customers? No. But we had three people that were assigned this work. Sue Guilday, who is our quality assurance person up in our call center, Stacy Barnes in my office and Gretchen Toner. Sue Guilday acted as the hub for all of these complaints. And if they required a field visit such as an RF problem, an RF meter problem, water quality, low pressure, a boiled water notice, it was routed to Stacy Barnes in my office, and he would contact one of the field techs. Or if it involved low pressure or a water quality problem, he would contact one of our facility operators to make sure that the treatment facility in that system was operating properly on the day that the complaint came in and if we had any issues.

If it involved a billing question or whether they were billed correctly, it was routed over to our billing office. They spent numerous hours researching this both in the field and in our billing office. Once that was all completed, it was referred over to Gretchen Toner, who would put together the draft response letter for Mr. Franklin and myself, and I reviewed every one of those letters. Where it required specifics such as if a customer -- we had a number of customers

requesting how we handled boiled water notices and what the, what the company's procedure and policy was on that. I had one where Zephyr Shores, the lady asked, "How does my sewer get treated since you don't have a treatment plant anymore?" A couple of them addressed Aqua Connects and if we did hold an Aqua Connects meeting in their area.

So if you look at, if you look at the letters, there are some generic responses such as with water quality, but we referred them to our website if they wanted to look for our CCR reports. And the same thing with a number of the letters we received addressed the rate case. And what we wanted to do was remain consistent to all of our customers, especially if we're addressing customers, numerous customers in the same system. What we didn't want to do is send out one response for a rate increase to one and end up sending out something different to another customer and they talk to one another and both of them say, well, the company told me this and, well, the company told me that and the inconsistency ends up being can we trust the company? So that's how we handled our customer, the customer responses.

Q What kind of records did you keep that show whether the customer was contacted?

A What we did was Sue Guilday would get the response. And I looked through all of the e-mails last night that we received from Martha Golden. About half of them had phone

numbers on them. The ones that didn't have phone numbers on them, we would look in our customer billing system and see if we had a valid phone number. If we called, if we did have a phone number and we made a call to that customer and the phone number was no longer in service, Sue took it one step further and went to the whitepages.com and would put the name and address in to see if there is a phone number out on the Internet. When we did get through, if we didn't talk to the customer, we would leave a phone, a voice mail or a message on their answering machine asking them to please call back.

On the letters it had Sue Guilday's phone number for them to call back and Stacy Barnes' phone number to call back, because I didn't want to put our 800 number or our 877 number for the call center and have them call a customer service rep who wasn't in the loop and would just then end up routing them somewhere and the customer would get frustrated that we weren't giving them the attention they deserve.

MR. JAEGER: I'm going to have Mr. Sayler pass out a customer complaint letter with a copy of your response. I'd like to have that identified as an exhibit. It's Conte letter, complaint letter and response.

CHAIRMAN CARTER: It's Number 208, Commissioners.

(Exhibit 208 marked for identification.)

What's the title?

MR. JAEGER: Conte complaint and utility response.

CHAIRMAN CARTER: You may proceed.

BY MR. JAEGER:

Q In this letter, Mr. Conte filled a letter expressing his concerns with water quality and with the deterioration of his faucets, and he has contacted staff and says he was not contacted. Do you have any records showing that he was contacted?

A I would have to check with Sue Guilday to find out exactly if she made personal contact with him.

MR. JAEGER: I'm trying to figure out how we could best do that. Could we have a late-filed -- or maybe it would be easier to have a supplemental to be attached to 208. I'm not sure which is easier, Chairman.

CHAIRMAN CARTER: We'll just make it a late-filed 209, which would be the company's response to request for Exhibit 208, info on Exhibit 208. We'll just do it that way.

Mr. May.

MR. MAY: Mr. Chairman, if I may.

CHAIRMAN CARTER: You're recognized.

MR. MAY: Thank you. The company is prepared to provide a late-filed exhibit explaining in detail its responses to each and every one of these complaints.

CHAIRMAN CARTER: Hang on a second. You just kind of gave me a memory jog there.

Staff, do you have more than one? If so, we can make

it a composite for the responses as opposed to just one.

MR. JAEGER: Okay. We were -- we had three other, two other letters we were going to ask.

CHAIRMAN CARTER: Well, let's do this then. Let's make all, let's make all three of the letters Exhibit 208, so that will be a composite, a composite exhibit. And then the company can make a -- we'll give you a placeholder, 209, Mr. May, and you can respond to all three. So let's get all, let's get all three of the letters now.

MR. JAEGER: Okay. That's the Conte complaint letter, the Barager complaint letter, and the third letter is from Mr. LeFiles, L-E-F-I-L-E-S.

CHAIRMAN CARTER: Okay. So these are all, Commissioners, 208. You can, for your purposes you can say 208 A, B and C. That's what I'm doing.

Okay. Mr. May, for your purposes as you respond, just so you'll know, 208 is the letter from Conte, 208A is Conte, 208B is Barager. Is that the pronunciation?

MR. JAEGER: Barager, I think.

CHAIRMAN CARTER: Barager? And 208C would be LeFiles.

MR. MAY: Got it, Mr. Chairman.

CHAIRMAN CARTER: Right?

MR. JAEGER: That's correct.

CHAIRMAN CARTER: Okay. So in your response, Mr. May

--

MR. MAY: Would be placeholder 209 for the response?

CHAIRMAN CARTER: 209. Yes.

MR. MAY: Thank you, sir.

(Late-Filed Exhibit 209 identified for the record.)

BY MR. JAEGER:

Q Mr. Lihvarcik, do you have both the Conte letter, your response to Mr. Conte and Ms. Barager there?

A Yes, I do.

Q Is there any difference whatsoever in the two letters other than the name and address?

A No, there isn't.

Q Now Mr. Conte complained about foul smell, slimy feel, rust stains in toilet and the water faucets being corroded?

A That's correct.

Q And Ms. Barager complained about clothes, et cetera?

A Yes. That's correct.

Q Did you directly respond to either one of those complaints?

A I would have to go back and ask my field techs. I know we had an issue in Lake Placid regarding a chlorine problem where we had on a pump, but I would have to talk with our field techs. And this might have been addressed earlier. I'd like to be given the opportunity to respond to that.

Q Okay. I believe you can do that in the 209 late-filed.

A Thank you.

Q Now also --

A And if you notice on there, Mr. Jaeger, what made it difficult was that possibly there was no phone numbers that we can contact them personally on either one of the complaints that have come in. I would have to check with Sue Guilday to see if we had an active phone number in our system or if she was able to find one on the Internet to call them.

Q Did you ever -- if you couldn't contact them by phone, would you have a field representative go by the address?

A That's what I would have to check with Stacy Barnes to see if we had someone go by.

Q Okay. Now the LeFiles letter, it also has a response to your response; is that correct?

MR. MAY: Ralph, where is that? Which?

MR. JAEGER: It's the 208C. And it's, first of all, there was a complaint letter, Mr. Lihvarcik's response, and then I believe -- and he's, the last page is the response of LeFiles to Mr. Lihvarcik's response.

BY MR. JAEGER:

Q Could you review Mr. LeFiles' response to your response? That's the last page of that document.

A Repeat that again. I'm sorry. I was reading the

letter.

Q That's what I wanted you to do.

A What were you saying? Can you please repeat the question?

Q Okay. I want you to review Mr. LeFiles' response to your response. That's the last page.

A Yes. He was, he made the statement that he was calling in reference to his neighbor and not to him and that it was, he felt it was a waste of time to contact Aqua.

Q So he wasn't very happy with your response either, was he?

A Well, he was, if you read his first letter, it really didn't say that he was referring to his neighbor's problem. He said he had repeated calls to Aqua Utilities, has brought no action. And Ms. Guilday said that she checked his account, if you look at the third paragraph on my response, and we didn't find any, any notes on there, and that to either please call Stacy Barnes or Sue Guilday.

Q Well, in the first paragraph, the second line, what does he say? Can you read that?

A He states, "The quality of my and others in the area has steadily gone down." And others in the area has steadily gone down, the quality. So we responded to the "my" water.

Q Okay. Let's move on. On Page -- turn to your rebuttal testimony.

A Okay.

Q Page 6.

MR. JAEGER: And, Chairman, I thought everybody was supposed to have had their pages penciled in with the numbers and I apologize if that didn't get done. I know we, I did it personally for three Commissioners. And I think you and one other Commissioner, it was going to be done by your aides or other staff members.

MR. MAY: Mr. Chairman, this is not staff's -- this was my fault. And I filed this and I apologize. For some reason the numbered pages fell off on the bottom on this, and I take full responsibility for it.

CHAIRMAN CARTER: Let's roll. I'll count the pages. You're on Page 6. I'll count. Let's go.

BY MR. JAEGER:

Q You state, "Some of the systems have dead-end lines which require routine flushing to maintain chlorine residuals and water quality."

During the customer service hearings a number of customers had issues with sediment in their water system including Sebring Lakes, Zephyr Shores, Rosalie Oaks, Chuluota, Arredondo Estates and Palm Terrace. What is a typical schedule for systems like these, typical flushing schedule?

A Typically a routine flushing program is semiannual. If we receive complaints from customers that they're having

brown water, chlorine residuals might be high. Or if we receive -- or if we do system testing and we find that chlorine residuals are actually low in the system, we will do spot flushes at those times.

Q I believe Mr. Luitweiler talked about automatic flushing valves being installed for Chuluota.

A Yes.

Q When is that decision made to install automatic flushing valves?

A We've been doing automatic flushing since we've taken over in 2004, 2003, 2004 in various systems. And like Mr. Luitweiler said, they're typically put on dead-end lines to help maintain the water quality.

Q And has any, has Sebring Lakes, Zephyr Shores, Rosalie Oaks, et cetera, are they scheduled, are they looking at those?

A Sebring Lakes, we, because of some water quality issues that we've been experiencing over the last year and a half, our area manager in that system, for that system has increased our flushing program to improve the water quality that we've been having, black water specifically in Sebring Lakes. And that, that was a, that has come out, number one, from our Aqua Connects meetings and talking to the customers about the water quality from the public hearing that we had down in Sebring listening to the customers. And we've

experienced a reduction in customer complaints and an improvement in water quality.

Q Are there additional steps, steps other than flushing that Aqua has considered taking to reduce the sediment in these systems?

A In the one you referenced in Zephyr Shores, we do have the automatic flushes on dead-end lines. We had an Aqua Connects meeting there a week ago today. We met with the residents, and talking with them, we are going to increase our flushing program there.

As far as the water quality at the wells, if it's an aesthetic problem and we can correct it by flushing, we'll continue to flush and maintain the water, system water quality that way.

As far as increased treatment at the plants to remove the aesthetics, iron, manganese, calcium, we've had brief discussions internally. We're probably going to start, once we get some of these other systems under control, looking to see what the cost benefit would be to begin a process like that.

Q I think that was in response to my next question. What additional treatment -- would additional treatment be needed in addition to routine flushing to address customer complaints about taste and odor?

A Additional treatment would have to be installed. It's what type of treatment do we want to go to, what's the

cost benefit to do that and what would be the impact to the customers?

One of the best things that could happen is that we get a statewide rate so that if we need to go into the smaller systems -- and I'll give you a good example, Stone Mountain, we have ten customers. To put a $200,000 treatment system on that for those ten customers, they couldn't bear the cost of paying for that. But if we have statewide rates and we can spread that cost over the customer body throughout the state, it would be more affordable for those customers.

Q Turn back a couple of pages to Pages, start on Page 4 at the very bottom, standby power.

A Yes.

Q And in your rebuttal testimony you refer to the need for standby generators per DEP rule.

A That's correct.

Q And then further on Page 6 you note that DEP Witness Greenwell testified that AUF was required to install an auxiliary power supply at Zephyr Shores.

A That's correct.

Q And you conclude that the generator was required by DEP rule; is that correct?

A Yes. It's more than 350 customers or 150 connections.

Q Now the Zephyr Shores water system was formerly

connected to a city system --

A That's correct.

Q -- that converted its disinfection system to chloramines; is that right?

A Yes. The city switched over to chloramination. Our other well was on free chlorine. We put a brand new well and a generator online this year so that we can be, we would serve our customers with the two wells that we have in there, so we have the redundancy plus the generator.

Q Was any consideration given to just converting Zephyr Shores to chloramines?

A We didn't have a THM problem there. So to install a chloramination system at Zephyr Shores wouldn't have been a prudent investment. It was better to install a second well on that site with a backup generator.

Q So was it cheaper to install a second well?

A Operationally it was better because we don't have to worry about the mixture between ammonia and chlorine on the feed. We don't have an ammonia analyzer along with a chlorine analyzer similar to what we have in Chuluota. We have hypo, which is a hypo-chlorination there, which is a liquid chlorine, we have one chemical feed pump, and it's an easy operation for our operators.

Q On Page 11 of your testimony you state that for the Jasmine Lakes wastewater ponds it is unclear whether DEP has

authority to require ponds constructed prior to 1989 to be rested and rotated.

A That is correct.

Q And you also state that Aqua is working with DEP's General Counsel to resolve this question. Can you provide an update on the discussions with DEP on ponds constructed prior to 1989?

A I'll start with the ponds first. We had a surveyor come in and look at what the buildup of sludge on the bottom of the ponds have been since their inception. To go back a little bit further, when Jasmine Lakes' wastewater system was constructed, there was no wastewater treatment plant there. The sewage would just come into pond number one, which acted as a settling pond. And then as it built up, the clear water from the top of the pond would then flow into the next pond and then into the third pond.

Over the years, I believe over the last 40 years sludge has built up in pond number one and then two and three. We embarked on a project this year to, along with DEP to clean the muck out of the ponds. I can report today that we have completed pond number one, we completed pond number three and we're wrapping up pond number two. We found more than what we anticipated as far as sludge goes in pond number one, and the other two ponds had less as you moved out to pond two and pond three.

The issue we have with resting and rotating the ponds is what we're discussing with DEP. The ponds are cut into the water table. In order to rest and rotate a percolation pond to comply with the new regulations, you have to virtually dry out the pond and then you go in and scarify the bottom so that you can return it back and open up the pores, if you want to say, of the ground so that the water will then perk through.

But with the ponds cut into the water table, those, those ponds can never be dried out. Pond number three is about five feet into the water table and ponds one and two are less. But we cannot comply with the current regulations that DEP has on the books, so we're negotiating with DEP as to how we can handle the resting or rotating of the ponds. We put a piping system in so we can isolate each one of the three ponds. So our discussion with them is allow us then to isolate two of the ponds, send the effluent to the one pond and then we can rest the other two; and then do the same thing, shut the first pond off and defer, direct sewage into the other two ponds or effluent into the other two ponds.

Q Okay. I missed -- when was pond two scheduled to be completed?

A We should have it completed by -- let's see. Today is the 11th or today is, what, the 13th? It should be completed by the end of this week, I believe.

Q Okay. So it's virtually done.

A Yes.

Q Now I think you make the same point about rested and rotated ponds for the Palm Terrace wastewater system.

A Yes.

Q Would your answer on an update be the same for Palm Terrace as for Jasmine Lakes?

A We haven't embarked in a sludge removal project there. We don't have a problem with the sludge buildup in Palm Terrace.

We did last year -- we found that over the years that the operators from the prior company changed out the sprinkler heads on the spray field. We found original plans and what it was designed for and the type of spray heads that were to be used on it. So we returned it back to what the original design was and we were able to get more capacity and better usage out of that spray field at Palm Terrace.

Q Thank you, Mr. Lihvarcik. Just a slightly different tact here. Regarding secondary standards for ground water monitoring compliance, you state on Pages 12 and 13 that Jasmine Lakes and Palm Terrace have been cited for DEP infractions, but you believe that because these facilities are pre-existing, they should be exempt from compliance. Can you provide an update on any discussions you have had with DEP on this point?

A Part of our discussion with, with the Jasmine Lakes

pond, there was questions about chlorides in the water, elevated chlorides and some secondary, secondary contaminants that they found in there. I don't want to call them contaminants, I'm sorry, but elevated levels of other items they wanted us to sample for. We're working out and supplying them new sample results that we, that will show that the system, that the monitoring wells are back into compliance.

Again, we had some dry, during the drought season you're going to see the chlorides in the aquifer rise just because of the location of Jasmine Lakes to the Gulf of Mexico.

Q For Palm Port the staff DEP witness testified about the failure of AUF to file an application for renewal of the wastewater treatment plant permit. Has AUF filed that application?

A Mr. Jaeger, I would have to get back to you exactly on that. I didn't bring that information with me today, but I can provide that information to you.

MR. JAEGER: Chairman Carter, could we have that as a late-filed exhibit?

CHAIRMAN CARTER: Number 210.

MR. JAEGER: And that's response on filing of an application for Palm Port.

(Late-Filed Exhibit 210 identified for the record.)

THE WITNESS: Probably if we wait long enough, my BlackBerry will buzz me and it'll be my office people sending

me whether we have applied or not.

CHAIRMAN CARTER: Okay. You may proceed.

BY MR. JAEGER:

Q Okay. I believe you have outstanding consent orders for five systems; is that correct?

A I believe, I believe that that's what the St. Johns shows.

Q I'm sorry. These are the consent orders from DEP that I'm talking about, and they are for Arredondo Farms, I'm sorry, Chuluota, South Seas, The Woods, Village Water and Zephyr Shores.

A Zephyr Shores, I can -- let me take them in the order that I can recall easily, and then I'll go to the more, ones I have to recall.

But South Seas, we received a consent order from DEP. We negotiated what they call as a P2 project where rather than us paying the fine, they allowed us to invest money in the system to install energy efficient motors, blowers on the system. That contract has been awarded and the work will be completed by the end of the year.

Zephyr Shores, we had a consent order on the well. The original engineer that we had we had issues with. We ended up hiring a new engineer who was able to put together the proper permit package and get that, that well and permit package back online.

Arredondo --

Q Can I interrupt you just for a minute?

A Yes.

Q Mr. Greenwell for Zephyr Shores talked about testing hadn't been, had not yet been submitted. Have you submitted testing for the Zephyr Shores?

A Again, I don't have that information with me, but I can get that to you as part of the Palm Port information.

Q Okay. Could we have that identified as 211?

CHAIRMAN CARTER: No. No. We're not going to make it 211. It's going to be a composite. We'll just go down this whole, since you're talking about the permits, we'll just -- okay? Just do it that way. That way we can have it all at once. And then your response, Mr. May, will be 211. Okay?

MR. JAEGER: Is that 210 or 211?

CHAIRMAN CARTER: You've got 210 composite.

MR. JAEGER: Okay.

CHAIRMAN CARTER: So you've got Palm Port. You can go ahead and read the others that you're dealing with. And the responses for those permits that he does not have the information for, he can get that to you. We'll just make that a composite Exhibit 210.

And, Mr. May, as you're responding, we'll hold spot 211 for you for your response to each one of those for the information that he does not have available today.

MR. JAEGER: Okay. So we're just going to have one Exhibit 210 and it's just all --

CHAIRMAN CARTER: Mr. May? Mr. May?

MR. MAY: I'm a little confused now. I was under the impression that Late-Filed Exhibit 210 would be our exhibit where we would be responding to the Palm Port. But we would make that a composite, we would respond to all of the permit issues that Mr. Jaeger is raising now?

CHAIRMAN CARTER: Yes.

MR. MAY: Okay.

CHAIRMAN CARTER: Yeah. So, Mr. Jaeger, why don't you just give them, just give them the list and then we won't need 211.

MR. JAEGER: That's fine. We won't.

CHAIRMAN CARTER: Judicial economy and efficiency will be most appreciated, particularly on a day like today.

THE WITNESS: The Woods we had a consent. We have an NOV for the THMs. We installed a new filtration plant there. We've had three quarters of compliance and we are sampling next week for our fourth quarter, and based on the prior samples, it should be back into compliance.

Chuluota, the THMs, we've had three consecutive quarters of compliance. The third quarter was filed, should have been filed on December the 10th. We plan on taking our fourth quarter samples on January the 17th or the week of. And

based on the prior samples, that system should be brought back into compliance.

And was the last one Arredondo that you were, you would like information on?

BY MR. JAEGER:

Q No. That was not a consent order. I guess that would be my next question about warning letters from the DEP. And I show Arredondo Farms, Jasmine Lakes, Palm Terrace, Pamona Park, and I think there was also something about Silver Lake Oaks.

A Arredondo, we're having, we have the wastewater treatment plant up there. We're looking at -- we've had some issues with the treatment, the increased treatment at the plant exceeding the capacity. We have had some of our internal people look at the plant to see if there's some improvements we can do to the plant before we hire an engineering firm to do a full assessment of it. We should be having some, we should have something by the end of this year as to where we can go with it. Money is included in the 2009 capital budget to do those improvements at the Arredondo plant.

Jasmine Lakes, I believe that would be for the ponds.

Q Also Palm Terrace is the ponds and I think you've already responded.

A Yes.

Q And the last one is Pamona Park.

A I will have to supply that information to you, Mr. Jaeger, as far as the -- along with the other requests that you've made.

MR. JAEGER: That's all the questions staff has.

CHAIRMAN CARTER: Thank you.

Commissioner McMurrian.

COMMISSIONER McMURRIAN: Thank you. Mr. Lihvarcik, earlier when Mr. Jaeger was asking you a question, I think it was about Zephyr Shores.

THE WITNESS: Yes.

COMMISSIONER McMURRIAN: But it was about chloramination versus a second well. And he asked you whether it was cheaper to do a second well and you said it was operationally better.

When you say operationally better, do you do a cost-effective analysis of the cost-benefit analysis or something when you make those decisions or is it --

THE WITNESS: We looked at what the cost would be to retrofit the existing well with the chloramination system. We look at what the -- that would be a capital cost. We look at what then, what our operational costs would be going forward compared to just using conventional liquid chlorine for disinfection. And then we also look at it as far as operations on what burden it would put on the operator to operate that facility.

Like we had talked earlier with Chuluota, it's a balancing act to, to get the ratio of ammonia to chlorine just right so that you can maintain the water quality. And if you get out of that balance, then you have nitrification, black water. With liquid chlorine we don't experience any of that problem and it's a lot easier for the operator to manage that facility.

COMMISSIONER McMURRIAN: So is it that it's the most cost-effective option or is it just that you look at it on some kind of qualitative basis that it's operationally better?

THE WITNESS: We look at it in a number of ways. If -- we look at it on what the investment would be versus, chloramination investment versus installing a new well. And then we also look at what, whether our, what our ongoing expenses would be for having to purchase ammonia compared to just only having to purchase liquid chlorine and then also what the possible increase in labor to manage that system.

So we look at a number of parameters, you know, when we, when we take on a project or look to retrofit a system or a well station or even a wastewater treatment plant.

COMMISSIONER McMURRIAN: That's all. Thank you.

CHAIRMAN CARTER: Commissioners, anything further?

Mr. May.

MR. MAY: No redirect. We would ask that the Exhibit Numbers 146 and 147 of staff's Comprehensive Exhibit List be

entered into evidence.

CHAIRMAN CARTER: Any objections? Without objection, show it done, Exhibits 146 and 147.

(Exhibits 146 and 147 admitted into the record.)

Staff?

MR. JAEGER: Staff would move Exhibit 208.

CHAIRMAN CARTER: 208? Any objection? Without objection, show it done.

(Exhibit 208 admitted into the record.)

Also, placeholders, Late-Filed Exhibit 209, which are the company's responses to the three letters listed in 208A through C. Also Late-Filed 210, which would be the company's responses to the permit, requests for permits and the responses to that and the status of those permits. Is that clear? Is that correct? Everyone is understanding? Excellent. Okay. Show it done. Thank you, Mr. Lihvarcik.

THE WITNESS: Thank you.

CHAIRMAN CARTER: Okay, staff, Commissioners and staff, we have here some witnesses that have been stipulated to. First is Mr. Prettyman. Mr. May, you're recognized.

MR. MAY: I'm going to defer to Ms. Rollini.

CHAIRMAN CARTER: Oh, okay.

MS. ROLLINI: Mr. Chairman. Thank you.

CHAIRMAN CARTER: Good morning.

MS. ROLLINI: Good morning. All of the parties have

stipulated that Gary Prettyman's direct prefiled testimony and exhibits can be entered into the record without cross-examination. In addition, Mr. Prettyman has been officially excused from this proceeding.

CHAIRMAN CARTER: Okay. The prefiled testimony of the witness will be entered into the record as though read. Are there exhibits?

MS. ROLLINI: Yes, Mr. Chairman. We'd respectfully request to move into evidence Exhibit GSP-1 identified by staff as Exhibit 151 in its Comprehensive Exhibit List.

CHAIRMAN CARTER: Any objections? Without objection, show it done, Exhibit Number 151.

(Exhibit 151 admitted into the record.)

MS. FLEMING: Mr. Chairman, just to be clear for the record, that was Mr. Prettyman's rebuttal testimony.

CHAIRMAN CARTER: Rebuttal. That is correct.

MS. ROLLINI: Yes, thank you.

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

AQUA UTILITIES FLORIDA, INC.

REBUTTAL TESTIMONY OF GARY S. PRETTYMAN

DOCKET No. 080121-WS

Q. Please state your name, occupation and business address.

A. My name is Gary S. Prettyman and I am a Principal of AUS Consultants. My business address is 155 Gaither Drive, Suite A, Mt. Laurel, New Jersey, 08054.

Q. Have you previously filed testimony in this proceeding?

A. Yes.

Q. Are you sponsoring any exhibits to your rebuttal testimony?

A. Yes, I am sponsoring Exhibit GSP-1.

Q. What is the purpose of your testimony?

A. The purpose of my testimony is to respond to portions of the direct testimony of OPC witness Ms. Kimberly Dismukes relating to billing issues. In particular, my testimony responds to claims by Ms. Dismukes that she has discovered errors in AUF's billing records. I also explain that Ms. Dismukes has misinterpreted how I conducted the billing analysis for AUF, and distorts AUF's effort to ensure its conversion to a new billing system was done properly.

Q. Have you performed billing analyses for other utilities?

A. Yes, I have prepared bill analyses for the majority of the companies listed on Appendix A attached to my prefiled direct testimony.

Q. In your opinion, is it common for other utilities to use consultants to perform their bill analyses?

A. Yes.

Q. On Page 48, Ms. Dismukes claims that her Schedule 7 summarizes "errors" in the Company's billing records. Do you agree with her claim?

A. No. Ms. Dismukes' claim that there were billing errors is based on her misunderstanding of information that AUF provided in response to OPC's Request for Production of Documents No. 153. Contrary to Ms. Dismukes' assertion, that information does not show billing "errors." Instead, it demonstrates that the Company made adjustments or true ups during the test year which are typical in the normal course of utility business. In fact, the majority of the amount of adjustments or true ups were the result of the interim rate refund that the Commission ordered the Company to make. I explained this during my deposition. Unfortunately, Ms. Dismukes continues to misinterpret the nature of this information. Consequently, her analysis in Schedule 7 is flawed.

Q. Can you please elaborate?

A. In preparing Schedule 7, Ms. Dismukes starts with gross billed revenue and compares that gross revenue figure to the booked revenue. She then labels the variance between gross billed revenues and booked revenues as "Errors or Adjustments," and calls the variance percentage "Error Percentage." She has essentially assumed a billing error because there is a variance between gross billed revenues and booked revenues. This is a faulty assumption because gross billed revenues rarely, if ever, match booked revenues.

Q. Did you explain this during your deposition on September 19, 2008?

A. Yes. There was an extensive discussion on this issue during my deposition on September 19, 2008, beginning at page 10, line 25 through Page 18, line 3.

That discussion focuses on the steps I took to summarize the raw billing data that I received from the Company, and points out that, in conducting a proper billing analysis, it is extremely important to capture all billing information that ultimately gets booked to revenue. I also explained that you have to deduct the credit adjustments from the gross billing data in order to get the net billing information. These credit adjustments include everyday items such as surcharges, reconnect charges, refunds and bad check charges. It is the net billing number that needs to be reconciled to the booked revenues. In preparing Schedule 7, Ms. Dismukes fails to account for (subtract) the credit adjustments depicted in the "Summary" tab of AUF's response to OPC's Request for Production No. 153. Without doing this, her schedule is seriously flawed.

Q. Have you prepared an exhibit that shows the flaws in Ms. Dismukes' Schedule 7?

A. Yes. In Exhibit GSP-1, I address Ms. Dismukes' calculations for Lake Gibson Estates Water System. In that exhibit, I identify the credit adjustments that she failed to take into account, and then depict how the calculation should have been made. My schedule shows that without taking into account the credit adjustments, Ms. Dismukes arrives at a variance of 51.45%. After the raw data adjustments are included, the variance is 10.85%. The bottom of this schedule shows that after detailed analysis the variance between net billed revenue and booked revenue was only .49%. To get from the raw data variance of 10.85% to the final variance of .49%, I went through a series of detailed steps.

Q. Please summarize the steps you took as part of your billing analysis to arrive at final net billed revenue number?

A. First, I reviewed the data that was downloaded from AUF's billing system, and sorted the data into each of the separate systems because that data was downloaded in total. This raw data included any bill or adjustment that affected the customer's account. After an initial review of the raw data, the variance between booked and billed revenue was approximately 5%. Thus, I made a preliminary determination that the data was reliable to move forward with my detailed analysis.

After I made this preliminary review of the raw data, I proceeded with my detailed analysis. I sorted the raw data by the different rate codes and meter sizes. I reviewed cancelled bills and sorted them out because they were replaced by a new bill. I then needed to account for certain records related to the April 2007 interim rate increase.

The next step was to look at average number of service period days by each grouping (customer class and meter size). The Company considers a full period bill to be within 26 to 33 days. The majority of the averages were approximately 30 to 31 days. Occasionally, if the service period was larger than 35 days, I would look closer to see if there was a bill with a long service period that needed to be adjusted. This would generally only occur with a commercial grouping with a small number of bills.

After all of those functions were performed, I would take the number of bills and consumption and prepare a bill analysis summary, similar to Schedule E-2. I would then price out the bills and consumption at present rates and compare the result to booked revenue. If that comparison had a variance of approximately 2% or greater, I would then look further to see if there were any issues with booked revenue, such as a credit in January that belongs to billing

data from the prior December. In that case, for comparative purposes only, I would adjust the booked revenue. The final E-2 schedule would reflect the actual booked revenue. If the bill analysis revenue was under the booked revenue, I would review the query working tab that was provided in AUF's response to OPC's Request for Production No. 153 to see if there was a specific reason.

