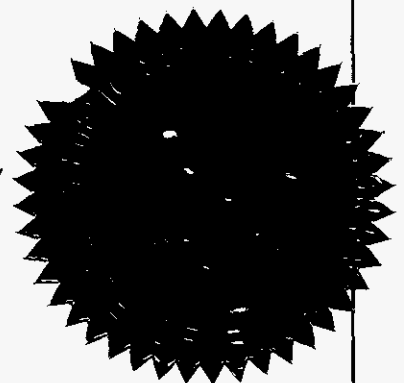


BEFORE THE
FLORIDA PUBLIC SERVICE COMMISSION

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 2

Pages 129 through 271

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PROCEEDINGS: SPECIAL AGENDA CONFERENCE

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

DATE: Tuesday, February 24, 2009

TIME: Commenced at 9:30 a.m.
Concluded at 5:35 p.m.

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

REPORTED BY: MARY ALLEN NEEL, RPR, FPR

DOCUMENT NUMBER-DATE

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FPSC-COMMISSION CLERK

P R O C E E D I N G S

(Transcript follows in sequence from
Volume 1.)

CHAIRMAN CARTER: We are back on the record.
And, Commissioners, if I haven't confused us enough this
morning, I'm going to have staff to kind of get us back
around to where we need to be.

Mr. Willis, you're recognized.

MR. WILLIS: Thank you, Chairman. After
meeting with staff for a short while prior to
reconvening the agenda, much head knocking, we believe
it would be a lot better if we start with Issue Number
24, the cost of capital issues, and we work our way
through the cost of capital through Issue 28, and then
at that point, we can go back to quality of service if
you want. But I think it would be much cleaner and more
appropriate to do it that way. So if you like, we'll
tee up Issue 24.

CHAIRMAN CARTER: You're recognized.

MR. WILLIS: Andrew.

MR. MAUREY: Commissioners, Issue 24 deals
with the appropriate capital structure to use for rate
setting purposes. Staff has recommended using the AUF
subsidiary capital structure, and Issue 28 later will
relate to that. We recommend use of the AUF subsidiary

1 capital structure for rate setting purposes.

2 CHAIRMAN CARTER: Commissioner Edgar.

3 COMMISSIONER EDGAR: And what is the AUF rate
4 structure?

5 MR. MAUREY: It can be described -- it's
6 approximately 62 percent equity, and that contrasts with
7 the AAI or the parent company's capital structure, which
8 was approximately 44 percent equity. But AUF is a
9 wholly owned subsidiary of AAI, and the practice has
10 been to recognize the subsidiary relationship and use
11 the capital structure of the utility if it's reasonable
12 for purposes of setting rates.

13 COMMISSIONER EDGAR: And can you go a -- thank
14 you. That is part of what I was looking for. Can you
15 go a little further and tell us -- and I know it's all
16 here, but it's going to help me hear it also now -- what
17 the impact or significance of the -- of one versus the
18 other.

19 MR. MAUREY: Okay. Yes. The OPC witness
20 recommended an ROE of 9.47 if the parent company's
21 capital structure was used for rate setting purposes.
22 If the Commission's decision was to go with the AUF
23 capital structure, then OPC's position was that the
24 appropriate ROE is 8.75 percent. The equity ratio from
25 the capital structure is an input in the Commission's

1 leverage formula. As staff has recommended here to use
2 the AUF subsidiary capital structure, the fallout in
3 Issue 28 is an ROE of 10.77. If the parent company's
4 capital structure were used, staff's recommended ROE
5 would be 12.18.

6 COMMISSIONER EDGAR: I'm good right now.

7 CHAIRMAN CARTER: Commissioner McMurrin.

8 COMMISSIONER McMURRIAN: Thank you.

9 Mr. Maurey, I realize that OPC's position in this case
10 was to use Aqua America, Inc. or AAI's capital structure
11 and that they were suggesting that -- it seems like
12 their issue with respect to witness Rothschild had to do
13 with this 392 million in debt that they're saying has
14 been used to finance the equity portion of the
15 subsidiary's capital structure, and that's the basis for
16 their position.

17 But I was a little confused. On page 89 at
18 the top, there's a sentence that refers back to that 392
19 million in debt, where it looks like the utility witness
20 is saying that a portion of that is allocated to AUF and
21 recorded on the books. And I guess I just need help
22 understanding. Is it important that they've said that
23 it is recorded in there, you know, to the extent that's
24 what OPC's basis is? You know, what is the import of
25 that statement? I really couldn't connect the dots.

1 MR. MAUREY: Okay. The OPC witness alleged
2 that there was debt at the holding company level that
3 wasn't being allocated down to the utilities.

4 COMMISSIONER McMURRIAN: Right.

5 MR. MAUREY: That was their position. And
6 they based that position looking at -- I believe it was
7 an SEC statement for a particular quarter. The AUF
8 witness, when they took the stand, they testified that,
9 no, had OPC's witness done a more thorough evaluation of
10 the company's books and records, they would have seen
11 that that money is allocated to the various
12 subsidiaries, not just AUF.

13 AUF, to put it in perspective, is less than
14 3 percent of AAI. There's 97 percent of AAI in other
15 states if you look at net property, plant, and
16 equipment. So the majority of that 392 wouldn't be
17 found here on the Florida books. But the appropriate
18 portion, the witness testified, is on the books and
19 records of AUF.

20 COMMISSIONER McMURRIAN: So it should be --
21 the 392 million, there should be some portion of that
22 that is allocated down to AUF.

23 MR. MAUREY: The way the witness explained it,
24 it is. It's in their annual report. They have a
25 long-term debt balance. When it's 62 percent equity,

1 then the flip side is that it's at a 38 percent debt,
2 and within that debt portion is their applicable amount
3 of this 392 million in question.

4 COMMISSIONER McMURRIAN: Okay. And one more
5 question. Despite the fact that there's competing
6 testimony on whether or not that 392 million in debt is
7 in the books and records, that's not the basis for your
8 recommendation to go with the AUF capital structure, is
9 it? I'm just making sure.

10 MR. MAUREY: No, no. We --

11 COMMISSIONER McMURRIAN: So what was the basis
12 again for the --

13 MR. MAUREY: The relationship between AUF and
14 AAI is no different than the relationship between
15 Florida Power & Light and FPL Group, Tampa Electric and
16 TECO Energy, or any number of companies that operate in
17 Florida. And based on the record in this case, we
18 recommended that their capital structure be treated in a
19 similar manner.

20 COMMISSIONER McMURRIAN: Okay. Thank you.
21 That was it.

22 CHAIRMAN CARTER: Thank you. Commissioner
23 Argenziano.

24 COMMISSIONER ARGENZIANO: You indicated that
25 OPC, if they used the parent company, that they would

1 come up with a 12.18.

2 MR. MAUREY: The 12.18 is the result of the
3 leverage formula if the 44 percent equity ratio was
4 applied to the -- was used as an input in the leverage
5 formula.

6 COMMISSIONER ARGENZIANO: Would that then be
7 an overearning?

8 MR. MAUREY: No. In Issue 28, staff
9 recommended -- well, based on Issue 24, we recommend
10 using the subsidiary capital structure. Assuming that
11 decision was made, we get to Issue 28, what's the
12 appropriate ROE. We employ the leverage formula, and
13 that -- 62 percent equity ratio, and that indicates a
14 return on equity of 10.77.

15 Had the decision been made in Issue 24 --
16 well, if the decision in Issue 24 is made to use the
17 parent company's capital structure, the 44 percent
18 equity, then when we get to Issue 28, staff would revise
19 its position from 10.77 to 12.18 to recognize the
20 greater financial risk associated with a much higher
21 debt leverage in the capital structure.

22 CHAIRMAN CARTER: Commissioner Skop.

23 COMMISSIONER SKOP: Thank you, Mr. Chairman.
24 Mr. Maurey, with respect to some of the other
25 considerations in looking at using AUF's versus the AAI

1 capital structure, if the AAI capital structure was
2 used, I think -- and this is kind of intertwined with
3 Issue 27, but they mentioned that they would have to
4 account for the tax-exempt and state government bonds
5 that are used, and that would also result if the AAI
6 capital structure was used, that a higher cost of
7 capital than staff is using in its subsidiary
8 recommendation -- I mean, excuse me, a higher cost of
9 debt than staff is using in its subsidiary calculation;
10 is that correct?

11 MR. MAUREY: That's correct. If we did go
12 with the AAI capital structure, the testimony in the
13 record indicates that we would have to change not only
14 the cost of equity, but also the cost rate for long-term
15 debt. The 5.1 percent that's currently reflected in
16 staff's recommendation is based on a note between AUF
17 and AAI. If we went to the parent company's capital
18 structure, their cost of debt when you remove all the
19 tax-exempt financings and industrial revenue bonds,
20 other facilities that are specifically tied to certain
21 states, the cost of long-term debt would be 2.6. So at
22 the higher ROE and the higher debt cost, even with the
23 lower equity participation, the overall cost of capital
24 is lower under staff's recommendation before you now
25 than if we went with the parent company and adjusted for

1 those higher cost rates.

2 COMMISSIONER SKOP: Thank you.

3 CHAIRMAN CARTER: Commissioner Argenziano.

4 COMMISSIONER ARGENZIANO: I can't ask OPC, but
5 I need to ask you, why would OPC want to go with the
6 higher -- what was the rationale, according to what you
7 determined?

8 MR. MAUREY: That's because that's the 12.18
9 that staff would put in there with the leverage formula.
10 That's not the number that OPC would have used if -- OPC
11 would have continued with its 8.75 and 9.47. And they
12 didn't adjust for the cost rate change in long-term
13 debt. They had some assumptions in there that the
14 record doesn't support.

15 COMMISSIONER ARGENZIANO: Okay. Thank you.

16 CHAIRMAN CARTER: Commissioners, anything
17 further on Issue 24?

18 Staff, you're recognized for Issue 25.

19 MR. MAUREY: We're recommending an adjustment
20 to deferred taxes. This will flow into the capital
21 structure. Because deferred taxes are a zero cost rate,
22 this adjustment serves to lower the overall cost of
23 capital.

24 CHAIRMAN CARTER: Commissioners, questions on
25 Issue 25?

1 Hearing none, staff, you're recognized for
2 Issue 26.

3 MR. MAUREY: Twenty-six has been stipulated,
4 and 27, 27 we touched on --

5 CHAIRMAN CARTER: Twenty-seven.

6 MR. MAUREY: I'm sorry. Twenty-seven we just
7 touched on. The 5.1 percent cost of long-term debt is
8 embedded in staff's recommendation based on the capital
9 structure you approved in 24. This just explains that
10 we would use a higher cost rate if we had gone with the
11 AAI capital structure.

12 CHAIRMAN CARTER: Sorry about that. I had it
13 right here in front of me. I was going -- when you guys
14 said 24 through 28, I was just going in chronological
15 order. It seemed like 26 would follow 25. Not here,
16 though. We've got PSC rules.

17 Issue 27, say again, please.

18 MR. MAUREY: Issue 27 deals with the
19 appropriate cost rate for short-term and long-term debt.
20 The AUF capital structure does not contain short-term
21 debt. They have a long-term debt cost rate of 5.1
22 percent, and that's reflected in the capital structure.
23 Had the decision been made in Issue 24 to go with the
24 parent company's capital structure, then we would have
25 had to use some higher cost rates, 5.9 for short-term

1 debt and 6.27 for long-term debt. But this issue just
2 explains the reason for that differential.

3 CHAIRMAN CARTER: Commissioners, any questions
4 on Issue 27?

5 Hearing none, let's go to Issue 28.

6 MR. MAUREY: Issue 28 addresses the
7 appropriate return on equity. Staff has applied the
8 leverage formula that's currently in effect. Based on
9 the capital structure approved in Issue 24, that
10 indicates a return of 10.77 percent.

11 CHAIRMAN CARTER: Commissioners, we're on
12 Issue 28 as it relates to the appropriate return of
13 equity. Commissioner Edgar, you're recognized.

14 COMMISSIONER EDGAR: To staff. With the other
15 pieces, kind of, that flow into this of the staff
16 recommendation, as we've just discussed, with the
17 capital structure, deferred taxes, and whatever other
18 things may flow into that, the 10.77, is that based
19 primarily on formula with those things feeding in?

20 MR. MAUREY: Yes. It's based on the leverage
21 formula, which is a compilation of two models and a few
22 adjustments.

23 COMMISSIONER EDGAR: Are there other -- if I
24 look at the 10.77 for purposes of this line of
25 questions, if I look at the 10.77 as a result of those

1 computations, then are there other results that could be
2 reasonably arrived at given the feed-in numbers that we
3 have to this point?

4 MR. MAUREY: Yes. Witness testimony in this
5 case would support an ROE between 8.75 and 11.3. Expert
6 witness testimony supports a return in that range. We
7 do have other numbers in between those. Those aren't
8 the only two points. But for purposes of your
9 deliberation, you could select a return between 8.77 and
10 11.3 and be supported by the record.

11 COMMISSIONER EDGAR: Thank you.

12 CHAIRMAN CARTER: Commissioner McMurrrian.

13 COMMISSIONER McMURRIAN: And just to clarify,
14 Andrew, the 8.75 to 11.3, that's using the discounted
15 cash flow and the CAPM analysis. Well, I guess it
16 includes the 10.77, which uses the leverage formula, but
17 the 10.77 is based on the leverage formula.

18 MR. MAUREY: Correct.

19 COMMISSIONER McMURRIAN: 8.75 would be using
20 -- I don't remember which of the analyses, but one of
21 the other analyses. And we're free to use those
22 analyses in coming to an ROE, but typically in water and
23 wastewater cases, do we usually use the leverage
24 formula? Do we sometimes deviate from it? Can you talk
25 a little bit about that?

1 MR. MAUREY: Sure. The 8.75 is based on the
2 OPC witness's testimony. They relied on CAPM and the
3 DCF model to arrive at their 8.75. The 11.3 is based on
4 the company's witness's testimony, again, DCF and CAPM.
5 They did not sponsor their own DCF and CAPM analyses
6 per se, but they looked at the models or the results of
7 the models that the OPC witness provided, and they
8 arrived at that range, 10.3 to 11.3, on their analysis
9 of that same data, the OPC witness's analysis. And the
10 10.77 is as a result of the leverage formula.

11 In water cases, the Commission has generally
12 -- I mean, I can't think of a time when it hasn't used
13 the result of the leverage formula. I'm not saying it
14 never has happened, but sitting here before you today, I
15 can't think of an instance when it hasn't been used.

16 But that said, the Commission has the
17 discretion to set a return on equity -- the statute
18 allows the leverage formula to be created. It doesn't
19 order the Commission to use it. It may avail itself to
20 other evidence in the record to determine an appropriate
21 ROE for this company.

22 COMMISSIONER McMURRIAN: One other question.
23 I noticed on the bottom of page 94 there's some
24 discussion there about the utility proposing the use of
25 the leverage formula in effect at the time of the vote

1 to avoid the rate case expense associated with hiring an
2 ROE witness for this case. So I'm reading that they
3 used the 10.77 -- they used the leverage formula to
4 arrive at the 10.77 percent, and they're suggesting at
5 least that that is in part to avoid having the
6 additional rate case expense of putting on the DCF and
7 CAPM witnesses that we're sort of used to in a lot of
8 these cases. Is that part of the purpose for our
9 leverage formula?

10 MR. MAUREY: Yes, ma'am. Let me clarify that,
11 if I may. Because the leverage formula is updated once
12 a year, every company will pick its time to file, and
13 the leverage formula may or may not change during the
14 pendency of its case. Some cases are over in five
15 months. Some are over in eight months. But just
16 because of the timing, sometimes it overlaps with a
17 change in the leverage formula. So this company, like
18 many before it, filed an ROE based on the leverage
19 formula. It did not hire an ROE witness initially. It
20 did not put on a direct case. It was going to use the
21 leverage formula, whatever that result may have been, in
22 effect at the time of the vote. OPC did present cost of
23 capital testimony, and that necessitated the company's
24 response through rebuttal, and they retained an ROE
25 witness on rebuttal.

1 COMMISSIONER McMURRIAN: Okay. Thank you.
2 That helps. That was all.

3 CHAIRMAN CARTER: Any other comments or
4 questions? Commissioner Argenziano, you're recognized.

5 COMMISSIONER ARGENZIANO: Are we at that
6 point? Mr. Chair, I didn't know if you took your group
7 of -- how you wanted to get through the group.

8 Okay. Well, then I return to the motion
9 before. I think there was a temporary withdrawal of the
10 second, so it probably needs a second again. And if
11 not, I still move the same motion, and that was for
12 Chuluota and Woods, or The Woods --

13 CHAIRMAN CARTER: The Woods.

14 COMMISSIONER ARGENZIANO: The Woods, to reduce
15 the ROE to the 8.75.

16 CHAIRMAN CARTER: Okay. Before I go to
17 Commissioner Skop --

18 COMMISSIONER ARGENZIANO: Until they meet the
19 standards.

20 CHAIRMAN CARTER: Okay. Before I go to
21 Commissioner Skop, Commissioner Edgar, you had a
22 question?

23 COMMISSIONER EDGAR: I do. And I am not an
24 accountant, nor do I play one on TV or anyplace else.
25 Just so I understand, I guess I was -- Commissioner

1 Argenziano, just again for my own understanding, I'm
2 trying to understand, again for me, how setting an ROE
3 for just two systems out of the 82, without knowing what
4 the pleasure of the Commission is for the ROE for the
5 overall system -- and maybe it doesn't matter, but I'm
6 just having a hard time following. It feels a little
7 backwards to me, and I don't care about the order, other
8 than I can't follow it. So if you can help me with
9 that.

10 COMMISSIONER ARGENZIANO: I got you. And what
11 happened, when we took a break for lunch, my brain took
12 a break. What I was going to come back and do is state
13 a different motion entirely.

14 CHAIRMAN CARTER: You're recognized.

15 COMMISSIONER ARGENZIANO: And that was to move
16 staff on 24, 25, and 27, and deny staff on 28 and move
17 to disregard the leverage formula, set the ROE based on
18 the record in evidence, and that range of record was
19 8.75 to 11.73. And I think, as I stated before, that
20 quality of service issues are paramount in not giving a
21 reward to a company for a bad quality. I don't want to
22 do that, so I move that it be set at 9.75, and then
23 Chuluota and The Woods be reduced to 8.75 until
24 standards are met.

25 CHAIRMAN CARTER: Commissioner Skop.

1 COMMISSIONER SKOP: Thank you, Mr. Chairman.
2 And following along, I concur on the -- I think it was
3 -- I'm trying to find it. Which -- was it 24?

4 CHAIRMAN CARTER: Twenty-four through 28.

5 COMMISSIONER SKOP: Okay. Twenty-four through
6 27 I concur with. I have a question on 28, or a
7 clarification.

8 I think that the friendly amendment that I
9 would have offered to my previous motion -- again, I
10 agree with the proposed ROE for Chuluota and The Woods
11 suggested by Commissioner Argenziano of 8.75, so I think
12 we have that in common. I think the manner in which I
13 would get there is probably based on more of a -- you
14 can use the evidentiary record, or you can parallel what
15 staff has suggested and make the appropriate reductions
16 based on findings of fact to provide an evidentiary
17 basis for supporting the decision of the Commission. So
18 I think the process in getting there is equally as
19 important as the end result.

20 So again, my only feedback or caution would be
21 to perhaps look at the appropriate ROE for AUF and then
22 make the appropriate deductions in the manner which I
23 previously suggested. Again, staff has recommended a
24 system-wide reduction of 50 basis points for customer
25 service across the board. You know, I think that's

1 reasonable. It sends the appropriate message. Again,
2 that's not saying that we agree with the 10.77 ROE.
3 I'll get to my leverage formula discussion in a second.

4 But if you set the system-wide number and then
5 make the appropriate reductions, I think it provides the
6 findings of fact and sufficient evidentiary record to
7 support any decision that this Commission makes on
8 appeal, and I think that's very important that we
9 articulate clearly what our reasoning would be so it
10 would not be deemed as arbitrary and capricious and it
11 would withstand appellate scrutiny. So what I would
12 suggest is if we set the ROE for the system-wide and
13 then make the appropriate reductions.

14 Again, I support the 50-basis point reduction
15 for system-wide, and then you make the appropriate
16 reduction on top of that to address the unsatisfactory
17 nature of the water quality, which is hard to dispute,
18 and you get to the 8.75 that Commissioner Argenziano is
19 recommending for Chuluota and The Woods. But again,
20 that's the process I would go through towards it.

