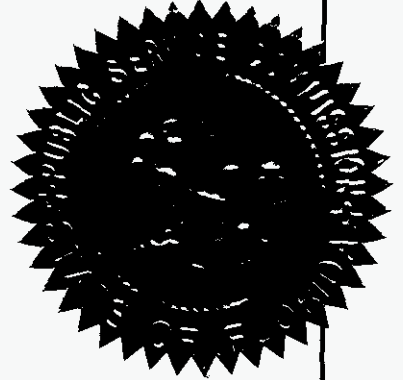


BEFORE THE
FLORIDA PUBLIC SERVICE COMMISSION

In the Matter of:

DOCKET NO. 080249-WS

APPLICATION FOR INCREASE IN WATER
AND WASTEWATER RATES IN PASCO
COUNTY BY LABRADOR UTILITIES, Inc.



PROCEEDINGS: AGENDA CONFERENCE
ITEM NO. 7

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

DATE: Tuesday, June 2, 2009

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

REPORTED BY: LINDA BOLES, RPR, CRR
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P R O C E E D I N G S

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3 **CHAIRMAN CARTER:** Okay. Then we shall proceed
4 with Item 7. Give staff an opportunity to get settled
5 in, Commissioners, and then we'll move to Item 7.

6 Okay. Everybody ready? You guys ready?
7 Staff, you're recognized.

8 **MR. MOURING:** Commissioners, I'm Curt Mouring
9 with Commission staff. Item 7 is staff's recommendation
10 regarding the application for increase in water and
11 wastewater rates in Pasco County by Labrador Utilities,
12 Inc.

13 Steve Reilly from the Office of Public Counsel
14 and Marty Friedman, counsel for Labrador, are here to
15 address the Commission. Staff is prepared to answer any
16 questions the Commission may have.

17 **CHAIRMAN CARTER:** Mr. Friedman, good morning.
18 Mr. Reilly, you're recognized.

19 **MR. REILLY:** Thank you very much.

20 **CHAIRMAN CARTER:** We're going right to left --
21 actually left to right, depending on how you look at it.
22 Good morning.

23 **MR. REILLY:** Good morning. Since this is the
24 only item that you'll be taking argument on today, I
25 hope you'll afford me a few extra minutes.

1 **CHAIRMAN CARTER:** Mr. Reilly, for you the sky
2 is the limit. Well, not technically, but, you know, I
3 mean within generalities.

4 **MR. REILLY:** The customers of Labrador are, no
5 customers are here today. This is a customer group
6 though that's very, very interested in this case, very
7 concerned about the case. We'll talk about it later.
8 But there was a customer hearing that there were over
9 450 people in attendance. And although many are gone to
10 the north areas, there are still a number of people
11 living there. But given the, that this is a retired,
12 elderly group of people with fixed incomes, with very,
13 very limited incomes, they really were not able to make
14 the trip, so they're counting on me to, you know, make
15 all the points that need to be made today. So if you'll
16 afford me that opportunity.

17 This is a utility that's a Class B utility.
18 It's serving the Forest Lakes Estates Mobile Home Park.
19 It's comprised of just under 900 mobile home lots and
20 there are also 274 RV lots.

21 The people have closely watched this case.
22 They watch every little penny they spend because they
23 simply cannot afford the, to engage in costs that are
24 beyond what their limited incomes will afford. They
25 have very little discretionary income. Affordability is

1 one of the key issues in this case, the overriding issue
2 from the standpoint of the customers.

3 It's been four years since the end of the test
4 year of the last case. So that was an end of the test
5 year 2003 and this test year is 2007. The customers
6 expected a reasonable modest increase, not the over
7 70 percent increase for water and almost 40 percent
8 increase for wastewater.

9 At the customer meeting on March 5 there was a
10 tremendous number of people there that expressed their
11 dissatisfaction with the quality of the service as well
12 as the magnitude of the rate increase. The
13 recommendation that's before you concerning the issue of
14 quality of service, however, states despite all this
15 tremendous amount of testimony of quality of service
16 problems, that the conditions of the water, and this is
17 quoting from the order, that the conditions of the water
18 and wastewater facilities are currently in compliance
19 with DEP rules and regulations. That the main
20 complaints received during the 2000 test year were about
21 odor emanating from the wastewater treatment plant, the
22 odor resulting from equipment failures, which were
23 corrected.

24 Further, the recommendation states that the
25 company constructed a containment structure with

1 charcoal filtering device which has been functioning
2 since summer of 2008 with apparently satisfactory
3 results. In conclusion, the recommendation states that
4 the overall quality of service provided by Labrador
5 Utilities is found to be satisfactory.

6 At the customer meeting there were hours of
7 testimony contrary to this recommendation that the water
8 was considered unfit to consume, frequent taste, odor
9 and discoloration problems. There's been continuing
10 odor problems from the plant. Our office, in fact,
11 concerning the odor problems has been receiving
12 continuing complaints, e-mails all through the weekend,
13 Monday, and up to the time of this Agenda Conference
14 that the problems are not corrected on the odor problem.

15 In fact, there's been a lawsuit filed. The
16 recommendation makes reference to the lawsuit and says
17 it's been held in abeyance. I called to find out what
18 the status of the lawsuit was, and I was told this
19 morning that, that the co-op which filed, the
20 cooperative association -- there are two associations.
21 There's one association for the mobile home park and
22 another association for the cooperative, for the RV
23 park, the cooperative which owns the RV park. That's
24 the entity that filed the suit. And they said, no, it's
25 definitely not resolved. In fact, since the winter

1 months when they had the peak, since it's been the
2 nonpeak months, the problem has actually been getting
3 worse as it's gone in through April and May and to the
4 present time. I asked him, "Well, what are you going to
5 do about it? What's the status of the suit?" He said,
6 "Well, our next move, we're going to be hiring a third
7 party, unbiased third party person to just gain access
8 to the facility and try to evaluate what in the world,
9 why we're still continuing to have the odor problems."