Lastly, if after all the analysis a system had a variance that was close but still over 1%, I made an adjustment to the benefit of AUF customers.

Q. Please elaborate on the final adjustments that were made to the benefit of AUF's customers?

A. There were certain systems where the analysis that I performed still had a variance between bill analysis and booked revenues of greater than 1 percent. For example, if I came across a variance that was 1.19 percent like in the Lake Gibson Estates system, my personal goal was to be within 1 percent. So, I would make an adjustment to bring the variance to within 1 percent. These were not large adjustments – just minor tweaks with which I felt comfortable to bring the variance to within my personal goal of 1 percent and to benefit the customers.

Q. Ms. Dismukes suggests that you made the consumption adjustment to "fudge" consumption data to give an unwarranted appearance of accuracy. Do you agree with her characterization?

A. No, I strongly disagree. I made the final minor consumption adjustment to bring the variance to within my personal goal of 1 percent. Prior to making this last adjustment, a variance of AUF's combined water and wastewater systems was approximately 2.70%. In my opinion, it would have been entirely

appropriate to use those present rate revenues for billing determinants without making the final consumption adjustment.

Q. Please explain why you say that this consumption adjustment was in the interest of the customer.

A. Because, if I did not make this adjustment, the present rate revenues would have been lower, causing the requested increase to be greater.

Q. Ms. Dismukes suggests that the Commission should be concerned about the test year billings because of customer complaints regarding estimated bills. Do you agree?

A. No. The billing data that was provided to me for the 2007 test year contained data which reflected actual or trued up bills. This is automatically done in the billing system after an actual read is obtained. Therefore, estimated reads in the test year were updated with actual data.

Q. Ms. Dismukes refers to an internal audit report in her testimony. Have you read this report?

A. Yes.

Q. Do you agree with how Ms. Dismukes characterizes that report in her testimony?

A. No. Ms. Dismukes improperly attempts to portray the report as some type of evidence that there were significant billing problems during the test year. I strongly disagree with that characterization. After reading the entire report, it appears that the Company wanted to make sure that the conversion to its new billing system was done properly.

Q. After reading the report, does it affect your analysis?

A. No. In fact, I am encouraged that the Company initiated such an audit and it

seems like a prudent thing to have done after such a conversion. Also, as I noted previously, the billing data that was provided to me for the 2007 test year contained data which reflected actual or trued up bills. This is automatically done in the billing system after an actual read is obtained. Therefore, estimated reads in the test year referenced in the report were updated with actual data.

Q. After all of Ms. Dismukes' discussions about billing determinants, did she recommend any adjustments to the as-filed level of present rate revenues?

A. No, Ms. Dismukes did not recommend an adjustment.

Q. Does this conclude your testimony at this time?

A. Yes it does.

CHAIRMAN CARTER: Okay. Also rebuttal, excuse me, direct -- staff.

MR. JAEGER: Yes, Commissioner. There is a string of DEP and DOH witnesses.

CHAIRMAN CARTER: One at a time.

MR. JAEGER: The first one is Keith Kleinmann.

CHAIRMAN CARTER: Keith Kleinmann.

MR. JAEGER: And he had one exhibit, KK-1, which is Exhibit 99.

CHAIRMAN CARTER: Okay. The witness has been stipulated to by the parties. The prefiled testimony of the witness will be entered into the record as though read. The exhibit number is, staff?

MR. JAEGER: 99.

CHAIRMAN CARTER: 99. Okay. Let's see here. Are there any objections? Without objection, show it done.

(Exhibit 99 admitted into the record.)

DIRECT TESTIMONY OF KEITH KLEINMANN

Q. Please state your name and business address.

A. Keith Kleinmann, Florida Department of Environmental Protection, 2295 Victoria Avenue, Suite 364, Fort Myers, Florida 33902.

Q. Please provide a brief description of your education background and experience.

A. I have a Bachelor of Science Degree from the Florida Southern College and have been an employee of the Florida Department of Environmental Protection (FDEP) for over 13 years; the vast majority of that time was in the Wastewater Section.

Q. What are your general responsibilities at the FDEP?

A. I am the Environmental Manager of five employees of the compliance enforcement section of the Wastewater Section. My duties include enforcement coordinator for all wastewater related enforcement activities in the South District. I oversee the compliance section of the Wastewater Section. We conduct inspections, review all compliance data related to wastewater quality, and ensure that all violations are corrected in a timely manner.

Q. Are you familiar with the Aqua Utilities Florida, Inc. (Aqua) wastewater systems in Highlands (Leisure Lakes) and Lee (South Seas) Counties?

A. Yes.

Q. Has the utility been the subject of any FDEP enforcement action within the past three years?

A. Yes. From June 22, 2005 to October 13, 2005, Aqua discharged to two golf course ponds that were not authorized discharge sites under the current South Seas permit. The Department issued a Consent order in August 2007. On March 20, 2008, Aqua proposed a pollution prevention project implementation plan to resolve the consent order in lieu of paying a fine. The project, which proposes to replace the diffusers in

the two aeration tanks, is expected to be complete by December 2008, with a final report to FDEP in January 2009. (EX KK-1)

Q. Is the utility otherwise in compliance the DEP requirements?

A. No. The South Seas Discharge Monitoring Reports (DMR) for 2008 indicate effluent violations for Total Suspended Solids for the months of March, April, May, and August 2008. The July DMR indicates a Fecal Coliform violation. The South Seas facility is having problems with their filter system. The system was inspected in October 2008 and a compliance letter is being drafted to address these issues.

Q. Is the overall maintenance of the treatment, collection, and disposal facilities otherwise satisfactory?

A. Yes.

Q. Do you have anything further to add?

A. No, I do not.

MR. JAEGER: Mark Charneski is next.

CHAIRMAN CARTER: Okay. Mr. Charneski. The witness has been stipulated to. The prefiled testimony of the witness will be entered into the record as though read.

MR. JAEGER: No exhibits.

CHAIRMAN CARTER: No exhibits.

MR. JAEGER: Michael Hambor.

CHAIRMAN CARTER: Wait. Wait. Wait. Any objections? Without objection, show it done.

DIRECT TESTIMONY OF MARK CHARNESKI

Q. Please state your name and business address.

A. Mark Charneski, Florida Department of Environmental Protection, 2295 Victoria Avenue, Suite 364, Fort Myers, Florida 33902.

Q. Please provide a brief description of your educational background and experience.

A. I have a Bachelor of Science Degree from the University of South Florida and have been an employee of the Department of Environmental Protection (FDEP) for over 20 years; the vast majority of that time was in the Drinking Water Section.

Q. What are your general responsibilities at the FDEP?

A. I am the enforcement coordinator for all Drinking Water related enforcement activities in the South District. We conduct inspections, review all compliance data related to drinking water quality, and ensure that all violations are corrected in a timely manner.

Q. Are you familiar with the Aqua Utilities Florida, Inc. (Aqua) Sebring Lakes, Lake Josephine, and Leisure Lakes water systems in Highlands County?

A. Yes.

Q. Does the utility have any current construction permits from the FDEP?

A. No.

Q. Has the utility been the subject of any FDEP enforcement action within the past three years?

A. Yes. The Leisure Lakes water system was under a Consent Order in 2006 for a recurring odor violation. The utility implemented a flushing program and subsequently completed four good quarters of monitoring in January, 2007. The case was closed April 2, 2007.

Q. What is the capacity of each well in the Lake Josephine water system?

A. Records from our database for Lake Josephine Heights show that well #1 has a normal

yield of 250 gpm and well #2 has a normal yield of 400 gpm. The Sanitary Survey does not show any rating for the wells.

Q. What is the capacity of each well in the Sebring Lakes water system?

A. Records from the 2005 Sanitary Survey for Sebring Lakes indicate that both wells have a Goulds pump, Model 7CLC, rated 450 gpm @ 128 feet of head. The actual yield is 400 gpm for each well.

Q. What is the actual size of the existing ground storage tank in the Leisure Lakes water system?

A. Records show that the tank at Leisure Lakes is 10,000 gallons.

Q. Does the utility maintain the required 20 psi minimum pressure throughout the distribution system?

A. There were past complaints regarding water pressure in the Lake Josephine water system when water main flushing lowered the pressure, but the Department could not gather sufficient evidence to show the pressure loss in the water main had occurred. Since this occurred and the issue was pointed out to the utility, the Department has not received further complaints of this nature.

Q. Is the overall maintenance of the treatment plant and distribution facilities satisfactory?

A. Yes.

Q. Do you have anything further to add?

A. No, I do not.

CHAIRMAN CARTER: Michael Hambor has been stipulated. The prefiled testimony of the witness will be entered into the record as though read. Any exhibits?

MR. JAEGER: No exhibits.

CHAIRMAN CARTER: Any objections? Without objection, show it done.

DIRECT TESTIMONY OF MICHAEL HAMBOR

Q. Please state your name and business address.

A. Michael Hambor, Engineer Supervisor III, Supervisor of Operations Section including the Drinking Water Program, Palm Beach County Health Department (PBCHD), Division of Environmental Health & Engineering, 901 Evernia Street, West Palm Beach, Florida 33401 (mailing address is P.O. Box 29, West Palm Beach, FL 33402).

Q. Please provide a brief description of your educational background and experience.

A. I have a B. S. in Chemical Engineering and 30 years of experience in public and private sectors dealing with water and wastewater systems, including 6.5 years with the PBCHD. I am currently an Engineer Supervisor in the drinking water program. I am responsible for the regulation of Community, Non-Transient Non-Community, Transient Non-Community, and Limited Use drinking water systems in Palm Beach County Florida, including inspections, enforcement, education, and data verification. I am also responsible for a Well Surveillance Program.

Q. Are you familiar with the Aqua Utilities Florida, Inc. (Aqua) Lake Osborne water system in Palm Beach County?

A. Yes. The Lake Osborne water system is a consecutive community receiving drinking water from the City of Lake Worth; it does not provide any treatment of the water.

Q. Does Aqua have any current construction permits from the PBCHD?

A. None at this time. In 2007, the utility up-graded a portion of the distribution system piping to improve fire flow and pressure to several hydrants.

Q. Is the overall maintenance of the distribution system satisfactory?

A. The distribution system is relatively old and consists of a mixture of pipe types. Currently, when a precautionary boil water notice is needed, the entire system is impacted because the isolation valves used to sectionalize the system are in need of

repair/replacement. As the piping system ages, there is a greater potential for boil water events due to system failure and the isolation valves will need to be operational. In 2007, Aqua completed work replacing some sections of piping which needed to be increased in diameter to assist with water flow and pressure at several fire hydrants. The local fire agency had issued a Water Alert for the community in May 2007 and this was lifted in August 2008 after the work on the distribution lines was completed. In general, the utility is doing a reasonably good job of maintaining the system; however, as with most water systems, the distribution piping and the isolation valves may require replacement in time.

Q. Has Aqua been the subject of any PBCHD enforcement action within the past three years?

A. A Warning Letter was issued for late receipt of the Monthly Operating Report and the bacteriological samples for May 2008. The late results were due to a change in personnel and the closing of the local office. New Warning letters will be issued shortly for the lack of a Cross Connection Control Plan and for repair of the isolation valves.

Q. Do you have anything further to add?

A. In early 2008, Aqua elected to close the local office (Boynton Beach) and handle all administrative matters out of their Sarasota office. The lack of local presence may present problems in the future, but so far has only been an issue when the reports were not filed on time for May 2008. Several years ago the notification of the residents for boil water notices was a problem. This was resolved by working with the local office. We have only had two boil water notices since October 2005.

Q. Does this conclude your testimony?

A. Yes.

MR. JAEGER: Henry Taghiof.

CHAIRMAN CARTER: Mr. Taghiof. Okay. The prefiled testimony of the witness will be entered into the record as though read. Any exhibits?

MR. JAEGER: None.

CHAIRMAN CARTER: Any objections? Without objection, show it done.

DIRECT TESTIMONY OF HENRY TAGHIOF

Q. Please state your name and business address.

A. Henry Taghiof, Polk County Health Department, 2090 East Clower Street, Bartow, Florida 33830.

Q. Please provide a brief description of your educational background and experience.

A. I have a Bachelor of Science in Electronic Engineering from Louisiana State University. I have been employed with the Polk County Health Department (PCHD) for the past 17 years. I am currently employed as an Engineering Specialist III in the Environmental Engineering Division, Drinking Water Program.

Q. What are your general responsibilities at the PCHD?

A. 1) Permitting and plan review of public swimming pools.

2) Conduct sanitary survey of public water systems.

3) Conduct public supply well site inspections.

Q. Are you familiar with the Aqua Utilities Florida, Inc. (Aqua) water systems in Polk County, including Gibsonia Estates, Lake Gibson Estates, Orange Hill/Sugar Creek, Rosalie Oaks, and Village Water?

A. Yes.

Q. Does the utility have any current construction permits from the PCHD?

A. Yes. The Gibsonia Estates water system has a general permit to construct a 2-inch water distribution line to Deerwood Villas (16 connections). The Lake Gibson water system had a construction permit to replace an existing 18,000 gallon tank as a result of an inspection in 2006 which found the tank not to be in compliance. The permit expired on June 18, 2008, and the utility had not yet applied for a new construction permit.

Q. Are the Aqua systems for which you are responsible in compliance with all applicable

requirements regarding operation and maintenance of the water treatment and distribution systems?

A. Yes. It is not uncommon to find a number of small deficiencies at facilities. In general, the utility is doing a good job of maintaining these facilities. Only minor deficiencies were noted on each survey.

Q. Do you have anything further to add?

A. No, I do not.

MR. JAEGER: Josie Penton.

CHAIRMAN CARTER: Josie Penton, the prefiled testimony of the witness will be entered into the record as though read. Any exhibits?

MR. JAEGER: She had one, JP-1, which is now 100.

CHAIRMAN CARTER: Exhibit 100. Any objections? Without objection, show it done.

(Exhibit 100 admitted into the record.)

DIRECT TESTIMONY OF JOSIE PENTON

Q. Please state your name and business address.

A. Josie Penton, Florida Department of Environmental Protection, 2353 Jenks Avenue, Panama City, Florida 32405.

Q. Please provide a brief description of your educational background and experience.

A. I have a B.S. Degree in Chemistry and two years of analytical laboratory experience analyzing drinking water, wastewater and environmental samples. I have 15 years of environmental regulatory experience working for the Florida Department of Environmental Protection (FDEP) in the Northwest District, including three years as a Wastewater Inspector, eight years as a Drinking Water Inspector, and four years as a Supervisor of the Drinking Water and Wastewater Programs.

Q. What are your general responsibilities at the FDEP?

A. My general responsibilities involve supervising the Water and Wastewater (Domestic and Industrial) Programs. I also review wastewater collection/transmission system permit applications. Our office covers Bay, Calhoun, Gulf, Jackson, and Washington Counties.

Q. Are you familiar with the Aqua Utilities Florida, Inc. (Aqua) Sunny Hills water and wastewater systems in Washington County?

A. Yes.

Q. Does the utility have any current construction permits from the FDEP?

A. Yes. We permitted a tablet calcium hypochlorite system for Plant No. 1 on December 28, 2006; however the proposed project was not constructed. Aqua decided to continue using sodium hypochlorite treatment at Plant No.1, but has not yet withdrawn the construction permit. A domestic wastewater collection system permit was issued for Sunny Hills Unit 25, a 302 residential lot subdivision, on November 16,

2007.

Q. Has the utility been the subject of any FDEP enforcement action within the past three years?

A. Yes. FDEP issued a Warning Letter on November 5, 2006, for failure to submit analyses for disinfectants/disinfection-by-products for 2006. The required samples were to be collected between July 1 and September 30, 2006. Aqua signed a Short Form Consent Order to resolve the violation and paid $900 in penalties and FDEP expenses.

Q. Are the water and wastewater facilities otherwise in compliance with all other FDEP regulations?

A. No. An inspection compliance letter was sent to Aqua on October 8, 2008, indicating five deficiencies, including wells not properly sealed, a flow meter that was not operational, the annual testing of the existing backflow prevention devices was not being fully implemented, use of a polyphosphate treatment without a permanent permit, and a main extension projects placed into service without clearances. Aqua was given 15 days to respond. (EX JP-1)

Q. Do you have anything further to add?

A. No, I do not.

CHAIRMAN CARTER: Next witness.

MR. JAEGER: Patricia Carrico.

CHAIRMAN CARTER: Patricia Carrico has been stipulated to. The prefiled testimony of the witness will be entered into the record as though read. Any exhibits?

MR. JAEGER: None.

CHAIRMAN CARTER: Any objection? Without objection, show it done.

DIRECT TESTIMONY OF PATRICIA CARRICO

Q. Please state your name and business address.

A. Patricia Carrico, Volusia County Health Department, 1845 Holsonback Drive, Daytona Beach, FL, 32117.

Q. Please provide a brief description of your educational background and experience.

A. I received a Bachelor of Science Degree in Environmental Health (Chemistry-Minor) from Utah State University. Prior to my current employment with the Volusia County Health Department (VCHD), I worked for 12 years at the City of Daytona Beach Drinking Water Plant and Laboratory and five years at Amoco Oil Company (Whiting, In.) in the Environmental/Quality Control Laboratory. I have been employed by VCHD since February 2001, as an Environmental Specialist II.

Q. What are your general responsibilities at the VCHD?

A. I am responsible for ensuring that public water systems in Volusia County are in compliance with federal and state Safe Drinking Water Act (SDWA) regulations. My job duties include performing site inspections, reviewing laboratory and monthly operational reports, entering the results into the state's SDWA database, and initiating appropriate enforcement action, when necessary.

Q. Are you familiar with the Aqua Utilities Florida, Inc. (Aqua) Jungle Den, Tomoka View, and Twin Rivers water systems in Volusia County?

A. Yes.

Q. Has Aqua been the subject of any VCHD enforcement action within the past three years?

A. Twin Rivers and Jungle Den have not been the subject of any enforcement action in the past three years. However, Aqua has been issued several warning letters and a consent order as a result of the Tomoka View water system exceeding the maximum

contaminant levels (MCLs) for total trihalothemane (THM), Total Dissolved Solids (TDS), Odor, and Total Coliform.

Q. Please describe the violation regarding THM.

A. The Tomoka View water system has exceeded the MCL for THM since monitoring for this contaminant was initiated in 2004 through the 1st quarter of 2007. Corrective action taken by Aqua to reduce THM concentrations included modifying of the chlorine feed rate, changing the chlorine injection location, increasing system-wide flushing, and installing a new variable speed, flow-based chlorinator. Subsequently, in October 2006 the reported THM concentrations in individual distribution samples dropped below 80 ppb THM. Since the THM MCL is based on a 4-quarter running annual average, the system still incurred an MCL violation during the 1st quarter of 2007, even though the individual quarterly THM results were below the 80 ppb MCL in the 4th quarter of 2006 and the 1st quarter of 2007. In the 2nd quarter of 2007, the Tomoka View THM annual average dropped to 76 ppb, which is below the MCL, and the system has been in compliance with the THM MCL since then.

Q. Please describe the violations regarding TDS and Odor.

A. The secondary MCL for TDS and Odor were exceeded in monitoring conducted in 2006 and during the 1st and 2nd quarters of 2007. In the most recent samples collected, the TDS concentration was just slightly over the MCL and the reported Odor concentration was below the MCL. Since secondary MCLs are set for aesthetic purposes and are not based on health effects, no additional treatment is warranted at this time. The system requested and was granted a suspension of quarterly monitoring for these two parameters in September of 2007, after completing four consecutive quarters of monitoring. The next testing will occur in 2009.

Q. Please describe the violation regarding Total Coliform.

A. Two routine distribution samples were positive for Total Coliform bacteria during September 2007. The system conducted the required follow-up monitoring and the six subsequent 'repeat' samples collected within 48 hours were all negative for Total Coliforms. No further corrective action was required.

Q. Is the overall maintenance of the treatment plant and distribution facilities satisfactory?

A. Yes. Jungle Den does not have a treatment plant. It is a "consecutive system" consisting only of a water distribution system. The water is purchased from St. John's River Utility. I last inspected the Jungle Den system on July 15, 2008, and found the overall maintenance of the distribution system to be satisfactory. The Tomoka View and Twin Rivers water systems were also inspected on July 15, 2008, and two minor deficiencies cited at that time remain unresolved. At the Twin Rivers water plant; I noted a small hole in the roof over the ground storage tank. A temporary tarp had been installed over the roof that effectively sealed the opening and prevented any contamination of this tank; however, a permanent roof repair is still pending as of this date. According to correspondence received on September 25, 2008, the repair work has been bid out and is scheduled for completion by no later than November 25, 2008. At the Tomoka View water plant, I noted some damp areas on the outer walls of the concrete storage tank where water was "seeping" through. This tank was inspected and cleaned on September 2, 2008. Correspondence received on September 25, 2008 from Aqua indicated that this tank's water seepage problem will be corrected by no later than October 31, 2008. In regards to the Tomoka View water distribution system, poor valve maintenance was cited as a deficiency in my December 17, 2007 inspection report. Since then, Aqua has initiated a program of replacing shut-off valves on the system's water distribution lines in order to individually isolate each street in the event of a water line break and alleviating the need to shut down the entire water system as

was being done previously. These new valves and an improved valve maintenance program should significantly reduce the number of system-wide water outages and Boil Water Notices experienced by customers of the Tomoka View water system. It is not uncommon to find a number of relatively minor deficiencies at water treatment plants and at water distribution systems. In general, the utility is doing a good job of maintaining these three water systems.

Q. Are the plant and distribution systems otherwise in compliance with all environmental requirements?

A. Yes.

Q. Do you have anything further to add?

A. No

CHAIRMAN CARTER: Next.

MR. JAEGER: Kathleen H. Gerard.

CHAIRMAN CARTER: Ms. Gerard. The prefiled testimony of the witness will be entered into the record as though read.

Any exhibits?

MR. JAEGER: She had two, 101 and 102.

CHAIRMAN CARTER: Exhibits 101 and 102, any objections? Show it done.

(Exhibits 101 and 102 admitted into the record.)

DIRECT TESTIMONY OF KATHLEEN H. GERARD

Q. Please state your name and business address.

A. Kathleen H. Gerard, Florida Department of Environmental Protection, 7825 Baymeadows Way Suite B200, Jacksonville, FL 32256

Q. Please provide a brief description of your educational background and experience.

A. I received a Master of Science Degree in Environmental Engineering Sciences with specialty in Water and Wastewater Treatment and Design from the University of Florida. I have four years of experience as an Engineer and Associate Scientist with consulting engineering firms, CH2M Hill, Inc. and Environmental Science and Engineering, Inc., both of which are located in Gainesville, Florida, and 27 years as an Engineer in the Domestic Waste Section, with the Florida Department of Environmental Protection (FDEP) in Jacksonville, Florida.

Q. What are your general responsibilities at the FDEP?

A. I am the Compliance Coordinator for the Domestic Waste Compliance Section. I inspect wastewater treatment facilities throughout a 20-county area in Northeast Florida. I also assist potential applicants with information regarding funding for various types of loans and grants, investigate complaints, and handle information requests.

Q. Are you familiar with the Aqua Utilities Florida, Inc. (Aqua) wastewater systems in Alachua (Arredondo Farms) and Putman (Palm Port, Park Manor, and Silver Lake Oaks) Counties?

A. Yes.

Q. Do all the systems have a valid operating permit?

A. Yes. However, the permit for Palm Port wastewater treatment plant will expire on November 9, 2008. As of this date, an application for renewal of the permit has not

been received. A complete application must be filed by November 9, 2008.

Q. Has the utility been the subject of any FDEP enforcement action within the past three years?

A. Yes. A Warning Letter was sent to Aqua on June 12, 2008, regarding Arredondo Farms for effluent violations for five-day carbonaceous biological oxygen demand (CBOD5) for January, February, and March 2008, not reporting these effluent violations as abnormal events, and not calculating some annual averages correctly. Aqua responded on June 27, 2008. Arredondo Farms was found to be out of compliance during the inspection that was performed in August 2008. A noncompliance letter was sent to Aqua in October 6, 2008, indicating that there were sampling, facility cite, flow measurement, and residual/sludge issues and requiring a response 30 days from the date of the letter. (EX KG-1)

Q. Is Aqua otherwise in compliance with its permits?

A. The Park Manor and Palm Port wastewater treatment plants are in compliance with the permits. However, Silver Lake Oaks was found to be out of compliance during the inspection that was performed on October 2, 2008, due to effluent violations. A noncompliance letter was sent to Aqua on October 8, 2008, indicating total dissolved solids, nitrate, and fecal coliform violations and requiring a response within 20 days. (EX KG-2)

Q. Do you have anything further to add?

A. No, I do not.

CHAIRMAN CARTER: Next witness.

MR. JAEGER: John J. Davis.

CHAIRMAN CARTER: Mr. Davis. The prefiled testimony of the witness will be entered into the record as though read.

Any exhibits?

MR. JAEGER: One, Exhibit 103.

CHAIRMAN CARTER: Exhibit 103, any objection? Without objection, show it done.

(Exhibit 103 admitted into the record.)

DIRECT TESTIMONY OF JOHN J. DAVIS

Q. Please state your name and business address.

A. John J. Davis, Florida Department of Environmental Protection (FDEP), Northeast District Office, 7825 Baymeadows Way, Suite B-200, Jacksonville, FL 32256

Q. Please provide a brief description of your educational background and experience.

A. I received a Bachelor of Science degree in Geology from the University of Florida in 1985, and immediately began work with the Duval County Health Department as an Environmental Health Specialist in the Drinking Water Section. My work entailed sanitary surveys, compliance inspections, chemical and microbiological data reviews, complaint investigations, and well placement and construction issues for public water systems within Duval County. After completing one year with the Duval County Health Department, I transferred to a similar position with the FDEP.

Q. How long have you been employed with the FDEP and in what capacity?

A. I began with the FDEP Drinking Water Section in 1986 as an Environmental Specialist and remained in that program for approximately eighteen months. I then progressed in responsibility and position through the Hazardous Waste, Ground Water, and Technical Support Sections before returning to the Drinking Water Section as Supervisor in April 2005. My current position title is Professional Geologist III, and I have completed twenty-two years of employment with the FDEP.

Q. What are your general responsibilities at the FDEP?

A. As section supervisor for Drinking Water, I am responsible for section personnel issues, as well as program direction and oversight on compliance and enforcement within the twenty counties that comprise the FDEP Northeast District.

Q. Are you familiar with the Aqua Utilities Florida, Inc. (Aqua) water systems in Alachua (Arredondo Estates and Arredondo Farms) and Putman (Beecher's Point, Hermits

Cove/St. John's Highlands, Interlachen Lake Estates, Palm Port, Pomona Park, River Grove, Saratoga Harbour, Silver Lake Oaks, Welaka, and Wootens) Counties?

A. Yes, through the review of inspections, sanitary surveys, and enforcement documents prepared by my section staff.

Q. Has Aqua been the subject of any FDEP enforcement action within the past three years?

A. Yes. Aqua failed to conduct their annual test for Disinfection Byproducts in 2005 for Interlachen Lake Estates, Pomona Park, River Grove, and Silver Lake Oaks. The violations were resolved by Consent Order. The department is also reviewing enforcement related to the use of a replacement well at Pomona Park, where requirements for notification and clearance do not appear to have been met. A warning letter was issued on May 23, 2008. (EX JD-1) Aqua has not provided all of the information required in the warning letter and a notice of violation is being drafted.

Q. Is the overall maintenance of the treatment plants and distribution facilities satisfactory?

A. Yes, although minor maintenance issues were noted for the systems serving Arredondo Estates (undersized well pad and lack of well vent), Arredondo Farms (missing well pad, lack of well vent, and incorrectly placed raw tap), Hermit's Cove (threaded tap without vacuum breaker), and Wootens (algae on aerator screens and rust on high service pump) during inspections in 2007 and 2008. It is not uncommon to find a number of small deficiencies at facilities. In general, the utility is doing a good job of maintaining these facilities.

Q. Do you have anything further to add?

A. No, I do not.

CHAIRMAN CARTER: Jeffry Greenwell. The prefiled testimony of the witness will be entered into the record as though read.

Any exhibits?

MR. JAEGER: He had four, 104 through 107.

CHAIRMAN CARTER: Any objections? Show it done, Mr. Greenwell.

(Exhibits 104 through 107 admitted into the record.)

DIRECT TESTIMONY OF JEFFRY S. GREENWELL

Q. Please state your name and business address.

A. Jeffry S. Greenwell, Florida Department of Environmental Protection, 13051 North Telecom Parkway , Tampa, Florida 33637.

Q. Please provide a brief description of your educational background and experience.

A. I received a B.S. in Geology in 1985 and a B.S. in Civil Engineering in 1989 from Louisiana State University. I received my Professional Engineering License in the State of Florida in 1995. From 1989 to 2000, I was a private environmental consultant working on general civil and waste clean-up sites. I have been employed by the Florida Department of Environmental Protection (FDEP) since May 18, 2000, as a Domestic Wastewater Program permitting engineer, Potable Water Program Manager, Domestic Wastewater Program Manager, and Water Facilities Administrator performing permitting, compliance and enforcement activities.

Q. What are your general responsibilities at the FDEP?

A. I oversee permitting compliance and enforcement activities for Wastewater Treatment Facilities (WWTFs), Water Treatment Plants (WTPs), and Underground Injection Control to ensure compliance with FDEP's rules and the facilities' permits as appropriate.

Q. Are you familiar with the Aqua Utilities Florida, Inc. (Aqua) water and wastewater systems in Desoto (Lake Suzy), Marion (Ridge Meadows), Pasco (Jasmine Lakes, Palm Terrace, and Zephyr Shores), Polk (Gibsonia Estates, Lake Gibson Estates, Orange Hill/Sugar Creek, Rosalie Oaks, and Village Water), and Sumter (The Woods) Counties?

A. Yes, I am familiar with all of those systems with the exception of the Polk County

water systems which are regulated by the Polk County Department of Health.

Q. Have any of the Aqua water or wastewater systems in the Southwest District been the subject of FDEP formal enforcement action within the past three years?