21 With respect to the leverage formula, again, I
22 think to me, regulatory predictability is an important
23 consideration and precedent. I'm not a big fan one way
24 or another of the leverage formula. It is what it is.
25 It changed on a year-to-year basis, as Commissioner

1 Argenziano appropriately pointed out and Mr. Maurey
2 spoke to, that in 2007, the leverage formula was 10.25
3 for a company having a similar capital structure,
4 whereas in 2008, it moved up to 10.77. In 2009, who
5 knows what it's going to do. That's just the run of the
6 luck with the leverage formula and the fluctuations.

7 The DCF and the CAPM model analysis, I'm very
8 familiar with that. We usually use that as a good
9 benchmark in electric cases and in other cases that we
10 deal with, whether it be gas or what have you. But in
11 water and wastewater cases, for whatever reason, the
12 Commission has adopted this leverage formula that has
13 been used consistently in the past, as I think
14 Mr. Maurey has alluded to, and there is precedent. So
15 it's certainly within the discretion of the Commission
16 to depart from the leverage formula on this case.

17 But I also question or wonder what type of
18 signal on predictability that would be on a
19 forward-going basis for other water companies that would
20 come in, in terms of what would the Commission be apt to
21 do, are we not going to not put on witness testimony to
22 project our ROE and take the chance that they'll adopt
23 the leverage formula, or do we need to be more cautious
24 and increase costs by providing witness testimony to
25 substantiate an ROE, and the uncertainty as to how the

1 Commission might rule on something, whether they go with
2 the models or they go with the leverage formula.

3 The leverage formula is not perfect. I think
4 we had some discussion that one size fits all may not be
5 a good thing in terms of big companies versus the small
6 companies, but it is what it is.

7 So, I mean, the only point that I would
8 probably take, you know, point of difference with
9 Commissioner Argenziano's motion -- I need to slow down
10 so I can pronounce my words properly. But I would
11 probably be more inclined to look at the leverage
12 formula. You can adjust it if you want. But again, the
13 10.77, I think that staff has stated that ROE is not
14 driving the system revenue requirement in this case, nor
15 is it driving the rates. So again, setting the ROE,
16 even if we oppose the reduction penalties that are being
17 suggested for Chuluota and The Woods, it's not that much
18 of a financial impact in the grand scheme of things.

19 So again, I think I would be more comfortable
20 with the 10.77 that staff recommended, adhering to the
21 leverage formula, not perfect, but again, I'm following
22 Commission practice, but then making appropriate
23 reductions from there of 50 basis points across the
24 system to reflect the poor customer service that has
25 been well documented, and then making those additional

1 separate adjustments for Chuluota and The Woods to
2 reflect the unsatisfactory nature of the water quality.
3 And I think that that would survive the appellate
4 process if the Commission were to do that. Thank you.

5 CHAIRMAN CARTER: Commissioner Argenziano.

6 COMMISSIONER ARGENZIANO: Well, that's fine.
7 And I guess in not so many words, you're for the 10.77
8 and I'm not.

9 What it comes down to is, when you're talking
10 about a signal on predictability, the signal is that
11 this Commission is not wedded to one particular way,
12 that there are circumstances sometimes that you look at.
13 And the signal and the message that it sends to me that
14 -- to me it sends out there is that, guess what, we're
15 just not going to have such a great predictability that
16 we're always going to know the outcome, regardless of
17 the test year, regardless of things that the Commission
18 didn't get to get into the evidence, into the record,
19 regardless of whether we know what maintenance has been
20 performed or not, whether there was prudence or not.

21 So when you're talking about signaling
22 predictability, with all due respect, I think that it
23 may be about time that the signal on the predictability
24 is that it's not always the same, and it's not always
25 going to be the same. There are certain things that, of

1 course, are regulatory certainty, but there are certain
2 circumstances sometimes that are going to reflect that
3 there are going to be changes. And as I said before,
4 when you have such peculiarities that to the extent that
5 I have a lot less confidence because of the test year
6 and because of not knowing the maintenance that we have
7 that has been established. And to me, as a sitting
8 Commissioner, I think that was necessary.

9 So in saying that, and then looking at the
10 leverage formula, the way it was established, I have no
11 confidence in the leverage formula, because to me, main
12 and very important components were not plugged in. So I
13 have real heartburn in sticking with the leverage
14 formula. And because I'm not mandated to do that, I'm
15 using the discretion I have not to do that. Whether you
16 all agree or not, that's not what we're here for, to
17 rubber stamp each other's votes, and I understand that,
18 and I understand everybody has a different opinion. I'm
19 just expressing the reasons why I cannot go with that.

20 So to me, to stick with the 10.77 has not been
21 -- there's no, I guess, basis for that because of
22 certain things that are missing, were not made to me.
23 And at a time when we're in such great economic
24 distress, I'm going to use every tool I have of this
25 Commission, and the one that I have is prudence, and

1 that has not been determined here because we have just
2 not looked at that maintenance component at all. And
3 whether it would even be a small component of that, it's
4 a very important one to me and those people who pay
5 those bills.

6 So, you know, you can vote the way you want.
7 My motion is set, and I -- with all due respect to every
8 one of your opinions, I'm just trying to express mine.
9 I'm not saying it's the right one. It's the right one
10 for me. So in me trying to move down to the 9.75, that
11 was in order to get Chuluota and The Woods down to the
12 8.75. I thought you had to have that spread, and that's
13 why I went down to that number, along with those other
14 issues that I had mentioned before.

15 CHAIRMAN CARTER: Commissioner Skop.

16 COMMISSIONER SKOP: Thank you, Mr. Chairman.
17 And I appreciate those comments, Commissioner
18 Argenziano. As I said at the beginning, I'm not wed to
19 the 10.77. I think even another Commissioner has
20 mentioned that they may have some concerns with the
21 leverage formula, so I didn't want to imply that I'm
22 cast in stone on that. Again, I'm not a big advocate or
23 fan of the leverage formula. It's just something that
24 the Commission has adopted in practice. I'm not always
25 a big fan of going along with the norm. But again, I

1 think from a legal perspective, you know, trying to do
2 things consistently is something that they try to
3 ingrain in our brain.

4 But the point that I was trying to make -- and
5 again, I think we're lockstep on Chuluota and The Woods
6 for the 8.75. I think from a perspective -- you know,
7 the 9.75 across the board on a system-wide basis, I
8 think that that would basically almost be a 100-basis
9 point reduction for customer service, you know, if we
10 were to look at it that way along the lines that staff
11 has done. Certainly, you know, we could get there
12 looking at other numbers.

13 What I'm trying to do is balance between
14 encouraging the continued investment in these small
15 systems that are very costly to run and operate. I
16 recognize that there are some significant unsatisfactory
17 results for consumers in terms of the water quality, in
18 terms of the customer service. Again, I think that it
19 was very premature for the company to come back in
20 without solving those problems to their benefit before
21 they came back in here seeking a rate increase. Again,
22 it's their legal prerogative to do so, but it was very
23 -- quite evident that nothing had changed in terms of
24 the consumer sentiment in terms of getting their billing
25 issues resolved, getting their phone calls returned, all

1 the other things that go into that.

2 So again, I'm comfortable departing from the
3 leverage formula. I just merely suggested that again
4 consistency in practice is a good thing, not one to just
5 go along with the norm. But again, I'll leave that open
6 for discussion.

7 But my concern would be, I think it would be
8 important for the Commission to set what the appropriate
9 ROE is for AUF and then make the appropriate reductions
10 from that recognizing poor customer service, recognizing
11 the unsatisfactory quality of water, to get to that
12 final ROE that we're seeking for those specific targeted
13 problem systems. I think that that -- there's a global
14 issue in terms of customer service, and then there's a
15 water quality issue that's germane to at least two
16 identified systems, and I think through selective
17 targeting and sending the message through that ROE
18 reduction, that sends quite a big message, although
19 again the financial magnitude of that is probably not as
20 much in this case as it would be in any other case. But
21 again, I think it sends the appropriate message, and I'm
22 willing to go there.

23 It's just -- 9.75 I think across the system
24 would be maybe a bit much if you take the leverage
25 formula, which again -- and I'm trying to wrap this up.

1 But the leverage formula, not a big fan, but what staff
2 is recommending is 10.77 under the leverage formula.
3 Staff is also recommending the customer service
4 reduction of 50 basis points, which takes you down to
5 10.27, if my math is right. And so I think that
6 Commissioner Argenziano is at 10.75 versus a 10.27. So
7 again, maybe an additional reduction could be made for
8 customer service problems over and above the 50 basis
9 points recommended by staff. But beyond that, I think
10 you take the further reduction as necessary to get you
11 to the 8.75 for Chuluota and The Woods, and you're done.
12 It's just a matter of what's the initial number. And
13 I'm not saying it has to be 10.77. That's up for my
14 colleagues to decide.

15 But again, I support the motion. I'm just
16 kind of hung up on that one issue, and I think if we can
17 get consensus on that, everything falls into place
18 nicely.

19 CHAIRMAN CARTER: Commissioner Argenziano,
20 then Commissioner McMurrian. Commissioner Argenziano.

21 COMMISSIONER ARGENZIANO: Well, just to --
22 what you're saying is that we just have a difference of
23 opinion, and I'm sure that that's the case. We have a
24 difference of opinion on the number. You say
25 appropriate ROE. I think 9.75 is appropriate. I don't

1 think you're giving any kind of stick. You have no
2 hammer here. You're reducing 50 points back to where
3 they originally came in and asked for. So, I mean, I
4 can see the people back in the district and other people
5 coming to us and saying, "Well, wait a minute. You hit
6 them with a big stick and gave them what they asked for
7 originally." That's what it says to me, so I don't
8 see -- and I respect your difference of opinion, just as
9 I do anybody else's opinions here. My opinion is that
10 it is the appropriate ROE at this time, and I cannot go
11 with the leverage, because the 10.77 is based on
12 information lacking extremely important factors that may
13 make a difference, a great deal of difference in the
14 consumers' bills, those ones that are up to 500 percent
15 and 300 percent and 400 percent.

16 And if it's so insignificant -- I mean, to me
17 it's not insignificant. It's a significant failure not
18 to have that plugged into that leverage formula. So I
19 don't know how I could ever go along with the 10.77 and
20 the formula used because of the failure to have that
21 significant information in there. And I respect your
22 opinion. I'm not saying -- I'm trying to give you, I
23 guess, the basis for my opinion.

24 CHAIRMAN CARTER: Commissioner McMurrian.

25 COMMISSIONER McMURRIAN: Thank you, Chairman.

1 I guess my first thought was it's hard to be a fan of
2 anything called leverage formula, but anyway -- so I'm
3 going to say I'm not a fan of it either. But I think
4 the Commission constructed it for a reason, and it seems
5 like a fairly good reason to me.

6 So I guess -- I don't want to seem opposed to
7 -- I'm not naturally opposed to 8.75 for Chuluota and
8 The Woods, and I do think some kind of additional ROE
9 penalty, as we talked about when we were on Issue 1, is
10 appropriate, so I think we can go back to that. I do
11 think that in this case, I think it's better to -- I
12 haven't seen a reason, a compelling reason not to use
13 the leverage formula, I think I'll say that, other than
14 to try to get to a lower ROE that we have in our mind
15 with respect to specific problems with those specific
16 systems. So I can agree on the issues through 27. But
17 with respect to 28, I think that my preference and my
18 vote to be to continue with the leverage formula.

19 And I think it -- I think because of the way
20 we set it up to try to avoid the rate case expense,
21 because a utility comes into a case assuming that if
22 they throw that out, it may not be the best ROE that
23 they could have gotten if they put on a full set of
24 witnesses on ROE, but they were willing to do that to
25 avoid some of that rate case expense. And I think it's

1 also good that OPC filled in the record with the other
2 information to use CAPM and DCF. I don't really know
3 what the best model is, but it seems important to me to
4 have some kind of consistency.

5 And I do respect everyone's opinion on this,
6 and I understand where Commissioner Argenziano is coming
7 from. But for me, I haven't seen a compelling reason to
8 depart from the leverage formula here. So I guess with
9 respect to the overall ROE of 10.77, I would be in favor
10 of the staff rec with respect to that. And I guess when
11 we get to talking about what the appropriate ROE penalty
12 would be for the customer service problems in Issue 1,
13 I'm definitely willing to talk more about what those
14 penalties should be with respect to Chuluota and The
15 Woods, if that was clear at all.

16 CHAIRMAN CARTER: Commissioner Skop.

17 COMMISSIONER SKOP: Thank you, Mr. Chairman.
18 Just going back to Commissioner Argenziano's concern, I
19 don't think we necessarily disagree. I think we're
20 pretty much saying the same thing. I think it's just
21 procedurally different ways of getting there. Again,
22 I'm trying to look at getting there through the use of a
23 leverage formula, which, you know, probably is not the
24 best thing in the world over and above the models, which
25 I would rather use, but for water and wastewater, it has

1 been thrust in the Commission's lap, and that's what
2 we've used.

3 But just as an illustrative comparison, we're
4 currently using the 2008 leverage formula which staff
5 has calculated for the capital structure of 10.77. And
6 if you take the 50-basis point reduction for customer
7 service issues, which is still open for debate -- it
8 doesn't need to be 50. It could be more, or it could be
9 less, whatever. But if you take 50 basis points, that
10 gets you to 10.27 ROE. If you were to do 100 basis
11 points, that would get you to the 9.77, which is pretty
12 much what you're suggesting. But if we looked at the
13 2007 leverage formula, which I think the Commission is
14 not using, and I'm not so sure whether we could use it
15 or not use it, but it was 10.25 last year, and it
16 actually went up this year. But a 50-basis point
17 reduction to that, as staff has recommended, would put
18 you right on target with what Commissioner Argenziano
19 recommended.

20 But again, the leverage formula, not perfect.
21 I tend to kind of agree with Commissioner McMurrian that
22 I haven't seen, you know, a compelling reason to
23 overturn it, although we do have discretion to look at
24 different things. And again, I'm not wed to that 10.77.
25 But I think that if we were to leave an existing

1 framework in place that the Commission has used
2 consistently, then we do have opportunities in customer
3 service as well as the unsatisfactory nature of the
4 water quality to make the appropriate adjustments that
5 are supported by controlling case law and which would
6 survive evidentiary appeal.

7 So again, I think there's many different ways
8 to look at this, but the question is, I think from a
9 Commission perspective, do we want to adhere to the
10 leverage formula and make the appropriate reductions, or
11 do we want to just abandon the leverage formula and just
12 go back to what we do in electric and gas cases, where
13 we pretty much depend on the record evidence and the
14 models.

15 CHAIRMAN CARTER: Commissioner Edgar.

16 COMMISSIONER EDGAR: And as almost always, I
17 agree with almost everything that I've heard, but I do
18 have a question, and I'm going to pose this to
19 Commissioner Argenziano, if I may. The 9.75 that in
20 your motion you are offering for the ROE utility-wide
21 with then the reduction for the two systems for cause
22 that we have all discussed, obviously, it's a different
23 number, so of course it's not based on the leverage
24 formula. But that 9.75, can you share with me a little
25 more what that number is based upon for the basis of

1 that being your suggestion?

2 COMMISSIONER ARGENZIANO: Yes, I can.

3 COMMISSIONER EDGAR: Thank you.

4 COMMISSIONER ARGENZIANO: And what it's based
5 upon is what I'm getting out of this whole -- the whole
6 case before us, and I'm going to say it again. I'm
7 going to try to express it again, and I understand
8 there's differences of opinion, and I understand you may
9 agree that there is nothing that makes you feel that the
10 leverage formula should be thrown out. I disagree. I
11 think that the missing components, again, as I said
12 before, are very, very important. And using 2007 as the
13 test year and then reaching over into 2008 for the
14 leverage -- for the better ROE, basically, and not using
15 today's Treasury rates, really, I just have a lot of
16 problems with that, and then looking at the information,
17 all the other stuff in between -- put the leverage graph
18 aside. Look at all the information that went into the
19 leverage graph other than the things that I think are
20 missing.

21 I've come to the conclusion the best I can
22 without being able to reach out into other things that
23 would be here in the record had I had the opportunity to
24 look at the test year and ask certain questions. And in
25 putting what I can together and not using staff's

1 recommendations and looking at the intervenors'
2 arguments, I came up with 10.77 was too high, and it
3 wasn't justified because of those missing components,
4 because of using 2007's test year and reaching into
5 2008, and because of all the factors that I'm reading
6 and have expressed throughout the whole hearing.

7 So in putting that together and trying to look
8 at what I thought would work for the company, and using
9 a lot of the other mechanisms that staff used other than
10 the numbers that they plugged in, I plugged in some of
11 my own numbers, and it worked. And to get Chuluota and
12 to get The Woods down to that 8.75 and keep them within
13 that range that's on evidence from 8.75 to 11.23, it
14 just worked out for me numberswise.

15 COMMISSIONER EDGAR: A follow-up, if I may, to
16 staff. And this was probably discussed earlier this
17 morning, so I apologize if this is redundant. But the
18 practice or suggestion of using kind of a maximum of
19 100-basis point reduction as a penalty or as a response
20 to problems that we have seen and observed and heard
21 testimony about with water quality service, what is that
22 100 based upon? Is it policy? Is it case law? Is it
23 rule, practice?

24 So that's the first question, but then I'll
25 also follow up to say, in other words, is there --

1 realizing it would be rare, and hopefully rare because
2 there aren't the same degree of service quality issues
3 often, but is there a prohibition on going beyond 100 if
4 indeed the evidence points that way?

5 MR. WILLIS: To answer your question the best
6 I can, there is no rule or statute that dictates 100
7 basis points. It has basically been the practice or
8 policy of the Commission to use 100 basis points,
9 probably I guess since the early '90s, is the last time
10 I ever saw anything used beyond the 100-basis point
11 range on either side. Legally, I'll leave it up to the
12 lawyers to decide whether there's a legal prohibition
13 against it.

14 MR. JAEGER: I would just go back to the
15 Florida Water Services court case and the Palm Coast and
16 the -- what is it? Utilities, Inc., where they -- if
17 you have that change in policy, if you've used 100 and
18 you've used 100, you've got to base it on the evidence
19 in the record.

20 And I think the strongest position was what
21 Commissioner Argenziano -- you have 8.75 to 11.3 in the
22 record, and she pulled 9.75 as the midpoint, and
23 therefore, you could go back to the 8.75 if you choose
24 to -- you know, she sort of split -- I don't know if she
25 did it consciously, but she split the baby between OPC

1 and the utility, who was saying 10.77, and staff was
2 saying 10.77, and OPC was saying 8.75. So she just sort
3 of put it in the middle, and then she could get Chuluota
4 back to that. So I think that's defensible.

5 And actually, I mean, there are probably other
6 things that are defensible, but I think that's the
7 strongest ground that we have, is you set the midpoint
8 for the whole company, and then you make the penalties
9 -- I don't want use the word "penalties." We also say
10 -- the Wilson case would say, "This really isn't a
11 penalty. It's just you're using your discretion to move
12 them into that range, wherever you think is most
13 appropriate."

14 So I think you need to find that midpoint, and
15 then I think you are limited as to how far back you can
16 go from that midpoint by 100 basis points, because I
17 don't see anything in the record -- you know, that's me,
18 but there may be something where you all think there is
19 something in the record for going more than 100 basis
20 points.

21 COMMISSIONER EDGAR: Mr. Chairman, I will
22 yield now, but I will say I'm still thinking, and so I
23 may have more questions later.

24 CHAIRMAN CARTER: Let me do this before I come
25 back. I'll come to you in a minute, Commissioner,

1 because I said this morning, and I'll say again that I'm
2 not at 10.73. I agree with Commissioner Argenziano
3 about the 9.75. And the reason for it is that based
4 upon the record, there's enough evidence in the record
5 that shows us that we can make a decision based upon
6 that, and it's defensible.

7 My reason for that is simply this: There are
8 82 systems. All 82 systems are not perfect. Secondly
9 is that 9.75 will allow the company to earn a decent
10 rate of return. It will also allow the company to
11 continue its progress and move forward on some things.
12 But I think that within the confines of the record
13 that's before us, we can make a decision that the rate
14 of return is 9.75 and put Chuluota and The Woods on
15 8.75, with the understanding that once they bring it up
16 to par, then the entire company will be at that rate.
17 And I said that this morning, and I'm still there now.