10 So in addition to that hanging over us, one of
11 the gentlemen that, he was, he was sending me e-mails at
12 8:40 in the morning, "It still smells." He was sending
13 e-mails confirming the smell of this plant all through
14 the -- he got my e-mail address and so he's been
15 e-mailing me all, every so many hours, "It still smells.
16 It still smells. It still smells."

17 But, anyway, this same gentleman who is so
18 concerned -- and he lives, of course, he lives quite
19 close to the plant, so that's why he's very concerned
20 about it. And he has a little screened porch that he
21 can't use. But he had a copy of the recommendation and
22 he was aware of the statement made that they're in
23 compliance. And in one of his e-mails he sent me a
24 letter dated 4/28/09, 2009, from Frank Fulghum of the
25 DEP that is addressed to Patrick Flynn of Labrador. The

1 letter states that DEP conducted a compliance
2 evaluation --

3 (Technical difficulties.)

4 **CHAIRMAN CARTER:** Just hang on, hang on for a
5 second. Hang on for a second. Let's see here.

6 **MR. REILLY:** While we have that break, I'm
7 going to go ahead and have Denise Vandiver hand out --

8 **CHAIRMAN CARTER:** Okay. Good.

9 **MR. REILLY:** You don't need this handout, but
10 it's kind of helpful to follow some of the arguments we
11 make.

12 **CHAIRMAN CARTER:** Okay. That's good. Let's
13 do that.

14 **MR. REILLY:** So we'll do a little handout, and
15 we've even attempted to e-mail or fax it to Commissioner
16 Argenziano. I'm not sure if our efforts are going to be
17 successful or not, but this handout will help track the
18 three issues that we're going to be talking about today.

19 **CHAIRMAN CARTER:** Sometimes, sometimes our
20 phone system -- well, I've been on the other end of that
21 call, so I know how it works.

22 Commissioners, why don't we just take five and
23 then I can check out with Chris and see what's happening
24 on -- Mr. Reilly, you can get your thoughts together and
25 let's just kind of take five.

1 **MR. REILLY:** Okay.

2 (Recess taken.)

3 **CHAIRMAN CARTER:** Okay. We are back on the
4 record. Commissioner Argenziano, can you hear us now?

5 **COMMISSIONER ARGENZIANO:** Yes, I can,
6 Mr. Chair. I don't know if I missed any of OPC's
7 presentation. I guess he ended when he was talking
8 about the gentleman calling in and reporting about the
9 smell.

10 **CHAIRMAN CARTER:** Yes, ma'am. Mr. Reilly got
11 so excited he tripped over the phone cord. That's what
12 happened.

13 (Laughter.)

14 Mr. Reilly, you're recognized.

15 **MR. REILLY:** Thank you very much.

16 **CHAIRMAN CARTER:** Wait. Wait. We can't hear
17 you. Turn your mike on. Chris -- hang on a second.

18 **MR. REILLY:** It's green.

19 **CHAIRMAN CARTER:** Try it now.

20 **MR. REILLY:** Turn it back on. Hello.

21 **CHAIRMAN CARTER:** That's much better.

22 **MR. REILLY:** It happens that one of the
23 gentlemen that was very concerned about the odor problem
24 sent me, e-mailed me a letter that was dated April 28th,
25 2009, from Frank Fulghum from the DEP addressed to

1 Patrick Flynn of Labrador Utilities. The letter states
2 that DEP conducted a compliance evaluation inspection of
3 Labrador's wastewater treatment plant on April 10, 2009.
4 The inspection found that the wastewater treatment
5 plant's operation and maintenance was out of compliance
6 and effluent disposal was out of compliance. The letter
7 requested Labrador to provide written responses
8 addressing the items of noncompliance that included:
9 Incorrect calculation of a discharge monitoring report;
10 excessive rust was observed in and around tanks, rails
11 and supports; blower number one was out of service due
12 to motor failure; pop-ups and grease were observed on
13 the surfaces of the clarifiers; sprayfield was
14 overgrown; the wet weather storage pond was overgrown
15 and should be mowed more frequently, which was an item
16 that was cited from a prior August 12, 2008, inspection
17 letter.

18 I don't think these various items on this
19 non-compliance represents, you know, significant or
20 substantial noncompliances, but I'm just bringing it up
21 that this is an ongoing thing and that I guess certainly
22 there is a question about whether they are in compliance
23 at this moment in time, and that I did call to try to
24 find out whether they had responded. The 30 days would
25 be May 28th. He had not gotten the letter at that

1 moment in time.

2 But apart from the letter and any of these
3 other medium to minor issues of compliance, there was
4 this tremendous amount of concern on the part of the
5 customers of this discrepancy between DEP minimum
6 standards and the quality of odor, taste and all the
7 things that we've seen in all these other cases. And
8 this is just another one of these somewhat troubled
9 systems that people are having to buy the water and go
10 through all the things that you've heard in these other
11 hearings. In light of these quality of service issues,
12 it's just hard, hard for these people with limited
13 incomes to try to understand and agree to these very,
14 very significant increases.

15 There's really nothing much we can do at an
16 Agenda Conference to hash out quality of service, that's
17 the type of thing you take at a hearing, and I just
18 bring it to your attention to give some background.
19 However, I would like to try to bring to your attention
20 three specific issues that, that lend itself to an
21 Agenda Conference because they, they could possibly be
22 addressed in a broader policy type consideration rather
23 than taking a lot of testimony. My hope is that by
24 bringing these three items to your attention there is a
25 hope and a chance that you could improve this PAA order

1 in a way that it could be more favorable to the
2 customers, frankly, and reduce the amount of the rate
3 increase. That would give me a chance to go down there
4 and tell them the benefits of not going to a hearing.

5 The three issues that I'm bringing to your
6 attention are the used and useful percentage of the
7 wastewater treatment plant, the increase proposed for
8 salaries and benefits, and the issue of rate case
9 expense. In the first, in the handout I've given you,
10 this is just a little illustrative, it shows two
11 different possible used and useful versions.