A. Yes. A consent order was executed for The Woods water system in Sumter County on April 26, 2007, and a consent order was executed for Jasmine Lakes water system in Pasco County on July 26, 2006; however, those issues have been resolved. A Notice of Violation was served but never finalized for the Village Water wastewater system; however, a consent order was executed for the Village Water wastewater system in Polk County on August 21, 2007, and amended in April 30, 2008; those issues have not yet been resolved. A consent order was executed for the Zephyr Shores water system in Pasco County on June 18, 2007.

Q. Please describe the formal enforcement action against The Woods water system in Sumter County.

A. A consent order was executed on April 26, 2007, with a compliance schedule to address the Total Trihalomethanes (TTHMs) and Haloacetic Acid 5 (HAA5) exceedences. The permit application to address the exceedences was issued on December 18, 2007. The permit identified the installation of pressure filters and a static mixer and the work was completed in May 2008. In addition, an adjustment to operations was implemented reducing the pre-chlorination dosage at the facility. As a result of the facility modifications and operational changes, TTHM/HAA5 results appear to be trending down from the initial sampling. FDEP will require a minimum of four quarters of sampling demonstrating compliance with the maximum contaminant level (MCL) before closing the consent order; however, results from the first two sampling events would indicate a return to compliance should be expected by

the fourth quarter.

Q. Please describe the formal enforcement action against the Jasmine Lakes water system in Pasco County.

A. A consent order was executed on July 26, 2006, with a compliance schedule to address the TTHMs exceedences. Quarterly TTHM results exceeded the 80 ug/l MCL, as of December 2005. A Warning Notice was issued on March 20, 2006. The utility continued quarterly monitoring (TTHM & HAA5) while closely monitoring the chlorine residual and increased the flushing activities. Currently, the system's TTHM most recent quarterly monitoring results are 58.6 ug/l which is below the MCL. As a result, their monitoring frequency has been reduced from quarterly to annually. A case closure letter was sent to Aqua on September 24, 2007.

Q. Please describe the formal enforcement action against the Zephyr Shores water system in Pasco County.

A. A long form consent order was executed on June 18, 2007, to address construction without a permit, verification that auxiliary power requirements were being met, and the need for a second well based on a population served of approximately 490 people. All community water systems serving 350 people or more require a second well in accordance with Rule 62-555.315(2), Florida Administrative Code, and documentation that auxiliary power meets the requirements of Rule 62-555.320(14), Florida Administrative Code. Documentation demonstrating the auxiliary power requirements are being met was provided in a timely manner and the well was completed in April 2008 and placed in service. The consent order remains open as FDEP evaluates the effectiveness of existing treatment to address Total Sulfide concerns; correspondence was sent to the facility requesting additional testing on October 9, 2008. The requested

testing has not been received to date.

Q. Please describe the formal enforcement action against the Village Water wastewater system in Polk County.

A. The Village Water system wastewater permit, which was issued January 23, 2001, expired January 22, 2006. The permit was administratively continued by the timely submittal of an application to renew the permit; however, the application to renew the permit was denied on September 15, 2006. Aqua failed to petition the denial; therefore, the utility has been operating without a permit since October 4, 2006. In addition, a spray field that was part of the wastewater disposal system was sold to the Southwest Florida Water Management District (SWFWMD), who will not allow the disposal of effluent on their property. The effluent disposal ponds for the Village Water wastewater system are significantly out of compliance due to inadequate operation and maintenance. Aqua was served with a Notice of Violation for operating without a permit and problems with its disposal system. The Notice of Violation was never finalized, but a consent order to address the disposal problem was executed on August 21, 2007. The utility submitted a permit application for the Village Water wastewater facility on December 19, 2007, and the consent order was amended on April 30, 2008. (EX JG-1) The facility continues to have disposal problems as evidenced by a discharge to surface water from September 4 through 18, 2008. To date, reasonable assurance has not been provided regarding the adequacy of the disposal system, therefore no permit has been issued. Noncompliance at this facility remains unresolved.

Q. Have any of the Aqua water or wastewater systems in the Southwest District been the subject of FDEP warning letters within the past three years in which formal

enforcement has not resulted to date?

A. Warning letters have been issued for the Palm Terrace and Jasmine Lakes wastewater systems in Pasco County in 2007. In addition, the Jasmine Lakes water system received a warning letter in 2006 which has been resolved.

Q. Please describe the issues that resulted in a warning letter to Aqua for the Palm Terrace wastewater system in Pasco County.

A. The Palm Terrace wastewater treatment facility has a failing effluent disposal system and has exceeded the ground water standards for nitrate, total dissolved solids, and fecal coliform. Pursuant to FDEP rules, the utility was required to establish a percolation and evaporation resting and rotating schedule by June 1, 2004. To date, the resting and rotation schedule has not been established. The February 2006 Discharge Monitoring Report's (DMR) fecal coliform of 1,300 colony forming units (CFU)/100mL exceeded the single monthly maximum permit limit value of 800 CFU/100 mL. The December 2006 DMR's total suspended solids (TSS) maximum monthly average of 41.5 mg/L exceeded the monthly average maximum permit limit value of 30 mg/L. Ground water monitoring for the first two quarters of 2008 has demonstrated exceedences for several secondary drinking water standards. The Department issued a Warning Letter on March 9, 2007 (EX JG-2) for improper operation of the two percolation ponds, slow-rate restricted public access sprayfield systems, effluent quality, and impacting ground water; however, the utility has exceeded a final compliance date by 90 days or more. The utility will need to either expand the effluent disposal system or interconnect with the Pasco County Regional Collection System. The issues of concern at the disposal facility remain unresolved.

Q. Please describe the issues that resulted in a warning letter to Aqua for the Jasmine

Lakes wastewater system in Pasco County.

A. The Jasmine Lakes wastewater treatment facility has exceeded the ground water standards for sodium, chloride, and total dissolved solids. FDEP issued a Warning Letter on March 8, 2007 (EX JG-3) for improper operation of the four percolation ponds and impacting ground water. The effluent disposal system is failing and the utility will need to either modify the effluent disposal system or interconnect with the Pasco County Regional Collection System. A formal agreement has not yet been executed and the issues associated with the disposal system remain unresolved.

Q. Has Aqua had major operational or maintenance issues for its water or wastewater systems in the past three years?

A. To the best of my knowledge only the Jasmine Lakes water system, Rosalie Oaks wastewater system, and The Woods wastewater system had significant non-compliance issues. The odor MCL was exceeded at the Jasmine Lakes water facility on May 22, 2006; however, no warning letter was issued. Additional odor samples were taken on August 22, 2006, and November 29, 2006, and satisfactory results of zero were obtained. The Rosalie Oaks wastewater system in Polk County had inflow and infiltration in the collection system. The utility has repaired the collection system in 2005 and 2006 and recent monitoring data shows the effluent flows are below the permitted limit. The bottoms of both of the effluent disposal ponds at The Woods wastewater system in Sumter County were graded at a slope that caused effluent to pond in the western portions of the ponds. In its June 15, 2005 letter, Aqua indicated that the grading and leveling of the pond bottoms was to be completed by September 30, 2005. During the Department's inspection on June 14, 2007, this work had not been performed. At the time of the Department's most recent inspection on July 29,

2008, this issue could not be evaluated as the ponds were not being rotated properly and were overgrown.

Q. Does Aqua have any current construction permits from the FDEP?

A. Yes. Jasmine Lakes has an outstanding chloramination conversion permit issued on June 3, 2004 with an expiration date of October 10, 2009. The utility procured the permit to build this project to address compatibility with Pasco County Utilities and potentially address TTHM and HHA5 concerns; however, Aqua has subsequently disconnected the Jasmine Lakes interconnection to Pasco County Utilities, whose water is chloraminated. Jasmine Lakes water system addressed TTHM and HAA5 MCLs through operational changes described above. The Lake Suzy wastewater operating permit was issued on February 9, 2006, and expires on February 8, 2011.

Q. Are Aqua's water and wastewater systems in DeSoto, Marion, Pasco, Polk, and Sumter County otherwise in compliance with all FDEP requirements?

A. To the best of my knowledge, yes.

Q. Do you have any further comments.

A. No.

CHAIRMAN CARTER: Next witness.

MR. JAEGER: Gary P. Miller.

CHAIRMAN CARTER: The prefiled testimony of the witness will be entered into the record as though read.

Any exhibits?

MR. JAEGER: He had one, 108.

CHAIRMAN CARTER: Any objections? Without objection, show it done.

(Exhibit 108 admitted into the record.)

DIRECT TESTIMONY OF GARY P. MILLER

Q. Please state your name and business address.

A. Gary P. Miller, Florida Department of Environmental Protection, 3319 Maguire Blvd., Suite 232, Orlando, Florida 32803.

Q. Please provide a brief description of your educational background and experience.

A. I have a B.S. Degree in Biology. I worked at the Osceola County Health Department in the environmental health section for about 5 years and I have worked at the Florida Department of Environmental Protection (FDEP) for approximately 24 years in the wastewater and drinking water sections. Currently, I am the Program Manager in the Wastewater Compliance/Enforcement Section. I have also worked in the Drinking Water Section as a supervisor.

Q. What are your general responsibilities at the FDEP?

A. I manage the Wastewater Compliance/Enforcement Section that reviews noncompliance letters for Type I and II domestic wastewater facilities and enforcement documents, such as warning letters, consent orders, and notices of violations, and conducts enforcement and compliance meetings.

Q. Are you familiar with the Aqua Utilities Florida, Inc. (Aqua) wastewater systems in Lake (Holiday Haven, Kings Cove, Morningview, Summit Chase, Valencia Terrace, and Venetian Village), Seminole (Chuluota and Florida Commerce Park), and Volusia (Jungle Den) Counties?

A. Yes.

Q. Does Aqua have any current construction permits for those systems?

A. No.

Q. Is Aqua in compliance with its operating permits?

A. The following facilities are not in compliance with their permits:

Chuluota – Based on the Discharge Monitoring Reports (DMRs), the annual average daily flow to the facility is exceeding its permitted capacity of .100 mgd. The operating permit expired on March 10, 2008; however, the permit was administratively extended. The utility applied for a permit renewal on a timely basis and the capacity issue is being addressed during that review. The FDEP requested additional information from Aqua regarding the permit application on December 6, 2007 (EX GM-1); however, Aqua has not yet responded. Effluent disposal capacity is the primary issue that must be resolved in order to complete the permit renewal.

Florida Central Commerce Park – Aqua failed to submit the pathogen (Giardia & Cryptosporidium) monitoring results every 5 years. A noncompliance letter dated May 2, 2008, was sent to Aqua. A telephone call from the utility on September 24, 2008, indicated that the samples will be collected by mid-October 2008. The delay was due to a back up at the laboratory that runs the analysis.

Valencia Terrace – The wastewater permit issued on January 31, 2007, contained a requirement for Aqua to install a new bar screen and splitter box. Aqua requested a three-month extension of time until October 26, 2007, as a result of design delays. Based on an inspection conducted on August 26, 2008, a noncompliance letter was sent to Aqua on September 25, 2008, giving the utility 14 days to respond with a schedule of corrective action. Aqua responded on October 20, 2008, indicating that the bar screen and splitter box would be installed December 31, 2008.

Morningview – An inspection on August 26, 2008, indicated that the chlorine contact chamber was not meeting the minimum contact time of 15 minutes. Also, the total residual chlorine and pH were not reported 5 days per week on the Discharge Monitoring Reports for several months. These deficiencies were addressed in a noncompliance letter dated September 25, 2008, which gave the utility 14 days to

respond with a schedule of corrective action. Aqua responded on October 20, 2008, indicating that the pH and chlorine would be reported five days per week and baffles would be installed within 30 days to meet the minimum chlorine contact time.

Q. Other than the systems identified above, are the Aqua wastewater collection, treatment, and disposal facilities in compliance with all applicable FDEP requirements regarding operation and maintenance?

A. Yes.

Q. Do you have anything further to add?

A. No, I do not.

CHAIRMAN CARTER: Next witness.

MR. JAEGER: Paul J. Morrison.

CHAIRMAN CARTER: Mr. Morrison. The prefiled testimony of the witness will be entered into the record as though read.

Any exhibits?

MR. JAEGER: None.

CHAIRMAN CARTER: Any objections? Without objection, show it done.

DIRECT TESTIMONY OF PAUL J. MORRISON

Q. Please state your name and business address.

A. Paul J. Morrison, Florida Department of Environmental Protection (FDEP), 3319 Maguire Blvd., Suite 232, Orlando, Florida 32803.

Q. Please provide a brief description of your educational background and experience.

A. I received a B.S. Degree in Biology from Florida State University in 1972. From 1972 to 1984, I worked for the Orange County Health Department in the Environmental Health Section. I have worked for the FDEP since 1984 in solid and industrial waste facility enforcement and public drinking water system compliance and enforcement. Currently, I am an Environmental Supervisor II in the Central District.

Q. What are your general responsibilities at the FDEP?

A. I supervise the public drinking water monitoring compliance and enforcement section. This involves notifying systems of monitoring requirements, reviewing monitoring results submitted by water systems to determine if the results are in compliance with established rule standards, notifying systems when corrective action is necessary because of unsatisfactory results, entering monitoring results into the computer database, issuing and rescinding boil water notices when appropriate, reviewing water system malfunction reports, taking appropriate enforcement action against systems not in compliance with the monitoring and drinking water rules, and taking and referring drinking water complaints to the appropriate County Health Department (DOH) for investigation under the DOH-FDEP Interagency Agreement.

Q. Are you familiar with the Aqua Utilities Florida, Inc. (Aqua) water systems in Brevard (Kingswood and Oakwood), Lake (48 Estates, Carlton Village, East Lake Harris, Fern Terrace, Friendly Center, Grand Terrace, Haines Creek, Hobby Hills, Holiday Haven, Imperial Terrace, Kings Cove, Morningview, Palms MHP, Picciola Island, Piney Woods/Spring Lake,

Quail Ridge, Ravenswood, Silver Lake Estates, Skycrest, Stone Mountain, Summit Chase, Valencia Terrace, Venetian Village, and Western Shores), Marion (49th Street, Belleair, Belleview Hills Estates, Belleview Hills, Chappell Hills, Fairfax Hills, Hawks Point, Marion Hills, Ocala Oaks, Westview, and Woodberry Forest), Orange (Tangerine), and Seminole (Chuluota and Harmony Homes) Counties?

A. Yes, I am familiar with those systems.

Q. Have any of those systems been the subject of FDEP enforcement action in the past three years?

A. Yes, Aqua has signed consent orders for the Chuluota water system in Seminole County and the Morningview water system in Lake County during the past three years. A consent order for the Chuluota water system was signed on January 4, 2007, to address total trihalomethane (TTHM) maximum contaminant level (MCL) violations. Ms. Dodson will provide additional testimony regarding the Chuluota consent order. A consent order, dated May 18, 2007, was sent to Aqua as a result of its failure to monitor for primary inorganic contaminants and secondary contaminants for calendar year 2006 for the Morningview system. The required monitoring was subsequently satisfactorily completed and the case was closed on June 7, 2007.

Q. Other than the above violations, have the Aqua water systems in Brevard, Lake, Marion, Orange, and Seminole Counties been in compliance with all FDEP requirements for the past three years?

A. Yes, with the exception of Holiday Haven and Skycrest in Lake County, Hawks Point in Marion County, and Chuluota in Seminole County.

Q. Can you describe those violations?

A. Yes. The Hawks Point, Holiday Haven, Skycrest, and Chuluota water systems have had MCL violations for total coliforms in the past three years. In 2005, the Hawks Point and

Holiday Haven water systems had bacteriological MCL violations for total coliforms. Repeat samples were subsequently collected and all were satisfactory. In 2007, the Skycrest water system had a bacteriological MCL violation for total coliforms; subsequent samples were all satisfactory. The Chuluota water system had a distribution bacteriological MCL violation for total coliforms in April of 2008; subsequent samples have all been satisfactory, with the exception of one sample on June 18, 2008.

Q. Do recent chemical analyses of raw and finished water suggest the need for additional treatment for any of the systems you reviewed?

A. Yes. In a letter dated September 11, 2006, Aqua was notified that well #1 at the Valencia Terrace system in Lake County was considered susceptible to microbial contamination based on total coliform – positive bacteriological sample results during 2005 and 2006 and required to submit a corrective action proposal. On October 5, 2007, FDEP acknowledged receipt and approval of Aqua's calculations showing that, based on the type of disinfection and the time the disinfectant is in contact with the water before reaching the first customer, the existing treatment reliably inactivates or removes at least 99.99% of viruses. In addition, Aqua was notified that well # 2 at the Carlton Village water system in Lake County was considered susceptible to microbial contamination on December 12, 2007. Aqua provided a proposal to FDEP; however, FDEP has not yet approved the corrective action. A request for additional information was sent to Aqua on September 16, 2008.

Q. Have any of the Aqua systems you reviewed been required to issue boil water notices to its customers during the past three years?

A. Yes. Aqua was required to issue a total of 28 boil water notices during 2006-2008 for Carlton Village (1), Fern Terrace (1), Grand Terrace (2), Haines Creek (1), Hobby Hills (1), Holiday Haven (5), Kings Cove (1), Morningview (2), Piney Woods (1), Summit Chase (2), Silver Lake Estates (1), and Venetian Village (2) in Lake County, 49th Street (1) and

Belleview Hills (1) in Marion County, Tangerine (3) in Orange County, and Chuluota (3) in Seminole County. A boil water notice must be provided when the pressure in a water distribution system is zero, in some instances when the pressure falls below 20 psi, or when a malfunction in the water system occurs that is expected to adversely affect the finished water quality. Pursuant to Rule 62-555.350(10), Florida Administrative Code (F.A.C.), FDEP must be notified within 24 hours and a public notification must be issued pursuant to Rule 62-555.350(11), F.A.C. After satisfactorily correcting the problem that caused the boil water notices to be issued and after bacteriological testing for two consecutive days with satisfactory results, the boil water notices can be rescinded. Aqua customers were notified by either door tags on affected residences or local television and radio station announcements, consistent with DEP rules.

Q. Do you have anything further to add?

A. No, I do not.

CHAIRMAN CARTER: Next witness.

MR. JAEGER: Richard Shackford Lott.

CHAIRMAN CARTER: Mr. Lott. The prefiled testimony of the witness will be entered into the record as though read.

Any exhibits?

MR. JAEGER: None.

CHAIRMAN CARTER: Any objections? Without objection, show it done.

DIRECT TESTIMONY OF RICHARD LOTT, P.G., P.E.

Q. Please state your name and business address.

A. Richard Shackford Lott, Florida Department of Environmental Protection, 3319 Maguire Boulevard, Orlando, Florida 32803.

Q. Please provide a brief description of your educational background and experience.

A. I received a B.A. in Geology from the University of South Florida in 1979. I received an M.S. in Environmental Science (Engineering) from the University of Central Florida in 1990. I have worked for the Florida Department of Environmental Protection (FDEP) for 14 years. From December 1993 through September 1998, I was a permit reviewer for stormwater applications. From September 1998 to the present, I have worked in the drinking water program.

Q. What are your general responsibilities at the FDEP?

A. I am responsible for administering the permitting responsibilities of the Drinking Water Program in accordance with the Clean Water Act and Florida Statutes for the Central District; reviewing and authorizing permits for water main extensions and connections; supervising the preparation of consent orders and other compliance violation documents as they relate to permitting, and representing FDEP at public meetings.

Q. Are you familiar with the Aqua Utilities Florida, Inc. (Aqua) water systems in Brevard (Kingswood and Oakwood), Lake (48 Estates, Carlton Village, East Lake Harris, Fern Terrace, Friendly Center, Grand Terrace, Haines Creek, Hobby Hills, Holiday Haven, Imperial Terrace, Kings Cove, Morningview, Palms MHP, Picciola Island, Piney Woods/Spring Lake, Quail Ridge, Ravenswood, Silver Lake Estates, Skycrest, Stone Mountain, Summit Chase, Valencia Terrace and Western Shores), Marion (49th Street, Belleair, Belleview Hills Estates, Belleview Hills, Chappell Hills, Fairfax Hills, Hawks

Point, Marion Hills, Ocala Oaks, West View, Woodberry Forest, and Venetian Village), Orange (Tangerine), and Seminole (Chuluota and Harmony Homes), and Volusia (Jungle Den and Tomoka) Counties?

A. Yes. I am familiar with these water systems via review of permit applications and other Department records, except for the system in Volusia County. The Volusia County Health Department administers the Drinking Water Program in that county.

Q. Does Aqua have any current construction permits from the FDEP?

A. Yes. Of the 42 permits issued to Aqua during the previous 5 years, 14 have not been totally cleared for service by the FDEP and are still active. Thirteen of the permits are for water distribution system (main extension) permits. The only Water Construction permit that is still active is for the Valencia Terrace Plant which was issued on December 27, 2007. This permit is for a new well to replace well #1, a change from gaseous chlorine to sodium hypochlorite, a new chlorine residual analyzer, and a chart recorder.

Q. Are the utility's treatment facilities and distribution systems sufficient to serve its present customers?

A. According to Rule 62-555.350(4), Florida Administrative Code (F.A.C), no supplier of water may operate any drinking water treatment plant at a capacity greater than the plant's permitted capacity except with the FDEP's prior approval. According to FDEP's records, the Belleair and Ocala Oaks water treatment plants in Marion County each had maximum daily flows that exceeded the permitted capacity of the plants during the previous three years. The letter regarding the Belleair water system was issued on October 3, 2008. Aqua was notified on October 21, 2008, regarding the Ocala Oaks water system. In addition, according to Rule 62-555.348, F.A.C., community public water systems that are designed to serve 350 or more persons or

have 150 or more service connections, must submit a capacity analysis report within six months after the total maximum day quantity of finished water of the system exceeds 75 percent of the total permitted maximum day operating capacity of the plants. Aqua was notified on October 21, 2008. The Summit Chase water system in Lake County exceeded 75 percent of the permitted capacity of the water treatment plants within the previous 36 months, and Aqua should have submitted a Capacity Analysis Report as required in Rule 62-555.348, F.A.C. Aqua was notified by letter on October 3, 2008.

Q. Are any of the wells that supply water to the water treatment plants designated by the FDEP as "microbially contaminated or susceptible to microbial contamination?"

A. Yes, two systems, the Carlton Village and Valencia Terrace water systems in Lake County have wells that the FDEP has determined to be microbially contaminated or susceptible to microbial contamination, in accordance with Rule 62-555.315(6)(f), F.A.C. According to Rule 62-555.320(12)(b), F.A.C., systems using groundwater that are not under the influence of surface water must provide calculations showing that, based on the type of disinfection and the time the disinfectant is in contact with the water before reaching the first customer, the existing treatment reliably inactivates or removes at least 99.99% of viruses. On October 5, 2007, FDEP acknowledged receipt and approval of Aqua's calculations for the Valencia Terrace water system. Aqua provided a proposal to FDEP for the Carlton Village water system; however, FDEP has not yet approved the corrective action. A request for additional information was sent to Aqua on September 16, 2008.

Q. Do you have anything further to add?

A. I have nothing further to add.

CHAIRMAN CARTER: Next witness.

MR. JAEGER: Rhonda L. Hicks.

CHAIRMAN CARTER: The prefiled testimony of the witness will be entered into the record as though read.

Any exhibits?

MR. JAEGER: She had three, 110 through 112.

CHAIRMAN CARTER: Any objections, Exhibits 110 through 112? Without objection, show it done.

(Exhibits 110 through 112 admitted into the record.)

DIRECT TESTIMONY OF RHONDA L. HICKS

Q. Please state your name and address.

A. My name is Rhonda L. Hicks. My address is 2540 Shumard Oak Boulevard; Tallahassee, Florida; 32399-0850.

Q. By whom are you employed and in what capacity?

A. I am employed by the Florida Public Service Commission (Commission) as Chief of the Bureau of Consumer Assistance in the Division of Service, Safety, and Consumer Assistance.

Q. Please give a brief description of your educational background and professional experience.

A. I graduated from Florida A&M University in 1986 with a Bachelor of Science degree in Accounting. I have worked for the Commission for 22 years. I have varied experience in the electric, gas, telephone, and water and wastewater industries. My work experience includes rate cases, cost recovery clauses, depreciation studies, tax, audit, consumer outreach and consumer complaints. I currently work in the Bureau of Consumer Assistance within the Division of Service, Safety, and Consumer Assistance where I manage consumer complaints and inquiries.

Q. What is the purpose of your testimony?

A. The purpose of my testimony is to advise the Commission of the number of consumer complaints filed against Aqua Utilities Florida, Inc. (Aqua) under Rule 25-22.032, Florida Administrative Code, for consumer complaints, from January 1, 2007 through September 30, 2008. My testimony will also provide information on the type of complaints filed and information on apparent rule violations, if any.

Q. What do your records indicate concerning the number of complaints filed against Aqua?

A. From January 1, 2007, through September 30, 2008, customers filed 326 complaints against Aqua with the Commission.

Q. What have been the most common types of complaints against Aqua?

A. During the specified time period, approximately sixty-eight (68%) percent of the complaints filed with the Commission concerned billing issues, while approximately thirty-two (32%) of the complaints involved quality of service issues.

Q. How many of the complaints referenced in your testimony have staff determined to be an apparent violation of Commission rules?

A. Of the 326 complaints filed, 144 (44%) were determined to be apparent violations of Commission rules.

Q. What was the nature of the apparent rule violations?

A. The majority of the apparent rule violations were for failure to respond to either the customer or the Commission within the time required by Rule 25-22.032, Florida Administrative Code (WB/WS-49; WB/WS-50; WB/WB-51). Other violations include inaccurate meter readings (WB-04), failure to read the meter at regular intervals (WB-03), and improper disconnection (WS-12).

Q. Do you have any exhibits attached to your testimony?

A. Yes. I am sponsoring Exhibits RLH-1 and RLH-2 which provides a summary listing of complaints filed in 2007 and 2008, against Aqua under Rule 25-22.032, Florida Administrative Code. As previously noted, the complaints were filed during the period January 1, 2007 through September 30, 2008. I am also sponsoring Exhibit RLH-3, which is a listing of complaint close-out codes used to identify the type of complaint filed by the customer.

Q. Does this conclude your testimony?

A. Yes, it does.

CHAIRMAN CARTER: Next witness.

MR. JAEGER: Charleston J. Winston.

CHAIRMAN CARTER: Mr. Winston. The prefilled testimony of the witness will be entered into the record as though read.

Any exhibits?

MR. JAEGER: He had five, 113 through 117.

CHAIRMAN CARTER: 113 through 117. Any objections? Without objection, Exhibits 113 through 117, show it done.

(Exhibits 113 through 117 admitted into the record.)

DIRECT TESTIMONY OF CHARLESTON J. WINSTON

Q. Please state your name and business address.

A. My name is Charleston J. Winston and my business address is 2540 Shumard Oak Blvd., Tallahassee, Florida, 32399.

Q. By whom are you presently employed and in what capacity?

A. I am employed by the Florida Public Service Commission (FPSC or Commission) as a Professional Accountant Specialist in the Division of Regulatory Compliance.

Q. How long have you been employed by the Commission?

A. I have been employed by the Commission since January, 1986.

Q. Briefly review your educational and professional background.

A. I have a Bachelor of Science degree in Accounting and Finance from the University of South Carolina. I was promoted to a Regulatory Analyst Supervisor of the Orlando district office in May of 1999 and held that position until the Orlando office was closed in 2005.

Q. Please describe your current responsibilities.

A. Currently, I am a Professional Accountant Specialist with the responsibilities of planning and managing the most complex audits of regulated companies, affiliate company transactions, multi-layered cost allocation, cross-subsidization issues, anti-competitive behavior, and fraud. I also am responsible for creating audit work programs to meet a specific audit purpose and assisting the field audit supervisor in reviewing staff reports and work papers for compliance with audit standards.

Q. Have you presented testimony before this Commission?

A. Yes. I testified in the United Telephone Company Rate Case, Docket No. 910980-TC, the Southern States Rate Case, Docket No. 950495-WS, the Mid-County Services, Inc. Rate Case, Docket No. 971065-SU, and the BellSouth Telecommunications, Inc. 2005 storm cost recovery case, Docket No. 060598-TL.

Q. What is the purpose of your testimony today?

A. The purpose of my testimony is to sponsor the staff audit report of Aqua Utilities Florida, Inc. (Utility) which addresses the Utility's application for increase in water and wastewater rates in Alachua, Brevard, DeSoto, Highlands, Lake, Lee, Marion, Orange, Palm Beach, Pasco, Polk, Putnam, Seminole, Sumter, Volusia, and Washington Counties. This audit report is filed with my testimony and is identified as Exhibit CJW-1. I am only testifying on Audit Findings 6-10, 12, 14, and 19. The remaining findings will be addressed by Debra Dobiac and Intesar Terkawi.

Q. Did you prepare or cause to be prepared under your supervision, direction, and control this audit report?

A. Yes, I was the audit manager of this audit. I was responsible for coordinating the audit, tracking the progress of the audit, and merging the work of all the audit staff into the one report and the combined work papers.

Q. Please describe the specific audit procedures you used in auditing rate base for the audit findings that you are testifying on.

A. For Utility Plant in Service (UPIS), we reconciled the beginning plant in service balance to the Utility's books and to the prior Commission orders and traced the plant

additions and retirements by year to the Utility's annual reports. We judgmentally selected a sample of additions and retirements from the general ledger and tested the sample of plant in service additions for the following: date acquired, original cost, account recorded, and appropriate retirements. We tested the sample of retirements for the following: cost retired, account number, date of retirement or disposition, amount of accumulated depreciation retired, amount of proceeds/cost of removal, and amount of gain/loss recorded in Utility books after disposal. We also reconciled the plant in service additions and retirements to the Utility's general ledger and traced the cost of land to the warranty deeds.

For Contributions In Aid of Construction (CIAC), we reconciled the beginning balances to the Utility's books and the prior Commission orders. We sampled CIAC additions and reviewed the following: description of asset or fees received, date acquired, original cost, account number where recorded, and if the amount collected is authorized in the Utility tariff. We reconciled CIAC additions to the Utility's general ledger.