18 And I think that whether you use the -- you
19 know, whatever method you use is not so relevant as the
20 fact that we have the facts before us, we have
21 evidentiary information. We had cross-examination. We
22 had witnesses presented to us, both OPC and the other
23 intervenors, from the parties and from staff. And I
24 think that based upon this record that's before us --
25 and I asked the question twice this morning and once

1 this afternoon. I think -- and I agree with you,
2 Commissioner, that 9.75 is a reasonable rate of return
3 for this company during this time where we find
4 ourselves. And I think within the confines of Chuluota
5 and The Woods, 8.75 is foundational. We have the data,
6 we have the facts, we have the circumstances, we have
7 the evidence in the record to support that.

8 I wanted to say that before I kind of kept
9 going back and forth with you guys on all that, but I do
10 think it's defensible. I think we have evidence in the
11 record to support that.

12 Commissioner Skop.

13 COMMISSIONER SKOP: Thank you, Mr. Chairman.
14 And like I say, I'm openminded on this. I don't think
15 there's any right or wrong answers, again, just merely
16 looking at it from different ways, trying to achieve the
17 same results, conforming it to the framework that staff
18 has used historically.

19 But going to a point that Mr. Jaeger raised, I
20 think I got a little bit confused. You know, assuming
21 that you set the midpoint ROE at 9.75, you said you're
22 limited by 100 basis points down to 8.75. I don't think
23 you're limited. Correct me if I'm wrong, but I don't
24 think you're limited by the 100 basis points from a
25 legal standpoint. I think you're limited by the record

1 evidence that supports the zone of reasonableness for
2 the fair ROE. Is that correct?

3 MR. JAEGER: I think what I was trying to say,
4 Commissioner Skop, was that policy and procedure since
5 the early '90s -- I thought it was before the early
6 '90s, but I was gone for a little bit. I came back in
7 1995. Anyhow, since the early '90s, as Mr. Willis said,
8 it has been 100 basis points either side. And if we go
9 away from that, the court is going to say, "Why did you
10 go away from the 100 basis points?" And I haven't seen
11 that explained anywhere or any reason for going beyond
12 that.

13 COMMISSIONER SKOP: And that's where I think
14 it's important, and this is why I think that, you know,
15 had we -- and I thank Commissioner Argenziano for
16 bringing this up, because I think that if we would have
17 used the -- we used the 2007 test year, but somehow
18 reached into 2008 to use the leverage formula. In a
19 perfect world, if we would have used the 2007 leverage
20 formula, lo and behold, it was 10.25. You take the
21 50-basis point reduction for customer service, you get
22 to 9.75. If you take the deduction for poor water
23 quality and you get to the 8.75, everything magically
24 works out, and you support it just like that to the
25 extent that, poor customer service, deduction,

1 unsatisfactory water quality, deduction, and it's easy
2 to follow, and it's supported by strong basis of
3 decision so that it couldn't be appealed.

4 Unfortunately, now the leverage formula in 2008 is
5 10.77.

6 So again, I'm openminded. I think as the
7 Chairman and Commissioner Argenziano suggested, if it's
8 the will of the Commission to go with the 9.75 as the
9 midpoint and make the -- and I would assume the 9.75
10 already includes the deduction for customer service
11 across the system. Then you just make the appropriate
12 deduction for that, 100 basis points for unsatisfactory
13 water quality, and you're done.

14 So again, if there's consensus to go that way,
15 I'm amenable to it. Do I think it's different than what
16 the leverage formula provides? Yes. But, you know, if
17 we choose as a Commission to depart from the leverage
18 formula, then that just means on a forward-going basis,
19 companies ought to be prepared to come in and offer
20 direct ROE testimony, which in these turbulent financial
21 times, maybe they should. Maybe we as a Commission
22 should on larger -- and again, that gets back to the one
23 size fits all.

24 When we discussed this leverage formula last
25 year, there was some question -- I think OPC might have

1 raised it -- whether one size fits all is appropriate
2 for those well large -- I mean those publicly traded
3 companies. Again, you know, it's hard to discern.

4 Actually, as a matter of fact, I kind of like
5 it better the way we do it for electric and gas, where
6 we're looking at the models, we're looking at the
7 testimony, and we have that discretion without being
8 tied to a formula that fluctuates up and down.

9 So again, I think that -- you know, I'm
10 willing to depart from past precedent. I think if the
11 Commission unanimously wants to do that, I think it
12 sends the message, and from a policy perspective, I
13 think the lesson learned going forward is that we do it
14 based on the models and testimony on a forward-going
15 basis and really kind of depart from the leverage
16 formula. As long as we apply it consistently on a
17 forward-going basis, I have no problem.

18 CHAIRMAN CARTER: Commissioner McMurrian.

19 COMMISSIONER McMURRIAN: I just wanted to make
20 sure. And I've already said how I'm going to vote on
21 this, but I think something you said about it including
22 the system-wide 50-basis point reduction, I just didn't
23 understand it that way, so I thought it was probably
24 worth going back to so that you got clarification on
25 that, because I didn't -- I understood the 9.75 in

1 Commissioner Argenziano's motion would be the midpoint
2 and that putting all the -- well, the two 50 basis
3 points reductions that we were talking about earlier
4 together would get you to 8.75 for Chuluota and The
5 Woods, so that system-wide, it would only be a 50-basis
6 point reduction from 9.75.

7 COMMISSIONER SKOP: I misunderstood that,
8 because again, the way the staff recommendation is
9 framed is, you have the recommended midpoint for the ROE
10 based on the leverage formula, then you apply a
11 system-wide reduction of 50 basis points to reflect
12 inadequate customer service, and then you looked at the
13 selective targeting of Chuluota and The Woods and
14 addressed those differently, so it's cumulative.

15 Where I was concerned and trying to discern
16 Commissioner Argenziano's suggestion that the midpoint
17 be set at 9.75, again, that's kind of getting down into
18 the low range, so I'm wondering whether that 9.75
19 addresses and accurately embodies the system-wide
20 customer service reduction. And if it does, then so be
21 it.

22 I think a cleaner way to do this, frankly,
23 would be just to adopt a system-wide ROE of 10.25, take
24 a 50-basis point reduction across the board for customer
25 service being unsatisfactory, and then take the

1 100-basis point reduction -- not 100 -- yes, a 100-basis
2 point deduction for unsatisfactory water for Chuluota
3 and The Woods, and you're done. I mean, I think that's
4 really straightforward and clean. I think it provides a
5 very solid, firm evidentiary basis of supporting our
6 basis for decision. It's just a matter of the 10.25,
7 you're making the reduction for customer service to get
8 to the target of 9.75 which Commissioner Argenziano
9 suggested, which is reasonable. And that's a
10 system-wide ROE, and then you take the selective
11 reductions for Chuluota and The Woods, and you're at the
12 8.75 for those two systems.

13 CHAIRMAN CARTER: Commissioner Argenziano.

14 COMMISSIONER ARGENZIANO: Well, I think I just
15 heard staff say that what I had suggested was reasonable
16 because it was in the evidence, record of evidence. And
17 I'm just going to stick with that motion, and, you know,
18 so be it, whatever way you want to vote. I just move it
19 the way it was, and we'll take it from there.

20 CHAIRMAN CARTER: Commissioner Edgar.

21 COMMISSIONER EDGAR: Commissioner Argenziano,
22 I think I just heard two different interpretations of
23 your motion that would have two different results, so if
24 you could tell me which interpretation, or a third, is
25 embodied, that would be helpful to me.

1 COMMISSIONER ARGENZIANO: What did you -- did
2 you hear from me two different ones?

3 COMMISSIONER EDGAR: No. Commissioner Skop
4 just described one, and Commissioner McMurrin described
5 a different interpretation.

6 COMMISSIONER ARGENZIANO: Okay. No, no. What
7 I want to do is deny -- actually move staff on -- what
8 was it? I forgot where I wrote it down. Twenty-four,
9 25, and 27, and deny 28, disregard the leverage graph,
10 the formula because it was -- because of all the reasons
11 I stated before. I don't want to go through the whole
12 thing again unless you want me to. And stick with the
13 range -- set the ROE based on the record in evidence at
14 that midpoint, so that then -- at 9.75, and then back
15 down Chuluota and The Woods to the 8.75 until they meet
16 that standard. And that was the motion.

17 CHAIRMAN CARTER: Commissioner Skop.

18 COMMISSIONER SKOP: Thank you, Mr. Chairman.
19 And I think that's -- we're saying the same thing, I
20 mean, exactly the same thing. We're just looking at it
21 from a different perspective.

22 COMMISSIONER ARGENZIANO: No.

23 COMMISSIONER SKOP: I see you shaking the
24 head.

25 COMMISSIONER EDGAR: No, it's not the same

1 thing. I mean -- I'm sorry, but I --

2 COMMISSIONER SKOP: Let me just --

3 COMMISSIONER EDGAR: No, let me, because I've
4 said very little today. And what I'm trying to do is,
5 with pure intentions, is just trying to understand
6 exactly what is being proposed, and to the best of my
7 ability, what the ramifications would be. And I do feel
8 like I'm hearing two not exactly similar things. And,
9 Commissioner Skop, sometimes I don't always understand
10 you. Maybe it's because I don't always have an engineer
11 mind at all. But on the one hand, I thought I heard you
12 say that you might second the motion for a 9.75, and
13 then I thought I heard you say that you were in support
14 of a 10.25, and then at one point I thought that the 50
15 point suggested by staff, basis point reduction or
16 adjustment on the record evidence of poor service or
17 unsatisfactory service was included in the 9.75, and
18 then I thought I heard that it was not and would be --
19 and I'm just confused. And again, I say it with pure
20 intentions. I'm just really trying to understand what
21 I'm hearing.

22 CHAIRMAN CARTER: Hang on a sec.

23 COMMISSIONER EDGAR: And it doesn't feel like
24 exactly the same thing.

25 CHAIRMAN CARTER: Hang on a sec.

1 COMMISSIONER EDGAR: And I think when we talk
2 about precedent and a clear record, and the staff, who
3 will need to write the order, I guess I would just hope
4 to say if I'm a little confused, that perhaps some other
5 person might be sometime.

6 CHAIRMAN CARTER: Let's do this. Commissioner
7 Argenziano, explain your motion. It was real simple.

8 COMMISSIONER ARGENZIANO: Well, Mr. Chairman,
9 my motion is clear.

10 CHAIRMAN CARTER: It was real simple.

11 COMMISSIONER ARGENZIANO: I don't think I'm
12 confusing the matter. I'll say it three times. It's
13 pretty clear. I think Commissioner Skop has stated a
14 few different things that he said he would like to see,
15 didn't see, and I think that may be getting confusing.

16 COMMISSIONER EDGAR: Okay. It was me.

17 COMMISSIONER ARGENZIANO: But to make sure,
18 I'm going to do it again. I'm going to move staff 25,
19 26 --

20 CHAIRMAN CARTER: Twenty-six.

21 COMMISSIONER ARGENZIANO: No, 25 --

22 MR. MAUREY: 24, 25, and 27.

23 CHAIRMAN CARTER: Twenty-four, 25, and 27.

24 COMMISSIONER ARGENZIANO: Twenty-four, 25, and
25 27, and deny 28, move to disregard the leverage formula,

1 set ROE based on the record in evidence. The range of
2 the record was stated in evidence as 8.75 to 11.73, and
3 set it at 9.75, which is the middle, so that I can then
4 also back down Chuluota and The Woods to 8.75 until they
5 meet the standards. That's all. And if Commissioner
6 Skop wants to do it a different way, it's his baby, not
7 mine.

8 CHAIRMAN CARTER: Commissioner Skop.

9 COMMISSIONER SKOP: Mr. Chair, I'll second the
10 motion, but I think that -- I know people will say we're
11 not, but we are. We're saying the same thing. It's
12 just that in Commissioner Argenziano's motion, the
13 customer service reduction is inherent and embedded in
14 what we're setting at the 9.75. All I'm merely
15 suggesting -- yes. She's shaking her head yes. It
16 encompassed the customer service problems. But, what
17 I'm -- no, she's not taking a customer service reduction
18 for Chuluota, no. So what I'm suggesting, and this is
19 from a legal perspective, the way the Commission has
20 done this is, they've set the midpoint and then done
21 specific reductions in the past, where there would be a
22 system-wide reduction for customer service and then a
23 reduction for targeted for unsatisfactory water quality.

24 So again, I can agree with the 9.75. I'll
25 second the motion. We'll leave it like that. I'm

1 merely suggesting that perhaps a better way would be to
2 do it in the reduction manner so that we know what the
3 reductions are founded on, for instance, 10.25 minus 50
4 basis points for customer service problems.

5 COMMISSIONER ARGENZIANO: Do you need me to --

6 COMMISSIONER SKOP: No, that's fine. I second
7 the motion, and I'll leave it at that. I really think
8 it's cleaner to do it the other way.

9 COMMISSIONER EDGAR: Then a possibility would
10 be to not second the motion and see where it goes and
11 then propose an alternate motion. I guess that's where
12 I'm very confused to have -- do we? I've completely
13 lost track.

14 CHAIRMAN CARTER: Commissioner Skop did second
15 the motion.

16 COMMISSIONER EDGAR: Okay. Then I have some
17 questions for staff, if I may, Mr. Chairman.

18 CHAIRMAN CARTER: You're recognized.

19 COMMISSIONER EDGAR: Okay. We've been talking
20 a lot about the numbers and what that would mean for the
21 company. And so I don't know who to pose this to, so
22 I'm just going to throw it out to staff and ask you to
23 choose who to respond. But what would be the financial
24 impact to the customers? And as an additional note,
25 we've had discussion about affordability, and just on a

1 maybe inappropriate but personal note, if any of you had
2 seen my personal residential electric bill this month,
3 believe me, affordability has taken on a whole new
4 meaning. But what would be the financial impact to the
5 customers of some of the different ROEs that have been
6 discussed?

7 MR. WILLIS: Financially, if the Commission
8 were to go down to a 9.75 midpoint, which I think is the
9 motion, coming off the 10.77 is about a \$542 million
10 decrease, a \$542,000 increase. I'm thinking of electric
11 companies.

12 MR. DEVLIN: Try again, Marshall. Try again.
13 271.

14 MR. WILLIS: I'm sorry. I'm confused now.

15 COMMISSIONER EDGAR: To the customers.

16 MR. WILLIS: \$271,000 increase overall. Now,
17 how that applies to each system is based on how much --

18 COMMISSIONER EDGAR: I'm not understanding how
19 that translates to impact to customers.

20 CHAIRMAN CARTER: Juxtapose that to what it
21 would be otherwise, Marshall.

22 MR. WILLIS: Well, the increase is 5 -- that
23 we're recommending is 5.1.

24 MR. FLETCHER: The total increase,
25 Commissioner, on an aggregate basis for water and

1 wastewater is about 6.1 million increase in revenues.
2 What Mr. Willis was saying is that the impact from
3 taking it from what we had in our recommendation on
4 Issue 28 to Commissioner Argenziano's motion would be a
5 100-basis point reduction, approximately, for the
6 midpoint, to go from the 10.77, the midpoint to go to
7 9.75, that impact on customers to set it at that
8 midpoint would be probably 130 -- excuse me, \$271,000.
9 That would be the revenue impact. If you take the
10 271,000, that would be less than -- it would be less
11 than 4 1/2 percent to staff's recommended revenue
12 increase. It would actually decrease the \$6.1 million
13 recommended increase by the 271,000 and only represents
14 about -- less than 4 1/2 percent of what we originally
15 recommended the revenue increase be.

16 CHAIRMAN CARTER: Mr. Maurey, you're champing
17 at the bits.

18 MR. MAUREY: Yes. I hate to correct my --

19 COMMISSIONER EDGAR: Esteemed colleague.

20 MR. MAUREY: -- colleague, but the 6.1 million
21 has already included a 50-basis point adjustment for
22 quality of service, so it's not the 270 that's 100 basis
23 points. It would be only an incremental 135,000 off of
24 our 6.1 million.

25 MR. FLETCHER: That is correct. I apologize.

1 COMMISSIONER EDGAR: Okay. Thank you.

2 CHAIRMAN CARTER: Commissioner Edgar.

3 COMMISSIONER EDGAR: The suggested ROE for the
4 80 systems, or company-wide except for the other two,
5 where does that fall as far as approved ROEs for water
6 and wastewater utilities in this state at this time?

7 MR. DEVLIN: If nobody else is going to take
8 it, Tim Devlin, I'll take it. Generally speaking --

9 COMMISSIONER EDGAR: That's why you're the
10 director.

11 MR. DEVLIN: The other water companies have
12 used the water and wastewater leverage formula, so if
13 they were in here today, it would be -- well, it depends
14 on the equity ratio. This is a relatively high equity
15 ratio. But all the companies I've been looking at in
16 the last couple of years have used the water and
17 wastewater leverage formula, so the 10.77 would be in
18 line with current cases.

19 I would like to make one quick point. There
20 is a range of reasonableness. Obviously, there's a lot
21 of judgment involved, and there has been a lot of talk
22 about these models and the subjectivity that comes with
23 it. But in the back of my mind, there is probably a
24 range of reasonableness, and I don't know if 8.75 is the
25 bottom of that and 11.3 is the top of that. It's

1 probably narrower than that. 9.75 in my mind -- it is
2 reasonable in my mind, but at the low end of
3 reasonableness. I just wanted to put my two cents in.

4 CHAIRMAN CARTER: Commissioner Argenziano.

5 COMMISSIONER ARGENZIANO: In regards to the
6 answer to the question of other companies' ROE and using
7 the leverage graph, that's not to say that we're always
8 going to use the leverage graph. Are you predicting
9 that we're always going to use the leverage graph from
10 now on?

11 MR. DEVLIN: No, Commissioner. I was just
12 answering what our past practice or current --

13 COMMISSIONER ARGENZIANO: No, I think you were
14 projecting the future, and I was thinking if it was
15 today, if they came in next week or in the next month,
16 we could use the leverage, and we may not, depending on
17 the particulars. Isn't that true?

18 MR. DEVLIN: That's correct.

19 COMMISSIONER ARGENZIANO: Thank you.

20 CHAIRMAN CARTER: Commissioner Skop.

21 COMMISSIONER SKOP: Thank you, Mr. Chairman.
22 And again, I second the motion. Just briefly to legal,
23 though, in terms of making reductions, I mean, we have
24 the discretion and authority to set the ROE within the
25 range of reasonableness, to set that midpoint, and

1 that's the motion on the table that's properly seconded,
2 and we'll vote that motion. But from a perspective on
3 considering the appellate process and justifying the
4 basis for the decision on behalf of the Commission, is
5 there -- assuming you're going to incorporate reductions
6 for customer service problems and unsatisfactory water
7 quality problems, is there a procedural way to
8 accomplish that so it's bulletproof to the extent that
9 it survives appellate review versus just setting the ROE
10 directly? Is there a preferable method?

11 MS. HELTON: Over here. Mary Anne Helton on
12 the legal staff.

13 CHAIRMAN CARTER: You changed on us.

14 MS. HELTON: I did. I think that there is
15 strong precedent for the Commission to reduce the ROE
16 for issues with respect to the company's management, as
17 we did with the Gulf Power case, and we've done with the
18 Aloha case. I think it may have also happened with the
19 Southern States case. So there is strong precedent as
20 long as it's based on record evidence, and I think here,
21 it's my understanding that the issues that you have
22 found or may find in the quality of service issue with
23 respect to billing, customer service, and Chuluota and
24 The Woods specifically with respect to their water
25 quality, there is sound record basis to reduce the

1 company's ROE.

2 COMMISSIONER SKOP: And just as a follow-up to
3 that, again, because I do not disagree with the number
4 that Commissioner Argenziano has proposed. Again, I'm
5 just looking at if it's a matter of -- and I'll give a
6 comparison. If it's a matter of setting a system ROE at
7 10.25 and doing the reductions from there as the
8 Commission deems appropriate supported by the
9 evidentiary record, versus just making the 9.75, which
10 encompasses already the system-wide customer service
11 reduction, are either appropriate, or is one more
12 preferable from the other from an appellate standpoint?

13 MS. HELTON: Hold on one minute, please.

14 The way we have consistently done it -- and I
15 understand that's not necessarily the way we want to do
16 it in the future, but the way we have done it is, we
17 have set the midpoint and then made reductions to that
18 based on issues that we've had with the company's
19 management or the company's service. Does that mean
20 that's the only right way? No. The courts I think
21 recognize that if you want to change your approach, you
22 can do that. You just need to make a change based on
23 the record of the proceeding, and you also need to
24 explain your change. You need to explain your
25 deviation.