12 The first calculation is really applying your
13 rule. There is a Commission rule, 30.432, *Florida*
14 *Administrative Code*, that tells you how you're supposed
15 to do used and useful. And the key thing in that rule
16 is it says that the numerator, the demand put, flow, the
17 demand flow put in the numerator should be expressed in
18 the same basis, on the same period as, as stated for the
19 permitted capacity so that you're comparing apples and
20 apples. So that if the permitted capacity is based on
21 the average daily flow of the max month, you're allowed
22 to go to the average daily flow of the max month for the
23 numerator. Likewise, if your permit is, is based on the
24 average daily flow of the three, of the three-month
25 average daily flow, your numerator has to be expressed

1 in the same terms so that you're comparing apples and
2 apples.

3 So what happened, in this particular test year
4 the company's wastewater treatment plant is, in fact,
5 permitted on the three-month average daily, daily flow,
6 and it's readily admitted in the recommendation. It
7 says that applying that permitted capacity which has not
8 changed from the last case, it's still 216,000 gallons
9 per day, that applying that denominator to the numerator
10 of 84,778 gallons per day, which is in fact the MFR
11 three-month average daily flow, it produces a 39 percent
12 used and useful figure.

13 Now the company says you should not call it
14 39 percent used and useful. It should be considered
15 fully 100 percent used and useful, and they make the
16 argument that the plant was designed to serve full
17 occupancy, this is their words, full occupancy at design
18 flow of 280 gallons per day per ERC, which would require
19 a 250,000 gallon plant, which this plant is below that.
20 So, therefore, they say, "We designed it correctly. You
21 should consider it 100 percent used and useful." Of
22 course we take exception to that. If we do go to
23 hearing, we are going to put on engineering testimony
24 that this is not reasonable, that 280 gallons per day
25 times even 30 days produces 8,400 gallons per month.

1 That's what it produces. And you have to also consider
2 this is wastewater treated. Under the rule of thumb,
3 you are essentially in a residential situation, you're
4 treating 80 percent of the water that actually goes to
5 that home. So to, to actually treat 8,400 gallons per
6 ERC, you'd have to have that customer, that retired
7 little person in that mobile home with a little or no
8 yard to take 10,500 gallons of water to send that much
9 back to the plant. We don't think it's reasonable, we
10 don't think it's fair, we don't think it's engineeringly
11 sound, and obviously we can't hash that out. But
12 basically that's not a very good argument to call this
13 100 percent used and useful.

14 The second argument and the one I think that
15 had the most persuasiveness to staff was that we should
16 consider this 100 percent used and useful because it's
17 basically built out. The problem with that is that
18 there's, there's been little or no growth in this, in
19 this community since the 2003 test year. It's virtually
20 the same. And the judgment of staff in the last case
21 was it is not built out. And in fact there is -- and
22 you can look at the next handout. There is an aerial
23 photograph, just to give you -- you know, a picture is
24 worth a thousand words. In the last rate case there has
25 been a set-aside for future development within the

1 service territory, the 11.7-acre tract of land which is
2 going to be additional RV park, and that is in fact a
3 tract owned by the co-op that owns the other RV park,
4 and you'll see also a substantial amount of vacant land
5 to the west and to the northwest. And, in fact, those
6 parcels are currently for sale and ready for development
7 for land uses, I mean, you know, at some point in the
8 future when the economy permits, land uses very similar
9 to Forest Lakes Estates. So, so within the confines of
10 the service territory as well as the land around it
11 there is potential for, for growth. And, and really
12 this should not be -- the circumstances have not changed
13 that much from the last case, so our argument is that,
14 that you just shouldn't say that it's built out when in
15 fact you have this parcel of land ready, willing, and as
16 soon as the economy permits will be, will be developed.

17 So let me just get one more thought together
18 here.

19 **CHAIRMAN CARTER:** Take your time.

20 **MR. REILLY:** So basically we're saying for
21 those two reasons it should fail. That our primary
22 argument is you should apply the rule and produce the
23 39 percent used and useful.

24 As our backup position, just because the
25 permit capacity changed, the basis of the permitted

1 capacity changed from the max, from the average daily
2 flow of the max month, that in itself made a material
3 change in how the rule would be applied. In fact, it
4 made a double difference. It was approximately
5 80 percent used and useful versus 39 percent used and
6 useful. And what you're doing there is you are
7 comparing 100 -- the max day flow of, the average daily
8 flow of the max month is 166,065 gallons per day versus
9 that 80, 80 something thousand gallons.

10 So if the Commission took the position, well,
11 we, we know it's not built out, we know that there is,
12 it's not fully used and we want to apply the rule but we
13 will not make a used and useful adjustment less than we
14 did in the last case, at least that is a backup position
15 as you could say we certainly cannot allow it to be
16 100 percent used and useful, but we will, we will not
17 penalize you because you've changed the basis of the
18 plant because the capacity has stayed the same. I'm
19 giving you an opportunity to try to -- and you can see
20 the dollar impacts. It would, it would affect this
21 \$250,000 increase roughly by about \$23,000. It would
22 not have nearly the impact of the, of the first, of the
23 first adjustment. If you truly went by the letter of
24 your rule, it would cut the wastewater increase in half
25 approximately because it's about a 140 something

1 thousand dollar increase. But if you are unprepared to
2 go that far, I would ask for you to consider the
3 alternative used and useful adjustment. And I guess
4 that concludes our suggestions on used and useful.

5 The next one is the issue of salary, salaries
6 and benefits. If you take a look at the next handout,
7 it is a little illustrative of the 2003 test year and
8 the 2007 test year, and it tries to compare applying a
9 consumer price index increase of salaries and benefits
10 versus what is being proposed in this particular case.

11 If you take a look at the salary and benefits
12 allowed in the last rate case and the increase of those
13 expenses by the consumer price index for the four-year
14 period between the two test years, it would yield an
15 increase of 15.37 percent and a salaries and benefits
16 expense totaling \$44,705. Instead of this more
17 reasonable 15.37 percent increase in salaries and
18 benefits, the company proposed and staff at least at
19 this point is recommending a 223 percent increase for
20 salary and benefits.