For Accumulated Depreciation and Depreciation Expense, we reconciled accumulated depreciation accruals to the Utility's general ledger and reviewed the methodology for calculating annual accumulated depreciation accruals, the service lives used, the methodology for accounting for retirements and adjustments, and the current period depreciation expense by sub-account.

For Accumulated Amortization of CIAC and Amortization Expense, we reconciled accumulated amortization accruals to the Utility's general ledger and reviewed the methodology for calculating annual accumulated amortization accruals, the methodology for accounting for retirements and adjustments, and the current period amortization expense.

For the working capital allowance, we analyzed the Utility's calculation of the

components of working capital. We sampled deferred debits to determine if the timing, amount, reasonableness and re-occurring nature of the amounts were correct and recalculated the working capital balances. We also recalculated the percentages used to allocate current assets and current liabilities, by system between water and wastewater, where applicable.

Q. Please describe the specific audit procedures you used in auditing capital structure, for the audit findings that you are testifying on.

A. We determined that the Utility is collecting and accounting for customer deposits authorized in its Commission approved tariff and verified that the Utility is calculating and remitting interest on customer deposits pursuant to Rule 25-30.311, Florida Administrative Code. We reconciled Aqua Utilities Florida, Inc.'s capital structure to the general ledger, Minimum Filing Requirements (MFRs) and Aqua America Inc.'s annual report. We reviewed the allocations from Aqua America, Inc.'s annual report to Aqua Utilities Florida, Inc.'s capital structure. We reviewed and recalculated the allocations from Aqua Utilities Florida, Inc.'s to the individual systems. We traced a sample of Aqua America, Inc.'s debt to the debt agreements and reviewed them for the proper amount, period and classification.

Q. Please describe the specific audit procedures you used in auditing net operating income, for the audit findings that you are testifying on.

A. For revenues, we tested the reasonableness of the Utility revenues by multiplying average consumption times the number of customers for each class of service, and compared it to a schedule of Utility revenues by customer class for the historical test year. We reconciled revenues reported on the Regulatory Assessment Fee (RAF) filings to the

Utility's books and records, and recalculated the amount of RAF fees due based on the Utility's revenues reported. We traced revenue balances in the MFRs to the Utility trial balance.

For Operation and Maintenance (O&M) expenses, we reconciled the general ledger expenses to the MFR O&M Expenses for the 83 systems. We performed an analytical review of the O&M Expenses of 2006 and 2007 reported in the annual reports and used this as a basis for choosing the systems to be sampled. Each system that had an increase in the 2007 O&M expenses of 25 percent or more was selected. Based on this criteria, we noted ten systems that qualified for further testing. We verified Utility salaries, pensions, and benefit expenses by tracing them to the Utility's books and records and reviewed a description of all services provided by Utility employees and officers. For Utility sludge hauling expense, we traced amounts to the Utility's books and records, and obtained contracts or other supporting documentation. For Utility purchased power expenses, Utility chemical expenses, and Utility materials and supplies expenses, we traced amounts to the Utility's books and records, and traced a sample of invoices to supporting documentation. For Utility contractual service expenses, Utility rental expense, Utility transportation expense, and Utility insurance expense, we traced amounts to the Utility's books and records, traced a sample of invoices to supporting documentation, and reviewed all material contracts, agreements, or policies. For Utility miscellaneous expense, we traced amounts to the Utility's books and records, and traced a sample of invoices to supporting documentation. For Utility bad debt expense, we analyzed bad debt expense and determined the basis that the Utility uses to determine the bad debt expense.

For Taxes Other Than Income (TOTI), we verified real estate and tangible property tax incurred by the Utility for the historical test year, and ensured that all

property tax expense reflects the maximum discount available, and that real estate taxes incurred are only for Utility property in service. We also reconciled TOTI amounts to the Utility's general ledger.

Q. Please describe the specific audit procedures you used in auditing affiliate transactions.

A. For rate base affiliate transactions, we reconciled Aqua America Inc.'s plant in service, accumulated depreciation, and depreciation expense to the general ledger. We reviewed Aqua America Inc.'s continuing property records for plant additions, retirements, cost of removal, and salvage. We recalculated accumulated depreciation and depreciation expense for proper amount and rates. We reviewed the methodology for the allocation of plant in service, accumulated depreciation and depreciation expense from Aqua America, Inc., to Aqua Utilities Florida, Inc. We reviewed the allocation methodologies for allocating plant in service, accumulated depreciation and depreciation expense from Aqua Utilities Florida, Inc., to the individual systems. We sampled plant in service, accumulated depreciation and depreciation expense for the proper amount, classification period, non-recurring and support documentation.

For O&M affiliate transactions, we reviewed total expenses allocated to the individual systems from Aqua America, Inc. and Aqua Utilities Florida, Inc. We traced the total Aqua America, Inc., and Aqua Utilities Florida, Inc. expenses allocated to the individual systems to the general ledgers. We reviewed and recalculated the methodology of allocating expenses from Aqua America, Inc., and Aqua Utilities Florida, Inc. and sampled allocated expenses for the proper amount, period, classification, whether non-Utility related, nonrecurring, unreasonable or imprudent.

Q. Please review the audit findings in the audit report, that are you are testifying on.

A. **Audit Finding 6**

Audit Finding 6 addresses the amortization of deferred debits. The audit work papers that are associated with the working capital allowance are filed with my testimony and are identified as Exhibit CJW-2. The Utility amortized the deferred debits accounts for the systems Grand Terrace, Picciola Island, and Jungle Den over three years. Commission Rule 25-30.433(8), Florida Administrative Code, provides that "non-recurring expenses shall be amortized over a 5-year period unless a shorter or longer period of time can be justified." The Utility states that the deferred debits are comprised of permits and that these permits must be renewed every three years; therefore, a lesser period of time for amortization is justified.

Audit Finding 7

Audit Finding 7 discusses accrued taxes. The ending balance for accrued taxes for all systems, as included in the working capital allowance, is a year-end debit balance of $2,860,234 and a 13-month average debit balance of $1,155,342. The Utility specified that the "accrued liabilities section on the balance sheet in the MFR reports the liabilities owed and since more taxes are due to the company and not owed from the company a negative amount appears on the accrued taxes section of the balance sheet." The Utility provided a detailed listing of system balances. However, the listing of system balances did not address why the accrual has a substantial debit balance. The Utility should reconcile the accrued taxes so that it is clear how much is owed for each type of tax and how much is a receivable for each type of tax.

Audit Finding 8

Audit Finding 8 addresses the capital structure. We found that Aqua Utilities Florida, Inc. derives its source of funding from Aqua America, Inc. and prepared the consolidated capital structure for the parent company Aqua America, Inc., that is shown in the audit report.

Audit Finding 9

Audit Finding 9 discusses customer deposits. The customer deposits from the MFR D-7 schedule did not trace to the trial balance. The basis for this error was in the preparation of the MFRs. As such, Account 235 - Customers Deposits should be reduced by $62,378 to adjust the MFR balance to the Utility books.

However, in its response to the audit report, the Utility pointed out an error in staff's calculation of the 13-month average for the Ravenswood, Rosalie Oaks, and Summit Chase systems. The Utility response indicates that the corrected 13-month average for these systems should be $926 (compared to the $1,002 included in the audit report). This results in a $76 reduction to our adjustment of $62,378, for an adjusted amount of $62,302.

Audit Finding 10

Audit Finding 10 discusses prior period expenses. Our audit found that Aqua America, Inc. allocated to Aqua Utilities Florida, Inc., $12,255 for prior period expenses. These expenses should be disallowed in this rate proceeding. The following accounts should be reduced to remove the expenses that are related to a prior period.

604	Employee Pension and Benefits	$ 1,540
633	Contractual Services – Legal	$ 626

636	Contractual Services – Other	$10,065
675	Miscellaneous Expenses	$ 24

Audit Finding 12

Audit Finding 12 discusses shareholders services expenses. The audit work papers that are associated with this issue are filed with my testimony and are identified as Exhibit CJW-3. Aqua America, Inc. allocated to Aqua Utilities Florida, Inc., $32,134 for shareholder services expenses. These expenses were for Transfer Agent and Registrar and Investor Communication Services that included Annual Stockholders' Meeting, shareholders correspondence, stock certificate mailings, stock accounts maintenance, and salaries, etc. In a prior Commission order addressing shareholder services expense for Southern States Utilities, Inc. (see Commission Order No. PSC-96-1320-FOF-WS, issued October 30, 1996, in Docket No. 950495-WS), the Commission found that:

> Through the ROE leverage formula, we have allowed recovery of costs associated with being a publicly traded utility. Specifically, in the calculation of the appropriate cost of equity, we recognized an additional 25 basis points to the otherwise determined cost of equity to provide for these costs. To ask SSU's ratepayers to pay 25 basis points on ROE in addition to the amount requested by SSU would be duplicative. We also question whether the benefits SSU receives from MP&L are worth $208,776 to the ratepayers in Florida. Consequently, we shall disallow all of the utility's requested shareholder services expenses of $208,776.

In prior leverage graph proceedings, the Return on Equity has been established to include costs such as these. On October 23, 2008, the Commission conducted a hearing

in the current leverage graph docket and a decision in that docket is still pending. Based on past decisions regarding the leverage graph and the decision in the above order, I recommend that the shareholder services expenses in the amount of $32,134 should be disallowed.

Audit Finding 14

Audit Finding 14 discusses letter of credit expenses. The audit work papers that are associated with allocated expenses are filed with my testimony and are identified as Exhibit CJW-4. Aqua America, Inc. allocated to Aqua Utilities Florida, Inc., $1,345 for Standby Letters of Credit expenses in Miscellaneous Expenses, Account 675. Our audit report recommended that the $1,345 should be recorded in Account 181, Unamortized Debt Discount and Expense and amortized over the period of the loan. The Utility response to the audit report asserts that fees for the letters of credit are annual expenses and should be a Miscellaneous expense. However, the Utility response still has not fully explained the purpose of the letters of credit and I defer any changes to my opinion until we have more information.

Audit Finding 19

Audit Finding 19 discusses depreciation expense. Aqua America, Inc. allocated to Aqua Utilities Florida, Inc., $17,352 for depreciation expenses in Account 403 – Depreciation Expenses. The audit report summarizes the allocated depreciation expense and the related plant accounts. The audit work papers that are associated with this issue are filed with my testimony and are identified as Exhibit CJW-5.

Q. Does this conclude your testimony?

A. Yes.

CHAIRMAN CARTER: Next witness.

MR. JAEGER: Intesar Terkawi.

CHAIRMAN CARTER: Ms. Terkawi. The prefiled testimony of the witness will be entered into the record as though read.

Any exhibits?

MR. JAEGER: She had one, Exhibit 118.

CHAIRMAN CARTER: Exhibit 118, any objections? Without objection, show it done.

(Exhibit 118 admitted into the record.)

DIRECT TESTIMONY OF INTESAR TERKAWI

Q. Please state your name and business address.

A. My name is Intesar Terkawi and my business address is 2540 Shumard Oak Blvd., Tallahassee, Florida, 32399-0850.

Q. By whom are you presently employed and in what capacity?

A. I am employed by the Florida Public Service Commission as a Regulatory Analyst III in the Division of Regulatory Compliance.

Q. How long have you been employed by the Commission?

A. I have been employed by the Florida Public Service Commission (FPSC or Commission) since October, 2001.

Q. Briefly review your educational and professional background.

A. I attended the University of Central Florida and in 1993 I received a Master of Arts in Communication and in 2001 I received a Bachelor of Science degree with a major in Accounting. I am also a Certified Public Accountant licensed in the State of Florida and an Enrolled Tax Agent licensed by the Department of Treasury.

Q. Please describe your current responsibilities.

A. Currently, I am a Regulatory Analyst III with the responsibilities of planning and managing audits of utility historical or forecasted financial statements compiled from specialized complex accounting systems, cost allocation, inventory, and investigative audits, and assisting in audits of affiliate transactions. I also am responsible for creating audit work programs to meet a specific audit purpose.

Q. What is the purpose of your testimony today?

A. The purpose of my testimony is to address specific findings in the staff audit report of Aqua Utilities Florida, Inc. (Utility) which addresses the Utility's application for increase in water and wastewater rates in Alachua, Brevard, DeSoto, Highlands, Lake, Lee, Marion, Orange, Palm Beach, Pasco, Polk, Putnam, Seminole, Sumter, Volusia, and Washington Counties. This audit report is filed with the testimony of Charleston Winston and is identified as Exhibit CJW-1. I am only testifying on Audit Findings 13, 15, 16, and 17. The remaining findings will be addressed by witnesses Charleston Winston and Debra Dobiac.

Q. Were you responsible for the audit procedures related to these issues?

A. Yes.

Q. Please review the audit findings in the audit report.

A. **Audit Finding 13**

Audit Finding 13 discusses fines and penalties. The Utility included fines and penalties in the amount of $61,736 in Account 675, Water Miscellaneous Expenses, and $23,127 in Account 775, Wastewater Miscellaneous Expenses for the period ended December 31, 2007. The fines and penalties represent penalties for St. Johns River Water Management District, late filing fees for the FPSC regulatory assessment fees, and late payment fees for electric and phone service.

The National Association of Regulatory Utility Commissioners (NARUC), Uniform System of Accounts (USOA) defines Account 426, Miscellaneous Nonutility Expenses as follows:

This Account shall contain all expenses other than expenses of utility operations and interest expense. Items which are included in this account are: Penalties or fines for violations of statutes pertaining to Regulations.

In addition, Commission Order No. 13161, issued April 2, 1984, in Docket No. 820412-WS, In re: Petition of Grand Lagoon Utilities, Inc. for an increase in rates and charges in Bay County, addressed the issue of late fees. The order stated that with compensatory rates, late fees and similar charges should not be incurred and removed them from the expenses.

The audit work papers that are associated with this issue are filed with my testimony and are identified as Exhibit IT-1. I considered the NARUC USOA and prior Commission order and recommend that the Water Miscellaneous Expense (Account 675) balance should be reduced by $61,736 and Wastewater Miscellaneous Expense (Account 775) balance should be reduced by $23,215.

Audit Finding 15

Audit Finding 15 discusses a preliminary study. The Utility included $2,695 in Account 731, Contractual Services – Engineering for the period ended December 31, 2007. This amount represents a 2005 preliminary Engineering Study project that was abandoned. The USOA states that the Preliminary Survey and Investigation Charges account shall include:

all expenditures for preliminary surveys, plans, investigations, etc., made for the purpose of determining the feasibility of projects under contemplation. If construction results, this account shall be credited and the appropriate utility plant account charged. If the work is

abandoned, the charge shall be to account 426 – Miscellaneous Nonutility Expenses.

Therefore, I recommend that Account 731 Contractual Services – Engineering be reduced by $2,695.

Audit Finding 16

Audit Finding 16 discusses out-of-period expenses. The Utility included expenses in the MFRs that were for items outside the test period. These amounts should be removed from the test year expenses. This adjustment will reduce the following O&M expenses.

735	Contractual Services – Testing	$ 310
720	Materials and Supplies	$ 302
610	Contractual Services – Testing	$ 20,531
736	Contractual Services – Other	$ 941
615	Purchased Power	$ 73
618	Chemicals	$ 50
718	Chemicals	$ 110

Audit Finding 17

Audit Finding 17 also discusses preliminary survey expenses. The Utility paid $16,173.13 during the test year. It paid $1,000 to the Florida Department of Environmental Protection (FDEP) and $15,173.13 to Adirondack Engineering for work done in obtaining a wastewater treatment plant permit renewal in 2005. The Utility then amortized this amount in Account 736, Contractual Services – Other from June 2005 to September 2007. In September 2007, the Utility wrote off the remaining

balance of $9,529 because the permit process was abandoned. The Utility provided the following explanation.

> We had incurred charges for a permit at the Village Water sewer plant. We accumulated/deferred these charges and then were amortizing them over a period of time. During one of our managers meetings last year the discussion came up on permit charges for the plant. I questioned why we were doing it again when we had incurred charges and were currently amortizing. It turns out that the prior permitting work that was done wasn't completed and the permit application was abandoned, no permit issued. Now we were going at it again. Therefore we couldn't justify amortizing sunk costs so we expensed the remaining amount in full [in] September of last year.

The total amount charged included in Account 736, Contractual Services-Other for 2007 was $11,841. This includes the $9,529 that was written off in September as well as amortization expense of $2,312 ($289 per month from January 2007 to August 2007.) I have considered the fact that no permit was issued, the Utility received no benefit from these expenses, and the Utility duplicated these costs in the new permit process and recommend that the expense account should be reduced by $11,841.

Q. Does this conclude your testimony?

A. Yes, it does.

CHAIRMAN CARTER: Next witness.

MS. FLEMING: J.W. Yingling. This witness has been stipulated by all parties and we request that his prefiled testimony be moved into the record as though read.

CHAIRMAN CARTER: The prefiled testimony of the witness will be entered into the record as though read.

Any exhibits?

MS. FLEMING: Mr. Yingling has Exhibits 124, 125 and 126.

CHAIRMAN CARTER: Exhibits 124 through 126, any objections? Show it done.

(Exhibits 124 through 126 admitted into the record.)

DIRECT TESTIMONY OF Jay W. Yingling

Q. Please state your name and professional address.

A. My name is Jay W. Yingling. My professional address is 2379 Broad St., Brooksville, Florida 34604-6899.

Q. By whom are you employed and in what capacity?

A. I am employed by the Southwest Florida Water Management District (SWFWMD or District) as a Senior Economist.

Q. Please describe your duties in this position.

A. My duties include economic analytic work in support of key District research, planning, programmatic and regulatory functions. More specifically, I participate in rulemaking activities, evaluate proposed rules, prepare or supervise the preparation of Statements of Estimated Regulatory Costs (SERCs), prepare or supervise the preparation of economic analyses of water and land issues concerning the District and existing, proposed, and potential District programs. Since the development of the Memorandum of Understanding (MOU) between the Florida Public Service Commission (FPSC or Commission) and the five water management districts in 1991, I have acted as a liaison to Commission staff on issues of mutual interest addressed in the MOU. This duty has included working with Commission and utility staff on water use permittee-related rate structure and conservation issues, attending and presenting at utility customer meetings, and providing testimony in rate hearings.

Q. Please describe your training and experience.

A. I received both B.S. (1982) and M.S. (1984) degrees in Food and Resource Economics from the University of Florida. My academic training included courses on both economic theory (supply and demand) and applied quantitative analysis (econometrics and statistics). Since March of 1987, I have been employed by the SWFWMD, first as an economist and then as a Senior Economist since June 1991. Prior to working for the SWFWMD, I worked as a Staff

Rules Analyst for the St. Johns River Water Management District. I have prepared or supervised the preparation of dozens of SERCs, numerous articles, presentations and reports on water resource economic issues.

Perhaps most relevant, I was the District's project manager for the development of the Water Price Elasticity Study completed in 1993 and for the development of the WATERATE Model. I also was the District's project manager for a recently completed statewide study of water price elasticities for single family residential customers (Whitcomb, 2005). This was the largest known study of single family residential water use in the United States. The results of this new research have been incorporated into a new version of our rate simulation model (WATERATE 2006) that has been made available free of charge to utilities within our District. They are also provided with four free hours of telephone or email assistance from the model's developer. For ease of reference, I have included a list of articles that I have referred to in my testimony. It is attached as Exhibit JWY-1.

As stated before, I have also coordinated with Commission staff on rate structure and conservation issues since before 1991. I have testified both on the behalf of the Commission and utilities in rate hearings.

Q. Why does the District promote the use of water conservation-oriented rate structures?

A. For the benefit of all water customers within its jurisdiction, the District promotes the efficient use of water. The longer that we can maintain demand within the limits of available high quality water sources, the longer we can avoid the higher costs of having to develop lower quality sources. For water to be used efficiently, it must be priced in a manner that provides incentives for efficient use.

Over the years, water price elasticity studies have shown that water utility customers are responsive to changes in water and sewer price (hereafter referred to as water price). Extensive

statistical studies of utility water demand show that when the price of water increases, demand for water decreases, all other factors equal (such as weather). Economic theory indicates that persons respond to marginal price, i.e., the price of the next unit of a good purchased. The marginal price is, therefore, the appropriate incentive for efficient use. Our latest research further validates the economic theory of response to marginal price.

In much of the SWFWMD, potable quality water is at least a seasonally scarce resource. Water conservation-oriented rate structures reinforce the concept of scarcity and the need to conserve through the marginal price of water. If there is no marginal cost for additional water use or the marginal cost of water declines as more water is used, the scarcity of high quality potable water sources is not adequately reflected, and behavioral changes and the adoption of water conserving technologies will be less likely to occur. A flat charge rate structure in which there is no volume charge or marginal cost, or a rate structure that approaches being a flat charge because a large portion of the customer class's use is covered in a minimum use charge, does not send an adequate conservation incentive to customers and does not reward households that conserve. Master metering of residences also diminishes the water conserving effects of rates.

Q. What is the purpose of a water conservation-oriented rate structure?

A. From the District's perspective, the purpose of a water conservation-oriented rate structure is to provide economic incentives to reduce per capita water use to, or maintain it at, a given level. The primary goal is not to change or generate additional revenues for a utility. The intent is to provide incentives for conservation within the rate structure itself through manipulation of fixed and variable charges and the level and/or location of marginal price changes. It is one of a number of tools that can be used to reduce or maintain per capita use, but one that is required in Water Use Caution Areas.

That said, utilities may also use an inclining block rate structure to fund conservation programs designed to reduce the number of customers with consumption well in excess of

average. Those who pay for the program through the higher block rates benefit from programs that can help them reduce the excessive use.

Q. How is a water conservation-oriented rate structure determined?

A. From a permitting perspective, the District has used the same guidelines on water conservation-oriented rate structures since 1993. These guidelines are called "Interim Minimum Requirements for Water Conserving Rate Structures" (Interim Minimum Requirements). In essence the Interim Minimum Requirements prohibit the use of two rate structure forms based on the marginal price signal. Flat rates, in which there is a single fixed charge for water use and no gallonage charge, has a marginal price of zero. There is no additional charge for additional gallons used. This structure does not reflect scarcity and provides no disincentive to profligate use. Uniform gallonage charge rate structures, or any other rate structures that are essentially flat rates because a significant portion of the customer class's use falls within the minimum use charge allotment, are not acceptable. The Interim Minimum Requirements indicate: "[a]ny rate structure in which a significant percentage of a customer class's water use is paid for under a minimum charge would not be considered a water conserving rate structure." (p. 2)

The American Water Works Association (AWWA) M1 rate manual (1991) suggested that only 5% to 15% of residential water bills be rendered under the minimum charge and that, "[t]he percentage should not be so high, and the water allowance so great, that it effectively approaches a flat rate for a large number of customers. This would encourage waste of water by those customers who normally would use a smaller quantity of water than that included in the minimum charge." (p. 34)

The Interim Minimum Requirements indicate that the permittee may be required to demonstrate the revenue needed to exceed the 15% suggested by the AWWA. Declining block rate structures are also not acceptable because the marginal price declines as more water is used. Such a structure does not reflect the scarce nature of the resource because the marginal cost of

water to the consumer declines as more water is used.

In the literature, many types of rate structures are considered water conserving. The most common among these are inclining block, seasonal, uniform with a seasonal surcharge, ratchet, and excess use charge. All involve some form of higher marginal price for water use based on usage or season. Uniform gallonage charge rates, with a constant marginal price, are sometimes also considered a water-conserving rate structure. To minimize costs to regulated utilities, the District will accept a uniform gallonage charge rate structure when the utility is in compliance with per capita requirements. If the utility is not in compliance, then a more aggressive rate structure, such as those mentioned where the marginal prices increases based on usage or season, must be implemented.

Q. What permittees are required by rule to comply with the water conserving rate structure requirement?

A. Public water supply utilities with permitted quantities of 100,000 gallons per day or more that are located either in the Northern Tampa Bay or Southern Water Use Caution Areas (WUCAs) are required by rule to comply with water conserving rate structure requirements. In addition, rule development is underway to expand the water conserving rate structure requirement to utilities in the entire District. The rate structure requirements for utilities in the Northern Tampa Bay WUCA is found in Section 7.3.1.2 of the Basis of Review for Water Use Permitting. The water conserving rate structure requirement for water utilities in the Southern Water Use Caution Area is found in Section 3.6 of the Basis of Review. The authority to require the use of water conserving rate structures and the District's flexible approach to the implementation of the requirement as outlined in the Interim Minimum Requirements were established in the Division of Administrative Hearings Case No. 94-5742RP, commonly referred to as the "SWUCA rule challenge." The hearing officer recognized that "the general concepts as to what constitutes a water conserving rate structure are well recognized in the industry (Final

Order, p. 799)." The District's Interim Guidelines are consistent with those general concepts.

In addition to the conditions contained in the Interim Minimum Requirements, there may be other occasions when the District may encourage or require the implementation of a water conserving rate structure or the implementation of a more aggressive water conserving rate structure. One of these occasions would be when the utility is violating the water quantity limits of its permit and may cause or contribute to harm to water resources. Water conserving rate structures are recognized as one of a number of reasonable tools that may be necessary to bring a permittee into compliance when water resources are being harmed.

Q. What other guidance is there on the development of water conserving rate structures?

A. There are other features of a water conserving rate structure for which the District does not have specific guidelines. However, the District has made available additional recommendations to permittees and the Commission (Whitcomb, 1999) and the literature is rich with recommendations for developing water conserving rate structures (American Water Works Association, 1992; California Department of Water Resources, 1988; California Urban Water Council, 1997).

For example, the fixed charge portion of the bill should be kept to the minimum commensurate with the need for revenue stability. However revenue stability can be enhanced with the establishment of a revenue stabilization fund while keeping the fixed charges reasonably low (where allowed by law). A low fixed charge increases the revenue required from gallonage charges and therefore higher gallonage charges result. This provides more of a disincentive to wasteful use and more of a reward to the customer for reducing use. Anecdotal information from rate practitioners indicate that a water conserving rate structure should generally not generate more than a range of 30% to 40% of its revenues from fixed charges. The 30% is more applicable in areas of low to moderate seasonality in population whereas the 40% is more applicable in areas of high seasonality. In cases of extreme seasonality, circumstances may

justify a higher percentage.

The marginal price change(s) for an inclining block rate structure should be large enough to give the customer an incentive to reduce usage to the previous block. The higher or last block(s) thresholds(s) should be low enough to cover a significant portion of the customer base or the structure will only have a significant impact on a small portion of the customer base and not have the water conserving effect desired. For those customer bases with excessive consumption per customer, the last usage block should be designed and priced to aggressively target that consumption. Similar types of considerations should also be made in the development of other types of water conserving rate structures. Economists would generally agree that the price of the highest block be at least the marginal cost of the next source of water for the utility.

Q. How effective are water conserving rate structures?

A. This has been a difficult question to answer – but difficult to answer for a number of good reasons. However, theoretical considerations, their relatively common use, and common sense would indicate that well designed water conserving rate structures are effective. The authors of the Guidebook on Conservation–Oriented Water Rates (California Department of Water Resources (DWR), 1988) described the dilemma quite well.

> "First, DWR knows of no city that has adopted conservation-oriented water rates without at the same time enacting a general water rate increase. Therefore, it is not possible to tell how much of the subsequent drop in per capita water consumption was due to a revised rate structure and how much was due to higher water costs.
>
> However, the experiences of Washington, D.C., and Tucson, Arizona,

which switched to conservation-oriented water rates in the late 1970's, show significant water savings can result from conservation-oriented water rates. Refer to the excerpts from DWR Bulletin 198-84 (in the back pocket of this guidebook) for more information.

When a city adopts conservation-oriented water rates, some customers will get lower water bills, others will face higher water costs, and some residential customers might see no difference in their annual water costs. The incentive to conserve will come from several factors. First, most users will experience increased summer water bills and lower winter water costs. This is desirable, for conservation is more valuable during the peak summer months.

Second, large water users will tend to get higher bills under the revised rate schedule, which would provide them with incentives to reduce use.

Third, large residential users, with above-average outdoor use, will tend to get higher water bills under conservation-oriented water rates. Because outdoor use has been found to be more responsive to price than indoor use, the drop in exterior water use by large users should outweigh any increase in water use by apartment dwellers, most of whom will face lower water bills.

A fourth factor in conservation-oriented water rates that leads to reduced water consumption over time is the fact that everyone now

knows if a household gets careless and increases its water use, its water bill will increase more under the revised rate schedule than it would have under the old rate schedule.

The final factor explaining the use of pricing incentives to encourage conservation is the concept of marginal cost. Marginal cost is the cost of purchasing one more unit of a good or service. Although switching to conservation-oriented water rates will mean that some users will face lower average costs, virtually everyone should face significantly higher marginal water costs (if the new rates are truly conservation-oriented).

Economic studies often indicate that consumers make purchase decisions based more on marginal costs than average costs. So although it is not possible to quantify the above five factors for each city to determine exactly how much water would be saved by switching to conservation-oriented water rates, DWR believes that a city with typical water rates (a conservation index number of approximately 0.7) switching to these conservation rates (an index number of 1.0) would be equivalent to the effect of raising the average price of water by 10 to 20 percent, while keeping the old rate structure.

This would mean that if the above typical city (with a winter PED of –0.25 and a summer PED of –0.35) were to adopt these conservation rates, it could expect a decline in per capita residential winter water use of 2.5 to 5 percent and a decline in summer per capita residential water

use of 3.5 to 7 percent. Commercial, industrial, and public-authority water use could also be expected to decline if conservation-oriented water rates are applied to those user classes."

As noted above, it is quite difficult to find a utility that has adopted a water-conserving rate structure that has not also included an increase in revenues. Further, to isolate the effects of the structure change from other water demand variables, it may be necessary to perform complex and expensive statistical analyses. Utilities are not inclined to perform such analyses. There is, however, some anecdotal evidence of the effectiveness of the water conserving rate structures.

In 1995, the Homosassa Special Water District implemented a revenue neutral water conserving rate structure. The rate structure was designed using the District's WATERATE model. Although no formal statistical analysis of the effect of the rate structure has been performed, in a telephone conversation between myself and utility superintendent Dave Purnell, Mr. Purnell was quite firm in his conviction that the water conserving rate structure (inclining block) played a significant role in reducing per capita water use in the service area.