1 COMMISSIONER SKOP: Okay. So instead of like
2 a mathematical calculation, it just requires a strong
3 written explanation to articulate that that
4 consideration and the finding of the Commission has
5 already been incorporated into that number; is that
6 correct.

7 MS. HELTON: I think the answer to your
8 question is yes, if I'm understanding it.

9 COMMISSIONER ARGENZIANO: One second. Let me
10 go to Commissioner McMurrian, and then I'll come back to
11 you.

12 COMMISSIONER EDGAR: Sure.

13 CHAIRMAN CARTER: Commissioner McMurrian.

14 COMMISSIONER McMURRIAN: Actually, I hope that
15 order works, because I still have -- as you can tell,
16 I've made up my mind about where I'm going to vote, but
17 I do still have a question, because I want to make sure
18 I still understand the Commission's vote. And I can see
19 where this may be going. With respect to the 9.75 as
20 the midpoint, when we were discussing Issue 1, staff had
21 recommended a 25-basis point reduction for failure to
22 timely resolve billing issues and a 25-basis point
23 reduction for poor handling of calls and demonstrated
24 lack of quality of service. And those two together, of
25 course, were 50 basis points and would be a reduction

1 system-wide to whatever ROE we determined in Issue 28 as
2 the midpoint. So I guess this is to Commissioner
3 Argenziano. If your motion is 9.75 as the midpoint, do
4 you foresee a 50-basis point reduction for those across
5 the board quality of service issues that would be done
6 system-wide so that that would be 9.25, and then a
7 further reduction, another 50 basis points for Chuluota,
8 so that it would be 8.75 for Chuluota, or are you just
9 saying the 9.75 midpoint and 8.75 for Chuluota?

10 COMMISSIONER ARGENZIANO: As you can tell,
11 it's tough enough just trying to get --

12 COMMISSIONER McMURRIAN: I'm sorry.

13 COMMISSIONER ARGENZIANO: -- the 9.75. What
14 I'm proposing is, that is why I'm saying 9.75. That's
15 part of the reason, including --

16 COMMISSIONER McMURRIAN: But would there be --

17 COMMISSIONER ARGENZIANO: That's it. That's
18 what they deserve to earn at this point.

19 COMMISSIONER McMURRIAN: Okay. So it does
20 include that.

21 COMMISSIONER ARGENZIANO: And Chuluota and The
22 Woods back down to 8.75, because I know there's no way
23 in God's great planet that I'm going to get any lower
24 than 9.75, to be honest with you. I want the company to
25 make a healthy return, but I also have to look at what's

1 in the record and what I've heard out there, and quality
2 of service, and just as Mary Anne had mentioned, the
3 evidence on record is just outstanding.

4 And then one other point that I really wanted
5 to make, and it was made I guess when Commissioner Skop
6 had asked Ms. Helton about having a strong record of
7 evidence and that -- getting things on the record I
8 think was Commissioner Skop's point. That's part of my
9 angst, with not being able to have any say in the test
10 year, because there were things that I would have liked
11 to have gotten on the record that would have maybe made
12 a very big difference.

13 So with that said, added on to that, yes,
14 Commissioner McMurrin, that's what I'm saying, because
15 I know that I'm not going to get any less. And I think
16 that's what they deserve at this time, the 9.75, no more
17 reduction of the quality, even though I would like to
18 see that at some point. But it's really Chuluota and
19 The Woods that are my real concern, and that's why I
20 wanted to back them down to the 8.75.

21 COMMISSIONER McMURRIAN: Okay. I apologize
22 for asking you again, but I really still was --

23 COMMISSIONER ARGENZIANO: No, I understand.

24 COMMISSIONER McMURRIAN: -- sort of caught up
25 in that confusion there. But again, I'll say -- I know

1 that we're sort of wrapping this up, I think, I hope.
2 You know, for whatever it's worth, you know, I do think
3 that you're on sound footing to be able to use CAPM and
4 DCF models instead of using the leverage formula. I
5 just personally believe that -- in my opinion, we've
6 sort of made a decision to use the leverage formula in
7 these water and wastewater cases, and there is some
8 reliance on that to some extent, so I believe that's the
9 way to go. If the leverage formula had produced 9.75,
10 we wouldn't have this discussion probably, and we would
11 be able to get to the 8.75 with a 100-basis point
12 reduction for Chuluota and The Woods, and we would
13 probably all be happy. But I am where I am with respect
14 to the leverage formula. But I will agree with the
15 motion with respect to all other issues except 28.

16 Thank you, Chairman.

17 CHAIRMAN CARTER: Commissioners, anything
18 further?

19 Commissioner Skop.

20 COMMISSIONER SKOP: Thank you, Mr. Chairman.
21 I guess based on the motion that I seconded, again, I
22 will support the motion when we vote. I do have, I
23 guess, procedural reservations to the extent that I do
24 feel from a legal perspective -- and it doesn't change
25 the result. It's just a matter of how you get to that

1 result. But from a legal perspective, I think that it
2 would probably be more appropriate to set the midpoint
3 at 10.25, take the appropriate deductions for customer
4 service and billing problems that would total 50 basis
5 points on a system-wide basis, which would get you to
6 the 9.75, and then take the appropriate 100-basis point
7 reduction from there for Chuluota and The Woods. That's
8 the only difference that Commissioner Argenziano and I
9 share difference on. And the end result is still the
10 same. But again, procedurally, I think it's much
11 cleaner to start from the 10.25 and work your way down,
12 footnoting what the deductions are for to get you there.
13 I think it's much cleaner procedurally. Thank you.

14 CHAIRMAN CARTER: Commissioner Edgar.

15 COMMISSIONER EDGAR: Thank you, Mr. Chairman.
16 And I would like to say to everybody in this room, and
17 as Commissioner Argenziano often reminds us, to anybody
18 who may be watching or may be watching this at some
19 other point in the future, that this is something to
20 write home about, because I agree with Commissioner Skop
21 completely.

22 CHAIRMAN CARTER: She's not well today.

23 COMMISSIONER EDGAR: Commissioner, I think
24 your points are well made. I think they are well
25 thought out. You have stated them better than I have,

1 clearly, since I have not been able to carry the day
2 perhaps.

3 I think that we are actually, as we often are,
4 trying to get to very similar positions with very
5 similar considerations. I do, however, think that by
6 virtue of this being a vote on an evidentiary record and
7 evidentiary proceeding that the way that you described
8 is a far superior method, and I am -- I regret that it
9 is not before me.

10 COMMISSIONER ARGENZIANO: Mr. Chairman.

11 CHAIRMAN CARTER: Commissioner Argenziano.

12 COMMISSIONER ARGENZIANO: And I appreciate
13 staff letting me know that the method I took was a good
14 method. And not to be derogatory to anybody else's
15 opinion, but I wouldn't want to do anything that would
16 hurt what we've done here, hurt the company or hurt the
17 consumers. So I appreciate knowing that the method I
18 took, while others may agree (sic), is still a good
19 method. And I think your -- I'll have to go back to the
20 transcript to hear your words, but I think you said it
21 was appropriate, and I do appreciate that.

22 But I do want to say one other thing. I
23 appreciate the company -- no matter what they think of
24 me today, I appreciate the company putting forth the
25 effort and really trying to make things better. They

1 are between a rock and a hard place, because, you know,
2 you have legislators who have showed up at meetings,
3 consumers who showed up at meetings, the media, of
4 course, and you have a lot of politics involved also,
5 which makes it very difficult for the company. I don't
6 want the company not to make a healthy return, but I
7 just think that as they're moving forward now and
8 showing good faith, I'm sure they're trying to get
9 there. And in the future, who knows? And I appreciate
10 that and want them to know that, but I also want to make
11 sure that, you know, the consumer feels that they've got
12 -- they made sure that we made sure that we did the best
13 we can in discussing this issue and trying to protect
14 them also. So I thank you for your indulgence in my
15 many different questions and motions today.

16 CHAIRMAN CARTER: Thank you. Commissioner
17 Skop.

18 COMMISSIONER SKOP: Thank you, Chairman
19 Carter. I just wanted to recognize and thank
20 Commissioner Edgar for her kind comments. I appreciate
21 that. That's, I think, a first. I was glad to hear it.

22 And to Commissioner Argenziano, again, we're
23 saying exactly the same thing. I supported the motion
24 and will vote in favor of it. But in terms of
25 protecting the consumers, I think we're all on the same

1 wave length in terms of what we want to do to protect
2 them. Again, but protection goes beyond our vote today.
3 Protection is at the appellate process also. And I just
4 really think, again, no disrespect or what have you, I
5 just think that by doing it in the manner that I
6 suggested, it makes it bulletproof so it can't be taken
7 away from the consumers later. So that's the only
8 difference of opinion we share. We're getting the same
9 end result. But again, from an appellate process, I
10 think it protects the sanctity of the decision that the
11 Commission would make today. Thank you.

12 CHAIRMAN CARTER: Thank you. Commissioners,
13 anything further? Any further debate? Any further
14 discussion?

15 Hearing none, all those in favor of the motion
16 let it be known by the sign of aye.

17 COMMISSIONER SKOP: Aye.

18 COMMISSIONER EDGAR: Aye.

19 COMMISSIONER ARGENZIANO: Aye.

20 CHAIRMAN CARTER: Aye. All those opposed?

21 COMMISSIONER McMURRIAN: Nay.

22 CHAIRMAN CARTER: Okay. Show it done.

23 Staff, where are we now?

24 MR. WILLIS: At this point, Commissioner, I
25 believe --

1 CHAIRMAN CARTER: The motion passed, by the
2 way.

3 MR. WILLIS: We might as well go back to Issue
4 1, quality of service then, which is pretty much done
5 now. I imagine we can just vote out however --

6 COMMISSIONER EDGAR: That's my question. Is
7 it moot? Or would I pose that to staff? Issue 1.

8 MR. JAEGER: I believe it was encompassed. I
9 think the only thing is about the removal of the
10 100-basis point penalty, that the utility can come in
11 and demonstrate that it has done both the billing, the
12 call center, and the specific quality of service
13 problems at Chuluota and The Woods. I think that they
14 can demonstrate that, and that would be the way they
15 would remove the penalty, I think. I see Commissioner
16 Argenziano nodding her head. I just wanted to make sure
17 about how that removal would be done.

18 MR. WILLIS: And also, to make it perfectly
19 clear, there's not a 50-basis point reduction now for
20 the overall, so we're clear on how to write the order.

21 CHAIRMAN CARTER: That's correct. That is
22 correct.

23 COMMISSIONER ARGENZIANO: Because --

24 CHAIRMAN CARTER: You're recognized.

25 COMMISSIONER ARGENZIANO: Because doing it the

1 other way with the other numbers, it would have gotten
2 them down -- Commissioner Skop wanted to get them down
3 to -- I'm not sure where it was originally, but had a
4 different mechanism of getting there. But I just saw
5 that as just then giving the company what they
6 originally asked for anyway. So getting down to the
7 9.75 I appreciate, and I think it gets -- but you're
8 right. Yes, that's not in there now.

9 CHAIRMAN CARTER: Commissioner McMurrin, then
10 Commissioner Skop. Commissioner McMurrin.

11 COMMISSIONER McMURRIAN: So is the question
12 whether or not Issue 1 was moot? Is that --

13 CHAIRMAN CARTER: Staff?

14 COMMISSIONER McMURRIAN: Because I guess my
15 concern is, we talked earlier about what the statute
16 said about making a decision on satisfactory versus
17 unsatisfactory.

18 MR. JAEGER: I think it's encompassed in the
19 decision and that overall -- I'm not sure we have to do
20 -- I think we need to vote on whether the overall
21 quality of service is marginal, unsatisfactory, or
22 satisfactory.

23 MR. WILLIS: Commissioners, to make it
24 perfectly clear for the order, it might be wise to go
25 ahead and have a vote on exactly what Ralph said as far

1 as the quality of service for Chuluota and The Woods,
2 and then also a vote on that 100-basis point reduction
3 for Chuluota and The Woods, because -- that's just to
4 make it perfectly clear, because I believe that's what I
5 heard when we talked about Issue 28. It's 9.75, and for
6 Chuluota and The Woods, the 100-basis point reduction--

7 CHAIRMAN CARTER: The 100 basis points. Do we
8 have to vote on that again? We've already said the 100
9 basis points was specifically for Chuluota and The
10 Woods.

11 MR. WILLIS: Well, if that's perfectly clear,
12 I doubt we do, then. We just need to vote on whether
13 it's marginal or unsatisfactory as far as Chuluota and
14 The Woods.

15 COMMISSIONER McMURRIAN: So it would be that
16 Issue 1 -- I'm sorry, Chairman.

17 CHAIRMAN CARTER: You're recognized.

18 COMMISSIONER McMURRIAN: So on Issue 1, we
19 would need to modify -- or maybe staff would propose to
20 modify the recommendation on Issue 1. But I heard
21 Commissioner Edgar earlier say the overall quality of
22 service with respect to the 80 systems or 80-plus
23 systems overall would be marginal, and quality of the
24 product is satisfactory except at the Chuluota and The
25 Woods water systems, where the product is

1 unsatisfactory. So we had that discussion earlier. I
2 would certainly be in favor of that. Of course, I know
3 there's more language there with respect to the
4 breakdown of the three areas we look at, and then it
5 gets into the basis point reductions that we've already
6 covered in that other issue. So I think we could remove
7 that discussion.

8 MR. WILLIS: That would be moot at this point,
9 the rest of that. I think at this point, our
10 recommendation would probably be along the lines of what
11 we've already heard, which would be that we would
12 probably now recommended that Chuluota and The Woods
13 would be unsatisfactory as far as quality of the
14 product. I'm not sure if we can go -- I think what we
15 would --

16 COMMISSIONER EDGAR: Mr. Chairman, if I could,
17 I would like to make a motion.

18 CHAIRMAN CARTER: Okay. Let's try it. You're
19 recognized.

20 COMMISSIONER EDGAR: I'll give it a whirl. My
21 motion would be on Issue 1 that the Commission make a
22 finding of marginal as far as --

23 CHAIRMAN CARTER: Overall quality of service?

24 COMMISSIONER EDGAR: Overall quality of
25 service for the utility overall, with an additional

1 finding of unsatisfactory for Chuluota and The Woods,
2 and that the decision that we have made on Issue 28
3 addresses all other parts of the discussion under
4 Issue 1.

5 COMMISSIONER SKOP: Second.

6 CHAIRMAN CARTER: Now, that would mean, staff,
7 the overall quality of service is marginal, the quality
8 of the product is satisfactory except at Chuluota and
9 The Woods system. Are you guys straight on that?

10 MR. WILLIS: We are straight.

11 MR. JAEGER: And I would like the third
12 sentence. Can you go, "for all systems, operational
13 conditions" --

14 COMMISSIONER EDGAR: My motion was exactly the
15 way I stated it.

16 CHAIRMAN CARTER: Okay. Yeah, yeah. Okay.
17 Let's go with your motion. I'm messing it up.

18 Commissioner Argenziano.

19 COMMISSIONER ARGENZIANO: With the
20 understanding that marginal means it's at the low end,
21 just barely meeting -- is that correct?

22 MR. WILLIS: Yes, that's correct.

23 COMMISSIONER ARGENZIANO: And that there are
24 efforts to -- we know that there are efforts on record
25 for them to be moving forward.

1 MR. WILLIS: That's correct.

2 COMMISSIONER ARGENZIANO: Okay. Thank you.

3 CHAIRMAN CARTER: I'm not even going to -- I'm
4 just going to leave your motion alone. We have a motion
5 on the floor.

6 COMMISSIONER SKOP: Second.

7 CHAIRMAN CARTER: It has been properly
8 seconded. Are there any questions on the motion that's
9 presented? Any discussion? Any debate?

10 Hearing none, all those in favor let it be
11 known by the sign of aye.

12 (Simultaneous affirmative responses.)

13 CHAIRMAN CARTER: All those opposed, like
14 sign. Show it done.

15 MR. WILLIS: Issue 2.

16 CHAIRMAN CARTER: Issue 2.

17 MR. WILLIS: Which we've already -- we already
18 had discussion on Issue 2, I believe.

19 CHAIRMAN CARTER: Okay. Issue 3.

20 COMMISSIONER EDGAR: Also.

21 CHAIRMAN CARTER: We've had discussion on
22 Issue 3.

23 Issue 4.

24 COMMISSIONER EDGAR: I think we discussed
25 Issue 4.

1 MR. DEASON: Commissioners, Issue 4 concerns
2 whether any adjustment should be made to the utility's
3 pro forma plant additions. Based on staff's review of
4 the documentation supplied by the utility, staff
5 believes that the utility's pro forma plant additions
6 should be decreased by 1,959,734 for water and 626,692
7 for wastewater.

8 CHAIRMAN CARTER: Any questions for staff on
9 Issue 4? Any questions?

10 Hearing none, Issue 7.

11 MR. REDEMANN: I'm Richard Redemann with the
12 Commission staff. On Issue 7, we are recommending the
13 used and useful percentages for the water treatment
14 plants. Did you have any specific questions, or did you
15 want me to go --

16 CHAIRMAN CARTER: Any questions,
17 Commissioners, on Issue 7?

18 Hearing none, Issue 9. Issue 9? Who's on
19 first for Issue 9? Staff?

20 MR. REIGER: Yes. Stan Reiger with the
21 Commission staff. Issue 9 deals with the used and
22 useful for the wastewater treatment plant. If you have
23 any particular questions -- there is -- I wanted to
24 point out one thing. The Chuluota wastewater plant is a
25 system that we made an adjustment on for 35.63 percent

1 used and useful. All other systems are 100 percent. If
2 you have any particular questions --

3 CHAIRMAN CARTER: Any questions on Issue 9,
4 Commissioners? Issue 9. Commissioner Skop, you're
5 recognized.

6 COMMISSIONER SKOP: Thank you, Mr. Chairman.
7 With respect to -- not to belabor the proceedings, but
8 it's my understanding that staff did a significant
9 adjustment for used and useful for the Chuluota system.
10 Is that correct?

11 MR. REIGER: That's correct.

12 COMMISSIONER SKOP: Thank you.

13 CHAIRMAN CARTER: Thank you. Anything further
14 on Issue 9?

15 Issue 10.

16 MR. REDEMANN: Issue 10 is the used and useful
17 adjustments on the water distribution facilities.

18 CHAIRMAN CARTER: Any questions on Issue 10,
19 Commissioners? Issue 10.

20 Issue 11.

21 MR. REIGER: Issue 11 deals with the used and
22 useful percentages for the collection system. All
23 systems are considered to be 100 percent used and
24 useful.

25 CHAIRMAN CARTER: Issue 11, Commissioners, any

1 questions?

2 Issue 12.

3 MR. WALDEN: Commissioners, Issue 12 related
4 to calculating the used and useful percentages on the
5 systems that are interconnected, and our recommendation
6 is that we consider those interconnected systems as a
7 single system unless the system does not operate as one
8 system.

9 CHAIRMAN CARTER: Okay. Any questions on
10 Issue 12, Commissioners, on interconnection? Any
11 question on Issue 12?

12 Issue 13.

13 MR. REIGER: Issue 13 deals with stand-alone
14 water systems. Basically, we recommend that the
15 appropriate method of calculating the used and useful
16 percentage should be based on a combined for rate base
17 purposes, and it should be on -- we agreed with OPC's
18 recommendation on weighted base on the connections for
19 each system.

20 CHAIRMAN CARTER: Commissioners, any questions
21 on Issue 13?

22 Commissioners, we've just gone through Issues
23 2, 3, 4, 7, 9, 10, 11, 12, and 13. Commissioner Edgar,
24 you're recognized for a motion.

25 COMMISSIONER EDGAR: Thank you, Mr. Chairman.

1 I move that we approve the staff recommendation for
2 Issues 2, 3, 4, 7, 9, 10, 11, 12, and 13.

3 COMMISSIONER SKOP: Second.

4 CHAIRMAN CARTER: It has been moved and
5 properly seconded. Any questions? Any debate? Any
6 discussion. Hearing none, all those in favor let it be
7 known by the sign of aye.

8 (Simultaneous affirmative responses.)