21 This is driven by substantial increases in
22 positions at all levels of the company, corporate level,
23 lower regional levels, and the details of this was
24 provided by staff in a data request. And I won't go
25 into all the details, but it's just since 2003 the

1 company has added all kinds of positions. And, of
2 course, these, all these positions added are allocated
3 to all the systems including this little Labrador
4 system: The Regional Vice President serving the South
5 Florida regions, Business Managers, Corporate Operations
6 Director, Corporate Customer Service and Billing
7 Manager, Accounts Payable Manager, Billing Specialist,
8 Accounts Payable Clerk, Account Managers, Fixed Asset
9 Accountants, Accounting and Regulatory Administrative
10 Assistants, Payroll Manager, IT Specialist, Safety
11 Coordinator, Tax Accountant, System Specialist,
12 Corporate Counsel, Business Development Director,
13 Director of Governmental Affairs, Director of Strategic
14 Planning, on and on. The company states that these
15 added positions together with their cost of living
16 increases together with their annualizing of these
17 expenses for these various salary positions is driving
18 this tremendous increase in salaries and benefits. They
19 claim that between 2003 and 2007 accounted for an
20 increase in total revenues for this company from
21 \$78,242,000 to \$107,492,000, a growth of \$29 million or
22 37 percent growth in revenues, and they say this growth
23 has necessitated the need for additional positions to
24 serve that growth.

25 We take exception with this argument for two

1 reasons. The first problem is growth and revenues is
2 not synonymous with growth of customers, customer
3 growth. While it's partially driven by customer growth,
4 it is also driven by a company skilled in seeking and
5 receiving rate increases. Take a look at this case.
6 There's been little or no difference from 2003 in terms
7 of number of customers, the particular physical
8 characteristics of the system, virtually no changes, but
9 this is still resulting in a -- at least the
10 recommendation before you is a 70 percent increase of
11 water revenues and over, you know, a 40 percent increase
12 for wastewater revenues. This is on top. These
13 increases being, that are before you today are on top of
14 the rate increases that were awarded in the last PAA
15 uncontested, didn't go to hearing rate case of \$141,000,
16 which represented a 267 percent increase in water rates
17 that preceded that case and a 118 percent increase for
18 wastewater revenues.

19 Further, there's -- my second argument against
20 this idea that just because we have more money coming in
21 that we need all these positions, but just really the
22 positions are almost driving the justification for more
23 rate increases and it just almost becomes a
24 self-fulfilling prophecy.

25 But the second argument against it is there's

1 something flawed with the argument that the company
2 growth demands additional, the addition of all these
3 allocated positions if the principles of economies of
4 scale have any validity. Because we have always heard
5 that these bigger companies were supposed to buy up all
6 these small companies with the idea they were going to
7 apply all these economies of scale and the growth would
8 allow them to spread out these costs so that in fact the
9 fixed cost per customer would actually go down, not
10 significantly go up.

11 So we don't feel -- we feel that it's only
12 appropriate to add all these positions to the extent
13 that the growth really does in fact justify it and that
14 it doesn't cause the per customer cost to skyrocket like
15 it is in this case and like it is frankly in a lot of
16 these other cases that have not been contested up to
17 this point. So, so we just think you should look long
18 and hard at this tremendous salary increase because at
19 the end of the day it really impacts on these type of
20 Labradors.

21 We, in conclusion on the issue of salary and
22 benefits, would state that a more reasonable approach
23 should be taken. They can go hire as many people as
24 they want, they can pay them as much as they want, but
25 in Florida with these people trying to make, trying to

1 get by, you're just creating -- and these little people,
2 if they have 3,000 gallons, I think it's like \$87. If
3 they have 5,000 gallons, it's a \$125 bill. And these
4 people really are going to be very strained and be very
5 difficult to be able to afford their allocated portions
6 of this 223 percent increase in salaries and benefits.

7 Lastly is the issue of rate case expense. In
8 the last rate case, Utilities, Inc., requested \$100,000
9 to process an uncontested PAA rate case. Staff reviewed
10 that request and cut it down and recommended and the
11 staff approved a rate case expense of \$69,000. That's
12 where we were four years ago. In the instant case the
13 company's request has ballooned to \$212,000 to process
14 an uncontested PAA rate case, to fill out MFRs, to
15 respond to data requests of staff and not even go to
16 hearing. I'll give staff credit, they've looked and
17 scrutinized and got it down to \$128,655, but I bring to
18 the attention of this Commission it's still double what
19 it was just the last rate case.

20 So you ask yourself what is going on here?
21 Why, what is the biggest single factor which is driving
22 this tremendous rate case to handle an uncontested PAA
23 case? And when we looked at it, we believe one of the
24 primary reasons was the decision of this company to hire
25 Milian, Swain to help its already very substantial

1 in-house personnel to file MFRs and respond to data
2 requests. This is so hard to justify this \$60,000 of
3 outside consultant fees to handle such a case,
4 especially when you consider all this in-house
5 capability that's with this major company. And then
6 especially when you have them, this multimillion dollar
7 Project Phoenix (phonetic) which is being allocated to
8 all these companies that's supposed to provide all this
9 extra billing and accounting and computer system
10 efficiencies, we're putting all this money in this
11 company, and then we have this little case and \$60,000
12 to a consulting firm to just help them file MFRs and
13 respond to data requests.

14 You would think that one of the benefits of
15 having a large holding company to manage these smaller
16 systems would be that the company could file MFRs and
17 respond to data requests without having to resort to
18 consultants to do the work. The dollar value of the
19 Milian, Swain consulting service alone equals \$60,000.
20 Now that's in the recommendation. That made it through
21 the, you know, the reduction that staff applied.

22 Almost the entire rate case expense awarded --
23 that represents almost the entire rate case expense in
24 the last case. If the Commission were to disallow this
25 from a policy standpoint, this Milian and Swain outside

1 consulting fees, with regard to rate case expense, it
2 itself would bring everything back into line. And it's
3 important to also note in the recommendation that the
4 in-house, WSC in-house cost to process the case has gone
5 up from the last case from \$16,664 to \$26,146.