In 1993, Sarasota County changed their inclining block rate structure to a more aggressive inclining block rate structure. Again, the change was designed to be revenue neutral. Per capita use declined significantly in the years following the structure change. No other significant conservation programs were implemented during the same period. Although no formal statistical analysis of the effect of the rate structure has been performed, David Cook, Manager of Finance and Administrative Services for Environmental Services, informed me that he was confident that the rate structure change played a significant role in the decline in per capita water use in Sarasota County's service area.

In 1991, the Spalding County Water Authority (Georgia) changed from a declining block rate structure to an inclining block rate structure. As a result, the average customer's bill

increased by $1.99 per month. The estimated price elasticity for the rate change was -.33. In 1993, the average bill was increased by $2.13 per month without a change in rate structure. The estimated price elasticity for the 1993 rate change was only -.07. A simple 't' test was conducted to determine if weather was significantly different between the two periods. It was not. In addition, no other conservation programs were implemented during either period of time. The author concludes that the change in rate structure was a significant contributing factor to the larger response to the rate change in 1991 (Jordan, 1994).

Another study in Georgia in 1992 indicated that the daily water use for systems using declining block rate structures was 503 gallons per connection, 428 gallons for systems using uniform rate structures, and 352 for systems using inclining block rate structures (Jordan and Elnagheeb, 1993).

In our most recent research on single family residential price elasticity, statistical analysis indicated that when comparing a uniform gallonage charge rate structure and an inclining block rate structure with equal weighted marginal prices, the inclining block rate structure had more of a water conserving effect. Therefore, an inclining block rate structure should be employed in lieu of a uniform gallonage charge rate to maximize conservation and preserve scarce, high quality water resources whether required or not.

The statistical analysis showing inclining block rates to be more water conserving was validated by the responses of surveyed customers when asked their opinions of the water conservation effect of the rate structure of their utility (Whitcomb, 2005). Many (21%) of the customers of utilities with inclining block rate structures essentially identified themselves as "block targeters" that focus on reducing water use to avoid going into higher usage blocks. This recent research only strengthens our belief that water conserving rate structures, and inclining block rates in particular, are effective. The WATERATE 2006 model greatly enhances the ability of utilities to estimate the effectiveness of changes in both rates and rate structures.

Q. For the Aqua systems in this proceeding that are located within the District, does the Aqua systems' existing and proposed rate structures comply with the District's water conserving rate structure requirement?

A. Of the permitted Aqua systems located in the Southern Water Use Caution Area (SWUCA), only Lake Josephine (permit 4167) is required to comply with the water conserving rate structure permit condition. In 2006, Lake Josephine had a daily per capita water use of 117 gallons and therefore was in compliance with its per capita requirement. Lake Josephine is also in compliance with its pumpage limits. A compliance issue for Lake Josephine is that they have not submitted their required Annual Report for 2007. The other active permitted Aqua systems in the SWUCA -- Leisure Lakes (6456) and Orange Hill/Sugar Creek (7653) -- are below the permitted quantity threshold of 100,000 gallons per day that would require them to adopt a water conserving rate structure. Both are in compliance with their pumpage limits and other permit conditions.

Our records indicate that Sebring Lakes (11768) is no longer an active permit and was deleted in July of 2008. Lake Suzy is a totally wholesale supplied utility in the SWUCA that uses more than 100,000 gpd and is therefore required to apply for a Wholesale Public Supply Permit to enforce conservation conditions, which includes the water conserving rate structure requirement. To date, Lake Suzy has not applied for such a permit and is therefore in violation of that rule provision. As Lake Suzy uses more than 100,000 gpd they will be subject to the water conserving rate structure requirement. However, in 2007, their per capita use was less than 150 gpd so they would not be required to change from their uniform rate structure. Information regarding water conservation rate structure requirements and active compliance issues is summarized on Exhibit JWY-2.

Of the Aqua systems located in the Northern Tampa Bay Water Use Caution Area (NTBWUCA), only Jasmine Lakes (permit 279) is required to comply with the water conserving

rate structure permit condition. In 2006, Jasmine Lakes had a daily per capita water use rate of 97 gallons and therefore was in compliance with its per capita requirement. Jasmine Lakes is also in compliance with its pumpage limits and has no active compliance issues. The other Aqua system in the NTBWUCA, Palm Terrace (3759), is in compliance with its pumpage limits and has no active compliance issues.

The SWFWMD permitted Aqua systems that are not in water use caution areas but could be subject to the water conserving rate structure requirement under the proposed rules are Zephyr Shores (11082), Gibsonia Estates (9336) and Lake Gibson Estates (7878). Zephyr Shores and Gibsonia Estates are permitted for less than 100,000 gallons per day and therefore would not be subject to the water conserving rate structure permit condition. None of the three have any active compliance issues. The three remaining Aqua systems in the SWFWMD -- Rosalie Oaks, Village Water, and The Woods -- fall below the permitting thresholds of the District based on information provided by Commission staff.

Of the systems currently required to comply with the District's water conserving rate structure permit condition, neither Lake Josephine nor Jasmine Lakes employs a minimum gallonage charge. Therefore, they are in compliance with the minimum charge requirements of the Interim Minimum Requirements. Lake Suzy does not utilize a minimum gallonage charge and therefore would be in compliances with the minimum gallonage charge requirements.

According to data provided by the Commission, the percent of revenues from fixed charges for the Jasmine Lakes system in Pasco County is proposed to be increased from 35% to 51% if viewed on a stand-alone basis. Similarly, the percent of revenues for Lake Josephine from fixed charges is proposed to be increased from 46% to 49%, while the corresponding percent of revenues from fixed charges for Lake Suzy is proposed to more than double, going from 27% to 56%. The District does not believe that such a high percentage of revenues from fixed charges is consistent with the intent of a water conserving rate structure. Based on data

contained in the utility's Minimum Filing Requirements, 16% of Jasmine Lake's billable residential gallons is captured at monthly bills of 1,000 gallons or less. The corresponding percentage for both Lake Josephine and Lake Suzy is 22%. This analysis indicates that these are mild (Jasmine Lakes) or moderately (Lake Josephine and Lake Suzy) seasonal service areas. Therefore, I recommend that the proposed increases in percent of revenues from fixed charges not be approved, and that the fixed charges be reduced closer to 40% of revenues unless there is compelling evidence demonstrating the need for higher base charges for revenue stability purposes.

Q. What level of price elastic effect (repression) from price increases can be expected?

A. First, in the simplest terms, price elasticity is the percent change in demand for a percent change in price. In 1991 the District was developing the WUCA rules which included the requirement for water conserving rate structures to be used as a demand management tool. At the time there were no large sample estimates of water price elasticities that included a wide range of prices in the sample. However, there is a wide range of water prices in the District due to source water of varying quality.

Given the proposed rule changes, it was deemed desirable to conduct a large-scale price elasticity study to assist utilities in the District in estimating reductions in demand due to rate structure and price level changes. Brown and Caldwell in association with Dr. John Whitcomb were engaged to conduct the study. The price elasticity study, the most comprehensive ever known to be conducted in the State of Florida, was completed in 1993.

Dr. Whitcomb's most recent research was believed to be the largest and most comprehensive study of single family residential price elasticity in the United States at its time of completion and includes monthly observations from over 3,500 homes over an approximate 5 year period. The estimation of price elasticity was refined by estimating elasticities for four different profiles of property value. The estimation was further refined by estimating different

elasticities for those utility service areas where alternative, low cost irrigation sources such as shallow wells and canals, were readily available, and those where they were not. The different elasticities have been incorporated into the WATERATE 2006 rate simulation models so that utilities can customize the elasticities to be appropriate for the characteristics of the individual utility. The estimated price elasticities are provided on Exhibit JWY-3.

For example, a 1% increase in the volume charge for a Profile 2 customer with a 50th percentile assessed value home (the median value for the State) would be expected to result in a 0.51% reduction in water use in a service area where substitutes are readily available. In a service area without substitutes, the price elasticity would decrease to a 0.44% reduction in water use for a Profile 2 home. As can be seen, the response to an increase in the volume charge increases with property value up to the 4th profile. This makes sense in that lower value homes generally have less discretionary water use, and discretionary water use generally increases with property value due to increased outdoor water use. Water and sewer bills for Profile 4 households generally are not a significant portion of household income and this likely explains the lower price elasticity. The lower price elasticities for households without ready access to cheaper irrigation substitutes makes sense as well. Without a cheaper substitute irrigation source, customers can become more efficient in their use, but cannot switch to a substitute source, so the price response is lower.

Previous studies of overall (indoor & outdoor) single-family residential price elasticity studies in Florida estimated elasticities ranging from -.23 (Brown and Caldwell, 1990), to -.81 (Lewis et al., 1981). As can be seen, the 2005 revised elasticities are generally consistent with the range of other residential price elasticity estimates conducted in Florida. The slightly greater range of elasticities can be explained by the fact that the 2005 elasticities are estimated for discreet property value profiles and not the average of all customers. Not taking into account the repression effect of these estimated price elasticities in rate making creates the risk of falling

short of revenue requirements.

In terms of the timing of price elastic response, Dr. Whitcomb believes that approximately 50% of the price elastic effect occurs within the first year with the remaining 50% spread over the following two years. This allocation is reflected in the WATERATE rate model developed by Dr. Whitcomb.

Q. Are there any other compliance issues that should be addressed?

A. No. Both Lake Josephine and Jasmine Lakes are in compliance with the unaccounted water requirements of the SWUCA and NTBWUCA, respectively, based on information supplied by the utilities for 2006. The unaccounted water use of Lake Suzy is not know at this time as they have not applied for the previously mentioned wholesale permit nor complied with the annual reporting requirements of such a permit, which would include providing information on unaccounted water use.

Q. Does this conclude your testimony?

A. Yes.

CHAIRMAN CARTER: That takes us through, Commissioners, to -- the next witness will be Mr. Smeltzer.

Mr. May, you're recognized.

MR. MAY: Mr. Chairman, Aqua would call its direct witness Mr. Dave Smeltzer. I don't believe Mr. Smeltzer has been sworn, nor do I believe Mr. Franceski, the next direct witness, has been sworn either.

CHAIRMAN CARTER: Okay. Mr. Smeltzer, Mr. Franceski, would you please stand and raise your right hand?

(Witnesses collectively sworn.)

You may proceed.

DAVID P. SMELTZER

was called as a witness on behalf of Aqua Utilities Florida, Inc., and, having been duly sworn, testified as follows:

DIRECT EXAMINATION

BY MR. MAY:

Q Good morning, Mr. Smeltzer.

A Good morning.

Q You were just sworn in this proceeding, were you not?

A Yes.

Q Very good. Would you please state your name and business address for the record?

A My name is David Smeltzer. My business address is 762 Lancaster Avenue, Bryn Mawr, Pennsylvania.

Q Have you prepared and caused to be filed prefiled

direct testimony in this proceeding?

A Yes.

Q Do you have that prefiled direct testimony before you today?

A Yes.

Q Do you have any corrections or revisions to your direct testimony?

A No.

Q If I were to ask you the questions in your direct testimony today, would your answers be the same?

A Yes.

MR. MAY: Madam Chair, we would request that the prefiled direct testimony of Mr. Dave Smeltzer be inserted into the record as though read.

COMMISSIONER EDGAR: The prefiled testimony of the witness will be entered into the record as though read.

BY MR. MAY:

Q Mr. Smeltzer, do you have any exhibits to your prefiled direct testimony?

A No.

DIRECT TESTIMONY OF DAVID P. SMELTZER

Q. Please state your name, occupation, business address.

A. David P. Smeltzer. My business address is 762 W. Lancaster Avenue, Bryn Mawr, Pennsylvania 19010

Q. By whom you are employed and in what capacity.

A. I am employed by Aqua America, Inc. as Chief Financial Officer ("CFO").

Q. What are your duties as CFO?

A. As CFO, I am responsible for the financial and fiscal management aspects of Aqua America's operations. I am directly responsible for the Finance Department which includes treasury, accounting, tax, planning, accounts payable, payroll and regulatory functions.

Q. Please describe your education and business experience.

A. I graduated from La Salle University in 1980 with a Bachelor of Science degree in Business Administration, majoring in Accounting, and received my C.P.A. Certificate from the Commonwealth of Pennsylvania in 1982. I was employed by KPMG Peat Marwick, Certified Public Accountants ("KPMG"), from June 1980 until March 1986, when I joined Philadelphia Suburban Corporation,, the corporate predecessor to Aqua America. While employed by KPMG, I worked initially as a Junior Accountant, advancing thereafter to Senior Accountant and Manager. My assignments varied, including financial, manufacturing and public utility clients. I was hired by Philadelphia Suburban Corporation as Controller of its largest subsidiary, Philadelphia Suburban Water Company, was promoted in 1991 to Vice President Rates & Regulatory Affairs, and in 1999 to my present position. In these capacities, I have a broad base of experience in the utility

finance and regulatory areas. In particular, I have overseen, filed and testified in cases which included system consolidation and single tariff pricing proposals.

Q. Are you a member of any professional organizations?

A. Yes, I am a member of the American Institute of Certified Public Accountants, the Pennsylvania Institute of Certified Public Accountants, and the National Association of Water Companies ("NAWC"). I am past Chairman of the Pennsylvania Chapter of the NAWC, its Rates & Revenue Committee and the NAWC's Rates & Revenue Committee.

Q. Have you previously appeared and presented testimony before state regulatory bodies?

A. Yes. I have testified before several regulatory agencies in various states including Pennsylvania, Illinois, New Hampshire and Connecticut.

AQUA UTILITIES FLORIDA, INC.

DIRECT TESTIMONY

OF

WILLIAM T. RENDELL

Docket No. 080121-WS

Q. What is your name and business address?

A. My name is William "Troy" Rendell. My business address is 3116 Capital Circle NE, Suite 5, Tallahassee, Florida, 32308.

Q. By whom are you employed and in what capacity?

A. I am Manager of Rates for Aqua Utilities Florida, Inc. ("AUF" or "Company").

Q. What are your duties as Manager of Rates?

A. I am responsible for the coordination of all rate and regulatory matters before the Florida Public Service Commission ("Commission"). This includes, but is not limited to, rate cases, index filings, service availability, tariffs, and various regulatory affairs.

Q. Please describe your education and business experience.

A. I graduated from Gulf Coast Community College in 1985 with an Associate of Arts Degree in Business Administration. In 1987, I graduated from the Florida State University with a Bachelor of Science Degree in Finance. After graduation, I was briefly employed as a comptroller for Port Panama City Marina, Inc. In November 1987, I began working for the Commission as a Regulatory Analyst I in the Bureau of Gas Regulation, Division of Electric and Gas. In January 1991, I joined the

Division of Auditing and Financial Analysis in the Bureau of Accounting. In October 1991, I transferred to the Division of Water and Wastewater as a Regulatory Analyst IV in the Bureau of Industry Structure and Policy Development. From March 1994 through April 1996, I held the position of Regulatory Analyst Supervisor within the Bureau of Economic Regulation in the Division of Water and Wastewater. Subsequently, from April 1996 through January 2008, I held the position of Public Utilities Supervisor within the Bureau of Rate Filings, Surveillance, Finance and Tax in the Division of Economic Regulation. In January 2008, I accepted my current position as Manager of Rates with AUF.

Q. What were your duties during your tenure with the Commission?

A. I began my career with the Commission as a Regulatory Analyst, working on rate cases in the investor-owned natural gas industry. I was responsible for the analysis and calculation of rate base, operation and maintenance expenses, conservation cost recovery, interim revenue increases, and final revenue requirements in rate cases. When I transferred to the Division of Water and Wastewater, I was responsible for certification matters within the investor-owned water and wastewater industry. This included original certificates, transfers, grandfather cases, and various related dockets. I also testified on rate structure issues within the industry. When I initially accepted the position of supervisor within that division, I was responsible for calculation of rates, rate structures, service availability, and miscellaneous charges for water and wastewater utilities. Prior to my departure from the Commission, I was responsible for all rate cases, staff assisted rate cases, service availability cases, index filings, complaints, and miscellaneous service charges for all of the investor-owned water and wastewater industry. I also oversaw and was responsible for

various rate cases in the electric and natural gas industries. In that capacity, I conducted numerous customer meetings throughout the state of Florida. I was also a member of the Reuse Coordinating Committee, on behalf of the Commission.

Q. Have you previously appeared and presented testimony before state regulatory bodies?

A. Yes. I testified before the Commission in Docket No. 930880-WS, Investigation into the Appropriate Rate Structure for Southern States Utilities, Inc. for all regulated systems. I also testified in Docket No. 020010-WS - Application for Staff-Assisted Rate Case in Highlands County by the Woodlands of Lake Placid, L.P. Further, I filed direct testimony in Docket No. 980992-WS - Complaint by D.R. Horton Customer Homes, Inc. against Southlake Utilities, Inc.; Docket No. 960329-WS, Gulf Utility Company Rate Case; and Docket No. 880002-EG, the Energy Conservation Cost Recovery docket.

Q. What is the purpose of your testimony?

A. The purpose of my testimony is to discuss AUF's proposal to consolidate its rate structure in this case. I will provide a background of past Commission decisions on consolidated rates and give an overview of the policy implications of rate consolidation. I will also testify in regard to AUF's interim rate proposal, water use repression analysis, and water conservation rate block structure.

BACKGROUND AND OVERVIEW

Q. Please provide a general overview of AUF's rate filing proposal.

A. AUF has filed an Application and supporting MFRs designed to increase annual water revenues in the amount of $4,518,353 for the 57 water systems subject to the Commission's jurisdiction and annual wastewater revenue in the amount of

$3,856,179 for the 25 wastewater systems in 16 counties subject to the Commission's jurisdiction. As part of our filing, the Company is requesting that it be permitted to place into effect on an interim basis $2.9 million for the proposed water increase and $3.0 million of the proposed wastewater increase. However, AUF is proposing to defer recovery of approximately $1.5 million of the interim increase to which it is entitled as discussed further below and in Mr. Szczygiel's testimony.

RATE CONSOLIDATION

Q. Can you please explain the basic concept of rate consolidation?

A. Yes. Consolidated rates involve the use of a unified rate structure for multiple water and wastewater utility systems that are owned or operated by a single utility. Under consolidated pricing, customers pay a single utility the same rate for similar service.

Q. Can you briefly describe the benefits of a consolidated rate structure?

A. Yes. A consolidated rate structure can protect customers from sudden and substantial rate increases ("rate shock"), protect customers from unaffordable rates, address small system viability issues, and lower administrative costs for the utility and agencies that regulate it.

Q. Can you provide a simple example of how rate consolidation can help prevent rate shock?

A. Yes. If a small stand alone system (like many systems in Florida) needs major capital improvements, a consolidated rate structure will spread those costs over a larger customer base.

Q. Could you further elaborate on how a consolidated rate structure is beneficial to customers?

A. Yes. By being able to minimize rate shock to customers and spread the increasing cost of required capital improvements, AUF is able to respond to capital needs in a more timely manner. If the risk of recovery is minimized, financial decisions may be made to ensure that required capital investments, including investments to comply with environmental requirements, are made in an efficient and timely manner.

Q. Has the Commission addressed uniform rates in the past?

A. Yes. The Commission has repeatedly found in favor of a uniform rate structure for multi-system utilities. At least twice, the Commission has emphasized the benefits of uniform rates for Southern States Utilities, Inc. ("SSU") and specifically ordered uniform rates in those proceedings. SSU was the predecessor in interest to Florida Water Services Corporation ("FWS"). As explained more fully below, in FWS' last rate case, the Commission only pulled back from a statewide uniform rate structure to a capband rate structure because of the constraint imposed at that time by an erroneous ruling of the First District Court of Appeal ("First DCA").

Q. Please provide the background concerning the Commission's prior determinations regarding the appropriateness of a statewide uniform rate structure.

A. In 1992, SSU filed an application in Docket No. 920199-WS to increase rates for 127 water and wastewater systems subject to the Commission's jurisdiction. At the time of the filing, the Commission had repeatedly ordered county-wide uniform rates in a number of cases but had not been presented with a rate filing of the magnitude filed by SSU.

Q. What rate structure did the Commission order in SSU's 1992 rate case?

A. In Order No. PSC-93-0423-FOF-WS issued March 22, 1993 ("Order 93-0423"), the Commission ordered a statewide uniform rate structure for the 127 water and wastewater at issue in that proceeding.

Q. What factors did the Commission take into account in ordering a statewide uniform rate structure?

A. The Commission considered a number of alternative rate structures within the framework of what it viewed to be the appropriate goals and objective for a large statewide utility. The Commission determined that uniform, statewide rates provide the following advantages: (1) administrative efficiencies in accounting, operations and maintenance; (2) rate stability; (3) insulation of customers from rate shock from major capital improvements or increased operating costs; (4) recognition of economies of scale; (5) ease of implementation; and (6) lower rate case expense in the long run. The Commission ultimately concluded that:

> The wide disparity of rates calculated on a stand-alone basis, coupled with the above-cited benefits of uniform statewide rates, outweighs the benefits of the traditional approach of setting rates on a stand-alone basis. Based on the foregoing, we find it appropriate to calculate uniform, statewide rates for the 127 systems filed in this rate proceeding.

Order 93-0423, at 95.

Q. Did the Commission take a further look at SSU's rate structure after ordering statewide uniform rates in Docket No. 920199-WS?

A. Yes. Approximately six months after issuing Order 93-0423, the Commission initiated an investigation into the appropriate rate structure for SSU in Docket No. 930880-WS (the "Investigation Docket"). Once again, the Commission

considered the appropriate goals and objectives to be considered in evaluating alternative rate structures and the impacts that various rate structures have on such issues as rate stability, rate shock and the promotion of economies of scale through acquisitions. The Commission heard evidence on numerous factors related to rate structure. These factors included: (1) the relative costs of providing service; (2) the level of contributions-in-aid-of-construction; (3) the need for conservation rates; (4) geographic considerations; (5) long term benefits; (6) potential cost savings; (7) public participation in rate case; (8) the relationship between rates and acquisitions; and (9) the effect of uniform rates on customers.

Q. What conclusion did the Commission reach in the Investigation Docket?

A. In Order No. PSC-94-1123-FOF-WS issued September 13, 1994 in the Investigation Docket, at page 29, the Commission determined that:

> We believe that uniform statewide rates should be our goal for this utility. We also believe that the benefits of uniform rates outweigh any of the perceived disadvantages. Accordingly, based upon the evidence of record and our discussion above, we find that the appropriate rate structure for SSU, on a prospective basis, is the statewide uniform rate structure.

Q. Did the Commission reject the application of stand-alone rates in the Investigation Docket?

A. Yes. The Commission noted that while stand-alone rates involved the lowest overall level of inter-system subsidies, they produce unaffordable rates for the customers of some systems. The Commission went on to emphasize that: (1) "[s]tatewide uniform rates... result in rates that are affordable for all of SSU's ratepayers, even those at poverty level," and "as improvements are needed in individual systems, the associated costs will be spread among the customers of

each system, thereby enhancing rate stability and mitigating rate shock." Order No. PSC-94-1123-FOF-WS, at 26-27.

Q. Did the Commission view itself to be on firm legal ground in ordering statewide uniform rates for SSU?

A. Yes. In Order 93-0423, at 93, the Commission concluded that "it is within this Commission's purview to fix uniform, statewide rates for the 127 systems included in this rate application, if we so choose." That legal conclusion provided the legal basis for the Commission's reaffirmation and approval of statewide uniform rates in the Investigation Docket.

Q. Were these decisions appealed and subsequently reviewed by the First DCA?

A. Yes. On appeal of Order 93-0423 issued in SSU's 1992 rate case, the First DCA reversed the Commission's decision approving uniform rates. In reaching its decision, the court imported a jurisdictional statute, Section 367.171(7), Florida Statutes, into the ratemaking and rate structure analysis and held that the Commission lacked the authority to order uniform rates for water and wastewater systems that were not first determined to be "functionally related" under that statute. Citrus County v. Southern States Utilities, 656 So.2d 1307, 1310 (Fla. 1st DCA 1995) ("Citrus County"). As a result, the uniform rates ordered for SSU were reversed and the proceeding remanded back to the Commission. The First DCA reached a similar conclusion in the appeal of the Investigation Docket based upon its holding in the Citrus County opinion.

Q. What rate structure did the Commission order for SSU on remand from the Citrus County decision?

A. The Commission ordered SSU to implement a modified stand-alone rate structure

which represented a movement toward a statewide uniform rate structure that was not in violation of the First DCA's decision in Citrus County.

Q. Did the Commission thereafter consider an appropriate rate structure for SSU?

A. Yes. In 1995, SSU's successor, FWS, filed an application for a rate increase for over 150 water and wastewater systems subject to the Commission's jurisdiction. In Order No. PSC-96-1320-FOF-WS ("Order 96-1320"), after considering a number of rate structure alternatives, the Commission approved a "capband" rate structure which it considered a further move towards the goal of uniform rates at the time.

Q. Was the Commission's decision reviewed by the First DCA?

A. Yes. However, this time the First DCA upheld the Commission's decision. In so doing, the First DCA took the extraordinary measure of overturning its previous decision reversing the statewide uniform rate structure in its Citrus County decision. The Court held, in pertinent part:

> The opinion in *Citrus County* made an unjustified addition of a factor - - germane only to the PSC's jurisdiction - - to the list of statutory ratemaking criteria... We now hold that, whenever the PSC has jurisdiction to set water and sewer rates for multiple systems, inter-system functional relatedness is no prerequisite to the PSC's setting rates that are uniform across a group of systems. To the extent any prior opinions of this court can be read otherwise, we recede *pro tanto* from those decisions.

Southern States Utilities v. Florida Public Service Commission, 714 So.2d 1046, 1051 (Fla. 1st DCA 1998) ("Southern States"). The First DCA then noted the following with respect to the capband rate structure approved by the Commission:

> In the proceedings below, the PSC determined - - after *Citrus County* had been decided - - that all of the systems

> owned by Florida Water were functionally related, and concluded on that basis that the Commission had authority to set uniform, utility-wide rates. (Footnote omitted). Instead of doing so, however, the PSC, perhaps looking over its shoulder at the *Citrus County* decision, took the intermediate step of setting rates that are uniform only within each of several groups of systems.

Southern States, 714 So.2d at 1052. The First DCA further recognized that the Commission has previously set uniform rates in other cases involving multiple systems and noted its agreement with a conclusion reached by the Supreme of Connecticut that the equalization of rates among different systems is not unreasonably discriminatory as a matter of law. Southern States, 714 So.2d at 1052.

Q. Did the First DCA approve the Commission's capband rate structure in Southern States?

A. Yes, and it is this rate structure that has remained in place for the water and wastewater systems that were subsequently purchased by AUF. Specifically, of the 82 systems at issue in this proceeding, 44 systems were previously owned by FWS. This represents 54% of the total number of systems. It is important to note that none of these 44 systems has been under a stand-alone rate structure since 1993. Thus, a comparison of strict stand alone rates and the related subsidies for FWS systems is inappropriate since stand alone rates have not existed for approximately fifteen years.

Q. Could you briefly summarize your conclusions regarding the Commission's authority to order statewide uniform rates and the appropriateness of uniform rates for a large, multi-system utility such as AUF?

A. While I am not an attorney, it is apparent from the First DCA's overturning of the

Citrus County decision that the Commission's initial conclusion that it has the authority to establish uniform rates for multi-system utilities (without a prerequisite finding of functional relatedness) has been vindicated. The advantages of uniform rates previously articulated by the Commission are even more relevant and applicable today as water and wastewater utilities such as AUF strive to address increasing capital, operating and environmental compliance costs while providing quality service at affordable rates.

Q. Has the Commission previously established goals and objectives to be addressed in determining an appropriate rate structure?

A. Yes. In considering various alternative rate structures for FWS, the Commission established goals and objectives of rate structures. In so doing, the Commission determined that multi-system utilities offer latitude for the Commission to address other considerations besides merely a rate structure that generates an appropriate revenue requirement. Order 96-1320, at 213.

Q. What are the goals and objectives to be accomplished through an appropriate rate structure as previously established by the Commission?

A. The Commission has determined that it is appropriate to consider the following goals and objectives in evaluating a proposed rate structure (or alternative rate structures): (1) affordability of rates for all customers, (2) ease of administration, (3) customer acceptance and understandability, (4) fairness (to the degree to which subsidies occur), (5) rate continuity/stability for all customers, (6) conservation and resource protection, (7) revenue stability and predictability for the utility, and (8) impact of rate structure on future acquisitions. The Commission determined that the weight to be afforded these individual goals and benefits will vary depending upon

the particular issue addressed. Order 96-1320, at 215.

Q. Does AUF's proposal to implement statewide uniform rates meet the goals and objectives for an appropriate rate structure as previously established by the Commission?

A. Yes. When the Commission approved the capband rate structure for FWS in 1996, it recognized that: (1) "the benefits of uniform rates outweigh the negative aspects;" (2) uniform rates should be the long term for FWS; and (3) the capband structure reflected a move towards the goal of uniform rates. Order 96-1320, at 221, 226. The capband rate structure provided a balance between the competing policy objectives of reasonable rates and cost of service, and also served as a fair and reasonable step towards a uniform rate structure. AUF's proposal builds on the Commission's prior movement toward a complete uniform rate structure by implementing statewide uniform rates consistent with and in furtherance of the specific rate structure goals and objectives - - including affordability and rate continuity/stability - - previously established by the Commission.

AUF'S PROPOSED RATE STRUCTURE

Q. What is AUF proposing in this current rate case?

A. AUF is proposing a state-wide uniform rate structure for its water and wastewater systems. In doing so, AUF has taken careful consideration of the Commission's past decisions, as well as testimony filed by the Commission staff witnesses in not only the AUF rate filing at Docket 060368-WS, but in the rate cases discussed above. AUF has addressed both the competing objectives of affordability and fairness, to the extent subsidies exist. AUF has also considered the Commission's

prior decisions determining that the benefits of uniform rates for large, multi-system water and wastewater utilities outweigh any negative aspects and should be a long term goal.

Q. Please describe AUF's proposed state-wide uniform rate structure in more detail.

A. AUF is proposing a uniform water rate, with repression, that will result in a bill of $40.92 for all water systems at 5,000 (5K) gallons of usage. For the wastewater systems, AUF is proposing uniform wastewater rates which result in a bill of $88.91 at 5,000 gallons of usage.