9 CHAIRMAN CARTER: All those opposed, like
10 sign. Show it done.

11 Staff, Issue 14.

12 MR. WRIGHT: Issue 14 addresses accumulated
13 depreciation adjustments related to Issue 2 for Lake
14 Suzy, Lake Josephine, and Sebring. Staff is
15 recommending adjustments as shown on page 69.

16 CHAIRMAN CARTER: Commissioners, any --
17 Commissioner McMurrian.

18 COMMISSIONER McMURRIAN: Thank you. Thank
19 you, Rick. I have a question with respect to OPC's
20 position on this issue. I notice that particularly with
21 Lake Osborne, Arrendondo Estates Farms, and Jasmine Lake
22 that they had recommended an adjustment for lack of
23 support documentation. And I don't think that was
24 addressed in the analysis, so I just wanted to check
25 with you about why --

1 MR. WRIGHT: I believe those adjustments were
2 stipulated.

3 COMMISSIONER McMURRIAN: Those adjustments
4 were stipulated. Okay. So they were included already
5 in the company's agreement with the staff adjustments
6 made that they list in their position?

7 MR. WRIGHT: Yes.

8 COMMISSIONER McMURRIAN: Okay. Thank you.

9 COMMISSIONER EDGAR: Commissioners, any
10 further questions on this issue?

11 Seeing none, I'll ask staff to present the
12 next issue, please.

13 MS. HUDSON: Commissioners, Shannon Hudson,
14 Commission staff. Issue 16 relates to a \$1,000
15 reduction to accounts receivable for officers and
16 employees based on -- the adjustment relates to unpaid
17 loans to AUF's officers and employees. Consistent with
18 Commission practice, this adjustment was made to reduce
19 accounts receivable.

20 COMMISSIONER EDGAR: Thank you.
21 Commissioners, any questions on this issue?

22 Seeing none, we'll ask staff to talk to us
23 briefly about Issue 17.

24 MS. CRAWFORD: Commissioners, I'm Avy Crawford
25 with the Commission staff. Issue 17 concerns whether

1 any adjustments should be made to the utility's other
2 deferred debits. Based on staff's review of
3 documentation supplied by the utility, OPC witness
4 Dismukes, and OPC witness Merchant, staff believes the
5 deferred debits should be reduced by 18,323.

6 COMMISSIONER EDGAR: Commissioner Argenziano
7 for a question.

8 COMMISSIONER ARGENZIANO: Thank you. Given my
9 concerns with the test year and maintenance that I've
10 expressed a number of times, could you explain to me a
11 little bit more in detail, especially why OPC believes
12 that deferred maintenance should be adjusted?

13 MR. FLETCHER: It was based on the
14 amortization period for certain of the deferred
15 maintenance projects, and it differed from the utility,
16 just amortization of a deferred maintenance project. We
17 had a rule. On some of them, she agree that it should
18 go over five years pursuant to our rule. But the rule
19 also allows for a shorter or a longer period, and she
20 believed on some of the projects it should be a shorter
21 period.

22 COMMISSIONER ARGENZIANO: And obviously, staff
23 doesn't agree?

24 MR. FLETCHER: We agreed with her on a lot of
25 the deferred maintenance projects. There were some

1 where it just -- there wasn't evidence in the record to
2 support less than what the rule required, which was over
3 five years.

4 COMMISSIONER ARGENZIANO: Okay. Thank you.

5 COMMISSIONER EDGAR: Any further questions on
6 Issue 17?

7 Seeing none, we'll ask staff to briefly
8 present Issue 18 to us.

9 MR. BUYS: Commissioners, this is Dale Buys
10 with staff. Issue 18 relates to adjustments that should
11 be made to accrued taxes. Staff is recommending that an
12 adjustment of \$1,334,964 should be made to the accrued
13 taxes, which results in a net credit balance of
14 \$179,622.

15 COMMISSIONER EDGAR: Thank you. Mr. Chairman,
16 that bring us, if there are no questions, to Issue 19,
17 and that would be the fifth. You had at one time talked
18 about taking them in groups of five.

19 CHAIRMAN CARTER: Issue 19 is where we are
20 now, and that will give us five?

21 COMMISSIONER EDGAR: Yes, sir.

22 CHAIRMAN CARTER: Okay. Staff, you're
23 recognized.

24 MR. KYLE: Commissioners, Jan Kyle for
25 Commission staff. Issue 19 is a recommendation to

1 reduce the company's working capital for \$84,225 in
2 order to include pensions and operating reserves in the
3 working capital calculation.

4 CHAIRMAN CARTER: Any questions,
5 Commissioners, on Issue 19?

6 Okay. Hearing none, Commissioner Edgar,
7 you're recognized for a motion.

8 COMMISSIONER EDGAR: Mr. Chairman, at this
9 time I would make a motion in favor of the staff
10 recommendation for Issues 14, 16, 17, 18, and 19.

11 COMMISSIONER SKOP: Second.

12 CHAIRMAN CARTER: It has been moved and
13 properly seconded. Commissioners, any questions? Any
14 debate?

15 Hearing none, all those in favor let it be
16 known by the sign of aye.

17 (Simultaneous affirmative responses.)

18 CHAIRMAN CARTER: All those opposed, like
19 sign. Show it done.

20 Commissioner -- okay. Alrighty. I suppose we
21 can take five, not five PSC minutes, but we'll take
22 five.

23 COMMISSIONER EDGAR: I appreciate that.

24 CHAIRMAN CARTER: We'll be back at 10 of.

25 (Short recess.)

1 CHAIRMAN CARTER: We are back on the record.
2 And when we left, we had just finished the group from 14
3 through 19. Now we'll go 20 through 23. Staff, you're
4 recognized for Item 20.

5 MS. ROBERTS: Commissioners, I'm Lydia Roberts
6 with the Commission staff. Issue 20 is a fallout issue
7 of 52. It concerns the appropriate balance of deferred
8 rate case expense to be included in the working capital
9 allowance.

10 CHAIRMAN CARTER: Commissioners, any questions
11 on -- Commissioner Argenziano, you're recognized.

12 COMMISSIONER ARGENZIANO: I guess just a
13 question on the negative acquisition issue. We are on
14 Issue 22; right? I'm losing it.

15 MS. ROBERTS: We're on Issue 20.

16 COMMISSIONER ARGENZIANO: I'm sorry. Okay.
17 I'll wait till 22. Thank you.

18 CHAIRMAN CARTER: Issue 20. Any questions on
19 Issue 20, Commissioners?

20 Issue 21.

21 MR. FLETCHER: Commissioners, Issue 21 is
22 staff's appropriate working capital allowance for
23 inclusion in rate base.

24 CHAIRMAN CARTER: Any questions on Issue 21,
25 Commissioners?

1 Now we're on Issue 22. Staff, you're
2 recognized.

3 MR. KYLE: Commissioners, Issue 22 is whether
4 a negative acquisition adjustment should be included in
5 rate base, and staff is recommending against making that
6 adjustment, which was proposed by OPC.

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

9 COMMISSIONER ARGENZIANO: Thank you,
10 Mr. Chair. If staff could just tell me -- and I know
11 that it was a decision made in -- was it '05?

12 MR. KYLE: Yes, Commissioner.

13 COMMISSIONER ARGENZIANO: That was discussed.
14 The negative acquisition adjustment was discussed and
15 was not adopted by the Commission.

16 MR. KYLE: That is correct. It was addressed
17 in the PAA order. The Commission decided not to include
18 the adjustment at that time, and the order was not
19 protested.

20 COMMISSIONER ARGENZIANO: Can I ask why the
21 decision was made to not adopt?

22 MR. KYLE: The Commission was following our
23 Rule 25-30.037(1), which relates to acquisition
24 adjustments, and the Commission took note of the fact
25 that the purchase price was more than 80 percent of the

1 rate base that the Commission approved during the
2 transfer. As a result of that, the rule states that an
3 adjustment in that situation where the purchase price is
4 more than 80 percent will not be made unless
5 extraordinary circumstances are shown to occur. And the
6 Commission determined that there were no extraordinary
7 circumstances at that time after the investigation that
8 had gone on with respect to the transfers.

9 COMMISSIONER ARGENZIANO: So then basically,
10 so I understand this, the decision was made by the
11 Commission in '05 because they felt there were not
12 extraordinary circumstances?

13 MR. KYLE: That is correct.

14 COMMISSIONER ARGENZIANO: Okay. Let me see if
15 I understand this right. In the negative acquisition
16 adjustment or a negative acquisition, if you're buying a
17 facility that, I guess, you pay less for and the -- I
18 guess OPC's concern would be that if you pay less than
19 rate base value, shouldn't that rate base be adjusted?
20 And the rule, you're telling me, says it can be adjusted
21 only -- and the 80 percent, if it's the 80 percent, only
22 if there are extraordinary circumstances?

23 MR. KYLE: Yes. If the purchase price is more
24 than -- is at least 80 percent of the rate base, then
25 there will be no -- there is to be no acquisition

1 adjustment imposed unless a party can show that
2 extraordinary circumstances exist. And the burden --
3 the rule also states that the burden is on the party
4 wishing to impose the adjustment.

5 COMMISSIONER ARGENZIANO: Okay. And just one
6 other thing so I have a better understanding. I'm
7 trying to formulate the question to get it right. So if
8 a utility comes in and purchases -- that's not going to
9 be right. I'm sorry, Mr. Chair. I'm trying to get it
10 where it's asked the right way, and I'm not sure I've
11 got it right. But what would the extraordinary
12 circumstances be?

13 MR. KYLE: It could be a case where the
14 utility would make the purchase and then essentially
15 ignore the facility, not make any attempt to upgrade the
16 plant and the equipment and make attempts to provide
17 good service.

18 COMMISSIONER ARGENZIANO: But how would you
19 know that at the time of making that decision? Is that
20 made at the time the decision -- the Commission made
21 that decision? I mean, did they look -- how would they
22 know the company is not going to upkeep the plant?

23 MR. KYLE: They would not know that at the
24 time, and I guess that's maybe the reason the rule
25 included this 80 percent provision, is to -- it's an

1 incentive for the companies to come in and purchase
2 facilities that are not necessarily the best facilities.

3 COMMISSIONER ARGENZIANO: Right.

4 MR. KYLE: And it gives the company a certain
5 amount of comfort level. If the company only paid
6 50 percent of rate base, you know, they would have a
7 much greater advantage, so to speak. But if they pay at
8 least 80 percent of rate base, there's at least a
9 presumption that they're going to earn a reasonable
10 return based on the rate base that's approved in
11 relation to what they actually paid for it.

12 COMMISSIONER ARGENZIANO: And that's by rule,
13 not by statute?

14 MR. KYLE: Yes.

15 COMMISSIONER ARGENZIANO: I just -- okay. On
16 the record, I know this was done by a previous
17 Commission, and I'm not going to doubt what the previous
18 Commission said. I just -- if it was today, I would
19 really have a lot of questions, because I really -- I
20 want companies to go in and buy these facilities, but
21 there would be an awful lot of questions, because the
22 ratepayers then are -- but then again, there goes the
23 importance of upkeep and maintenance in so many
24 different decisions.

25 But thank you. I don't have a real clear

1 understanding of this. I don't think I like it, but --
2 I mean, I like it to the extent where I believe that we
3 do need our companies to go in and buy some of these
4 systems, but I'm not sure that the rates shouldn't have
5 been adjusted some, but that's only due to my lack of
6 understanding of it. But thank you.

7 CHAIRMAN CARTER: Thank you, Commissioner.
8 Commissioner Skop.

9 COMMISSIONER SKOP: Thank you, Mr. Chairman.
10 I had similar concerns, but just in a general
11 perspective, not in relation to this case, because when
12 I first viewed the negative acquisition adjustment, I
13 looked at it as if utilities were purchasing something
14 below rate base, then, you know, that provides a
15 discount, and maybe they could use the discount amount
16 to, you know, bring the system back up to par. But then
17 as staff explained it to me, and I think it was just
18 mentioned by staff, the lack of a negative acquisition
19 adjustment incentivizes utilities to make that economic
20 investment in Florida, to take over these run-down,
21 delapidated systems and try and bring some improvements
22 in quality of water service to customers. So I see both
23 sides to that argument.

24 I think for this particular case why a
25 negative acquisition adjustment is not appropriate and

1 staff has recommended that is that apparently this came
2 up at the time of the transfer with the PAA and the
3 prior Commission, and the PAA order of the Commission
4 was not protested by OPC, so I guess AUF has asserted
5 res judicata, due process, and administrative finality.
6 And I think those are strong legal principles to where
7 you can't -- you know, if you don't raise it at the time
8 or preserve it at the time that the Commission took
9 final action, then it would be inappropriate to bring it
10 back now, just on the basis of the lost opportunity. So
11 I think the staff recommendation is appropriate for this
12 particular issue. Thank you.

13 CHAIRMAN CARTER: Thank you. Commissioners,
14 anything further on Issue 22?

15 Issue 23.

16 MR. FLETCHER: Commissioners, Issue 23 is
17 staff's recommended appropriate rate base for the water
18 and wastewater systems.

19 CHAIRMAN CARTER: Commissioners, any questions
20 on Issue 23?

21 Hearing none, Commissioner Edgar, you're
22 recognized for a motion on Issues 20, 21, 22, and 23.

23 COMMISSIONER EDGAR: I move the staff
24 recommendation on those four issues.

25 COMMISSIONER SKOP: Second.

1 CHAIRMAN CARTER: Moved and properly seconded.
2 Commissioners, all those in favor let it be known by the
3 sign of aye.

4 (Simultaneous affirmative responses.)

5 CHAIRMAN CARTER: All those opposed, like
6 sign. Show it done.

7 Staff, now we're moving to the group of cases,
8 29, 30, 31, 32, and 34. Let's get adjusted for that.
9 If you're ready, you're recognized now for Issue 29.

10 MR. SPRINGER: Good afternoon, Commissioners.
11 I'm Michael Springer with the Commission staff. This is
12 the weighted average cost of capital issue. This is a
13 fallout issue that is determined by the Commission's
14 decisions in preceding issues.

15 CHAIRMAN CARTER: Commissioners, any questions
16 on Item 29, Issue 29?

17 COMMISSIONER EDGAR: Yes.

18 CHAIRMAN CARTER: Commissioner Edgar, you're
19 recognized.

20 COMMISSIONER EDGAR: Thank you. Just to make
21 sure I'm clear, since you're saying it's a decision that
22 is a fallout from decisions we made previously, because
23 of decisions we made previously, a few of which vary
24 from the staff recommendation, are there changes that
25 then would be a result of that?

1 MR. SPRINGER: Yes, ma'am.

2 COMMISSIONER EDGAR: Can you tell me what they
3 are, sort of?

4 MR. SPRINGER: Well, since this is a fallout
5 issue and we had several changes, I think we would have
6 to come back. And this is really something that's more
7 related to rates issues, when this is really going to be
8 determined, the revenue requirement on a lot of the
9 systems. So based on the ROE decision, the capital
10 structure issue, some of those other issues, I'll be
11 able to go ahead and get the spreadsheet together and
12 then to determine that weighted average cost of capital,
13 which will differ between the two -- those two systems,
14 The Woods and Chuluota, and the rest of the systems,
15 which will have a different weighted average cost of
16 capital.

17 COMMISSIONER EDGAR: I think I've got that,
18 but if there's something to add --

19 MR. MAUREY: The only input that will change
20 is ROE, and it will change on both capital structures.

21 COMMISSIONER EDGAR: Okay. I got it.

22 CHAIRMAN CARTER: Commissioner Skop.

23 COMMISSIONER SKOP: Thank you, Mr. Chairman.
24 This is the same question I had that Commissioner Edgar
25 raised, that there will be recalculations necessary as a

1 result of the Commission establishing an ROE that was
2 different than the staff recommendation. I would expect
3 those calculations would be straightforward, but take
4 some time, just based on the systems and being able to
5 access the spreadsheets. So I guess we could -- I don't
6 know if we could vote on 29. Do we need to defer it
7 until the next -- the rate issue?

8 MR. WILLIS: Commissioners, normally -- if I
9 could just add something here.

10 CHAIRMAN CARTER: You're recognized.

11 MR. WILLIS: Normally in water and wastewater
12 cases, because they're just simply calculations and it's
13 a flow-through, plugging in a number, you normally
14 haven't asked for those numbers to come back to you.
15 But we can if you want. But normally we just go ahead
16 and run those numbers through.

17 COMMISSIONER SKOP: That's fine with me.

18 CHAIRMAN CARTER: Yes, let's run them through.
19 Anything further on Issue 29, Commissioners?

20 Issue 30.

21 MR. FLETCHER: Commissioner, Issue 30 is
22 staff's recommended appropriate annualized test year
23 revenue adjustments.

24 CHAIRMAN CARTER: Any questions,
25 Commissioners?

1 Issue 31.

2 MS. ROBERTS: Commissioners, Issue 31 concerns
3 whether an adjustment should be made to miscellaneous
4 service revenues.

5 CHAIRMAN CARTER: Questions on Issue 31,
6 Commissioners?

7 Hearing none, Issue 32.

8 MR. SPRINGER: I'm Michael Springer with the
9 Commission staff. Issue 32 relates to non-utility
10 income that should be moved below the line for
11 ratemaking purposes. Both OPC and AUF agree on this
12 issue.

13 CHAIRMAN CARTER: Any question on Issue 32,
14 Commissioners?

15 Hearing none, Issue 34.

16 MR. SPRINGER: Issue 34 concerns whether any
17 adjustments should be made to remove non-utility
18 expenses. Staff is amending this issue. This is
19 amended from the 24,012 to 2,695. The reason why we're
20 amending this recommendation is, the water and
21 wastewater leverage formula was not adopted, and so
22 shareholder service expenses -- those would normally be
23 compensated by the water and wastewater leverage
24 formula. Since we're not using the water and wastewater
25 leverage formula, the shareholder service expenses,

1 which are a jurisdiction amount of \$21,317, should be
2 allowed for recovery.

3 CHAIRMAN CARTER: Any questions,
4 Commissioners, on Issue 34?

5 Hearing none, Commissioner Edgar, you're
6 recognized for a motion.

7 COMMISSIONER EDGAR: Thank you, Mr. Chairman.
8 I move that we approve the staff recommendation on
9 Issues 29, 30, 31, 32, and 34, with the understanding
10 that the calculations on Issue 29 will be done in
11 keeping with our previous decisions, particularly on
12 Issue 28.

13 COMMISSIONER SKOP: Second.

14 CHAIRMAN CARTER: It has been moved and
15 properly seconded on Issues 29, 30, 31, 32, and 34.
16 Commissioners, any further discussion? Any debate? Any
17 questions? Hearing none, all those in favor let it be
18 known by the sign of aye.

19 (Simultaneous affirmative responses.)

20 CHAIRMAN CARTER: All those opposed, like
21 sign. Show it done.

22 Let's get staff together for our next
23 grouping, which will be Issues 36, 38 -- 36, 38, 39, 40,
24 and 41, I believe. Staff, you're recognized. Wait a
25 minute. Yes, 36 through 41. Wait a minute.

1 Thirty-six, 38, 39, 40, and 41. You're recognized.

2 MR. DEASON: Issue 36 concerns whether any
3 adjustment should be made to the utility's charges from
4 affiliates. Based on staff's review of the methodology
5 presented by OPC, staff believes that no adjustment is
6 necessary.

7 COMMISSIONER SKOP: Mr. Chair.

8 CHAIRMAN CARTER: Commissioner Argenziano and
9 then Commissioner Skop.

10 COMMISSIONER ARGENZIANO: Thank you. Why
11 aren't there economies of scale here if it's, you know,
12 such a large --

13 MR. DEASON: When reviewing the comparison
14 group that was presented by the Office of Public
15 Counsel, she -- Kim Dismukes basically took all the
16 Class A utilities other than Aqua Utilities. These
17 utilities are all single systems. If you view them on a
18 stand-alone basis, they're all interconnected. They're
19 all within one location. Aqua is different in the
20 aspect that they are a collection of 82 separate,
21 distinct systems, most of which, if you compared them on
22 a stand-alone basis, would be considered Class C
23 utilities. So in essence, she's comparing Class A
24 utilities with Class C utilities.

25 COMMISSIONER ARGENZIANO: You say that they're

1 all pretty close together. If they're spread apart, I
2 understand there may be more costs in getting chemicals
3 or whatever you have to get to different plants. But in
4 the purchase of those, aren't there economies of scale
5 in buying in larger numbers in a different way rather
6 than -- what I'm trying to find out is, if you have all
7 these systems, regardless of whether they're spread
8 apart or close together, aren't there still economies of
9 scale that are realized?