6 So in conclusion, you know, we're recommending
7 that you disallow that as being unreasonable and
8 something that should not be borne again. If they want
9 to hire all these people, that's fine, but the poor
10 people of Labrador should not be expected to pay that
11 much to process an uncontested case. That concludes the
12 three arguments or, you know, the three issues we had
13 hoped that you can address.

14 **CHAIRMAN CARTER:** Thank you, Mr. Reilly, on
15 the three issues of used and useful for the water and
16 wastewater, the salary and benefits and the rate case
17 expense. Right, that was the three issues that you had?
18 Okay. Mr. Seidman (sic.), good morning. Mr. Friedman,
19 sorry.

20 **MR. FRIEDMAN:** Good morning, Mr. Chair,
21 Commissioners.

22 **CHAIRMAN CARTER:** One of those days.

23 **MR. FRIEDMAN:** That's all right. I've been
24 called a lot worse.

25 Before we get on the three issues, I did want

1 Patrick Flynn, who is the regional director --

2 **CHAIRMAN CARTER:** Okay. That's fine.

3 **MR. FRIEDMAN:** -- in charge of the Florida
4 operations to talk about this quality of service issue
5 because the company has gone at great lengths to improve
6 what when they took over was a very poor system. And I
7 think that sometimes, in all candor, at these customer
8 meetings that maybe there's some exaggerations in
9 quality of service issues. But I'd like Mr. Flynn just
10 to discuss with you a little bit about the quality of
11 service at the utility, then I'll come back and discuss
12 some of those other issues.

13 **CHAIRMAN CARTER:** Okay. Mr. Flynn.

14 **MR. FLYNN:** Good morning. I would like to
15 speak to the comments about the DEP inspection that was
16 referenced by Mr. Reilly in April where the DEP
17 inspector identified some items to be addressed by the
18 utility which were promptly addressed, and, in fact,
19 Mr. Fulghum came by within 30 days. In May, in fact, he
20 visited the site and expressed pleasure with having us
21 taking care of cutting the grass on the sprayfield and
22 installing the rebuilt blower. That was one of four
23 process blowers, not one that was necessary for us to
24 properly treat the flow through the plant, that he was
25 quite satisfied with our efforts to address those points

1 that he had brought up in the April visit.

2 I'd also like to mention the fact that we have
3 successfully and consistently met our operating permit
4 requirements. The water quality that is generated at
5 the plant meets DEP requirements consistently. The
6 primary focus of our operations is to make sure the
7 wastewater flow gets treated and disinfected before it's
8 disposed of on the sprayfield in the proper fashion. So
9 certainly we're human and we make some errors, but the
10 items expressed by Mr. Fulghum in his report were
11 miscellaneous in nature essentially.

12 We certainly have made great effort to address
13 odor complaints that have been expressed by the
14 customers, we've met individually with customers, with
15 my staff, we've met with the board of the Forest Lakes
16 Estates Co-op, we've had feedback from them that they
17 were pleased from our efforts in July to install some
18 filtering equipment at the headworks in such a way that
19 we could prudently address the odor control complaints
20 they had expressed to us without unduly spending lots of
21 money, which Mr. Reilly expressed a concern about the
22 increase in rates. If we had initially done what was
23 suggested to us, that we just install covers on all of
24 our tank equipment in order to contain odors from being
25 generated or carried offsite, it would have been an

1 extremely expensive proposition that ultimately would
2 show up in rate base and in rates which the customers
3 would bear. Instead, we looked at an alternative that
4 would be very cost-effective that was extremely
5 inexpensive to install and we used it as a pilot program
6 to see what would effectively work. It has worked.
7 It's not perfect. It is a wastewater plant. The
8 majority of the customers are not experiencing odor
9 complaints, we're not having odor complaints during,
10 during the normal business day when we're staffing the
11 plant. We're having success consistently. There are
12 certainly times when the weather conditions may accent
13 odors that are generated at the plant, at the plant site
14 and might impact the very adjacent neighbors. We
15 certainly are concerned about that, are making efforts
16 to continually improve what we have for odor control and
17 will continue to do so, but we're going to do it in a
18 prudent way that's most cost-effective for both us and
19 the customers. That's all I have to say.

20 **CHAIRMAN CARTER:** Mr. Friedman.

21 **MR. FRIEDMAN:** Thank you. I'll discuss some
22 of the other issues that Mr. Reilly mentioned. The
23 first was used and useful. The, as, as was pointed out,
24 this plant was designed and permitted according to the
25 Department of Environmental Protection regulations in

1 existence. And whether Mr. Reilly thinks 280 gallons a
2 day per connection is appropriate or not, that's what
3 DEP requires for design and permitting of a wastewater
4 treatment plant. And it sounds like what he would like
5 you to do is to penalize the utility for building the
6 plant and constructing it the only way they could.
7 They've got to permit that case. And if any of you have
8 been through DEP permitting, if you try to tell them in
9 advance, no, those people aren't going to use
10 280 gallons, they're going to tell you we've got a rule
11 and our rule says you've got to design and permit that
12 for 280 gallons per day per connection and that's what
13 you've got to do. And if ultimately the customers don't
14 use that, you can't penalize the utility for that.

15 That's why your used and useful rule has that
16 caveat in there. It's not a strict let's look at this
17 formula and that's, that's the gospel black and white,
18 that's the way it is. There is, there is the
19 flexibility in your rule to look at situations like this
20 where it's a closed system, it's built out. And it was
21 built to the, to the standards that DEP would have
22 required; could not have built it any other way. And
23 because of conservation or maybe because of the type of
24 customers that we have, maybe they're not using the
25 280 gallons, but we couldn't have permitted it for any

1 less.