Q. Why is AUF proposing a state-wide uniform rate?

A. For water, the resulting rates from AUF's subsidy and affordability calculation produced 50 separate rate structures. It is important to note that subsidies varied among the systems and are based on a calculated stand-alone rate. As I have previously testified, the majority of these systems have not had stand-alone rates since 1993. A decision by the Commission to now, some fifteen years later, move these systems back to stand-alone rates would be counterproductive to the goals and objectives established for rate structures. In addition, while the former FWS systems have not had rate relief since 1996, many of the AUF systems that were not owned by FWS have not had rate relief for many years prior to 1996, if ever. AUF's proposal for statewide uniform rates builds on the Commission's movement toward full uniform rates when it approved the capband rate structure, a form of consolidated rates, for many of these systems in 1996. The uniform rates, with repression, establish a water bill of $40.92 for all systems. For the wastewater systems, the analysis of AUF's subsidy and affordability calculations shows that

AUF would not recover its allowed revenue requirement if proposed. Thus, AUF is proposing uniform wastewater rates that result in a bill of $88.91. This is below the affordability level of $89.70 as described by Staff Witness Paul Stallcup in the testimony filed by Mr. Stallcup in Docket No. 060368-WS, and does not result in 13 different rates for the various systems.

FURTHER CONSIDERATIONS REGARDING CONSOLIDATED RATES

Q. Is there anything you would like to add concerning consolidated rates?

A. Yes, as a result of this rate structure, AUF would like to be able to streamline many of its processes in order to implement the efficiencies afforded by uniform rates. To recognize the fact that stand-alone rates have not existed for the majority of these systems for fifteen years, and that uniform rates are the goal for AUF, we request that AUF no longer be required to allocate expenses and common plant among the various Commission-regulated systems. This will eliminate the need to allocate expenses and split timesheets, thus streamlining accounting requirements. Further, all future index and pass-through applications should be developed and filed on a utility-wide basis. In Order 96-1320, at 240-41, the Commission determined that as a result of the capband rate structure, future price index adjustments would be calculated on a utility-wide basis and pass-through adjustments would be calculated on a system-specific basis. AUF's proposal to calculate and file price index and pass-through adjustments on a consolidated, utility-wide basis would provide even greater efficiencies and cost savings for AUF and our customers as well as for the Commission Staff. In addition, all future annual reports and rate filings should be prepared and filed on a consolidated basis. This provides further efficiencies and greatly reduces rate case expense, thus further mitigating against and avoiding

substantial rate increases for the benefit of all of our customers.

Q. Why are consolidated rates an important goal for AUF in this rate case?

A. There are numerous reasons why a consolidated rate structure is an important goal for AUF in this rate case. As previously discussed, the Commission has identified goals and objectives for rate structures for multi-system utilities. A consolidated rate structure will accomplish these goals as established by this Commission. Further, a consolidated rate structure provides greater efficiencies. It eliminates the need to allocate costs on a monthly basis, thus reducing accounting and administrative costs. Further, it allows for streamlined billing and continuity in rates. It also facilitates cost efficient compliance with the Safe Drinking Water Act ("SDWA") standards, under which capital costs incurred as a result of the SDWA would be recovered from all customers with a substantially diminished impact on future rate increases. This would eliminate system-specific rate shock for our customers. Under stand-alone rates or similar rate structures, systems could incur large rate increases due to capital costs to meet environmental compliance. Although one system may not experience large capital costs in one year, it is likely that such costs will be incurred in future periods.

Q. Could you elaborate on this?

A. Yes. The Environmental Protection Agency ("EPA"), recommends over $277 billion in infrastructure improvements over the next 20 years for water utilities across the nation. Many of these utilities, whether private or governmentally owned, will be faced with significant rate increases over the next several years. By being able to levelize these costs over a larger customer base, a multi-system utility like AUF is able to minimize future rate increases. It also encourages utilities to make

prudent capital investments to make the necessary infrastructure improvements to provide safe, efficient and environmentally compliant service. Many of the systems purchased by AUF have experienced infrastructure problems. These problems can be most efficiently addressed with minimal rate impact to our customers through a uniform rate structure that spreads these costs amongst all of our customers subject to the Commission's jurisdiction. In addition, as previously recognized by the Commission, uniform rates facilitate small system viability throughout the state and also encourage future acquisitions of smaller systems. This is extremely important for the future of the water supply in the state of Florida.

AUF INTERIM RATE PROPOSAL

Q. Could you discuss AUF's interim rate proposal?

A. Yes. Consistent with the statutory provision of calculating interim rate relief as contained in Section 367.082, Florida Statutes, AUF is entitled to an interim increase of $2.9 million for water and $3.0 million for wastewater. However, AUF has taken into consideration several very important aspects of its case relating to interim rates. In making this proposal, AUF has taken into consideration (1) affordability of rates; (2) minimizing rate shock; (3) rate continuity; and (4) its proposed final rate structure of statewide, uniform rates. The first three considerations are elaborated on further below.

Q. Could you explain AUF's interim rate proposal and the consideration in its final rates?

A. Yes. AUF is proposing to recognize its proposed final consolidation of rates by capping interim bills at the same level proposed in its final rate structure. In this manner, customers will not experience a high increase in interim bills, then

subsequently receive a reduction in their final bills due to a change in rate structure. In other words, when interim increases are applied as a percentage across the board to each system, consistent with Commission practice, revenue increases for purposes of final rates could actually result in rate reductions if AUF's proposal to implement statewide uniform rates is approved. This creates customer confusion. Such confusion would likely be exacerbated by the fact that customers may not receive a refund of interim revenues, even though their final rates may be reduced.

Q. How does AUF propose to recover this shortfall of its interim revenues that it is entitled to under Section 367.082, Florida Statutes, the Interim Rate Statute?

A. AUF proposes to defer recovery of this shortfall by amortizing it over a two-year period. If this proposal is approved, AUF is willing to forego a rate of return by not placing a regulatory asset in its rate base calculation. Further, AUF is not seeking an adjustment to recognize the present value of money or interest. AUF is simply requesting a deferral of its recovery of the interim increase to which it is entitled from the interim period of 8 months to a longer recovery period of 2 years. The recovery of the amortized amount would terminate after the two year recovery period.

Q. If this mechanism is not approved, is AUF requesting full recovery of its interim request?

A. Yes. Pursuant to Section 367.082 of the Florida Statutes, the Company is entitled to interim rate relief. The difference between the required rate of return and the achieved rate of return applied to a December 31, 2007 year end rate base results

in a water and wastewater revenue deficiency of $5.9 million. If AUF's primary proposal for the recovery of interim revenues is not approved, the Company is proposing to place into effect the total amount it is entitled to under interim rates, subject to refund with interest.

Q. Could you elaborate as to why AUF is requesting that the proposed rates be put into effect on an interim basis if the mechanism is not approved?

A. Yes. Due to the financial impact of regulatory lag in this case and AUF's current financial situation, recovery of its statutory interim increase is critical. A comparison of the full recovery of interim rates and the interim rates under AUF's proposal is provided in the MFR G Schedules.

REPRESSION

Q. Is AUF proposing a repression adjustment in this rate filing?

A. Yes. AUF is proposing a repression adjustment applied to the residential customers' usage above 5,000 gallons. The adjustment is consistent with the methodology addressed by Commission staff witness Stallcup filed in Docket No. 060368-WS, with one exception. Originally, AUF contemplated proposing an adjustment of -0.04 per 1% increase applied to only the residential discretionary usage. However, upon further analysis, using this amount of repression created a conflict in the subsidy levels in the rate structure. Therefore, to address affordability, AUF is proposing an adjustment of -0.02 per 1% increase applied to the discretionary usage. Since the statewide average usage of AUF's residential customers is approximately 5,000 gallons, I believe this represents the non-discretionary usage. Further, staff witness Catherine Walker from the St. Johns River Water Management District ("SJRWMD"), indicated in her testimony filed in

Docket No. 060368-WS, that 6,000 gallons is a reasonable quantity for essential domestic use.

Q. Has Commission Staff or other regulatory agencies provided guidance on repression adjustments?

A. Yes. In his testimony filed in Docket No. 060368-WS, staff witness Stallcup states:

> If the Commission approves either an increase in revenue requirements large enough to significantly increase rates, or approves a conservation oriented rate structure, I believe it would be appropriate to make a repression adjustment. As discussed by witnesses Yingling and Walker from the WMDs, the price signals sent to consumers through higher prices are effective in causing a reduction in the number of gallons sold (e.g. conservation). A repression adjustment is simply the calculation that estimates the magnitude of this reduction.

He further explained:

> A repression adjustment insures that the rates customers will pay will generate sufficient revenues to cover the utility's revenue requirement. If a repression adjustment is not made when it would have been appropriate to do so, the utility will under-earn and not be able to cover its revenue requirement.
> Therefore, in order for the rates to be compensatory as required by Chapter 367.081(2)(a)l., Florida Statutes, I believe the Commission should make a repression adjustment whenever it determines that an increase in rates will cause a material reduction in the number of gallons sold.

Thus, AUF agrees that a repression adjustment is appropriate.

CONSERVATION RATES

Q. Is AUF proposing conservation rates in this filing?

A. Yes. AUF is proposing a two tier inclining rate structure.

Q. Why is AUF proposing this rate structure?

A. In Order 96-1320, the Commission concluded that rates were just one component of

an effective conservation program and that the rates approved in SSU's last rate case should not be adjusted to promote conservation at that time. However, the Commission further stated that although they did not implement an inverted or other conservation-oriented rate in that docket, it did not intend to discourage consideration of such rates in further proceedings. The Commission thus put SSU on notice that the issue of an inverted rate structure would be explored in its next rate proceeding and indicated the utility shall file information sufficient for the Commission to review conservation rates at that time.

Q. Has Commission staff or other regulatory agencies provided guidance concerning conservation rates?

A. Yes. Staff witness Stallcup filed testimony in Docket No. 060368-WS supporting conservation rates. In addition, Ms. Walker from SJRWMD testified in Docket No. 060368-WS that a two tier rate structure met the conservation requirements of the district.

Q. Does this conclude your testimony?

A. Yes, it does.

BY MR. MAY:

Q Do you have a brief summary of your prefiled direct testimony?

A Yes.

Q Would you please provide that now?

A Certainly. Good morning, Commissioners. My name is David Smeltzer, Chief Financial Officer of Aqua America.

If you recall, I testified about the benefits of a consolidated rate structure in a workshop in Fall 2007, and you may recall that workshop immediately followed my overnight drive from Charlotte to Tallahassee with Mr. Franklin because our last flight was canceled.

Today the purpose of my direct testimony is to discuss Aqua's proposal before you to consolidate its rate structure. The company has proposed a consolidated rate structure which involves two separate but related concepts: A uniform tariff price or a plan to achieve such over time supported by a single cost of service.

During the hearings you have identified the importance of long-term water quality solutions, recognizing the prospect of some significant capital improvements in select individual systems. In fact, in the hearings just yesterday, Commissioner Argenziano recognized the significant expenditures that may be necessary in one system and expressed concern over the likely cost implications to those customers. The approach

that we've offered in this case would resolve that by ensuring that all the company's capital and operating costs are spread throughout the state rather than simply in one individual system.

Our uniform rate and single cost of service proposal will allow the costs related to necessary plant improvements to be spread over that much broader customer base. This will allow for more affordable rates and minimize rate shock to customers. It will also make regulation simpler, more straightforward, more efficient and less costly to our customers.

As stated in my testimony, the Commission has adopted uniform rates for other utilities under your jurisdiction, and it's my understanding that there is nothing prohibiting the adoption of a uniform rate structure in this case. That concludes my summary. Thank you.

MR. MAY: We would tender Mr. Smeltzer for direct. Excuse me.

COMMISSIONER EDGAR: Thank you.

MR. MAY: Cross-examination.

COMMISSIONER EDGAR: Thank you, Mr. May.

Are there questions from OPC for this witness?

MR. BECK: No questions.

COMMISSIONER EDGAR: Ms. Bradley?

MS. BRADLEY: No questions.

COMMISSIONER EDGAR: Questions from staff?

MS. FLEMING: Yes. Thank you.

CROSS EXAMINATION

BY MS. FLEMING:

Q Good morning, Mr. Smeltzer. I'm Katherine Fleming.

A Good morning.

Q Let me have you turn to Page 18 of your direct testimony, please. Beginning on Line 12 you describe AUF's proposal to include a repression adjustment in this rate filing; is that correct?

A Yes.

Q And now I'm looking specifically on Lines 16 through 18. Could you read the first sentence starting with "Originally" on Lines 16 through 18, please?

A "Originally, AUF contemplated proposing an adjustment of negative .04 per 1 percent increase applied to only the residential discretionary usage."

Q Now during your deposition you were asked a few questions regarding this negative .04 percent. Is it correct that this number should be negative .4 percent?

A Well, as I explained in the definition, in the deposition, there is a sequence of events to derive the ultimate factor utilized in this case.

In this instance, we felt that the appropriate adjustment was a 4 percent usage adjustment downward for each

10 percent price increase. And that amount has been utilized in the past, was, I believe, acknowledged by Witness Stallcup and seemed to be the right number.

If you, if you then convert that to a repression factor to be utilized in your calculations, that factor becomes negative .4.

So I hope I've clarified that. I'm not sure it was perfectly clear in my testimony.

Q No. And I would expect that your answer would be the same for the negative .02 percent that's found on Line 20; correct?

A That's correct.

Q So then is it your testimony that AUF is proposing a repression adjustment factor of negative .2 instead of negative .4?

A That's correct.

Q Thank you. So does this mean that if AUF had used a repression adjustment factor of negative .4 to calculate its proposed rates, those rates would be higher than those found contained in the MFRs?

A Yes. The specific rates would be higher. I believe by using the more conservative negative .2 we're actually not fully recognizing the extent to which the consumption will decline given the level of price increase. So less likely to recover our full revenue, revenue requirement.

Q During your summary you discussed the proposal for a single cost of service; correct?

A Yes.

Q Could I have you turn to Page 14 of your testimony, please? And starting on Line 6 of your testimony, is it correct that in this section you begin to discuss further considerations regarding the consolidated rates?

A Yes.

Q And this portion of your testimony speaks to the utility's single cost of service proposal; is that correct?

A Yes.

Q Is it your testimony that as a result of this single cost of service proposal the utility would like to be able to streamline many of its processes in order to implement the efficiencies afforded by uniform rates?

A Yes.

Q And when you discuss the efficiencies afforded by uniform rates, one example that you mention on Lines 13 and 14 are the need, are the need to, the elimination of the need to allocate expenses; is that correct?

A Yes.

Q And if the need to eliminate the allocation of expenses is, or the need to allocate expenses is eliminated, will this reduce the time utility personnel spend on this task?

A Likely, yes.

Q Okay. The next item you discuss is eliminating the need for split time sheets; is that correct?

A Yes.

Q Will this -- by eliminating split time sheets, will this reduce the time utility personnel spend on this task as well?

A Yes.

Q So within your testimony these examples that, of reductions that you have identified, these would require less utility time to perform certain functions; is that correct?

A Yes.

Q And will this translate to cost savings to the utility?

A That's, that's unlikely. You know, we see it being more efficient for the processing of paper, principally invoices and time sheets, but we don't necessarily see that efficiency creating a need for less personnel on our staff.

Q Well, within your testimony you discuss the single cost of service and how it will be more efficient and how it's better in terms for the utility. Has the utility quantified the cost savings for switching to a single cost of service?

A When we look at the prospects of a single cost of service, it's really a big picture public policy decision. We have these 82 systems in Florida that are under the jurisdiction of the PSC. And as was discussed yesterday, we

have a number of systems that will require fairly significant capital expenditures.

So the public policy benefit of single tariff pricing and a consolidated cost of service is that we would recognize that our system in Florida is one. It happens to consist of 57 water systems that are not necessarily interconnected. And in the context of processing rate filings in the future, the costs attributable to those individual system improvements would be recognized only on a statewide basis and not necessarily on a systemwide basis and make it more affordable, allow the rates to increase more slowly and make, make things better for our customers. So that's really the driving force on a long-term basis.

From a, from a cost-savings standpoint, I believe the most significant savings to be achieved in this, in this proposal are related to our relationship with the PSC and in particular proceedings like this. Because when we look at our costs for this proceeding, recognizing the number of witnesses that we have, the number of interrogatories and the associated legal costs, it's, it's likely to approach $2 million. And for a system with the small number of customers that we have here in Florida, I think that's, that's a large number. And we would expect that in the future if single tariff pricing was granted in this case and particularly a unified cost of service, that we'd be able to cut that cost by 40 to

50 percent. So that's a, that's a fairly significant cost savings that would inure to the benefit of the customers, of our customers in Florida.

Q To the extent any of these cost savings are quantified, are, are any of these cost savings contained in the MFRs?

A Well, the primary source of cost savings that I've, that I've mentioned relates to the ratemaking process. So, therefore, that will only be achieved if the Commission were to grant the single cost of service and we were able to move forward and process more efficient rate filings in the future.

So the short answer is, no, there are -- those savings are not captured in this case because we did have to support 82 units and deal with the interrogatories associated with that process.

MS. FLEMING: Thank you. We have no further questions.

CHAIRMAN CARTER: Okay. Anything from the bench?

Okay. Mr. May?

MR. MAY: No further questions, no redirect. I don't think Mr. Smeltzer is sponsoring any direct exhibits.

CHAIRMAN CARTER: Okay. You may be excused.

THE WITNESS: Thank you.

CHAIRMAN CARTER: Call your next witness.

DANIEL FRANCESKI

was called as a witness on behalf of Aqua Utilities of Florida, Inc., and, having been duly sworn, testified as follows:

DIRECT EXAMINATION

BY MR. MAY:

Q Good morning, Mr. Franceski.

A Good morning.

Q You were just sworn in this proceeding, were you not?

A Yes, I was.

Q Would you please state your name and business address for the record?

A Yes. Daniel Franceski, 30 Glenn Circle, that's Glenn with two Ns, Erdenheim, E-R-D-E-N-H-E-I-M, Pennsylvania 19038.

Q Mr. Franceski, did you prepare and cause to be filed eight pages of prefiled direct testimony in this proceeding?

A It was, excuse me, four pages plus, four pages plus exhibits. Yes.

Q Okay. Do you have that prefiled direct testimony before you today?

A Yes.

Q Do you have any corrections or revisions to that testimony?

A No, I don't.

Q If I were to ask you the questions that are contained in your prefiled direct testimony, Mr. Franceski, today, would your answers be the same?

A Yes, they would.

MR. MAY: Mr. Chairman, we would ask that the prefiled direct testimony of Mr. Franceski be entered into the record as though read.

CHAIRMAN CARTER: The prefiled testimony of the witness will be entered into the record as though read.

BY MR. MAY:

Q Mr. Franceski, have you -- you attached an exhibit to your prefiled direct testimony?

A Yes.

Q And that's labeled DTF-1?

A That's correct.

Q Do you have any corrections or revisions to that exhibit?

A No, I don't.

AQUA UTILITIES FLORIDA, INC.

DIRECT TESTIMONY

OF

DANIEL T. FRANCESKI

(Docket No. 080121)

Q. What is your name and business address?

A. Daniel T. Franceski. My business address is 30 Glenn Circle, Erdenheim, Pennsylvania 19038.

Q. By whom are you employed and in what capacity?

A. I am an independent consultant.

Q. Please describe your education and business experience.

A. I graduated from Lehigh University and worked for 37 years for a regulated utility, Bell of Pennsylvania / Bell Atlantic / Verizon.

Q. What is the purpose of your testimony?

A. The purpose of my testimony is to discuss the calculation of AUF's proposed consolidated rate structure, including repression adjustments and proposed interim rates.

Q. Are you sponsoring any exhibits in this case?

A. Yes, I am sponsoring Exhibit DTF-1, which is attached to my testimony.

Q. Were these exhibits prepared by you or under your direction and supervision?

A. Yes, they were.

AUF'S PROPOSED RATE STRUCTURE CALCULATIONS

Q. What is AUF proposing in this current rate case?

A. As stated by AUF witness Rendell, AUF is proposing a statewide uniform rate structure for its multi-system utility. AUF's proposed rate calculations take into consideration the guidelines on subsidies and affordability discussed in staff witness Stallcup's testimony in Docket No. 060358-WS, on August 21, 2007.

Q. Could you explain the proposed rate structure calculation method?

A. AUF's proposed rate structure began with calculating the stand alone rates for each system based on the individual revenue requirement per system. Then the billing determinants, rate bases, expenses, and debt structures of all systems were combined to calculate a single consolidated rate structure. For each system, that consolidated rate structure was then adjusted to limit any subsidies to the level identified by Staff Witness Stallcup, and any revenue shortfalls were made up by raising the rates of the remaining systems. Then, if necessary, the rates were capped at the affordability levels identified by Staff Witness Stallcup.

The water rates were then adjusted for repression, as described below, and again for subsidy caps, resulting in 50 different proposed rates for the 57 water systems. Using the rates resulting from the capping and repression adjustments, a comparison of proposed water monthly bills at 5,000 gallon usage for all the systems showed that the vast majority (uncapped) were within one standard deviation of approximately a dollar, with only a few capped systems falling below. A single rate for all 57 systems was then calculated by applying repression adjustments to the originally calculated consolidated statewide rate (without capping), resulting in a rate lower than the average of the majority mentioned above.

For wastewater, the various systems' resulting rates after applying subsidy and

affordability caps would not allow recovery of the revenue requirement.

REPRESSION

Q. Is AUF proposing a repression adjustment in this rate filing?

A. Yes. AUF is proposing a repression adjustment applied to the residential customers' water usage above 5,000 gallons. The proposed adjustment methodology is consistent with the methodology addressed by Commission staff witness Paul Stallcup filed in Docket No. 060368-WS. As presented, the net adjustment applied to residential discretionary usage is negative 2% per 10% increase in rates. Since the statewide average monthly usage of the AUF's residential customers is approximately 5,000 gallons, usage above 5,000 gallons was considered discretionary. Expenses for Purchased Water, Power, and Chemicals were reduced in proportion to the reduction in usage due to repression.

OTHER CALCULATIONS

Q. Did you calculate the interim and final rates in this docket?

A. Yes. I programmed the calculation of AUF's interim and final rates in this docket. I also prepared Exhibit DTF-1, which is a schedule showing the rates of each system, comparing 1) rates before filing, 2) standalone system rates assuming no consolidation, and 3) proposed consolidated rates. Also shown are interim rates with and without AUF's proposed recovery mechanism as described in witness Rendell's testimony.

Q. Is there anything further you would like to add?

A. Yes. I have also calculated the appropriate rates for customers having Wastewater Only service using the average consumption for the respective rate class.

Q. Does this conclude your testimony?

A. Yes, it does.

BY MR. MAY:

Q Have you prepared a summary of your prefiled direct testimony?

A Yes, I have.

Q Would you please provide that at this time?

A Yes. Good morning, Mr. Chairman and Commissioners. My name is Dan Franceski, and my direct testimony describes my efforts to design water and wastewater uniform rate structures for AUF. My proposed uniform rate structure is attached to my direct testimony in Exhibit DTF-1.

As part of my analysis, I first calculated standalone rates and then calculated uniform rates for all AUF water and wastewater systems. My direct testimony demonstrates that a fair and reasonable uniform rate is readily available and can allow the cost of significant capital improvements to be spread over a broad customer base without causing rate shock. I've also included other uniform rate structure alternatives for the Commission to review in my rebuttal testimony.

This concludes my testimony. Thank you. My summary. Thank you.

CHAIRMAN CARTER: You're ready to go, aren't you?

MR. MAY: The plane is on the tarmac.

(Laughter.)

Mr. Chairman, we would tender Mr. Franceski for cross.

CHAIRMAN CARTER: Okay. Mr. Beck.

MR. BECK: No questions.

CHAIRMAN CARTER: Ms. Bradley.

MS. BRADLEY: No questions.

CHAIRMAN CARTER: Staff, you're recognized.

MS. FLEMING: Thank you.

CROSS EXAMINATION

BY MS. FLEMING:

Q Good morning, Mr. Franceski. I'm Katherine Fleming.

A Good morning.

Q In your summary you just discussed that you were the witness responsible for calculating rates in this docket; correct?

A That's correct.

Q And you also stated that you included both standalone system rates and statewide consolidated rates; correct?

A Yes.

Q Is it correct that when you calculated the standalone and consolidated statewide rates, you included a repression adjustment in those rates?

A Yes.

Q Is it also correct that when you included the repression adjustment, you used a value for the price elasticity of demand of negative 2 percent to measure the customers' response to a change in rates?

A Just a correction. It's negative .2, not negative 2 percent.

Q Could I have you turn to Page 4 of your, or Page 3, I should say, the number on the bottom of your testimony, Lines 7 through 8? Could you please read that sentence "As presented"?

A "As presented, the net adjustment applied to residential discretionary usage is negative 2 percent per 10 percent increase in rates."

Q So that would be the negative .2 percent that you're referring to; correct?

A Per 10 percent. Yes.

Q Changing topics a little now. During your deposition we discussed the definition of a subsidy. Do you recall that?

A Yes.

Q Do you recall what the definition was that you discussed in your testimony or in your deposition?

A Yes. As I recall, it's the difference between the proposed consolidated rate and the standalone rate for each system.

Q Okay. And on Page 2 of your testimony you discuss on Lines 2 through 4 that AUF's proposed rate calculations take into account consideration -- take into consideration the guidelines on subsidies and affordability discussed in staff Witness Stallcup's testimony in the prior Aqua rate case; is that correct?

A Yes. We took them into consideration.

Q What were those guidelines on subsidies and affordability that you're referring to here?

A At the time the guidelines for subsidy threshold were $5.75. In Mr. Stallcup's testimony filed in 2008 that was raised to $5.90 because of the CPI index. The affordability was around $71. And that didn't come into play since none of the rates we were proposing for water was, was that high. For sewer the affordability rate was around $90.

Q Do AUF's proposed consolidated rates contained in its MFRs fall within the guidelines that you just discussed?

A Some of the rates for some of the systems exceed that threshold.

Q But not all the rates contained within the MFRs fall within the guidelines you just discussed; is that correct?

A I'm not, I'm not sure I understand the question. Some of the rates exceed the threshold and some of them do not.

MS. FLEMING: Okay. Thank you.

THE WITNESS: Okay.

MS. FLEMING: That's all we have.

CHAIRMAN CARTER: The, I don't know if you were, if you participated in -- I don't think I remember seeing you at any of the hearings.

The -- have you had an opportunity to read some of the comments where the people were saying about, the customers

saying there was an inherent unfairness in applying a rate across the board where some systems would be subsidizing others?

THE WITNESS: I know in Mr. Stallcup's testimony both in 2007 and 2008 he expressed a concern for that, but I did not read any specific comments by any customers saying that they were concerned about it.

CHAIRMAN CARTER: Well, I was there and I heard it, so let me just tell you that was one of the concerns that was expressed by the customers.

The -- how do you quantify costs in such a manner to where -- I think part of what you're saying is that it's, the less than 2 percent was fair. How do you quantify that such that it is fair across the board if we were to adopt something called a statewide rate? You're the numbers guy; right?

THE WITNESS: Yes. But how do you quantify fairness is an ethical question, so it's --

CHAIRMAN CARTER: Give it a shot.

THE WITNESS: Yes, it's difficult to answer exactly.

I looked at the, the total of the 57 water systems and the 25 sewer systems. I looked at the standalone rates for many, many of these systems would be much, much higher than what they are paying today. In fact, do you have my Exhibit DTF-1 in front of you?

CHAIRMAN CARTER: I do.

THE WITNESS: Do you see on Page 3 there's a, there's a graph or a chart that shows the rates that the customers are presently paying as little red, little red up-pointing triangles.

CHAIRMAN CARTER: Okay. Mine is not colored, but I'll take your word for it.

THE WITNESS: All right. But you see the triangles?

CHAIRMAN CARTER: I do.

THE WITNESS: You'll notice the open circles which are much higher than that. Those are the standalone rates. These systems, as someone pointed out just before me, that one of the systems only has ten water customers. These systems have costs that have to be spread over such a small number of customers that the standalone rate in most of the systems is exceedingly high. You'll see some of those circles are higher than $160 a month. Most of them are in the $80, $90 range.

I looked at the totality of the 57 systems and saw that the vast majority of the standalone rates were tremendously high and unaffordable, way above the affordability guidelines that were proposed in the 70 some dollar range, and I looked at what they're presently paying. And I calculated a composite rate which you see as the bar that runs across approximately $40. And the fairness of this just sort of reaches out to you when you look at the chart. Would I rather have 57 systems paying $40 and have a feeling that the majority

of the systems in, in Florida's, AUF's territory are paying a fair rate than have a few or many of these systems paying standalone rates that are that much higher than $40?

And so from an ethical fairness standpoint, the chart just said let's propose the $40 rate. I recognize it must be difficult for an individual system with some customers that would have paid a standalone rate below that $40. And you can see on that chart there are a few circles that are below the bar of $40, but it's a minority of the systems.

CHAIRMAN CARTER: About 12.

THE WITNESS: Yeah. So, so it seemed, and it still seems to me that, that this is a much better proposal, it's fairer to the majority of the customers, and it positions the company to be able to make the necessary improvements at the least cost per customer.

CHAIRMAN CARTER: On some of these systems I guess it's intuitive that that cost to repair some of these systems would be cost prohibitive in a standalone perspective.

THE WITNESS: The, the cost to repair them would -- it would be prohibitive to, to apply that cost into a standalone rate and then charge the customers that standalone rate. I agree with that.

COMMISSIONER ARGENZIANO: Mr. Chairman.

CHAIRMAN CARTER: You're recognized.

COMMISSIONER ARGENZIANO: I just have a question. I

can't help but thinking, because we're talking about fairness, how many of those people in the smaller systems that we talk about would be cost prohibitive to have them pay for the repairs needed have had wells on their property that they're no longer able to use? Do we have any clue?

Because I've got to be honest with you, I'm starting to wonder if this whole answer to this problem, and I know that this is not going to be a favorable answer, well, maybe to some, is that they just go back to their own wells because it's getting to the point where it's cost prohibitive to have water in the State of Florida. And I was just curious if staff knows or if the utility knows how many of these people, especially in the smaller systems that need to be repaired, have their own wells but are just disallowed to using their own wells.