10 MR. FLETCHER: There would be in certain types
11 of expenses, like for chemicals, if you're purchasing --
12 you have a few of their systems together and you're
13 buying in bulk. But in this one, for most of their
14 systems, 61 systems of their 82 would be considered
15 Class Cs, and of those, you have a large amount of those
16 that were part of a former Florida Water Service system,
17 where we discussed here today that some of those systems
18 are high cost systems, and it's not just -- I mean, you
19 have to -- dealing with a plant like Beecher's Point,
20 for instance, you have only 15 customers there, but it's
21 a tremendously high cost system, and that's one of the
22 Class Cs, where if you take a comparison of the O&M
23 expense on a per ERC basis like OPC witness Dismukes
24 did, you will have a wide disparity among that and her
25 comparison group, and it's because they were being

1 subsidized before. And what we're left with now or the
2 ones that they purchased are the ones that were being
3 subsidized that are high cost, and that would give rise
4 to the difference.

5 COMMISSIONER ARGENZIANO: Okay. Thank you.

6 CHAIRMAN CARTER: Thank you. Commissioner
7 Skop.

8 COMMISSIONER SKOP: Thank you, Mr. Chairman.
9 Just a quick question with respect to the affiliate,
10 Aqua Services, Inc., ASI. I guess on page 110, staff
11 describes that AAI has a service company, ASI, which
12 provides AUF with the necessary services, including
13 accounting, engineering, customer service, et cetera,
14 et cetera, and those services that ASI provides to AUF
15 are billed at cost. Staff further concluded, I guess,
16 that the record indicated that the charges are
17 reasonable, necessary, and below market.

18 I guess a lot of concern was raised early on
19 about affiliate charges, and I just want to make sure
20 that the staff has scrutinized those. Anytime there is
21 an affiliate transaction, they have heightened scrutiny,
22 and it appears that staff has found those charges to be
23 reasonable. Is that a correct understanding based on
24 the recommendation?

25 MR. FLETCHER: Yes, Commissioners. We will

1 note that just for this issue, we're pulling apart the
2 basis of affiliate charges transactions based on that
3 comparison group. We actually have made a few
4 adjustments just for normalization in the pro forma, but
5 the core test year expenses, we relied, based on our
6 audit regarding the prudent period, classification,
7 whether it was non-utility, whether it was imprudent.
8 And there was a study there, a sampling by the auditors,
9 and there were no audit findings coming back, only with
10 regard to other issues. Issue 54, when we were dealing
11 with the pro forma affiliate charges, yes, we had some
12 adjustments there. But as far as test year, we had no
13 audit findings, and we relied on the audit.

14 COMMISSIONER SKOP: So just for the record,
15 there's nothing to suggest that on this issue that the
16 affiliate charges were unreasonable or imprudent?

17 MR. FLETCHER: No, Commissioner.

18 COMMISSIONER SKOP: Thank you.

19 CHAIRMAN CARTER: Thank you, Commissioners.

20 Anything further on Issue 36?

21 Issue 38.

22 MS. BILLINGSLEA: Commissioners, I'm Kristin
23 Billingslea with the Commission staff. Issue --

24 CHAIRMAN CARTER: Good afternoon.

25 MS. BILLINGSLEA: Hi. Issue 38 concerns

1 advertising expense adjustments.

2 CHAIRMAN CARTER: Commissioners, any questions
3 on Issue 38?

4 Issue 39.

5 MR. FLETCHER: Commissioners, on Issue 39,
6 staff is recommending a \$32,632 adjustment to remove
7 charges related to lobbying and acquisition efforts.

8 CHAIRMAN CARTER: Commissioners, any questions
9 on Issue 39?

10 Hearing none, Issue 40.

11 MR. FLETCHER: Commissioners, Issue 40 is
12 staff's recommendation to remove executive risk
13 insurance that amounts to \$8,164.

14 CHAIRMAN CARTER: That was for the board of
15 directors?

16 MR. FLETCHER: That was for the officers --

17 CHAIRMAN CARTER: Officers and directors?

18 MR. FLETCHER: Officers and directors.

19 CHAIRMAN CARTER: Commissioners, any questions
20 on --

21 COMMISSIONER ARGENZIANO: I have a question.

22 CHAIRMAN CARTER: You're recognized.

23 COMMISSIONER ARGENZIANO: If you could tell me
24 why OPC had the 12,000 and why that was not considered.

25 MR. FLETCHER: That 12,000 amount was for the

1 total company, and our adjustment of 8,164 is the
2 jurisdictional amount.

3 COMMISSIONER ARGENZIANO: Okay. Thank you.

4 CHAIRMAN CARTER: Thank you. Any further
5 questions on Issue 40?

6 Issue 41.

7 MR. DEASON: Issue 41 concerns whether any
8 adjustments should be made to contractual services -
9 other and contractual services - testing expenses.

10 CHAIRMAN CARTER: Commissioners, Issue 41, any
11 questions?

12 Hearing none, Commissioner Edgar, you're
13 recognized for a motion.

14 COMMISSIONER EDGAR: Thank you, Mr. Chairman.
15 I move the staff recommendation on Issues 36, 38, 39,
16 40, and 41.

17 COMMISSIONER SKOP: Second.

18 CHAIRMAN CARTER: It has been moved and
19 properly seconded. Commissioners, any questions? Any
20 further debate on those issues as delineated?

21 Hearing none, all those in favor let it be
22 known by the sign of aye.

23 (Simultaneous affirmative responses.)

24 CHAIRMAN CARTER: All those opposed, like
25 sign. Show it done.

1 Next, Commissioners, we're getting ready for
2 the group that begins with Issues 42, 43, 44, 45, and
3 46. I think that's five, or it's close to it. Staff,
4 you're recognized. Issue 42.

5 MS. CRAWFORD: Issue 42 concerns whether any
6 adjustments should be made to purchased power expenses.

7 CHAIRMAN CARTER: Good afternoon. Have you
8 been here before? Is this your first time? We usually
9 have our first ones. Just kidding, just kidding.

10 Commissioners, any further questions on Issue
11 42?

12 Okay. Issue 43.

13 MR. WRIGHT: Staff is recommending a reduction
14 to Sunny Hills' sludge hauling expense in the amount of
15 \$350.

16 CHAIRMAN CARTER: Could you hear? Did you --
17 okay. Any questions on Issue 43, Commissioners?

18 Issue 44.

19 MR. MOURING: Good afternoon Commissioners.
20 Curt Mouring, Commissioner staff. Issue 44 deals with
21 should any adjustments be made to maintenance expenses
22 and materials and supplies expenses.

23 CHAIRMAN CARTER: Any questions?

24 Hearing none, Issue 45.

25 MR. FLETCHER: Commissioners, Issue 45 deals

1 with should any adjustments be made to fuel for
2 purchased power production.

3 CHAIRMAN CARTER: Any questions,
4 Commissioners, on Issue 45?

5 Hearing none, Issue 46.

6 MR. DEASON: Issue 46 concerns whether any
7 adjustments should be made for chemical expenses.

8 CHAIRMAN CARTER: Commissioners, any
9 questions?

10 Hearing none, Commissioner Edgar, you're
11 recognized for a motion.

12 COMMISSIONER EDGAR: Mr. Chairman, I move
13 staff rec on Issues 42, 43, 44, 45, and 46.

14 COMMISSIONER SKOP: Second.

15 CHAIRMAN CARTER: It has been moved and
16 properly seconded. Any questions? Any debate? Hearing
17 none, all in favor let it be known by the sign of aye.

18 (Simultaneous affirmative responses.)

19 CHAIRMAN CARTER: All those opposed, like
20 sign. Show it done.

21 Staff, now we'll move to Issues 48, 49, 50,
22 51, 52 -- we'll go all the way to 53, because I think
23 you want to break off on 54, so let's do that. You're
24 recognized for Issue 48.

25 MR. WRIGHT: Issue 48, staff is recommending

1 that salaries and benefits be reduced by \$40,654 for
2 water, and \$54,347 for wastewater, with a corresponding
3 reduction in payroll taxes of \$3,110 for water and
4 \$4,158 for wastewater.

5 CHAIRMAN CARTER: Commissioner McMurrin,
6 you're recognized.

7 COMMISSIONER McMURRIAN: Thank you.
8 Mr. Wright, I had a question about the five meter
9 readers that would be, I guess, reassigned to other
10 work. And you end up making the adjustment for the five
11 meter readers because -- well, you say that the
12 contractual services expenses were not reduced. And I
13 guess my question -- and so this is the adjustment I
14 guess that you could make. But my question was, would a
15 reduction in the contractual expenses have been more or
16 had a bigger impact to the customer if you were able to
17 make the adjustment to the contractual expenses as
18 opposed to this employee expense here, or is it that we
19 just didn't have the information to do that? Does that
20 make sense?

21 MR. WRIGHT: Well, the way we looked at, we
22 wanted to recognize the savings, and the only way we
23 could do that is to make the adjustment.

24 COMMISSIONER McMURRIAN: Did we not have the
25 information with respect to the contractual expense

1 side? Is that why we make it with respect to the five
2 employees?

3 MR. WILLIS: That's the problem, Commissioner.
4 We did not have any information related to what
5 contractual services would be reduced. All we had was
6 the company saying that contractual services would be
7 reduced and these actual employees would take over that.
8 So in lieu of trying to figure out what we could do as
9 far as a reduction in contractual services, we decided
10 to reduce the salaries of these employees, which does
11 not mean these employees will go away. It just means --

12 COMMISSIONER McMURRIAN: Right.

13 MR. WILLIS: -- that there will be -- it will
14 recognize some reduction. As far as your question
15 whether contractual services would be more expensive,
16 normally they are. You don't have the labor overhead,
17 but normally the cost per hour is usually a little bit
18 higher.

19 COMMISSIONER McMURRIAN: So if we had had the
20 information to make an adjustment to contractual
21 services, it probably could have been a bigger
22 adjustment?

23 MR. WILLIS: In my opinion, it might be
24 slightly higher, yes.

25 COMMISSIONER McMURRIAN: That's unfortunate.

1 Anyway, thank you.

2 CHAIRMAN CARTER: Commissioners? Commissioner
3 Argenziano.

4 COMMISSIONER ARGENZIANO: Yes. I have a
5 question. There seems to be a discrepancy on OPC's
6 numbers of 300,521 -- let's see, and then affiliate --
7 well, that's affiliate charges. It doesn't add up to
8 300,521. And why is there such a large discrepancy or
9 difference between staff? And then if you look at the
10 numbers on page 137, quickly adding, it doesn't come up
11 to 300,000. I was wondering what that was about.

12 MR. WRIGHT: I think if I recall, their --
13 well, I'm not sure. I think their amount included --
14 I'll have to get back on that one.

15 COMMISSIONER ARGENZIANO: Okay.

16 CHAIRMAN CARTER: Just take a minute.

17 (Pause in the proceedings.)

18 CHAIRMAN CARTER: Let's just take five.

19 (Short recess.)

20 CHAIRMAN CARTER: We are back on the record,
21 and when we last left, staff, you had a question
22 presented to you on Issue 48. You are recognized.

23 MR. FLETCHER: Yes, Commissioners. To explain
24 the difference between OPC's recommended adjustment, the
25 difference lies in, she -- witness Dismukes removed the

1 total salaries of the employees, one on Carl Smith and
2 Kropilak, and that is the majority of the difference.
3 That difference is 175,000 there. And then also, it's
4 just -- on the remainder adjustments, there was also
5 inclusion of the entire amount for the company, not just
6 the jurisdictional that would make up that difference.

7 COMMISSIONER ARGENZIANO: So -- excuse me. I
8 have one of those tickles when you start to talk. That
9 may stop my question. So then you have -- well, not
10 here, but you have, as I asked earlier, addressed all of
11 OPC's objections?

12 MR. FLETCHER: Yes, Commissioner.

13 COMMISSIONER ARGENZIANO: Not in the
14 recommendation here.

15 MR. FLETCHER: We have addressed them. For
16 this point, she was -- we were using just the
17 jurisdictional amount to make our adjustments to their
18 total salaries, and with also the contractual operators
19 and the meter readers. All the adjustments in here, we
20 were reflecting it based on a jurisdictional amount to
21 come up with an appropriate adjustment for the expenses.
22 And in OPC's position, she was relaying it on a total
23 company basis, not solely the jurisdictional amount, so
24 that would explain the difference.

25 But we have addressed her concerns regarding

1 each of her points, regarding the corporate development
2 acquisitions, the meter readers, the South Seas
3 operators, and the stipulated adjustment for the prior
4 period adjustments. We did address all of her concerns
5 regarding 48. It's just the position just is relayed in
6 the total number rather than a jurisdictional amount.

7 COMMISSIONER ARGENZIANO: Thank you.

8 CHAIRMAN CARTER: Thank you, Commissioners.

9 Anything further on Issue 48?

10 Issue 49.

11 MR. FLETCHER: Commissioners, Issue 49 relates
12 to any adjustments to miscellaneous expenses.

13 CHAIRMAN CARTER: Any questions on Issue 49?

14 Hearing none, Issue 50.

15 MR. FLETCHER: Commissioners, Issue 50 relates
16 to staff's recommended level of bad debt expense for the
17 utility's water and wastewater systems.

18 CHAIRMAN CARTER: Questions on bad debt
19 expense, Issue 50, Commissioners?

20 Hearing none, Issue 51.

21 MR. SPRINGER: Issue 51 concerns adjustments
22 for unamortized debt issuance costs.

23 CHAIRMAN CARTER: Any questions,
24 Commissioners?

25 Hearing none, Issue 52.

1 MR. MOURING: Curt Mouring, Commission staff.
2 Issue 52 addresses what's the appropriate amount of rate
3 case expense.

4 CHAIRMAN CARTER: Any questions on Issue 52,
5 Commissioners? Commissioner McMurrian, you're
6 recognized.

7 COMMISSIONER McMURRIAN: Thank you. I had
8 several little places in here, similar to Commissioner
9 Argenziano's question on the last one, where I just
10 couldn't make some of the numbers match up, or just
11 wanted to know why it was different than what OPC had
12 pointed out, because sometimes it would be that you
13 would make the adjustment for similar reasons, but the
14 numbers wouldn't match. And I just -- I circled a few
15 of them. Let's see if I can find them here.

16 For instance, on the Lake Suzy adjustment, for
17 instance, costs associated with Lake Suzy totaling
18 approximately 21 1/2 hours -- this is on page 148 --
19 resulting in 6,224 that should be removed from rate case
20 expense. And I noted that OPC had suggested 10,785.

21 And there was one with respect to -- there was
22 a \$608 earlier, and OPC had recommended 3,565. There
23 are several in here, but I just wanted to make sure I
24 understood what was the difference. But maybe I'll just
25 take Lake Suzy, for instance.

1 MR. MOURING: I think the difference there is
2 in the methodology. I'm not sure exactly what
3 methodology OPC used. But what I would do is, say, on
4 the invoice from the law firm, there would be five
5 activities listed and then just a total amount of hours
6 billed. I would take one-fifth. Say one of the
7 activities was pertaining to Lake Suzy. I would take
8 one-fifth and disallow that. And that would typically
9 result in a different adjustment other than what OPC had
10 suggested.

11 COMMISSIONER McMURRIAN: Okay. And that would
12 be similar -- let's see. A little bit later down in
13 that same paragraph, it talked about Holland & Knight
14 included four hours for matters pertaining to annual
15 establishment of ROE for water and wastewater utilities,
16 and that resulted in 1,341, and OPC's was 2,353.

17 So you're just saying it's because of -- there
18 was essentially one expense reported by the utility, and
19 you just took like a fifth of it?

20 MR. MOURING: Yes. There was no detailed
21 breakdown on those invoices necessarily as to how much
22 time was spent for each individual activity.

23 COMMISSIONER McMURRIAN: And so what was the
24 basis for the fifth, then? Why one-fifth?

25 MR. MOURING: If there had been five

1 activities listed with one dollar amount and one total
2 hours billed, I would take one-fifth of that and remove
3 it.

4 COMMISSIONER McMURRIAN: Okay. I guess I'm
5 not going to be able to get that straight. I guess what
6 I would ask in the future maybe -- and I know that rate
7 case expense always has so many issues built into it,
8 really, it's major -- is that perhaps there's some way
9 to better show what the utility is asking for for a
10 certain expense.

11 And frankly, if they don't provide the
12 information to justify the expense, we shouldn't allow
13 the expense. But maybe some kind of better comparison
14 of here's what they've asked for -- and you've got a
15 little bit of this in here, where you have the chart and
16 the staff analysis, and you show some of the
17 adjustments. But perhaps it should also show what the
18 intervenors' positions are and then explain in the
19 analysis why your number doesn't match up really with
20 that, especially when it seems like you're making the
21 same adjustment. I don't really -- it's hard for me to
22 follow.

23 MR. MOURING: With several of the adjustments,
24 I was able to see, and it seemed like they had taken a
25 similar approach. But for some of them, I just -- I was

1 not sure how they came up with their adjustment at all,
2 and there was no clear indication on the invoice as to
3 how much time was billed to each particular activity.

4 COMMISSIONER McMURRIAN: Okay. I understand
5 what you're saying, and it does look like staff came up
6 with a good number of adjustments based on the things
7 that OPC and that you all found with the auditors' help
8 and such, and if they weren't supported, it looks like
9 you have recommended to remove those. Just again for
10 the future, I think it might help if it's more -- at
11 least for me, without having to dig through all the
12 supporting schedules and trying to figure it out,
13 exactly what those differences are.

14 And then I guess the main difference between
15 staff's number and OPC's number is, OPC has suggested
16 cutting the amount in half; is that right?

17 MR. MOURING: Yes.

18 COMMISSIONER McMURRIAN: So that's probably
19 the largest --

20 MR. MOURING: Yes.

21 MR. FLETCHER: That's correct.

22 COMMISSIONER McMURRIAN: I think that's all,
23 Mr. Chairman.

24 CHAIRMAN CARTER: Okay. Commissioners,
25 anything further on Issue 52?

1 Hearing none, Issue 53.

2 MS. ROBERTS: Commissioners, Issue 53 concerns
3 the utility's normalization adjustments.

4 CHAIRMAN CARTER: Commissioners, any questions
5 on Issue 53?

6 Hearing none, Commissioner Edgar, you're
7 recognized for a motion.

8 COMMISSIONER EDGAR: Mr. Chairman, motion in
9 favor of the staff recommendation for Issues 48, 49, 50,
10 51, 52, and 53.

11 COMMISSIONER SKOP: Second.

12 CHAIRMAN CARTER: It has been moved and
13 properly seconded. Are there any questions? Any
14 debate? Any concern?

15 Hearing none, all those in favor let it be
16 known by the sign of aye.

17 (Simultaneous affirmative responses.)

18 CHAIRMAN CARTER: All those opposed, like
19 sign. Show it done.

20 The next group of issues will be 54, 55, 57,
21 58, and 59. Staff, you're recognized.

22 MS. HUDSON: Commissioners, Issue 54 concerns
23 whether an adjustment should be made to the utility's
24 pro forma expenses. Staff is recommending that the
25 pro forma expenses be reduced by \$394,627.

1 CHAIRMAN CARTER: Okay. Commissioners, any
2 questions on Issue 54?

3 Hearing none, Issue 55.

4 MS. CRAWFORD: Issue 55 concerns whether any
5 adjustments should be made to test year depreciation
6 expenses.

7 CHAIRMAN CARTER: Any questions, Issue 55?
8 Issue 57.

9 MR. DEASON: Issue 57 concerns whether any
10 adjustments should be made to property taxes. Based on
11 staff's review, staff believes that the utility's
12 property taxes should be decreased by \$33,570 for water
13 and \$11,339 for wastewater.

14 CHAIRMAN CARTER: Commissioners, any questions
15 on Issue 57?

16 Hearing none, Issue 58.

17 MS. BILLINGSLEA: Commissioners, Issue 58
18 concerns the test year pre-repression water and
19 wastewater operating income or loss prior to any revenue
20 increase.

21 MR. FLETCHER: And, Commissioners, I wanted to
22 point out that based on your vote on Issue 34 on a
23 previous vote on the shareholder expenses, that this
24 will be a fallout. This will have to be modified to
25 reflect --

1 CHAIRMAN CARTER: Okay. Okay. That will be
2 fine, as you would normally do the math on that.

3 Commissioners, anything further on Issue 58?
4 Issue 59.

5 MR. FLETCHER: Commissioners, Issue 59
6 addresses the appropriate pre-repression revenue
7 requirement. And again, it will be a fallout of your
8 previous vote on the shareholder expenses to add them
9 back, and also your vote on the return on equity.