2 And if Mr. Reilly is a soothsayer to be able
3 to say that that empty land there is currently being
4 used for RV boat storage for the mobile home community,
5 for him to be able to say that's going to be able to be
6 rezoned and permitted for something else I think is
7 purely speculative. It's being used now as a, as an RV
8 storage facility, and as such it doesn't use any, any
9 water or sewer capacity. And so I think for him to say,
10 oh, we've got this big piece of land over here that will
11 be sold and will be developed I think is highly
12 speculative and something that certainly shouldn't be at
13 a PAA Agenda Conference, certainly shouldn't, shouldn't
14 carry any weight.

15 And so on the used and useful issue I would
16 suggest to you that the staff's recommendation is
17 correct that it was a not only prudently built and
18 designed plant, but it was designed and permitted the
19 only way it could have been designed and permitted by
20 DEP. And it would not be appropriate nor equitable for
21 this Commission to all of the sudden say, well, we don't
22 care what DEP said you had to build. We don't think you
23 should have built it. And that puts the utility in an
24 untenable position, and I don't think that it should be
25 the policy of this Commission to do that.

1 On the issue of salaries, the staff -- and I
2 won't go into detail either as Mr. Reilly avoided doing.
3 The staff looked at this issue. We -- the utility
4 provided sheets showing every employee that was, that
5 was with the utility. And I, and I think the last test
6 year was '02, not '03, as Mr. Reilly said. So an
7 '02 test year would have had another one-year impact on
8 his indexing of whatever these salaries and expenses
9 were going to be. But we provided the staff with, with
10 data on every employee that we're talking about. We
11 provided, we provided an analysis to the staff to, you
12 know, what each of these people did.

13 You know, one of these new folks is John
14 Williams sitting here. He's one of the new staff people
15 that, that Mr. Reilly apparently doesn't think was
16 necessary. We think he serves a very important function
17 for the utility and certainly think his, whatever amount
18 of his salary that's brought through in this case is
19 certainly reasonable.

20 So, you know, we really can't deal with that
21 issue unless you went through intricately each of these
22 employees and each of their functions and would be able
23 to say we like this one, we don't think you needed this
24 one, we don't think you need this one. Unfortunately I
25 don't think this Agenda Conference process is the, is

1 the place to be able to make that type of evaluation.

2 The staff has spent a lot of time looking at
3 this issue. The company has spent a lot of time
4 providing data to the staff, and we suggest that the
5 staff's recommendation is correct on the, on the salary
6 issue.

7 Now the third issue that Mr. Reilly points
8 out, I do agree in one part with him. I think the rate
9 case expense amount is wrong, but I think it's wrong for
10 a different reason than Mr. Reilly. And I'll address
11 Mr. Reilly's reasons, but my concern with it is, is the
12 staff, and, of course, this is the legal rate case
13 expense which is near and dear to my heart, that the
14 staff made a -- at the end of their analysis, and they
15 did a good analysis, as they usually do, on saying what
16 the reasonable expenses are and cutting here and
17 reducing this, and then they at the very end said,
18 "Further, we're going to reduce the legal rate case
19 expense by \$14,976 to reflect estimates more consistent
20 with the Miles Grant rate case." So they're saying,
21 well, you know, the Miles rate case was over there and
22 it should have been more closely aligned with that.

23 You know, every rate case is different.
24 Every -- you can't predict how much time it's going to
25 take you to, to address staff's data request. You know,

1 just because it's in one case and the other, you just
2 can't compare the two. You know, you can, you can, you
3 can eyeball it and say, gee, which is what we do when we
4 file a rate case, we do an estimate of what the
5 worst-case scenario is for what we think is going to be
6 for rate case expense. But to make an arbitrary \$15,000
7 adjustment and just say, gee, it's not consistent with
8 this other case that may or may not be like this I think
9 is just wrong. I think the staff should not have made
10 that \$15,000 adjustment just on an arbitrary comparison
11 type of process.

12 Now Mr. Reilly's argument on the rate case
13 expense dealt with thinking that the company has all of
14 these in-house people, none of which he alluded to,
15 we're really talking about who the company really has
16 that deals with rate case type matters, and then said,
17 gee, you didn't need to hire somebody outside. I think
18 that he's asking you to micromanage the company.

19 Whereas, I think that the Commission certainly has the
20 authority, if not the obligation, to analyze rate case
21 expense carefully and make sure that it is reasonable, I
22 don't think that this Commission should be able to tell
23 the utility that, that they should not hire outside
24 accountants to handle the rate cases. In fact, the, the
25 Utilities, Inc., folks that handle rate cases in Florida

1 also handle rate cases in --

2 **MR. WILLIAMS:** Louisiana.

3 **MR. FRIEDMAN:** -- in another state, and
4 they've only got four people and they handle indexings
5 and they handle pass-throughs and they handle responding
6 to data requests and they handle other information.

7 The company in-house doesn't have the manpower
8 to put together MFRs and it is time-consuming. Now they
9 assist in putting together the MFRs because they have to
10 get the information to give it to the consultant. But
11 putting together the MFRs is not something as simple as
12 Mr. Reilly makes it seem like. It is, it is a very
13 arduous and time-consuming task, and maybe Mr. Williams
14 can go into detail, if he wants to, about that. But I
15 think that the ones of you who've dealt with rate cases
16 understand that that is a, is a time-consuming process
17 and a very important one, and it's certainly reasonable
18 to expect that any utility is going to hire outside
19 people to handle that MFR requirement. To make some
20 arbitrary determination that, gee, they shouldn't have
21 hired somebody outside I would suggest to you is not
22 proper regulatory ratemaking principles. And so I think
23 that the staff's recommendation, but for the reduction
24 in about \$15,000 in legal rate case expense, I think is
25 a, is a valid and supportable recommendation. Thank

1 you.

2 **CHAIRMAN CARTER:** Thank you.

3 Commissioners? Commissioner Skop, you're
4 recognized.

5 **COMMISSIONER SKOP:** Thank you, Mr. Chairman.
6 I just would like to hear from staff with respect to
7 Mr. Reilly's discussion as well as the rebuttal on the
8 used and useful, the salary and benefits and briefly on
9 the rate case expense issue, particularly in light of I
10 guess Mr. Reilly's discussion regarding the consultant
11 fees.