CHAIRMAN CARTER: Is it possible to get that? Let's ask the company and staff, is it possible to get that information, do you think?

MR. MAY: Mr. Chair, we can try to get that information. But I don't think that data is within the control or the custody of the utility.

CHAIRMAN CARTER: Staff? One second, Commissioner. Staff, you guys want to give a stab at it?

MS. FLEMING: Just looking to staff, we don't even know how we would be able to obtain that information. I mean, we could work with the utility to see if we can get some

information.

COMMISSIONER ARGENZIANO: Mr. Chair, let me make a suggestion.

CHAIRMAN CARTER: You're recognized.

COMMISSIONER ARGENZIANO: By maybe calling the county, the county of those, those communities could find out at some point those people must have had wells or were they always from the time the house was built on a system. And knowing if they had wells before the system was put in would give me that answer. Because, you know, the Legislature has a keen way of looking at things when they start blowing up and they hear from the consumer that they're paying too much money of relooking at things. And I'm not saying that the utility should just be, you know, should just go. But in some of these cases where the costs are getting so cost prohibitive and there's no other answer, perhaps that is the answer.

So maybe, maybe if we can call some of those counties where those people, especially in the systems that have smaller amounts of people on them that are going to need major repairs, that would be cost prohibitive for those small amount of people to have to pay. I'd like to just find out if, you know, when the utilities came and if the homes had wells prior to the utility there. The county may have more information.

CHAIRMAN CARTER: We'll give it a stab, we'll give it a shot, Commissioner.

COMMISSIONER ARGENZIANO: Thank you.

CHAIRMAN CARTER: I think you're picking up on the fact that it does -- because in some of these systems that are so small, like I'm looking at one of them, they'd have to pay like 160 bucks versus this flat rate of about 40 bucks. And it just seems that some of them are so small you don't have the population base there to even be able to recapture what would be necessary to bring the systems up to standards.

COMMISSIONER ARGENZIANO: Right. And then, Mr. Chair, it comes to the point of being absurd at some point to say that, you know, because they're so small and it's going to cost so much money, let's let everybody else pay for it. I'm just not sure that's correct either, and I've heard that from many consumers out there. So I'm trying to look at every different aspect to it. And just at some point you say, well, you know, if it's that cost prohibitive, then why aren't we looking at just giving them their own wells back? And I know that may be a taking and I'm not suggesting that, but there may be something, some other recommendation that we can come up with. But that would be interesting to know.

CHAIRMAN CARTER: Thank you, Commissioner.

Commissioners, anything further?

Mr. May, you're recognized.

REDIRECT EXAMINATION

BY MR. MAY:

Q Mr. Franceski, have you prepared additional alternatives with respect to a uniform rate that takes into consideration some of Mr. Stallcup's subsidy concerns in his testimony?

A Yes, I have. And that's --

Q And that's, that's part of your rebuttal testimony, is it not?

A Yes.

Q At the appropriate time you're prepared to explain those additional alternatives as well, are you?

A Yes, I am.

MR. MAY: No further questions.

CHAIRMAN CARTER: Okay. I see we'll have you back again, so don't leave the building.

THE WITNESS: All right. Thank you.

CHAIRMAN CARTER: Hang on a second. We've already moved in the prefiled testimony. Do you want to move now Exhibit 66 since he was on direct?

MR. MAY: Yes, we do. We would like to move Exhibit Number 66 in staff's Comprehensive Exhibit List.

CHAIRMAN CARTER: Any objections? Without objection, show it done.

MR. MAY: Thank you, Mr. Chair.

CHAIRMAN CARTER: Okay. Call your next witness.

MR. MAY: Our next -- well, excuse me.

CHAIRMAN CARTER: Staff?

MS. KLANCKE: At this time staff would like to call Witness Paul Stallcup to the stand.

CHAIRMAN CARTER: Good morning, Paul.

THE WITNESS: Good morning.

CHAIRMAN CARTER: You were sworn on Monday, weren't you?

THE WITNESS: Yes, sir.

CHAIRMAN CARTER: You may proceed.

PAUL STALLCUP

was called as a witness on behalf of the Staff of the Florida Public Service Commission and, having been duly sworn, testified as follows:

DIRECT EXAMINATION

BY MS. KLANCKE:

Q Good morning, Mr. Stallcup. Could you please state your name and business address for the record?

A Yes. My name is Paul Stallcup. My business address is 2540 Shumard Oak Boulevard, Tallahassee.

Q By whom are you employed and in what capacity?

A I'm employed by the Florida Public Service Commission and the supervisor of the section responsible for the calculation of water and wastewater rates.

Q You have filed prefiled direct testimony in this docket consisting of ten pages; is that correct?

A That's correct.

Q Do you have any changes or corrections to your testimony at this time?

A No, I do not.

Q If I were to ask you the same questions, would your testimony be the same today?

A Yes.

MS. KLANCKE: Mr. Chairman, at this time we would like Mr. Stallcup's prefiled direct testimony inserted into the record as though read.

CHAIRMAN CARTER: The prefiled testimony of the witness will be entered into the record as though read.

BY MS. KLANCKE:

Q Mr. Stallcup, did you also file late-filed exhibits to your direct testimony PWS-1 through PWS-3?

A Yes.

MS. KLANCKE: Mr. Chairman, these exhibits have been identified as Exhibits 131 through 132 (sic.) on the exhibit list.

CHAIRMAN CARTER: Thank you.

BY MS. KLANCKE:

Q Mr. Stallcup, do you have any changes or, changes or corrections to your exhibits at this time?

A No, I don't.

AMENDED DIRECT TESTIMONY OF PAUL W. STALLCUP

Q. Would you please state your name and business address?

A. My name is Paul W. Stallcup. My business address is 2540 Shumard Oak Boulevard, Tallahassee, Florida, 32399.

Q. By whom and in what capacity are you employed?

A. I am employed by the Florida Public Service Commission as the Supervisor of the Economics and Tariffs Section of the Division of Economic Regulation.

Q. Would you please summarize your educational and professional experience?

A. I graduated from Florida State University in 1977 with a Bachelor of Science degree in Economics with minors in Mathematics and Statistics. I received my Masters of Science Degree in Economics from Florida State University in 1979 and, as a Ph.D. candidate, completed the course work and doctoral examinations required for that degree in 1980.

In 1981, I was employed by Florida Power & Light Company as a Load Forecast Analyst. In this capacity, I prepared short and long term forecasts of company sales, peak demand, and customer growth. In 1983, I was employed by the Florida Public Service Commission as an Economic Analyst and in 1991 was promoted to my current position. In this capacity, I have analyzed and made recommendations on a variety of issues in all of the industries regulated by the Commission.

Q. Have you previously testified before the Florida Public Service Commission?

A. Yes. In 1983, I testified on behalf of the Commission staff in the Florida Power & Light Company rate case (Docket No. 830465-EI). In 1997, I testified on behalf of the staff in Florida Power Corporation's proposed buy-out of Orlando Cogen Limited's energy contract (Docket 961184-EQ). In 2000, I provided testimony in Aloha Utilities' wastewater rate case (Docket No. 991643-SU) and in BellSouth's Permanent Performance Measures case (Docket No. 000121-TP). In 2001, I provided testimony in Aloha Utilities' water rate case (Docket

No. 010503-WU), and in 2007, I filed testimony in Aqua Utilities water and wastewater systems rate case (Docket No. 060368-WS).

Q. What is the purpose of your testimony?

A. The purpose of my testimony is to discuss four issues relevant to this case. First, I will discuss whether I believe it would be appropriate to adopt the repression methodology proposed by Aqua Utilities Florida, Inc. (AUF or company) or witnesses Franceski and Smeltzer. Second, I will discuss why I believe it would be appropriate to implement a three-tiered inclining block rate structure for the utility's residential class instead of the proposed two-tiered rate structure. Third, I will discuss two potential drawbacks to the utility's proposal to consolidate rates. Finally, I will discuss the utility's proposed methodologies to consolidate rates and offer two alternative rate consolidation methodologies.

Repression

Q. Please summarize the utility's proposed repression methodology.

A. According to the direct testimony of utility witnesses Franceski and Smeltzer, the utility's proposal consists of two key elements. The first element is that the customer response rate to increasing prices (i.e. the price elasticity of demand for discretionary usage) should be set at a two percent reduction in discretionary usage per ten percent increase in price. The second element is that the threshold defining where discretionary water usage begins should be set at 5,000 gallons per month.

Q. Do you believe using a customer response rate, or price elasticity of demand, of a two percent reduction in discretionary usage per ten percent increase in price is appropriate?

A. Ordinarily I would say that this proposed response rate is too low. Based on staff's analysis of the customer response rates in prior rate cases, we have found that the average customer response rate is approximately a four percent reduction in discretionary usage for every ten percent increase in price. I, therefore, believe that using a price elasticity of demand

of -.40 would provide a better estimate of how AUF's customers will react to an increase in rates. However, in this case, utility witness Smeltzer states that the company is willing to accept a lower elasticity of -.20 in order to lessen affordability concerns that could adversely affect its proposal to consolidate rates. I, therefore, see the utility's willingness to accept this lower response rate as a business decision taken to help achieve the goal of rate consolidation. Given this business decision willingly taken by the utility, I would recommend that, in this case, the Commission adopt the utility's proposed value of -.20 for the price elasticity of demand for discretionary usage.

Q. What is the discretionary usage threshold and why is it important?

A. The discretionary usage threshold is a level of monthly water usage that differentiates between essential, or non-discretionary, water consumption (i.e. indoor uses such as cooking, drinking, washing, etc.) and non-essential, or discretionary, usage (i.e. outdoor irrigation). This differentiation between essential and non-essential consumption is important because customers will reduce their non-essential consumption in response to an increase in price, while essential consumption is relatively unresponsive to changes in price. When a repression adjustment is made to account for the reduction in consumption resulting from a price increase, only those gallons sold that are above the discretionary threshold are adjusted downwards.

Q. Do you believe that the utility's proposal of using 5,000 gallons per month as a threshold for defining discretionary usage is appropriate in this case?

A. Yes, I believe that 5,000 gallons per month is appropriate, but for reasons other than those presented in utility witness Smeltzer's testimony.

Q. Why do you believe that 5,000 gallons per month is an appropriate value for differentiating between non-discretionary and discretionary usage?

A. The appropriate value for the discretionary usage threshold depends upon the

demographics of the service territory in question. For example, in a retirement community with an average of only two people per household, I would recommend that the appropriate threshold be set at 3,000 gallons per month (two people x 50 gallons per day per person x 30 days). In a suburban area populated by families with children, I would recommend that the threshold be set at a higher level of usage of 7,000 gallons per month (4 people x 50 gallons per day per person x 30 days plus an additional 1,000 gallons per month to account for the extra cooking and washing required when children are in the home). In the case of AUF, the individual systems served by AUF include both small retirement communities and suburban systems. I believe that setting the discretionary usage threshold at 5,000 gallons per month represents a reasonable 'middle ground' between the smaller retirement communities and the larger suburban areas served by AUF. Furthermore, as I will discuss in the 'Rate Structure' portion of my testimony, any adverse effects that may be felt by suburban customers with a discretionary usage threshold greater than 5,000 gallons per month can be mitigated by an appropriate selection of an inclining block rate structure. Therefore, I recommend that the Commission adopt a discretionary usage threshold of 5,000 gallons per month.

Q. How does your support for the use of 5,000 gallons per month as the appropriate value for the discretionary usage threshold differ from AUF's proposal.

A. According to the direct testimony of utility witness Smeltzer, the utility proposed using 5,000 gallons per month because the utility claims AUF's average statewide residential usage is approximately 5,000 gallons per month. While I don't necessarily agree that this is a sufficient rationale for selecting the discretionary usage threshold, I do not agree that 5,000 gallons per month is the correct value for average statewide residential usage.

To calculate average residential water consumption, all that is required is to simply add up residential water usage for the 57 systems and divide by the total number of corresponding residential bills. Using this methodology and the billing data contained in the utility's

Minimum Filing Requirements (MFRs), I calculate that the average statewide residential water usage for the AUF systems is approximately 7,000 gallons per month. These calculations, along with other system statistics, are shown in Exhibit PWS-1.

Q. Why is it important to correctly calculate average statewide residential usage?

A. Average statewide residential usage is used in the calculation of the subsidies that can result from rate consolidation. In order to correctly measure these subsidies and determine the extent to which rate consolidation is appropriate, it is necessary to utilize the correct level of average statewide residential usage.

Rate Structure

Q. Please summarize the utility's proposed water system rate structure.

A. The utility has proposed a two-tiered inclining block rate structure that would be applied to its consolidated water system's residential rate class. The rate in the first block would apply to usage between 0 and 5,000 gallons per month and the rate in the second block would apply to all usage above 5,000 gallons per month. The utility also proposes that the rate factor for the second block be set at 1.25, meaning that the rate in the second block would be only 25 percent higher than the rate in the first block.

Q. Do you believe that the utility's proposed rate structure is appropriate?

A. No. Based on the aggregated billing analysis data derived from the utility's MFRs, as well as the testimony of the witnesses from the Water Management Districts, I would recommend a three-tiered inclining block rate structure with usage blocks for monthly consumption of 0 to 5,000 gallons, 5,001 to 10,000 gallons, and all usage above 10,000 gallons. I would also recommend more aggressive rate factors of 1.0, 1.25, and 3.0, respectively.

Q. Why do you believe that a three-tiered rate structure is more appropriate than the utility's proposed two-tiered rate structure?

A. I believe that a three-tiered rate structure is better suited to address the demographic diversity of the individual systems served by AUF. As I mentioned earlier in my testimony, the individual systems served by AUF include very small retirement communities with modest levels of consumptions, as well as relatively large suburban areas with more extravagant levels of consumption. When a rate structure is being designed, one goal is to insulate, to the extent possible, those consumers who are already conserving from higher rates designed to promote conservation. Another goal is to focus price-induced conservation only on those consumers who have high levels of discretionary usage. If AUF's individual systems were all smaller retirement communities, or all suburban areas, then it would be possible to design a two-tiered rate structure capable of addressing these two goals. However, with the diversity of the service areas discussed above, I believe that a three-tiered rate structure provides the needed flexibility to design rates capable of achieving the two desired goals for both the small systems serving the retirement communities as well as the larger suburban systems.

Q. Please explain why you believe that your particular recommended rate design of a three-tiered rate structure with tiers from 0 to 5,000 gallons, 5,001 to 10,000 gallons, and all gallons above 10,000, and with the associated rate factors of 1.0, 1.25, and 3.0, is appropriate for AUF's combined service areas.

A. I believe that my recommended rate structure satisfies the two goals of minimizing the rate impact on all residential customers who are already conserving while focusing price increases on those customers who are using greater quantities of water. As I discussed earlier in my testimony, the individual systems served by AUF include both small retirement communities and suburban systems. The first tier of my recommended rate structure (0 to 5,000 gallons) is designed to target the smaller retirement communities with essential usage of around 3,000 gallons per month. The second tier of my recommended rate structure (5,001 to 10,000 gallons) is designed to target family oriented suburban systems with essential usage

around 7,000 gallons per month. The third tier (all usage above 10,000 gallons) is designed to include only non-essential usage. The rate factors of 1.0 for the first tier, 1.25 for the second tier, and 3.0 for the third tier were selected to help insulate customers with usage in the first and second tiers from higher prices, while concentrating higher prices in the third tier. The bill impact on customers at various levels of usage for both my recommended rate structure and the utility's proposed rate structure are shown graphically in Exhibit PWS-2.

Q. How does your recommended rate structure compare to AUF's proposed rate structure given the two goals of lower rate impacts on customers who are already conserving while focusing higher rates on customers who use greater quantities of water?

A. As can be seen in Exhibit PWS-2, my recommended rate structure results in lower bills for all customers in the first and second tiers. At the level of average residential usage of 7,000 gallons per month, the customer bill resulting from my recommended rate structure is approximately 15 percent lower than the bill that would result from the utility's proposed rate structure. At 10,000 gallons per month, the differential increases to nearly 18 percent. As usage increases, the differential declines until at approximately 13,000 gallons per month the two rate structures generate bills of equal size. Beyond 13,000 gallons, my recommended rate structure results in bills that are progressively higher than the utility's proposal. At 20,000 gallons per month, my rate structure results in bills that are 26 percent greater than the bills resulting from the utility's proposal.

Q. What information did you use to calculate the bill amounts shown on Exhibit PWS-2?

A. The information I used to calculate the bill amounts shown in Exhibit PWS-2 was taken from the utility's MFRs. The total residential revenue the bills are designed to generate was calculated by adding together the utility's requested revenues contained in MFR Schedule E-2 for the 57 water systems. The billing determinants (i.e. bills and gallons) were generated by summing the billing data contained in the MFR Schedule E-14 for the same 57 water

systems. Both rate structures use a Base Facility Charge (BFC) allocation factor of 40 percent, which means that 40 percent of the total residential revenues are generated through the BFC while the remaining 60 percent is generated through the gallonage charge. A repression adjustment was made to both sets of rates using the utility's proposed repression methodology.

Q. Do you believe that the bill differentials shown in Exhibit PWS-2 are good approximations of what the final rates will generate?

A. Yes. I believe that these differentials, expressed as percentages, are a good approximation of how final customer bills would differ under the two competing rate structures. Even if the Commission approves a revenue requirement substantially less than the utility's proposed revenue requirement, the customer bills under both rate structures would decline by roughly the same proportion. This would result in the differentials, expressed as a percentage, remaining essentially unchanged. Therefore, I believe that the differentials presented in Exhibit PWS-2 are a good approximation of how the two competing rate structures would ultimately affect customers' bills.

Q. Did you evaluate any other rate structures before selecting your recommended rate structure?

A. Yes. In addition to my recommended rate structure, I evaluated two other alternative three-tiered rate structures. Both alternative rate structures use the same 0 to 5,000 gallons, 5,001 to 10,000 gallons, and over 10,001 gallons usage blocks, but differ in the rate factor used in the third block. The first rate structure uses a relatively "mild" rate factor of 2.00 for the third tier (meaning the price in the third tier is twice as large as the price in the first tier). The other rate structure uses a relatively "hot" rate factor of 4.00 for the third tier (meaning that the price in the third tier is four times as large as the price in the first tier). This compares to the relatively "medium" rate factor of 3.00 used in my recommended rate structure. The

effect of these three rate structures on customer bills is shown graphically in Exhibit PWS-2.

Q. Please summarize AUF's proposed wastewater system rate structure.

A. AUF has proposed consolidating the 25 stand-alone wastewater systems into a single state-wide consolidated rate with a BFC/uniform gallonage rate structure.

Q. Do you believe that AUF's proposal to consolidate rates for its wastewater systems is appropriate?

A. In general, I believe that rate consolidation for the wastewater systems will provide the same customer benefits that I described earlier for the water systems. However, I would recommend that the same caveats regarding cross-subsidies and affordability be applied to the wastewater systems as well.

Q. Please explain the methodology typically used by the Commission when designing wastewater rates.

A. The Commission typically attempts to achieve two rate design goals when designing wastewater rates. One goal, in recognition of the capital intensive nature of wastewater plants, is to set the BFC cost recovery percentage to 50 percent or greater. The other goal is to set the residential wastewater gallonage cap at a consumption level equal to 80 percent of the total number of residential gallons sold. This latter goal is based upon the presumption that 80 percent of all water sold to customers is returned to the wastewater system, with the remaining 20 percent being used for outdoor purposes like irrigation.

Q. Do you believe that using the 80 percent criteria for setting the wastewater gallonage cap is appropriate in this case?

A. No. Using the 80 percent criteria in this case would result in a wastewater gallonage cap of 12,000 gallons per month. This would imply that, on average, AUF's customers would use 12,000 gallons per month just for indoor purposes such as cooking, washing, etc., and only those gallons sold above 12,000 gallons per month would be used for outdoor purposes. As I

described earlier in my testimony, I believe that the appropriate threshold for distinguishing between indoor and outdoor uses ranges from 3,000 gallons per month for retirement communities up to 7,000 gallons per month for suburban communities. Averaging these together led to my recommended discretionary usage threshold for the water systems of 5,000 gallons per month. Ordinarily, given this 5,000 gallon per month threshold, I would recommend that the wastewater gallonage cap be set at 5,000 gallons as well (implying that roughly 60 percent of all water sold is used for indoor purposes and 40 percent used for outdoor purposes). However, given the extraordinarily high stand-alone wastewater rates that customers may face, I recommend that the wastewater gallonage cap be set at 6,000 gallons per month. This will allow the gallonage portion of the wastewater cost-recovery to be spread over more gallons thereby reducing the gallonage rate. In turn, the lower gallonage rate will help address affordability concerns by reducing wastewater bills for those customers consuming less than 6,000 gallons per month.

Potential Drawbacks to Rate Consolidation

Q. Have you read the direct testimony of utility witness Smeltzer and his representation of the benefits of rate consolidation?

A. Yes.

Q. Do you agree with Witness Smeltzer's assessment that consolidating the stand-alone system rates into a single tariff applicable to all systems is beneficial to customers?

A. As a general proposition, I agree with Witness Smeltzer that combining smaller stand-alone systems into a larger single entity can be beneficial to customers. The most important benefit that I see in this case is that the cost of system upgrades can be spread over a larger number of customers thereby mitigating the dramatic increases in rates that can impact customers of smaller stand-alone systems.

Q. Are there any potential drawbacks for customers resulting from rate consolidation?

A. Yes, there are two potential drawbacks. The first drawback concerns the Commission's ability to target conservation initiatives on an individual system after rate consolidation has occurred, and the second involves the possible creation of excessive cross-subsidies between customer groups.

Q. Please explain how rate consolidation could inhibit the Commission's ability to target conservation initiatives on individual systems.

A. The Commission's Memorandum of Understanding (MOU) with the state's five water management districts pledges that the Commission will cooperate with the districts in implementing water conservation programs. In the MOU, the districts are recognized as having the necessary expertise to identify systems for which water conservation programs are appropriate, and the Commission is recognized as having the expertise to ensure cost recovery of any mandated programs and/or to implement water conserving rate structures. Under a strict interpretation of rate consolidation, it could be possible to argue that the imposition of additional conservation expenses and/or more aggressive rate structures intended to impact a particular system should be spread over all systems whose rates have been consolidated. If this argument were to hold, then the impact of the conservation efforts intended for a particular system would be diluted across multiple systems and not have the intended impact.

Q. How can this potential drawback to rate consolidation be avoided?

A. I believe that if the Commission decides to implement a rate consolidation plan for AUF's individual systems, it should include as part of the final order an acknowledgement that the Commission may, at its discretion, impose a water conservation program or rate structure on an individual system basis as the Commission deems appropriate. This will insure that the Commission can continue to work effectively with the water management districts in protecting the state's water resources.

Q. Please explain how rate consolidation can result in excessive cross-subsidies between

customer groups.

A. Cross-subsidies are created when systems with low average costs are combined with systems with high average costs. For the customers of the lower cost systems, the rates of the combined systems will be necessarily higher than their original stand-alone rates. When the differential between the stand-alone rates for the low cost systems and the combined rates becomes sufficiently large, customers of these low cost systems will be paying an excessive premium, or subsidy, resulting solely from the imposition of rate consolidation.

For example, consider two stand-alone systems that are identical in all respects except that the first system has half the revenue requirement of the second system. The stand-alone rates for the first system would therefore be half the rates of the second system with typical monthly bills of, say, $20 and $40, respectively. On a stand-alone basis, the bills that the customers of each system would pay would cover the costs of providing service to its respective service territories. If the two systems were to be combined under a single rate structure, however, the typical bill that customers of both systems would pay would be $30 per month. For the customers of the lower cost system, the combined rates would include a $10 per month subsidy that they must pay over and above its actual cost of service, while customers of the higher cost system would receive a $10 per month subsidy.

Q. Why do you believe that it is important that the Commission consider cross-subsidies between customer groups in this case?

A. Section 367.081(2)(a)1., Florida Statutes (F.S.), states that in setting rates for water and wastewater systems, "the commission shall, either upon request or upon its own motion, fix rates which are just, reasonable, compensatory, and not unfairly discriminatory." In order to be sure that rates are not unfairly discriminatory across customer groups, I believe that the Commission must evaluate the subsidies resulting from rate consolidation and determine whether or not the rates resulting from rate consolidation satisfy the requirements of the

statute.

Q. Has the Commission considered cross-subsidies between customers resulting from rate consolidation in prior cases?

A. Yes. In the Southern States rate case (Docket 950495-WS), the utility proposed consolidating the rates of over 150 separate water and wastewater systems in 25 counties. Although the Commission reaffirmed consolidated state-wide rates as an appropriate long term goal, it instead adopted a capband rate structure that emphasized affordability and the avoidance of excessive cross-subsidies. Under the capband rate structure, systems with very high stand-alone rates were capped at a level deemed to be affordable ($52 per month for 10 kgal for water and $65 per month for 6 kgal for wastewater). The revenue shortfall created by the cap was then allocated to the remaining systems with lower stand-alone rates. The remaining water systems were separated into eight groups and the wastewater systems into six groups, each of which were given its own consolidated rate structure. Each group contained systems with similar cost characteristics so that the resulting stand-alone and combined rates were also similar. This scheme minimized the cross-subsidies between customers of the systems contained within each group. Of the customers who paid a subsidy under the capband rate structure, only 5 percent of those customers paid a subsidy greater than $2.00, with a maximum subsidy of $3.64 per month.

In the Utilities, Inc. of Florida rate case (Docket 020071-WS), the utility proposed consolidating the water rates for its systems in Pasco and Seminole counties. In evaluating the subsidies resulting from consolidation in Seminole County, the Commission noted in order PSC-03-1440-FOF-WS, issued on December 22, 2003 In Re: Application for rate increase in Marion, Orange, Pasco, Pinellas, and Seminole Counties by Utilities, Inc. of Florida, that the $2.00 per month subsidy "benchmark" employed in the Southern States case, when adjusted for the effects of inflation from 1996 to 2003, would equal $2.35. Given this inflation

adjusted benchmark, the Commission found that consolidating rates in Seminole County, which resulted in customers of the Oakland Shores subdivision paying a subsidy of $2.35 per month, was consistent with prior Commission decisions. The Commission also found that the subsidies resulting from the combined rates were not excessive or unduly discriminatory and therefore approved a consolidated rate structure.

In this same Utilities, Inc. rate case, the Commission considered whether it was appropriate to consolidate the rates for the two wastewater systems in Pasco County. The Commission found that a subsidy of $4.89 per month in 2003 was not consistent with the requirements of Section 367.081(2)(a)1. F.S., requiring that rates not be unduly discriminatory. Given the magnitude of this subsidy, the Commission found it appropriate to reject consolidated rates for the wastewater systems and to calculate rates on a stand-alone basis.

Q. Given the Commission's prior decisions regarding subsidies and affordability, do you have any recommendations on how to evaluate subsidies and affordability in this case?

A. Yes. Based upon the Commission's decisions in the Southern States and Utilities Inc. of Florida cases cited above, and adjusting the dollar amounts in these cases for inflation through 2009 (the first year the new rates will be in effect), I would recommend:

1. Subsidies paid by customers equal to or less than $2.83 per month are not excessive and are therefore not unduly discriminatory. This amount is derived by adjusting the $2.35 used in the Utilities, Inc. of Florida case for the effects of inflation from 2003 to 2009.
2. Subsidies paid by customers greater than or equal to $5.90 per month are excessive and are not consistent with the requirements of Section 367.081(2)(a)1, F.S.. This amount is derived by adjusting the $4.89 used in the Utilities, Inc. of Florida case for the effects of inflation from 2003 to 2009.

3. Subsidies paid by customers greater than $2.35 per month and less than $5.90 per month have not been previously decided upon by the Commission. The Commission could select any dollar amount within this range as a threshold for determining when subsidies become excessively large and therefore inconsistent with Florida Statutes.
4. Water bills of $73.52 per month and wastewater bills of $91.90 per month can be considered as appropriate maximum amounts for the purposes of defining affordability. These amounts are derived by adjusting the $52.00 per month for water and $65.00 per month for wastewater bill amounts used in the Southern States rate case for the effects of inflation from 1996 to 2009.

The calculations used to derive these amounts are shown in Exhibit PWS–3.

Q. Do you have any additional thoughts on setting the subsidy and affordability criteria?

A. Yes. Clearly, there is no single right or wrong answer for determining what an appropriate value is for limiting cross-subsides or for defining what is affordable. My recommendations are based solely on prior Commission decisions and how those decisions, when carried forward to 2009, could be used to resolve issues in this case.

If the Commission decides to adopt different values for the cross-subsidy and affordability criteria, I would note that:

- Decreasing the excessive cross-subsidy threshold will reduce the number of systems that can be grouped together for rate consolidation purposes resulting in more rate groups. Increasing the excessive cross-subsidy threshold will allow more systems to be grouped together and result in fewer rate groups.
- Decreasing the definition of what is affordable will result in more systems having their rates capped. This causes more cost recovery dollars to be reallocated to the lower cost systems thereby increasing the subsidies paid by

customers of the lower cost systems. Increasing the definition of affordability reduces the number of systems whose rates would be capped. This causes fewer cost recovery dollars to be reallocated to the lower cost systems thereby decreasing the subsidies paid by customers of the lower cost systems.

- With respect to the affordability criteria and the 25 wastewater systems, I would note that the consolidated requested revenue requirement per customer is $88.27. This means that if the Commission approves an affordability definition less than $88.27, then the utility would not be able to recover its revenue requirement.

Rate Consolidation Methodologies

Q. Has the company proposed any methodologies to implement consolidated rates?

A. Yes, the company has included two rate consolidation methodologies in its filing. One methodology is described in Mr. Smeltzer's testimony and the other is described in Mr. Franceski's testimony.

Q. Please describe the rate consolidation methodology described by Mr. Smeltzer.

A. Mr. Smeltzer describes the rate consolidation methodology used to calculate the proposed rates contained in the company's MFRs. This methodology is a simple state-wide rate consolidation plan in which all the individual water systems (and wastewater systems) are combined without regard to potential cross-subsidy issues. The result of this methodology is a state-wide uniform rate structure in which the customers of all the individual water (and wastewater) systems pay the same rates.