10 CHAIRMAN CARTER: Okay. Any questions?
11 Issue 60.

12 COMMISSIONER EDGAR: That's five.

13 CHAIRMAN CARTER: Oh, did I skip one? Did I
14 go -- wait a minute. One, two, three, four, five.

15 COMMISSIONER EDGAR: Whatever is your
16 pleasure.

17 CHAIRMAN CARTER: There's no 56, so I -- 55,
18 57, 58, 59, and 60. Sixty.

19 MS. LINGO: Good afternoon, Commissioners.
20 I'm Jennie Lingo with the Commission staff.
21 Commissioners, Item 60 deals with the appropriate
22 repression methodology. In an effort to balance the
23 competing concerns that were expressed during the
24 hearing regarding full revenue recovery on the one hand
25 versus affordability on the other hand, we're requesting

1 that you approve a repression adjustment factor of
2 negative .3.

3 CHAIRMAN CARTER: Commissioners, any
4 questions?

5 Hearing none, Commissioner Edgar, you're
6 recognized for a motion.

7 COMMISSIONER EDGAR: Thank you, Mr. Chairman.
8 I can make a motion in favor of the staff recommendation
9 for 54, 55, 57, 58, 59, and 60, with one exception. I
10 did not have any questions, but on 54, I do move an
11 exception to the staff recommendation, and that would be
12 to not make the adjustment to the pro forma expense for
13 the rate manager salary position and related expenses,
14 rent and anything else that goes with it, and this is my
15 reasoning.

16 My recollection, when we had the -- the first
17 filing that was later withdrawn, as that moved through
18 our process, we did have some meetings out in the
19 territories. We heard from customers. We did have some
20 discussion here in this room at an agenda duly noticed,
21 and my recollection of some of that discussion was that
22 there was concern expressed by customers, and also I
23 believe by me, and I think from some of the other
24 Commissioners, although I haven't gone back to the
25 transcript to identify who. But my memory is that we

1 expressed some concern about testimony that we had
2 relating to some inexperience and some, my words, lack
3 of knowledge of specific Florida rules and statutes and
4 that that may have contributed, realizing that Aqua is a
5 national company with systems in many, many other states
6 and had relatively recently purchased many of these
7 systems, that that lack of experience with Florida's
8 specific requirements may have contributed to some of
9 the confusion and some concerns with that initial rate
10 filing.

11 At that point in time, I think we expressed
12 collectively some direction to Aqua to familiarize
13 themselves, and I say that in a positive way, with
14 Florida's specific requirements, realizing that we have
15 some water issues that are specific to this state and
16 that our rules and statutes address that.

17 And because of that experience and that
18 direction, I think it is appropriate to include a
19 Florida-specific, Tallahassee-located position with
20 expertise on these issues as described in the evidence
21 that we had during hearing within the allowed expense,
22 and that is my notion.

23 CHAIRMAN CARTER: Commissioner McMurrin for a
24 question.

25 COMMISSIONER McMURRIAN: I just wanted to --

1 something Commissioner Edgar said about the Tallahassee
2 base, was that included in -- I'm just looking at
3 everyone. I'm looking back through my recommendation on
4 that. Is it intended to be a Tallahassee-based person,
5 or is that --

6 COMMISSIONER EDGAR: Well, I was taking that
7 just from the office rent, and my understanding is that
8 particular office rent happens to be in Tallahassee. It
9 wouldn't in my mind necessarily need to be. I wouldn't
10 go that far to be that prescriptive personally, but I
11 think the evidence put forth that, at this time anyway,
12 it is.

13 COMMISSIONER McMURRIAN: Okay. Thank you. I
14 just wanted that clarification.

15 CHAIRMAN CARTER: Commissioner Skop.

16 COMMISSIONER SKOP: Thank you, Mr. Chairman.
17 I guess a question to staff on this issue, given the
18 dispersed territories throughout the state and that you
19 have 81 separate water and wastewater systems, if my
20 math is correct -- and correct me if I'm wrong. But
21 would that justify additional workload to the extent
22 that you're trying to manage the rates for so many
23 systems? I mean, is one person able to handle all the
24 regulatory filings associated with that? I know that
25 we've been inundated with paperwork, and I pull my hair

1 out, and I'm sure staff does too, trying to figure this
2 all out. But I'm just trying to do what's fair, so I
3 would like to hear from staff on that.

4 MR. FLETCHER: Well, with regard to the rate
5 manager's duties and responsibilities, one was filing
6 indexes and pass-throughs, which is associated with
7 rates. And we had looked at the increase/decrease
8 reports for Aqua, and they have regularly filed. Before
9 this position was created, they had regularly filed and
10 had been approved for indexes and pass-throughs.

11 And also, with the duties and responsibilities
12 associated with the accounting and making sure like the
13 annual reports and the accounting, the position of the
14 controller had been vacant for, I believe, a year and a
15 half, and in the recommended pro -- or requested
16 pro forma expenses, they had a position for a controller
17 as well, and staff has made no adjustments.

18 We just feel that it is duplicative based on
19 the primary functions, based on the evidence that was
20 presented, that this position was duplicative based on
21 the primary functions with the other positions,
22 including the area customer service representative for
23 their Leesburg office to oversee customer complaints,
24 which was another primary function of the rates manager.

25 COMMISSIONER SKOP: So just as a follow-up,

1 then, if I heard you correctly, because the staff has
2 included the position of controller in the rate base,
3 therefore, a rate manager would be duplicative of that
4 function?

5 MR. FLETCHER: Yes. It would be duplicative
6 of the functions of the controller and also the new
7 customer service area manager.

8 COMMISSIONER SKOP: Okay. And just one more
9 quick question. I noticed on page 165, and again,
10 trying to just do what's fair, but it says under
11 controller that AUF included a pro forma adjustment of
12 \$49,385 to reflect a salary for its controller position.
13 And on the rate manager position, it was, I believe, a
14 higher salary of -- let me flip back to that page. I'm
15 trying to find it. It's all blending together.

16 COMMISSIONER EDGAR: It's page 163, first line
17 under the heading.

18 COMMISSIONER SKOP: Thank you. \$62,555. If
19 the controller -- you know, if the rate manager is
20 redundant to the controller, then wouldn't it be
21 appropriate to adjust the controller to a higher salary
22 and incorporate that as the appropriate adjustment, 165
23 versus 163?

24 MR. FLETCHER: That would be a difference
25 between the controller's function, but then you also had

1 the hiring of the new position for the customer service
2 area manager, and both of those positions that we're
3 recommending no adjustment on would be greater than the
4 jurisdictional amount of the rates manager.

5 COMMISSIONER SKOP: Okay. And I'm not trying
6 to make this any more complicated than it needs to be,
7 but it seems to me that if staff is including the
8 function of controller within the rate base and the
9 controller's function encompasses a rate manager
10 function, then I guess I'm having trouble understanding
11 why the controller's salary that's included in the rate
12 base should be lower than the rate manager's, at a
13 minimum. Assuming we adopt staff's position that it is
14 redundant, then why not the higher salary for somebody
15 that has enhanced responsibilities?

16 MR. FLETCHER: Well, that was one of the
17 primary functions of the rate manager, was to deal with
18 the accounting, and then that associated with the
19 controller. But also, another primary function was the
20 customer inquiries, and we recommended no adjustment to
21 the utility's requested *pro forma* expense for the new
22 area manager as well at the Leesburg office. Now, both
23 the controller and the new area manager, their total
24 jurisdictional salary is greater than the rate manager's
25 salary, so it's duplicative, and we were recommending

1 removing it entirely.

2 COMMISSIONER SKOP: Thank you.

3 CHAIRMAN CARTER: Thank you. Commissioners,
4 we have a motion on the floor. Any further questions?
5 Hearing none, is there a second?

6 COMMISSIONER ARGENZIANO: Second.

7 CHAIRMAN CARTER: It had been moved and
8 properly seconded. Is there any further debate? Any
9 further questions? Any further comments?

10 Hearing none, all those in favor let it be
11 known by the sign of aye.

12 (Simultaneous affirmative responses.)

13 CHAIRMAN CARTER: All those opposed, like
14 sign. Show it done.

15 Commissioners, now we move into this group,
16 61, 62 -- this should be easy. Well, no. I started to
17 say it was going to be easy to get the five. Sixty-one,
18 62, 63, 68, and 69. Staff, you're recognized.

19 MS. LINGO: Thank you, Chairman Carter.
20 Commissioners, Item 61 deals with the recommended
21 subsidy and affordability limits. Commissioners, we are
22 recommending for a subsidy limit \$5.89 for each water
23 and each wastewater bill, that that be considered
24 appropriate.

25 That was based on witness Stallcup's

1 testimony. He was actually the only witness to put
2 forth any testimony regarding an appropriate value
3 anyone was recommending. His testimony was based on
4 prior Commission decisions that had been approved
5 regarding subsidy limits, and he had indexed those
6 forward. We believe those are appropriate and that you
7 should approve that.

8 Commissioners, we're recommending
9 affordability limits for water of \$65.25, and for the
10 wastewater systems, \$82.25. We arrived at these
11 affordability limits based on the affordability table
12 that we created on page 183 to try to wrap our brain
13 around some level of reasonable affordability. And
14 we're certainly able to answer any questions you might
15 have on that table.

16 But in the interest of moving forward, with
17 respect to the rate consolidation issue, with specific
18 regard to trying to get, in particular, the wastewater
19 rates into some affordable realm -- and that certainly
20 has been a concern that all of you have expressed today.
21 Witness Stallcup both during his deposition and while he
22 was on the stand, he put forth a rate consolidation
23 methodology whereby you would actually reallocate a
24 portion of the wastewater revenue requirements to the
25 water system.

1 Now, Commissioners, this represents a
2 departure from Commission rate setting methodology, and
3 it's for that reason we are requesting your explicit
4 permission to consider that methodology in our rate
5 calculations. And our rate calculations will be brought
6 to you for the March 17th agenda. And frankly, any
7 additional tool we can have in our toolbox to try to
8 address affordability, especially on the wastewater
9 side, would be greatly appreciated.

10 CHAIRMAN CARTER: You're just asking for this
11 just to have another example to present to us?

12 MS. LINGO: Yes, sir, that's correct. And
13 we're certainly not saying *a priori* that that will be
14 what we ultimately recommend.

15 Another thing to consider about this
16 methodology is that it can be used with any of the other
17 rate structure methodologies that are in the record, so
18 you could actually layer this methodology with another
19 methodology. And again, we're not suggesting by any
20 means that it's the silver bullet, but in order for us
21 to present what we believe would be the most
22 comprehensive set of rates and examples for you to vote
23 on on the March 17th agenda, we're asking for your
24 approval.

25 CHAIRMAN CARTER: Commissioners, any

1 questions? First Commissioner Argenziano, then
2 Commissioner McMurrian. Commissioner Argenziano, you're
3 recognized.

4 COMMISSIONER ARGENZIANO: Thank you. Going
5 over the numbers again, am I correct, if I'm looking at
6 the right ones now, that you're saying that if uniform
7 rates are adopted, then the cap would be a person's --
8 let's see. A monthly bill for water would be no higher
9 than \$73.52? Or am I on the wrong page? \$62.25?

10 MS. LINGO: We are recommending that that be
11 set as the affordability limit for water, yes, ma'am,
12 and for wastewater that it be 82.25.

13 COMMISSIONER ARGENZIANO: So that if a person
14 has a bill now of \$30, it would be 65, and respectively
15 82.25, but if a person has a higher bill, it would come
16 down to this number and no higher than this.

17 MS. LINGO: Well, what we're saying is,
18 regardless of what their bill may be now, once we go
19 through the process of the different rate consolidation
20 methodologies, it's our goal that no one's water bill
21 exceed the 62.25, and no one's wastewater bill exceed
22 the 82.25.

23 COMMISSIONER ARGENZIANO: Okay. And would
24 that be based on regardless of how much water you use?

25 MS. LINGO: No, ma'am. That would be based on

1 7,000 gallons of usage. And we selected 7,000 gallons
2 because 7,000 gallons of water represents average water
3 usage for the utility overall, system-wide.

4 COMMISSIONER ARGENZIANO: I remember that
5 discussion from way back when. So just so I get it
6 right, that's if we do move with the uniform rates at a
7 later date? This is only contingent upon that?

8 MS. LINGO: I apologize.

9 COMMISSIONER ARGENZIANO: It's not for
10 stand-alone rates. It's for if we decide, if this
11 Commission decides to go with uniform rates or
12 consolidated rates.

13 MS. LINGO: Well, whichever rate consolidation
14 methodology you sign off on on the March 17th agenda.

15 COMMISSIONER ARGENZIANO: But we may not.
16 That's my point.

17 MS. LINGO: Well, we're going to bring forward
18 a menu of --

19 COMMISSIONER ARGENZIANO: I think --

20 COMMISSIONER McMURRIAN: Can I try?

21 CHAIRMAN CARTER: Commissioner McMurrrian.

22 COMMISSIONER McMURRIAN: I think what
23 Commissioner Argenziano is saying, we're definitely not
24 approving any kind of uniform rate structure now.

25 MS. LINGO: That is correct.

1 COMMISSIONER McMURRIAN: But I think what
2 Ms. Lingo is trying to say is that regardless of what
3 rate structure we put in place, the 65.25 for water and
4 82.25 for wastewater would be the limit, so you might
5 have customers that might pay less than that.

6 MS. LINGO: Yes, ma'am.

7 COMMISSIONER McMURRIAN: But no one would pay
8 more than that, no matter what we approve.

9 MS. LINGO: Commissioner, I apologize if I --
10 I apparently did not articulate that well, so I
11 apologize.

12 COMMISSIONER ARGENZIANO: Okay. It could have
13 been me who didn't articulate well.

14 MS. LINGO: Commissioner McMurrrian, thank you
15 for clearing that up. Thank you.

16 COMMISSIONER McMURRIAN: I hope I got it
17 right.

18 COMMISSIONER ARGENZIANO: I just wanted to
19 know specifically on the gallonage too, so thank you.

20 CHAIRMAN CARTER: Commissioner McMurrrian.

21 COMMISSIONER McMURRIAN: Thank you. My
22 question, Ms. Lingo, is about witness Stallcup's
23 testimony, and his limits were 73.52 for water and 91.90
24 for wastewater. I follow what you did on the chart to
25 get to your 65 and 82. Can you remind me what was

1 Paul's based on? Was it a similar analysis? What's the
2 difference between what he came up with -- and I notice
3 his subsidy is still one penny off.

4 MS. LINGO: Based on prior decisions,
5 Mr. Stallcup took prior approved decisions regarding
6 those values and indexed them forward, much like he did
7 with the subsidy value.

8 I was -- again, because I just had a hard time
9 getting my hands around what affordability is, because
10 it differs from one person to another, that's why it
11 occurred to me, well, if I show you what decisions you
12 have rendered and the resulting rates and bills that
13 came from those decisions over the last five years, I
14 thought that would be a good starting place, you know,
15 at least for discussion.

16 So that's where the difference is. He had
17 past Commission decisions indexed forward for
18 Mr. Stallcup, and I'm suggesting in the affordability
19 table that you may instead want to consider Commission
20 decisions over the past five years.

21 COMMISSIONER McMURRIAN: Okay. But if we were
22 to use Paul's 91.90, for instance, on the wastewater
23 side, that would -- and say that that's the
24 affordability limit, which I can't even believe I'm
25 saying that. But anyway, if we were to use the 91.90

1 instead, I guess that would decrease the amount of
2 subsidy necessary. Would it also alleviate the problem
3 that you're trying to get our approval to look at, where
4 you might be using water rates to subsidize wastewater
5 rates?

6 MS. LINGO: Well, Commissioner, to the extent
7 you increase your affordability limit, that will enable
8 us to, all things being equal, reduce the number of
9 groupings, and it would frankly give us a little more
10 running room in terms of, you know, how many groups we
11 end up having. And if that's your pleasure,
12 Commissioners --

13 COMMISSIONER McMURRIAN: I don't know. I
14 mainly wanted to make sure I understood it. I mean,
15 there's no way to get comfortable with --

16 MS. LINGO: No, ma'am, there's not.

17 COMMISSIONER McMURRIAN: -- any of these
18 affordability numbers, quite frankly.

19 MS. LINGO: No, ma'am, there's not, and that
20 was the nexus for the affordability table. But again,
21 that was created mainly as a jumping off point for your
22 discussion.

23 COMMISSIONER McMURRIAN: Okay. Thank you.

24 CHAIRMAN CARTER: Commissioner Skop.

25 COMMISSIONER SKOP: Thank you, Mr. Chairman.

1 With respect to the affordability values, again,
2 affordability is a key concern, and there are no good
3 answers, so I'm looking for options, and anything staff
4 can do to facilitate bringing as many options before the
5 Commission I think is a good thing.

6 I just wanted to ask on something that
7 Commissioner McMurrin touched upon. To the extent that
8 there are systems that only provide water function, not
9 water and wastewater -- there are customers that only
10 take water in some areas. If we were to look into the
11 direction of using wastewater or subsidizing, vice
12 versa, by increasing the water in some areas, customers
13 that only take water, would there be any legal barriers
14 to doing that that staff is aware of, to the extent that
15 some could view it as discriminatory ratemaking if they
16 only take water, but they're subsidizing wastewater?

17 MS. FLEMING: Yes, Commissioner. When we were
18 looking at this issue, that's something that we did
19 consider. What we struggled with is, as Ms. Lingo has
20 stated, the affordability. And we're looking at bills
21 for wastewater alone in the \$390 range. We looked at
22 the Commission statute, and the Commission is charged
23 with setting rates that are just, reasonable,
24 compensatory, and not unduly discriminatory. We did not
25 see anything in the statute that explicitly prohibited

1 subsidizing -- using the wastewater revenues to
2 subsidize the water revenues.

3 We're merely in this instance asking for
4 permission to be able to run this analysis. It may not
5 be the ultimate recommendation that staff makes at this
6 point. But with respect to legal authority, there's
7 nothing in the statute that explicitly prohibits this.

8 COMMISSIONER SKOP: Okay. Thank you. And I
9 think it's good to have as many options as possible,
10 given the numbers we're looking at. Thank you.

11 CHAIRMAN CARTER: Thank you. Anything
12 further, Commissioners, on Issue 61?

13 Issue 62.

14 MS. LINGO: Commissioners, Item 62 deals with
15 whether or not it's appropriate to consider subsidy
16 limits based on stand-alone rate structures, and staff
17 recommends that it is appropriate to use a stand-alone
18 rate structure as the beginning point to calculate
19 subsidies.

20 CHAIRMAN CARTER: Okay. And that kind of ties
21 in to what Ms. Fleming just said in terms of giving us
22 pretty much all the options as well as looking at it
23 from a legal standpoint, that we do have the legal
24 perspective to do that.

25 Commissioners, any further questions on Issue

1 62?

2 Issue 63.

3 MS. LINGO: Commissioners, Item 63 deals with
4 the appropriate rate structures for the utility's water
5 and wastewater systems. Commissioners, we actually
6 broke this issue up into two separate parts. The first
7 portion of the issue deals with the utility's request
8 for a statewide uniform rate and a single cost of
9 service.

10 Witness Smeltzer had testified regarding
11 accounting and operational efficiencies that would
12 result if the utility was allowed to move to a statewide
13 rate structure and a single cost of service, and he said
14 that -- also testified that all these efficiencies would
15 probably result in reduced utility time that would be
16 spent in that regard. But when he was asked whether or
17 not there would be cost savings and whether or not the
18 utility had quantified any cost savings, he said, "Well,
19 no, that's not likely."

20 Commissioners, we very strongly believe that
21 to the extent the efficiencies exist, that there would
22 be cost savings that would result and that those cost
23 savings should absolutely flow through to the benefit of
24 the utility's ratepayers. So we don't believe that the
25 utility has met its burden regarding proving up its

1 single cost of service request.

2 Witness Smeltzer also said that because no one
3 had provided another position or had rebutted the
4 utility's position regarding single cost of service that
5 that should be taken into consideration. Commissioners,
6 the burden is not on an opposing party to disprove the
7 utility's request. It's up to the utility to prove up
8 its request.