12 **MR. RIEGER:** Commissioners, this is Stan
13 Rieger with Commission staff. I'll start off with
14 quality of service and go into the used and useful and
15 address those.

16 **COMMISSIONER SKOP:** How did you get stuck in
17 the middle between --

18 **MR. RIEGER:** I know. I got stuck in the
19 middle. Odd man out on this one. Yeah.

20 Basically on quality of service Mr. Reilly was
21 correct as far as the customer is concerned at the
22 customer meeting. It was quite overwhelming as far as
23 their concerns over the quality of service. As you
24 know, pursuant to rule the Commission considers the
25 three factors as far as quality of service, and that's

1 basically the quality of the utility product, the
2 operational condition of the utility's plants and
3 facilities and the utility's attempt to address customer
4 satisfaction. Primarily there was discussion about the
5 wastewater plant and the condition that the, as far as
6 compliance with DEP is concerned.

7 The utility, as was explained, has addressed
8 the concerns of the DEP as far as the most recent items.
9 That was addressed by Mr. Reilly. As of this morning I
10 spoke with DEP wastewater analysts and reconfirmed with
11 them that there is no, currently no enforcement activity
12 against the utility, and basically DEP is satisfied with
13 the way the utility is addressing the, the compliance
14 concerns that had been brought up by DEP. Overall,
15 given the nature of this facility, both water and
16 wastewater, there has been over time incidents that have
17 occurred that has affected the quality of service with,
18 to the, provided to the customers. Basically as written
19 in the recommendation staff believes that the utility is
20 attempting to address the service provided to the
21 customers satisfactorily. There has been no negligence
22 from my viewpoint that the utility is not providing or
23 addressing the problems as they occur, and I believe DEP
24 will back that up. Therefore, the utility stands by its
25 initial recommendation that quality of service is

1 satisfactory.

2 Moving to used and useful as far as
3 development of the property and any additional lands
4 that might be available to be developed, there is that
5 one small commercial property, commercially rated
6 property that is yet to be developed. It may be
7 developed into another RV type establishment. The
8 demand, if that comes to play, the demand on the
9 existing wastewater facility would be negligible because
10 it's relatively small. As far as other available
11 properties outside the utility's service area, who knows
12 what will happen with that or when. The utility has not
13 indicated any interest in providing any of these areas
14 outside of its service territory, and staff believes
15 that that should not be a consideration in these
16 proceedings.

17 What else? The used and useful. The initial
18 recommendation for the used and useful for the
19 wastewater treatment plant is that as a result of the,
20 what we consider the development or the service areas
21 built out pursuant to rule, the used and useful should
22 be considered 100 percent used and useful because the
23 facilities are built out. The calculations that have
24 been provided by Mr. Reilly, the first calculation is if
25 you just do it by the numbers, calculating there would

1 be a 39 percent used and useful based on the flows that
2 were occurring during the test year.

3 What we do know, the difference between the
4 last rate case and the current one, is that the permit
5 has been established differently. Currently the permit
6 is based on the three-month average daily flow. In the
7 last rate case it was the max month. That has changed.
8 That is different. Also, there appears to be a
9 reduction in actual flows. I did a review on the peak
10 month between the last rate case and this rate case peak
11 month for the test years and there has been a reduction
12 in flows for whatever reason, maybe conservation,
13 maybe -- well, it could be a lot of other reasons.
14 We're assuming that conservation is a result of that.

15 Staff stands by its recommendation on that
16 that based on, for the wastewater plant because the
17 facilities are service areas built out it should be
18 100 percent used and useful. So that's basically my
19 part of it. We could carry it on by Bart.

20 **COMMISSIONER SKOP:** Just the salary and
21 benefits and also the rate case expense, please.

22 **MR. FLETCHER:** Yes. Commissioners, Bart
23 Fletcher with Commission staff.

24 In looking at the utility's requested salaries
25 for the test year, we relied on the auditor's affiliate

1 transaction through the end of the test year 12/31/07 to
2 make sure that they were properly being allocated in
3 accordance with the Commission's directive based on
4 ERCs, and there were no findings in that audit. And I
5 also wanted to point out that there, there had been a
6 significant increase in the systems that the utility had
7 in 2003 versus what they have now in the test year in
8 other states. And now they're in 17 states. I believe
9 it was 15 or 16 states back in the '03 test year. So
10 those are more towards the Northbrook employees. And
11 then they're also for the Altamonte Springs office, the
12 utility's sister company, Utilities, Inc. of Florida,
13 they did add two Customer Service Representatives and
14 there has been substantial growth within the 20
15 subsidiaries in Florida for some of their utilities that
16 have grown significantly and increased the demand of the
17 Customer Service Representatives that they added at the
18 Altamonte Springs office.

19 And for the operator, I do know that the
20 utility had, since the last case had created a position
21 for a Cross-Connection Specialist. It is required by
22 DEP that the utility aggressively seek any kind of
23 cross-connection potentials in their service area. And,
24 again, they have, this Cross-Connection Specialist is
25 for all of the systems in Florida. There was a Regional

1 Director for the Florida division and the southern
2 region that was also added as, classified as an operator
3 type position overseeing engineering aspects and DEP
4 compliance.

5 So there were -- those positions -- and so, by
6 the way, not only were there no findings in the audit,
7 affiliate transaction audit regarding proper allocation
8 through the ERC method, but also in the last case for
9 Labrador I'd like to mention that what was included in
10 there was only, was only about \$38,000. Now a majority
11 of that that was, the salaries in the last case was
12 capitalized time, so it went to plant. It's about
13 \$29,000. Because at the time, like the utility stated,
14 the utility's water and wastewater treatment plants had
15 to be completely refurbished, I mean, as far as
16 replacing railings, clarifier units. There was a lot of
17 projects going on in the 2003 case. So instead of that
18 salary showing up in the expenses, it was capitalized to
19 those capitalized projects. And that was, again, that
20 was about \$29,000 would represent that difference that's
21 on OPC's handout. The adjustments to the salaries, the
22 86 -- if you look at the increase, the expense increase,
23 the \$86,000 column, that's without any price index
24 grossing up for index inflation or for inflation and
25 customer growth. Now \$29,000 of that amount is for the

1 capitalized salary amount.