Q. Do you believe that the state-wide uniform rate structure methodology proposed by Mr. Smeltzer is appropriate?

A. No. While Mr. Smeltzer's methodology does appear to adequately address the issue of affordability for the utility's water systems, it ignores any consideration of the adverse effects

of excessive cross-subsidies. Using the data contained in the utility's MFRs, I estimate that Mr. Smeltzer's proposed rate consolidation methodology would result in customer bills at 7,000 gallons per month of $43.20 (based on my recommended 3-tiered rate structure). However, it would also result in the customers of 9 systems paying excessive subsidies. This would include the 2,000 customers of the King's Cove and Silver Lakes Estates systems paying subsidies of over twenty dollars per month, the 1,500 customers of the Jasmine Lakes and Picciola Island systems paying subsidies between ten and twenty dollars per month, and the roughly 3,000 customers of the Fern Terrace, Lake Gibson Estates, Ocala Oaks, Tangerine, and Valencia Terrace systems paying subsidies greater than my recommended amount of $5.90 but less than $10.00 per month. Taken together, these 6,500 customers, representing over 40 percent of AUF's residential customer base, would be paying monthly subsidies that I believe to be an excessive. Given the statutory requirement that the rates set by the Commission not be unfairly discriminatory, I cannot recommend the rate consolidation methodology described by Mr. Smeltzer.

Q. Please describe the rate consolidation methodology described by Mr. Franceski.

A. Mr. Franceski's methodology begins by calculating stand-alone rates on a system-by-system basis, then compares the resulting customer bills to the customer bills that would result from Mr. Smeltzer's state-wide uniform rates. For those systems with subsidies exceeding the maximum amount of $5.90 (i.e. the 9 systems I identified above), Mr. Franceski's methodology would cap their rates so that the resulting customer bills would be equal to the bill produced by the stand-alone rates plus the maximum subsidy amount. For example, in the case of the King's Cove system, the capped bill at 7,000 gallons per month would be calculated by adding $5.90 to the stand-alone bill of $20.02 per month, resulting in a capped bill of $25.92. This results in the bills for the customers of the 9 systems no longer exceeding the maximum subsidy criteria. However, it also results in these 9 systems under-recovering

their revenue requirements because their rates have been artificially capped. To address this under-recovery, Mr. Franceski spreads the under-recovery over the bills of the remaining systems. But because the amount of the under-recovery is so large, adding these dollars to bills of the remaining systems causes many of these systems to exceed the subsidy cap as well. It appears that Mr. Franceski would again cap many of these remaining bills, thereby causing additional under-recovery, and in turn causing more systems to exceed the subsidy cap.

Q. Do you believe that the capped rate consolidation methodology proposed by Mr. Franceski is appropriate?

A. No. I have attempted follow the methodology of Mr. Franceski but have been unable to derive a set of consolidated capped rates that satisfy the subsidy and affordability criteria I described previously. Therefore, I can not recommend that the Commission adopt Mr. Franceski's methodology.

Q. Are there alternative rate consolidation plans that could achieve the desirable outcomes of rate consolidation while addressing the issues of excessive subsidies and affordability?

A. Yes, I believe there are two possible alternatives. The first alternative plan is the capband rate structure used in the Southern States rate case. As discussed previously, this rate consolidation plan is capable of promoting the long run positive affects of rate consolidation while simultaneously addressing the issues of affordability and excessive cross-subsidies.

The second alternative rate consolidation plan involves grouping smaller systems with high stand-alone rates with larger systems that have lower stand-alone rates. By carefully selecting the systems to be combined, the resulting consolidated rates for each group can be much lower for customers of the smaller systems and only slightly greater for the customers of the larger systems. The idea is similar to the premise behind financial portfolio management in which securities with high risk are combined with securities with low risk to yield a moderate level of risk for the portfolio.

Q. Can you provide an example of how the second alternative rate consolidation plan works?

A. Yes. Suppose there are two systems that can be consolidated. The first system is a small high cost system with 50 customers and a revenue requirement of $60,000. The second system is a larger low cost system with 750 customers and a revenue requirement of $180,000. The customers of both systems use 5 kgals per month. If we calculate stand-alone rates for each system using a BFC allocation of 40 percent and a uniform gallonage charge rate structure, the resulting customer bill at 5 kgal per month would be $100 for the small system and $20 for the large system. If we combine the two systems, there will be a total of 800 customers with a combined revenue requirement of $240,000, and the resulting customer bill for 5 kgal usage would be $25.

In this example, the issue of affordability is addressed by significantly reducing the bill for customers of the smaller system from $100 to $25. This positive outcome is offset, however, by a relatively small increase in the bill for customers of the larger system from $20 to $25. This increase of $5 per month for customers of the larger system is the cross-subsidy that they pay to subsidize the reduction in the bills for the customers of the smaller system.

Q. Is it possible at this point to determine which rate consolidation methodology, if any, is appropriate for use in this case?

A. No. At this point there are too many unknowns to be able to know which of the rate consolidation methodologies will work best. The most significant set of unknowns is the final revenue requirements for each of the individual systems. Also, the Commission may wish to modify my recommended values for the subsidy cap and affordability threshold, thereby changing the parameters used to determine which systems should be grouped together under either the capband rate structure of the second alternative rate structure.

Q. Do you have any recommendations on how the Commission should evaluate the

utility's proposal to consolidate rates?

A. Yes. I recommend that, once the Commission has voted on the revenue requirements, subsidy cap, affordability threshold, and rate structure issues at the first 'Revenue Requirements Agenda' on February 11, 2009, that the Commission's rate staff calculate consolidated rates based on each of the methodologies discussed above. Then at the second 'Rates Agenda' on March 3, 2009 staff can present the results from each methodology for the Commission's consideration.

Q. Does this conclude your testimony?

A. Yes.

BY MS. KLANCKE:

Q Have you prepared a summary of your testimony for this Commission?

A Yes, I have.

Q Would you please provide your summary to the Commission at this time?

A Yes. The purpose of my testimony is to address four issues relevant to this case. Each of these issues is directly related to the affordability of the rates Aqua's customers will pay given whatever degree of rate relief the Commission approves.

The first issue I address deals with the appropriate repression methodology. I strongly recommend that the Commission approve the repression factor in Mr. Smeltzer's direct testimony of negative 0.2. Adoption of this repression factor will help reduce customer bills, while at the same time enhancing our ability to consolidate rates.

The second issue I address concerns the appropriate rate structure for the utility's water systems. I strongly recommend that the Commission adopt a three-tiered inclining block rate structure with what I term a set of aggressive rate factors. This rate structure will help reduce customer bills for those customers who use less than 12,000 gallons a month, while at the same time sending stronger price signals to those customers who consume more.

The third issue I address identifies potential drawbacks to rate consolidation. The most significant of these involves the possible creation of excessive subsidies between customer groups. In my testimony I note how the Commission has addressed these issues in the past and I offer a procedure by which to carry those prior decisions forward to this case.

The final issue I address concerns methods of rate consolidation. In the utility's direct testimony we had two rate, rate consolidation methods offered, standalone rates and fully consolidated statewide rates. In my testimony I offered two alternatives that fall between those two methodologies should the Commission not feel it appropriate to move to fully statewide consolidated rates at this point. That concludes my summary.

MS. KLANCKE: Mr. Chairman, for clarity, Mr. Stallcup's prefiled direct testimony is 20 pages long and his, his exhibits PWS-1 through 3 are identified as 131 through 133. I apologize for any inconvenience. This --

CHAIRMAN CARTER: For the record, the prefiled testimony as correctly noted is entered into the record as though read and the appropriate exhibits are noted on staff's Composite Exhibit List as Exhibits Numbers 131 through 133.

MS. KLANCKE: With those, Mr. Chairman, this witness is tendered for cross-examination.

CHAIRMAN CARTER: Mr. Beck.

MR. BECK: Thank you, Mr. Chairman. Very briefly.

CROSS EXAMINATION

BY MR. BECK:

Q Mr. Stallcup, in your summary you strongly recommended to the Commission that they adopt a price elasticity of negative .2, did you not?

A Yes, I did.

Q That's only for usage above 5,000 gallons, isn't it?

A That's correct.

MR. BECK: Thank you. That's all I have.

CHAIRMAN CARTER: Ms. Bradley.

MS. BRADLEY: No questions.

CHAIRMAN CARTER: Mr. May.

MR. MAY: Thank you, Mr. Chairman.

CROSS EXAMINATION

BY MR. MAY:

Q Good morning, Mr. Stallcup.

A Good morning.

Q I'm Bruce May with the law firm of Holland & Knight. We met at our deposition.

A Yes.

Q And I wanted to let you know I thoroughly enjoyed that. I never thought I'd be interested in repression and rate structure, but it is fascinating, particularly for someone who doesn't have any real economic background like you do.

But that said, you're the Commission's expert on rate design; correct?

A One of a few, yes.

Q And you're also an economist.

A Yes.

Q Okay. And there are a number of economic theories embedded in the design of rates; is that correct?

A Yes.

Q And as I indicated, I'm going to be asking you some questions in this area, and I'm not an economist and I hope you'll have patience with me because I'm sure I'm going to flub some of the terms. But if you'll bear with me and keep me straight and make sure I don't steer the ship off course, I'd appreciate it.

A I'll do my best.

MR. MAY: Okay. Here we go. Mr. Chairman, you have my commitment to keep this as concise as possible, but it may take a little bit of time. I'd say 15 minutes at the most.

CHAIRMAN CARTER: Okay. You may proceed.

BY MR. MAY:

Q When I use the terms uniform rates and consolidated rates, Mr. Stallcup, I'm going to use those interchangeably. Is that, is that fair?

A That's fine.

Q And when I refer to a uniform rate, I mean a single

tariff price for utility service statewide. Is that, is that an accurate definition?

A That's fine.

Q Would you agree that the Commission has approved uniform rates for all or almost all of the electric and gas utilities in this state?

A Yes.

Q And you're aware obviously that AUF has proposed a uniform statewide rate in this case.

A Yes.

Q Okay. I'm going to refer, be referring now, Mr. Stallcup --

COMMISSIONER ARGENZIANO: Excuse me, Mr. Chair.

CHAIRMAN CARTER: You're recognized.

COMMISSIONER ARGENZIANO: I can't hear the questions. They're not coming in at all with any volume.

CHAIRMAN CARTER: Mr. May has been slouching in his chair. We'll have him stand up.

COMMISSIONER ARGENZIANO: Mr. May, would you sit up and speak into the mike?

MR. MAY: Yes, ma'am.

COMMISSIONER ARGENZIANO: Thank you.

MR. MAY: Oh, goodness. I thought I was beyond that, but anyway.

(Laughter.)

BY MR. MAY:

Q Let me see. Mr. Stallcup, I'm going to be referring to Page 10, Lines 18 through 24 of your prefiled testimony.

A Page 10, Mr. May?

Q Yes, sir.

A Okay.

Q I think here you state that the most important benefit of a uniform rate structure is that it would allow a utility to spread the cost of system upgrades over a larger number of customers, which in turn would, would mitigate the dramatic increases in rates that can impact customers of smaller standalone systems. Is that an accurate paraphrase of what you said?

A Yes, it is, Mr. May. And if I can just add a touch to that. In general that would apply to any case where you're considering rate consolidation. In this particular case, because of the extreme values of the standalone rates involved, I think there's a particular merit to rate consolidation.

Q And in all fairness, while you mentioned the most important benefit, you also mention a couple of drawbacks, and I promise I'm going to let you get back to that.

A Okay.

Q But I was going to talk a little bit about the benefits first.

Did you have occasion to listen in on the discussion

late yesterday afternoon concerning efforts to reach long-term solutions to the hydrogen sulfide issues that are indigenous to the Chuluota area?

A Yes, I was here.

Q Okay. Then you heard several Commissioners and the parties ask several questions regarding these long-term solutions, did you not?

A Yes.

Q And there was some discussion regarding whether the cost of those long-term solutions would be affordable to the residents of Chuluota. Do you recall that --

A Yes.

Q -- dialogue? Now, Mr. Stallcup, in theory, could a uniform rate structure assist in addressing concerns about the affordability of those long-term solutions to customers in Chuluota?

A If you're a customer of Chuluota, certainly it would because if there were an investment in that system, they would share the cost with the customers of other systems.

Q Now, Mr. Stallcup, would you agree that when Aqua Utilities Florida acquired the Florida Water systems back in 2004, it inherited those systems' rate structures that were in effect at that time?

A I believe that to be the case. Yes.

Q And I think that at your deposition we agreed that

back in 1996 the Commission's stated goals with respect to the Florida Water systems was a movement toward uniform rates; is that correct?

A In the prior case?

Q Yes.

A Yes. That's correct.

Q And with the understanding that, that you're an economist and not a lawyer and I'm a lawyer and not an economist, but I think we also agreed at your deposition that there would be no legal prohibition for the Commission to adopt a uniform rate for Aqua in this case provided that the uniform rate was not unfairly discriminatory; is that correct?

A I'm not sure that's a correct paraphrasing. Perhaps it is. My point in bringing up the unduly discriminatory phrase is that that's part of the statutes that we have to follow in creating rates here at the Commission.

Q Sure. Now the Commission statute -- and I think that statute is Section 367.081(2); is that correct?

A I believe that's correct.

Q Okay. Subject to check. Now the Commission statute for electric and gas utilities has a similar prohibition of rates from being unjustly discriminatory; is that correct?

A That's correct.

Q Now that language has not stopped the Commission from adopting uniform rates for electric and gas utilities, has it?

A No, it hasn't. But then I don't recall any situation where we've had the diversity of rates that we have in this instance. This is a particularly unusual case in my, in my judgment.

Q Sure. Sure. When the Commission looks at whether a rate is unfairly discriminatory, it typically looks at whether the rate would cause some customers to unfairly subsidize other groups of customers. Is that a fair --

A That's my take on it. Yes.

Q Okay. And would you agree that subsidies exist in some level, at some form in any type of rate?

A Yes.

Q For instance, in the electric area, if you had a large subdivision, let's say, with 10,000 people that was closer to the generating plant, theoretically the cost to serve that subdivision would be less than the cost to serve a more remote area of the state, would it not?

A It would because of the additional transmission to reach the customer further away.

Q And I think you previously stated that the ultimate decision to determine what subsidy is appropriate and what subsidy is not appropriate is a matter of fairness and it's really a policy decision for the Public Service Commission to make; is that correct?

A That's the way I view it. Yes.

Q And I think you also testified that there's no right or wrong answers with respect to subsidies; is that correct?

A That's correct. I think it's a judgment call of what constitutes fairness. What is an unduly discriminatory subsidy is really a call that y'all have to make that, you know, I certainly can't make and it's not something you can necessarily put a hard number to. I don't know any methodology by which you could derive what's fair necessarily or even affordable for that matter. So it is a judgment call.

Q Now, Mr. Stallcup, I want to turn briefly now to Aqua Utilities Florida's proposal for a uniform rate. And if you would turn to your testimony, Page 16, Lines 22 through the top of Page 17, I'm going to be asking a question in that area and I'll let you get to that place.

A I'm good.

Q Oh, good. I think you state there that Aqua's proposal for a uniform rate appears to adequately address affordability issues but it doesn't consider the adverse effects of excessive subsidies. Is that a fair characterization of your testimony?

A It's the word "adequately" that bothers me a bit. Let me just respond.

Q Okay.

A The fully statewide consolidated rate on the water side does remove the very high bills that would result on a

standalone basis for the water systems, because there are some water systems with bills in excess of $100 dollars and so forth. And so if it were fully consolidated, you could bring it down to the neighborhood of roughly 40 something dollars. And so from that point of view you have addressed affordability, affordability.

However, on, from the point of view of subsidies, there are a couple of low-cost systems in Aqua's service territory that would have bills around $20 if they were on a standalone basis. And so there's a judgment call: Would it be appropriate to have customers of those systems with the low rates pay an additional $20 a month in order to achieve consolidated rates and therefore help other customers from having an affordability issue of paying bills of $130, $140? So it's a tradeoff.

On the wastewater side -- and quite honestly, the wastewater side to my mind is much more problematic than the water side. On the wastewater side even on a statewide consolidated basis we could be looking at bills somewhere in the neighborhood of $90 a month. That's given, you know, full rate relief as the company requested, we'd be looking at something like $90 a month. I'm not sure that's in my sense of fairness or affordability, you know, something that all service territories can afford. It also raises issues with subsidization because there are some systems that are

relatively inexpensive compared to others and they would be paying pretty heavy subsidies as well on the wastewater side. So I can see benefits to full statewide rate consolidation more so on the water side than on the wastewater side.

Q Very good. After you had raised these concerns with respect to the subsidy issue, you would agree that Aqua has gone back and attempted to revise its uniform rate structure proposals to address some of those concerns in its rebuttal testimony of Mr. Franceski, would you not?

A Yes. Mr. Franceski did provide an alternative.

Q Okay. And were you monitoring or were you in the room when Mr. Franceski was telephonically deposed?

A Yes.

Q Okay. So you're aware that he filed some late-filed exhibits to that testimony which provides some additional alternatives, if you will, with respect to Aqua's proposal?

A That's correct. Yes.

MR. MAY: If I might, Mr. Chairman, we would like to distribute a cross-examination exhibit just to move things along so we could maybe walk through some of these new proposals and --

CHAIRMAN CARTER: You may, you may proceed.

MS. KLANCKE: Chairman?

CHAIRMAN CARTER: Yes, ma'am.

MS. KLANCKE: Just for clarity, these late-filed

exhibits to the deposition transcript of Witness Franceski have been included, are included in Tab 30 of staff's Composite Exhibit List.

CHAIRMAN CARTER: All righty then.

MR. MAY: Mr. Stallcup, if you would bear with me one second while I get, while I get my copy back.

THE WITNESS: Sure.

CHAIRMAN CARTER: That would be helpful.

MR. MAY: Thank you.

BY MR. MAY:

Q Now, Mr. Stallcup, for ease of reference, as indicated, I've made some copies of portions of Mr. Franceski's exhibits to his rebuttal testimony and to his deposition. To familiarize yourself with this exhibit, I'll tell you that it consists of two pages. Page 1 is from Mr. Franceski's rebuttal testimony. It's Page 1 of Exhibit DTF-2. I think you're familiar with this.

A Yes, I am.

Q And just to give you some background on this, which I'm confident you're already aware of this, but this exhibit assumes, makes a couple of assumptions.

The first is that Aqua would be awarded 100 percent of its requested revenue requirement. The second assumption is that it employs a negative .4 repression factor. Do you see that?

A And where's the negative .4 indicated?

Q It's at the very bottom of the page.

A Okay. I see it. I'm with you.

Q Now turning to Page 2, this page was provided by Mr. Franceski as a late-filed exhibit to his deposition. And I want you to understand that Page 2 assumes a lesser revenue requirement and a repression factor of negative .2. And that's reflected at the bottom of the page.

A Okay.

Q And for sensitivity purposes this assumes that Aqua would receive 75 percent of its revenue requirement request. So with that background I'm going to ask you just about four or five minutes of questions regarding --

A If I could ask you a question.

Q Sure.

A You indicate here that on the second page that the hypothetical scenario is that Mr. Franceski assumed 75 percent of the revenue requirement request. It was my understanding at the deposition that this is based on 75 percent of the total revenue requirement, both revenue requirement that was in existence prior to this case as well as a revenue requirement increase that this case is addressing.

Q That is correct.

A Okay. Thank you.

Q Now if you would turn to Page 1 of the composite

exhibit, and I'd ask that you focus on the second column of numbers. And I want to be clear, I'm not asking you to agree with or attest or support the numbers themselves. I'm just talking about rate structure.

A Okay.

Q Okay. Would you agree that the second column of numbers depicts the rates for each of the 57 systems that would be generated if a standalone rate structure were adopted in this case?

A Yes. I reviewed the calculations behind these numbers and I think that's correct.

Q Now, for example, let's go down on the far left column. There's the water system name column. Let's go down to the, the fifth system, East Lake Harris Estates.

A Okay.

Q And just so we're on the same page, if a standalone rate were to be adopted for this system, the average bill would be around $133.27 a month; correct?

A Correct.

Q Now are you aware, Mr. Stallcup, that Aqua is not proposing a standalone rate structure in this case, is it?

A Yes. I understand.

Q It's proposing a uniform rate structure.

Now if you would look at the third column of numbers, this is the company's calculation of uniform rates that would

result if subsidy guidelines were not taken into effect. Do you understand that?

A Yes. Yes.

Q Okay. And if subsidy guidelines were not taken into effect, the average bill for a customer in East Lake Harris's system would be approximately $40.60.

A That's what is shown here. Yes.

Q And then if you took the subsidy guidelines into effect, go over to the fifth column of numbers, the average bill would be $44.46; correct?

A That's what's shown here.

Q So from my perspective you have affordability as a goal and you have avoiding excessive subsidies as a goal and each one -- there's tension trying to achieve both goals. Would you agree with that?

A Absolutely.

Q So as you try to move to a more affordable rate, you run into the problems of bumping into some of the subsidy guidelines. Is that a fair characterization?

A That's correct.

Q Okay. Now with respect to this proposal on Page 1, you see that it's comprised of three rate groupings; correct?

A Yes.

Q Now the main group would consist of 48 systems with a consolidated bill taking into consideration the subsidy

guidelines of $44.46. The mid group would consist of four systems with a consolidated bill of $40.83; is that correct?

A Yes. But I think it's time for me to bring something up, is that I have gone through the spreadsheet that calculates the numbers on this page. And while I agree that everything you're saying here is true, yes, these numbers are on the page, that there is in my opinion an error in how these numbers are calculated. I have a difference of opinion on how to incorporate the effects of repression on these rates.

So if I were to have calculated this page, I would have approximately the same distribution of numbers you have here; however, the rates would be higher for the 40 some systems you just indicated, while the rates for the lower two groups would be, you know, fairly close to what you have.

Q And you have the internal capabilities of performing that repression on repression function --

A I do.

Q -- within the Commission?

A I do.

Q Now look at the sixth column of numbers, Mr. Stallcup. And it's entitled Proposed Overall Average Subsidy Greater Than Threshold.

A Yes.

Q Now this column, you would agree that this column identifies those systems whose rates would fall outside of the

subsidy guideline of $5.90 that you use in your testimony; correct?

A Correct.

Q Now in this abstract would you agree that only six systems exceed the subsidy guideline of $5.90?

A Yes.

Q And of those six systems that exceed the subsidy guideline, take a look at Carlton Village down, it's the system right above the blue block.

A I see it.

Q That bill would go down compared to current rates; correct?

A The current rates? Yes.

Q Of the remaining five systems, three of those systems will exceed the guidelines in a matter of pennies, not dollars; correct?

A Correct.

Q So that would leave really only two systems that exceed the $5.90 guideline.

A Unless pennies are important to you.

Q Well, they're always important. Yeah. Good point. I told you I wasn't an economist.

Let's turn to Page 2. Now not to belabor the point, but this is essentially the same uniform rate structure that is set forth on Page 1 but with different assumptions, and let me

explain what those assumptions are again.

During your deposition Mr. Beck expressed some concern about using negative .4 as a repression factor because the company had originally proposed a negative .2 factor. Do you recall our conversation?

A I recall the conversation.

Q So to address that concern, Aqua's proposal on this page using a, uses a repression factor of negative .2.

A Yes.

Q Okay. As I indicated earlier, the other assumption is that the rate structure proposal on this page assumes for purposes of a sensitivity analysis that the company would not get 100 percent of its revenue requirement request but would get instead 75 percent. And I think you can see, can you not, that making these assumptions results that there are now two and not three rate groupings, both, both of which would have lower average bills. Would you, would you agree?

A I would agree that's what on the page. I just don't agree with the methodology used to get there.

Q Okay. The, when you say you don't agree with the methodology, what, what are you, what are you referring to?

A As I recall in my deposition, and I think it was also true in Mr. Franceski's deposition, that we talked about sensitivity analyses. And the point behind that sensitivity analysis was try and somehow incorporate the likely outcome of

what the revenue requirement portion of this hearing would turn out to be. And just as a, you know, rough guide, I indicated that I thought perhaps a 75 percent, that perhaps y'all would grant 75 percent of the utility's revenue requirement increase. That leads you to a different number than what's on this page. This page is presuming 75 percent of total revenue requirements, not just of the increase, but of the prior revenue requirements as well, which means that the revenue requirements that this sensitivity analysis is based on is a smaller set of dollars than what I would tend to use.

And so while I agree with you, that, yes, if you make that assumption, this is how the numbers fall out, but I'm not sure it would necessarily be instructive.

Q Sure. Sure. And I'm sure there's other ways to skin the cat and I'm not suggesting this is the only way. I was just trying to lay out Mr. Franceski's proposal here.

A Okay.

Q But that does lead me to my next set of questions. This, this rate case is interesting, is it not, because it's, the agenda is bifurcated. And I'd like you to explain to me how this bifurcated agenda process will work in terms of developing a rate structure that the --

A Okay. The format that we've laid out is not dissimilar to the format that we use in, let's say, an electric rate case where we have a bifurcated set of agendas.

In the original agenda, and I think that's in January, we call that the revenue requirement agenda. That's where the Commission determines and votes on what the appropriate rate relief is for the company. How much additional revenue requirements do they need to meet their prudently incurred expenses?

A few other issues are added to that revenue requirement agenda as well. We have issues in there for you to determine what is the appropriate rate structure. That's where I'm recommending the three-tiered rate structure and so forth. Also, what is the appropriate repression factor to use? Another issue which I'm very glad I don't have to decide is what is an appropriate affordability threshold or subsidy threshold? These are decisions that me and my, well, not me, but my staff will need to calculate rates because we have several different rate methodologies, rate consolidation methodologies available to us: What was in the company's direct testimony, in their rebuttal testimony, in my testimony. And these are input, what you decide at the revenue requirement agenda are input parameters that we need to implement the rate consolidation methods that we have on the record so that when we come back at the rates agenda, which is, I believe, in March, we'll be able to present to you all the alternatives that we have on the record of how rates can be consolidated and what the subsidy situation will look like and what the

affordability situation will look like.

So what I'm seeing, Mr. May, is that we decide what I consider to be input parameters for rate calculation purposes at the revenue requirement agenda. Then we come back in March at the rates agenda and lay out the options for the Commissioners so they can determine which is the best solution.

Q Thank you, Mr. Stallcup. That was extremely helpful for me. And I think that explains my next question. Isn't that the reason you haven't made any concrete proposals on rate structure at this juncture, because you really don't have those parameters in your custody and you don't know what the revenue requirement will actually be?

A Actually I do have a concrete recommendation on rate structure. That's a three-tiered inclining block rate structure. But on rate consolidation, no, I don't. Because at this point no one knows what the best methodology will be because we don't know what the revenue requirements are, we've made no other determinations, so no one can recommend one over the other.

Q And my associate just kicked me and I forgot to ask this question. I just wanted to point out, this proposal and this exhibit assumes and takes into consideration a three-tiered inclined conservation block.

A Yes, it does.

Q Okay. As you, as you and your staff move forward in

addressing the various rate options for Aqua, do you believe that the proposals that you and I just walked through are worthy of being considered as an option?

A I think there's six. I've kind of lost count of how many you and I have gone over. I see there's, there to be six alternatives in total. They're the two that were contained in the company's direct testimony. Pure standalone, because that's in existence now, pure statewide rate consolidation, which is what you propose in your direct, I have the two alternatives in my testimony. Let's see, we're up to four. We have Mr. Franceski's that these exhibits here are based upon, which I think is worthy of consideration, and we have one other that we really haven't quite talked about yet and that came out of my deposition. As I indicated earlier, I'm really concerned about the rates on the wastewater side, and it may be possible to perhaps reallocate some of that revenue requirement recovery from the wastewater side to the water side if the numbers fall out right. Like maybe we can give some help to the wastewater customers at the expense of the water customers. It's an option I think we should look at.

Q Thank you, Mr. Stallcup. One more line of questions, probably two minutes. I'm going to have my assistant, my partner Gigi hand out one case and it's just for illustrative purposes. I just want you to read a provision in a, in a Public Service Commission Order Number 23573 and I want to ask

you two or three questions regarding single cost of service.

A Okay.

Q Excuse me. I think she gave you the wrong order. I'm sorry. Can you give me one second, Mr. Chairman?

A I'm glad to hear that.

Q So many orders.

CHAIRMAN CARTER: Let's go off the record for one second.

(Discussion held off the record.)

Okay. We're back on the record.

BY MR. MAY:

Q Mr. Stallcup, this, let me correct it. This is Order Number 5498. It involved natural gas utilities. And if you would read the highlighted provision in that.

A Okay. "By this order, we are authorizing the filing of rate cases by gas companies with multiple divisions on a consolidated basis for the determination of revenue requirements, but deferring the question of approval of uniform rates until such time as it can be determined on a company-by-company basis. The fact that all divisions now have a common source of supply of gas is one factor to be considered in authorizing unitary filings, as well as centralized management and control, computerized billing and accounting and generally standardized operating procedures. Thus, for the most part the companies operate their various divisions as a

single integrated unit. We think that benefits would result to the Commission, the companies and ultimately to the consumer if the multiplicity of rate proceedings could be reduced or eliminated."

Q And, Mr. Stallcup, if you can, would you, if you can agree, would you agree that the Commission has considered a single cost of service concept at least with respect to natural gas companies?

A By all appearances, yes.

Q Now during your deposition you stated that you weren't focusing on the single cost of service concept. You were focusing primarily on the uniform rate proposal; is that correct?

A That's correct. I'm not an expert in uniform cost of service.

Q Would that be more of an accounting issue that the Public Service Commission staff would be looking at as opposed to rate design?

A That would be my take on it. Yes.

MR. MAY: Mr. Chairman, I apologize for the delay there, but that's all the questions that I have.

CHAIRMAN CARTER: Okay. Let's do this. Linda, I think you've been, our court reporter has been doing a yeoman's job. We're going to take a quick break, but nobody leave the building. Okay?

Commissioners, we'll come back in about 12 minutes.

(Recess taken.)

STATE OF FLORIDA)
: CERTIFICATE OF REPORTER
COUNTY OF LEON)

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

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

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

DATED THIS 12th day of December, 2008.

Linda Boles

LINDA BOLES, RPR, CRR
FPSC Official Commission Reporter
(850) 413-6734