9 And certainly given the fact that the utility
10 has not seen -- found it appropriate to make any sort of
11 quantification regarding cost savings, when -- in
12 getting ready for today's agenda, I looked at Exhibit
13 85, which is the utility's pro forma expense adjustment
14 exhibit. The utility saw fit to make an adjustment in
15 its favor of just \$271 as one of the adjustments on that
16 schedule, yet the utility did not find it necessary to
17 quantify any of the economies or cost savings that would
18 result from going to a single cost of service. And
19 that's another reason why we believe that they have not
20 met their burden. And because of that, Commissioners,
21 we're requesting that their request be denied.

22 Now, with regard to the specific design of the
23 rate structures, the utility has requested a two-tier
24 inclining block rate structure with blocks at zero to
25 five, five and over. Staff witness Stallcup has put

1 forth a three-tier inclining block rate structure which
2 staff is recommending is appropriate, given not only the
3 consumption patterns of the utility's customers, but
4 also testimony from the water management districts
5 regarding Priority Water Resource Caution Areas. So
6 we're recommending that witness Stallcup's methodology
7 of three-tier inclining block with blocks of zero to
8 five, five to ten, and ten and over be approved.

9 CHAIRMAN CARTER: That made so much sense to
10 me, because, really, when you had the two-tier, you can
11 go from the second tier up to 100,000 gallons, and it
12 would still be the same amount. So that just made so
13 much sense. This is what I call a common sense rule
14 here.

15 Commissioners, any questions on 63?

16 Okay. Sixty-eight.

17 MR. DEASON: Issue 68 concerns whether the
18 utility should be authorized to revise its miscellaneous
19 service charges. Based on staff's review, the utility
20 should be authorized to revise its miscellaneous service
21 charges because the increased charges are cost-based,
22 reasonable, and consistent with the fees the Commission
23 has approved for other utilities.

24 CHAIRMAN CARTER: Questions?

25 Hearing none, Issue 69.

1 MR. FLETCHER: Commissioners, Issue 69 is
2 staff's recommendation regarding interim refunds. And
3 at the beginning of the agenda, we had the oral
4 modification for this. With that modification, there's
5 only three stand-alone systems that we believe deserve
6 an interim refund.

7 CHAIRMAN CARTER: I need to hit my microphone.
8 Any questions on Issue 69?

9 Hearing none, Commissioner Edgar, you're
10 recognized for a motion.

11 COMMISSIONER EDGAR: Thank you, Mr. Chairman.
12 I move approval of the staff recommendation on Issues
13 61, 62, 63, 68, and 69 as modified.

14 COMMISSIONER SKOP: Second.

15 CHAIRMAN CARTER: It has been moved and
16 properly seconded. Commissioners, any questions, any
17 debate, any concerns?

18 Hearing none, all those in favor let it be
19 known by the sign of aye.

20 (Simultaneous affirmative responses.)

21 CHAIRMAN CARTER: All those opposed, like
22 sign. Show it done.

23 Staff, now we're on Issue 71.

24 MS. HUDSON: Commissioners, Issue 71 relates
25 to the utility's requested service availability charges.

1 Staff is recommending that those charges be approved.

2 CHAIRMAN CARTER: Any questions on Issue 71?
3 Issue 72.

4 MS. BILLINGSLEA: Commissioners, Issue 72 is
5 regarding the charge for AFPI charges, allowance for
6 funds prudently invested. Staff recommends that the
7 utility should be authorized to charge AFPI charges as
8 shown on Schedule 5.

9 CHAIRMAN CARTER: Any questions on Issue 72?
10 Issue 73.

11 MR. FLETCHER: Commissioners, Issue 73, staff
12 is recommending the appropriate regulatory asset for the
13 utility's water and wastewater systems.

14 CHAIRMAN CARTER: Any questions on Issue 73,
15 Commissioners?

16 Before we go to issue 76, let's just take 71,
17 72, and 73 as a group. Commissioner Edgar, you're
18 recognized for a motion.

19 COMMISSIONER EDGAR: Thank you, Mr. Chairman,
20 I move staff recommendation for Issues 71, 72 as
21 modified, and 73 as modified.

22 COMMISSIONER SKOP: Second.

23 CHAIRMAN CARTER: It has been moved and
24 properly seconded. Are there any questions, any debate,
25 any concern?

1 Hearing none, all those in favor let it be
2 known by the sign of aye.

3 (Simultaneous affirmative responses.)

4 CHAIRMAN CARTER: All those opposed, like
5 sign.

6 Commissioner Skop, you're recognized.

7 COMMISSIONER SKOP: Thank you, Mr. Chairman.
8 I hate to beat a dead horse, and no disrespect to
9 Commissioner Argenziano.

10 CHAIRMAN CARTER: That's illegal.

11 COMMISSIONER SKOP: But I would like to
12 request that the Commission --

13 COMMISSIONER ARGENZIANO: I'm a dead horse?

14 COMMISSIONER SKOP: No, not to beat a -- I
15 would respectfully move to reconsider Issue 28, not to
16 change the result, but the manner which the Commission
17 arrived at its decision for the result. In my legal
18 judgment, I'm concerned about that surviving appellate
19 review. And again, I think, again, not to beat the dead
20 horse, but if we were to establish the appropriate ROE
21 at 10.25, apply a system-wide reduction of 59 basis
22 points, which would be comprised of a 25-basis point
23 reduction for billing issues and 25 basis points for
24 customer service quality issues, that would result in an
25 adjusted system ROE of 9.75, which is the exact ROE that

1 has been previously adopted, then apply a further
2 reduction for unsatisfactory water quality of 100 basis
3 points for Chuluota and The Woods systems, which would
4 take them to the 8.75, I really -- again, my legal
5 judgment, as I think expressed by a second Commissioner,
6 again, I think that that's probably a better way to go
7 about it. But again, not to be disrespectful, just to
8 express concerns that are solely founded on legal
9 principles.

10 CHAIRMAN CARTER: Commissioner Argenziano.

11 COMMISSIONER ARGENZIANO: Well, I didn't hear
12 any concerns from staff. I understand what you're
13 saying, Commissioner Skop. I don't agree. I think
14 staff made it clear that the way we used -- the way we
15 came to that middle number was perfectly acceptable and
16 was within the evidence and record, and I just don't
17 agree. Your way would then have a temporary reduction
18 and then would allow after that temporary reduction the
19 10.77. Or have you changed the number? I'm sorry.

20 COMMISSIONER SKOP: No.

21 COMMISSIONER ARGENZIANO: You went back --
22 it's just a different way of going about it.

23 COMMISSIONER SKOP: No, it's not a temporary
24 reduction. It's --

25 COMMISSIONER ARGENZIANO: Okay. I got you

1 now.

2 COMMISSIONER SKOP: It's the same result, but
3 again, I think it preserves the basis of decision such
4 that it would survive appellate review.

5 COMMISSIONER ARGENZIANO: And I need staff or
6 legal staff to -- they're discussing that.

7 COMMISSIONER SKOP: Okay.

8 COMMISSIONER ARGENZIANO: Okay.

9 COMMISSIONER EDGAR: Mr. Chairman, can I make
10 a comment?

11 CHAIRMAN CARTER: You're recognized.

12 COMMISSIONER EDGAR: Okay. It was not staff,
13 Commissioner Argenziano, that expressed some concerns.
14 I think it was me when we were going through that, and
15 staff did not express concerns. I did. And --

16 COMMISSIONER ARGENZIANO: He just said staff.

17 COMMISSIONER EDGAR: Oh, I thought -- okay.

18 Again, I think we're trying to get to the same
19 result. In fact, I agree -- again, when pigs fly --
20 with Commissioner Skop. It would be the same result,
21 but I think there would be two, in my mind, important
22 distinctions. And I'll pause for a moment.

23 CHAIRMAN CARTER: Yes, run in place.

24 You're recognized.

25 COMMISSIONER EDGAR: Thank you. The first

1 would be, as Commissioner Skop has said, I think, and as
2 I said earlier, based on the -- and I'm not sure where
3 we are processwise or parliamentary, but I'll just take
4 the opportunity to comment, if I may, that based on the
5 evidentiary record, a clearer process, and therefore,
6 precedential, in my mind, would be a benefit that may be
7 of assistance to this Commission's deliberations in the
8 future.

9 And a second, and probably in my mind equally
10 or even more important -- and I've thought of this since
11 we voted -- would be, the way we have it with what we
12 have approved, and I voted for it, in Issue 28, lacks an
13 incentive for the company, which, when we have the basis
14 point reduction and the burden upon the company to come
15 back at a future date, if indeed they are going to
16 request review and a potential change in that number, to
17 me there's an incentive built in. We're trying to, I
18 think, with the vote that we had on 28, express the
19 concerns of the Commission with some of the problems
20 that we have had presented to us, and we want, in my
21 mind, in every way to include incentives for those to be
22 addressed. And we recognized that some could be geology
23 and geography, but some are technology, and some were
24 just basically improved people, service, and
25 sensitivity. And generally having some incentives built

1 in, I think just by result of human and organizational
2 dynamics, is a good thing and I think is in keeping with
3 some of the decisions that we have made as a body on
4 many other issues.

5 And thank you, Mr. Chairman, for allowing me
6 to comment.

7 COMMISSIONER ARGENZIANO: Mr. Chair.

8 CHAIRMAN CARTER: Commissioner Argenziano and
9 then Commissioner Skop.

10 COMMISSIONER ARGENZIANO: Okay. And that I
11 think goes back to the temporary thing that I was
12 talking about. And I think that what I heard staff say
13 a few times, and would like to hear their opinion again,
14 was that the way it was done is acceptable. And I think
15 by reopening it and making it more convoluted, I'm not
16 sure there's an incentive -- I understand what you're
17 saying about incentive, but I don't agree with having a
18 temporary reduction and then in two years coming back.
19 I think the 9.75 and doing it the way we did it was
20 acceptable, and now I would like to hear from staff if
21 they've changed their opinion since an hour ago.

22 MS. HELTON: No, ma'am, I haven't changed my
23 opinion. The courts have said -- both the Florida
24 Supreme Court and the First District Court of Appeal
25 have said that the Commission has a great deal of

1 discretion set out in 366 and in 367 when setting rates.
2 And as we've all -- if you didn't know it before sitting
3 here today, you'll know after sitting here today that
4 getting to the right ROE is tough, and it's not -- it's
5 an art. It's not a science.

6 I feel comfortable in the decision that was
7 made earlier today. You can do it the way that
8 Commissioner Skop and Commissioner Edgar have suggested,
9 but I feel comfortable that the decision that has been
10 made here today is based on the record. You've given
11 reasons why you have suggested that, and I'm assuming
12 that the Commissioners agreed when they voted with it.

13 CHAIRMAN CARTER: Okay. Just to get us in our
14 proper posture, Commissioner McMurrian, you were not on
15 the prevailing side, so it will be the four remaining
16 Commissioners. Commissioner Skop has a motion on the
17 floor.

18 COMMISSIONER EDGAR: I have a question for
19 staff, if I may, Mr. Chairman. Commissioner Argenziano
20 has posed is the method that we approved on Issue 28,
21 which again, I did vote for, whether it is appropriate.
22 And we have heard from staff that they feel it is
23 appropriate. I also feel it is appropriate. I also
24 feel that there are probably other ways that are
25 appropriate. And so since that's the context of the

1 prior question, I would pose the same question. Is the
2 approach that Commissioner Skop laid out an appropriate
3 approach in the view of staff?

4 MS. HELTON: Is it an appropriate approach? I
5 think it is. I mean, the whole point is, there's more
6 than one way to get there.

7 COMMISSIONER EDGAR: Agreed. And as I said
8 earlier, we've had a couple different -- a couple
9 different, in my word, methodologies, with a very, very
10 similar if not equivalent result.

11 CHAIRMAN CARTER: Commissioner Skop.

12 COMMISSIONER SKOP: Thank you, Mr. Chairman.
13 I just want to emphasize, though, that the 9.75 that
14 would result from the calculation that we did is not
15 temporary. That's the permanent ROE until the next rate
16 case or limited proceeding, so there's no illusory there
17 image that would change. The only thing that would
18 change is that after two years on the Chuluota and The
19 Woods system, if the utility came in and showed that
20 those systems had improved, then their 8.75 would go
21 back to the 9.75.

22 So again, I just want to emphasize that it's
23 not temporary. It's just a manner in which you set
24 something and then start doing your reduction so that
25 it's very crystal clear as to why you've done what

1 you've done.

2 Either approach is correct. Okay? But again,
3 I think from an appellate standpoint, again, as I
4 emphasize -- and this has nothing to do -- we're talking
5 about the exact same results in both cases. It's just
6 the way you get there. Again, I think the manner which
7 I've suggested is bulletproof for appellate review.
8 Again, it's a question of legal judgment, and I would
9 respectfully -- I respect Ms. Helton's opinion, but
10 again, I think one is preferable to the other.

11 MR. JAEGER: Chairman Carter, if I may --

12 CHAIRMAN CARTER: Mr. Jaeger.

13 MR. JAEGER: I hate to even argue with
14 Ms. Helton, and I -- she has done her --

15 CHAIRMAN CARTER: You better be careful, you
16 know.

17 MR. JAEGER: She has done her interpretation
18 of 367.112, where you may reduce return on equity, and I
19 agree with that. I just am a little bit concerned when
20 we start saying the midpoint is here and we go 100 basis
21 -- you know, 50 basis points, and another we go 150
22 basis points, and we've never gone more than 100 before.
23 So I just wanted you to be aware that that --

24 MS. HELTON: Excuse me, but that's not true.
25 During this afternoon, I asked some of the lawyers who

1 don't have the pleasure of sitting down here with us to
2 look at that, and it's my understanding that --

3 CHAIRMAN CARTER: The pleasure?

4 MS. HELTON: -- in the early '90s at least
5 that for some of the rate cases for the phone companies
6 when we were still doing rate-of-return regulation for
7 phone companies that we went beyond 100 percent. So I
8 disagree with Mr. Jaeger.

9 MR. JAEGER: Okay. I was just looking at --

10 COMMISSIONER SKOP: Mr. Chair, for the record,
11 I would also disagree with Mr. Jaeger. I don't believe
12 that we're limited to 100 basis points. I think under
13 Florida Supreme Court precedent, as supported by United
14 States Supreme Court precedent, it's the -- we can't go
15 below the zone of reasonableness as supported by the
16 evidentiary record. So as long as we don't go below
17 8.75, I think we're fine.

18 CHAIRMAN CARTER: Okay. Never disagree with
19 your boss.

20 Commissioners, it's a panel of four. What is
21 your pleasure? Commissioner Skop has made a motion. Is
22 there a second?

23 COMMISSIONER EDGAR: Mr. Chairman, I'll just
24 say I appreciate Commissioner Skop's analysis, as I said
25 earlier, and I do -- I agree with it. And I think it

1 gets us to the same result, but in my mind, a more
2 preferable way. However -- and I may even, Commissioner
3 Skop, follow your lead and feel compelled to write a
4 partially concurring opinion.

5 COMMISSIONER SKOP: I'll be writing one.

6 COMMISSIONER EDGAR: Which would be a first
7 for me. Many firsts today. I say that with all
8 fondness. But I -- you know, the -- if there is a
9 second, I welcome the opportunity to try to make my
10 points again. However, the majority voted, and I will
11 leave it at that.

12 CHAIRMAN CARTER: Okay. The motion dies for
13 lack of a second.

14 Issue 76.

15 MR. JAEGER: Commissioners, Issue 76 is just
16 to close the docket, and of course, we wouldn't close it
17 until after we have the revenue -- I mean the rate
18 structure set.

19 CHAIRMAN CARTER: Okay. Commissioner
20 McMurrin, you're recognized.

21 COMMISSIONER McMURRIAN: Chairman, thank you.
22 I just wanted to say something before we close, given my
23 dissent earlier on that issue that we're not bringing
24 back again and how it may be interpreted. I wanted to
25 be clear. My husband says I like to lecture, and this

1 is kind of a little mini-lecture, I suppose, to the
2 company. And I just felt strongly that I wanted to say
3 it so that it's clear to the folks watching that -- we
4 always refer to those, and there probably are a good
5 number of those watching us today.

6 But I generally believe that a large company
7 buying small, troubled systems is a good thing and that
8 getting those systems up to par is difficult and costly.
9 I realize that, and I think your customers realize that,
10 and I think we recognize you're trying to get those
11 things in order.

12 But another thing I think you need to hear
13 from us, and I think your customers, is that good
14 customer service goes beyond meeting DEP standards. And
15 I think I've said this probably before, but in my mind,
16 that means working to address problems like hydrogen
17 sulfide, whether there's a standard there or not. And
18 perhaps you can't get it right, definitely not the first
19 time. It's not easy, but trying to address it because
20 it's important to your customers, perhaps not
21 questioning DEP's authority to require you to address
22 something they've identified as a problem -- I think
23 we've seen that in the recommendation in a couple of
24 places -- and reaching out to your customers because
25 it's the right thing to do to establish mutual trust,

1 not just because your level of ROE may be at risk. And
2 I'm not saying that's the only reason. I'm just -- it's
3 a concern I have.

4 And one other thing I wanted to say about sort
5 of the process we had in this case. You know, if and
6 when you come back for a rate case -- and I'm sure we'll
7 all be here again, or some of us will be here again at
8 some future date -- you know, I ask that you consider
9 getting your case in better order. It's my opinion --
10 and I won't try to speak for the Commission, but it's my
11 opinion that the staff in this case had to go through a
12 lot of trouble to get the information they needed in
13 order to put this rate case together, and I think it was
14 sort of above and beyond what they should be expected to
15 do, and it's not really their burden.

16 So I just wanted to say those things. And I
17 do mean all that with respect. I hope you'll take it as
18 intended. And I appreciate, Chairman, you letting me
19 say those things.

20 CHAIRMAN CARTER: Thank you, Commissioner.
21 Great comments. Commissioner Skop.

22 COMMISSIONER SKOP: Thank you, Mr. Chairman.
23 I would have similar comments. Again to the company, I
24 do commend Aqua's efforts in trying to make some
25 improvements in areas. The RF meters should go a long

1 way in resolving the billing issues. So Aqua has made
2 progress. There's still much progress to be made. And
3 unfortunately, there are times, I think, that the
4 Commission has to speak decisively, and I think today
5 was one of those. It's not something that we like to
6 do. We would much prefer to have all of our customers
7 happy and content. That tends to make the process go a
8 lot easier.

9 But in the instant case, there were
10 demonstrated areas of deficiencies that still require
11 significant attention, and I hope to see continued
12 improvement in billing issues, customer service, and
13 resolving the water quality issues, particularly in
14 Chuluota and The Woods. But that doesn't mean that
15 every other system is not important also. And at such
16 time if Aqua were to accomplish those, certainly by
17 virtue of law, under the appropriate Florida Statute,
18 they could seek a limited proceeding to come back in and
19 request relief based on the accomplishments made from
20 here forward.

21 So again, I would encourage them to continue
22 to do the right thing. Some progress has been made.
23 But unfortunately, I think it was premature to move
24 forward with a rate case, noting that many of the latent
25 concerns were still present as we went through the

1 process before.

2 Thank you.

3 CHAIRMAN CARTER: Thank you, Commissioner.

4 Commissioners, anything further?

5 I just want to make one last comment to our
6 staff who have not had the pleasure to be down here with
7 us before. Welcome aboard, and we look forward to
8 seeing you again. Thank you, staff, for your hard work
9 and your efforts. Thank you to the company for your
10 efforts as well. And thank you for those from OPC and
11 the intervenors, as well as the public who expended
12 resources to come to all the hearings and to let their
13 voices be heard. We appreciate that.

14 And with that, Commissioners, we are
15 adjourned.

16 (Proceedings concluded at 5:35 p.m.)

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CERTIFICATE OF REPORTER


STATE OF FLORIDA:

COUNTY OF LEON:

I, MARY ALLEN NEEL, Registered Professional Reporter, do hereby certify that the foregoing proceedings were taken before me at the time and place therein designated; that my shorthand notes were thereafter translated under my supervision; and the foregoing pages numbered 129 through 270 are a true and correct record of the aforesaid proceedings.

I FURTHER CERTIFY that I am not a relative, employee, attorney or counsel of any of the parties, nor relative or employee of such attorney or counsel, or financially interested in the foregoing action.

DATED THIS 24th day of February, 2009.


MARY ALLEN NEEL, RPR, FPR
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