2 Now the other part are for those positions I
3 stated earlier added at the Northbrook office, at the
4 Altamonte Springs office that were allocated. And I
5 will say for those that the utility has recently -- for
6 six other sister companies the Commission has approved
7 those base salaries in those rate cases recently. So
8 all this is is an allocation of Labrador's share based
9 on their ERCs.

10 And then another point I'd like to make is in
11 2003 the company said that there was a few employees
12 that were brought on during the test year in the 2003
13 case and those, their salaries were not annualized. So
14 you didn't have the full amount of what it would be
15 within the '03 test year in the last case, in the last
16 rate case. So that was another factor contributing
17 towards that.

18 I will point out also that the utility has
19 included a 3 percent, I think 3 to 3.5 percent increase
20 for inflation since the last rate case. That's, that's
21 going on every year for whatever the salaries were in
22 2003. That is also the, what's given rise to the
23 difference from that four-year period from the last case
24 to the '07 test year as a result of -- that's resulting
25 in that \$86,000 increase since the last case.

1 Also what we've looked at just as a sanity
2 check to test the utility's reasonableness of their
3 salaries, we looked at about eight other systems in
4 Pasco County both that had water and wastewater
5 treatment plants, even resellers, and they were very
6 comparable within that range. There was a scale going
7 down from \$45.40 for a reseller only, which you would
8 expect a reseller to have less labor costs than a
9 utility that has water and wastewater treatment plants.
10 But that was the low end of the range and it went up as
11 high as \$175, where the Labrador place is around the
12 64,000 or, excuse me, \$64 per ERC for the water and
13 \$62.75 for the wastewater system on a per ERC basis. So
14 they were comparable in that regard. So staff stands by
15 the recommendation of the utility's requested salaries
16 in its MFRs. And I believe Mr. Mouring can address the
17 rate case expense issue.

18 **MR. MOURING:** Okay. In addressing
19 Mr. Reilly's concerns here, the Commission has regularly
20 allowed expenses incurred by accounting consultants in
21 the preparation of MFRs for a rate case, and in a
22 thorough review of it the expenses detailed have been
23 supported by the utility to the extent reflected in the
24 staff's recommendation.

25 And to Mr. Friedman's point, I think it is, it

1 is a fair comparison to look at Miles Grant in that
2 they're similar in size, they're both water and
3 wastewater. There was both a -- in both cases there's
4 been significant customer contention. And just looking
5 at the estimate to complete through the PAA process, the
6 details and duties to be performed were, were
7 essentially verbatim, the only difference being the
8 hours associated with each duty. And I see no, no
9 justification for why they should be that much more
10 totaling 103 or 100.3 hours for Labrador versus 53.5 for
11 Miles Grant, and as such I think it, it should have been
12 reduced down to a commensurate level.

13 **CHAIRMAN CARTER:** Thank you.

14 Commissioner Skop, further?

15 **COMMISSIONER SKOP:** I have a few additional
16 questions, but I'll defer to my colleagues.

17 **CHAIRMAN CARTER:** Commissioner Argenziano.

18 **COMMISSIONER ARGENZIANO:** Yes, I do, I do have
19 some questions.

20 **CHAIRMAN CARTER:** You're recognized.

21 **COMMISSIONER ARGENZIANO:** Thank you.

22 First, let me ask, just to go over this again,
23 how many, how many users are served at the Labrador
24 plant?

25 **MR. RIEGER:** We know that there's only --

1 **COMMISSIONER ARGENZIANO:** Hello?

2 **CHAIRMAN CARTER:** Can you hear? Can you hear,
3 Commissioner?

4 **COMMISSIONER ARGENZIANO:** I can't hear
5 anything.

6 **MR. RIEGER:** Yes. This is Stan Rieger with
7 staff. Can you hear me now?

8 **COMMISSIONER ARGENZIANO:** Okay. Now I've got
9 you.

10 **MR. RIEGER:** Very good.

11 Forest Lakes Estates is an 894-lot mobile home
12 park. In addition, there is a 274-lot RV resort.

13 **COMMISSIONER ARGENZIANO:** And the reason I
14 asked is because I want to get to the quality of service
15 issues. And I understand the company is attempting to
16 fix, fix some of the problems, but at this point they're
17 not fixed yet. So that's what it comes down to, they're
18 not fixed. I appreciate the company working on that.
19 But at the hearing, the public hearing, how many, how
20 many people showed up for that hearing?

21 **MR. RIEGER:** There was roughly 450 people.

22 **COMMISSIONER ARGENZIANO:** So a good chunk of
23 the people who are served at that facility or that area,
24 Forest Lakes, showed up for the, for the meeting. Do
25 you know how many actually spoke or filed some type of a

1 request to be heard?

2 **MR. RIEGER:** Request to speak, ma'am, is that
3 what you mean?

4 **COMMISSIONER ARGENZIANO:** Yes, or just filled
5 out a paper and said here's my complaint or --

6 **MR. RIEGER:** Oh, yes. There was, we had
7 roughly 20 folks spoke and we received multiple comments
8 after that, maybe 15 or so after that.

9 **COMMISSIONER ARGENZIANO:** Okay. And you said
10 450 showed up for the meeting?

11 **MR. RIEGER:** Yes.

12 **COMMISSIONER ARGENZIANO:** Okay. As to be
13 fair, were there, were there good testimonials as far
14 as, you know, the company is trying and here we are,
15 we're happy with the company?

16 **MR. RIEGER:** As far as customers saying that
17 they were happy with the company?

18 **COMMISSIONER ARGENZIANO:** Yes. Right.

19 **MR. RIEGER:** There was very few that said
20 that.

21 **COMMISSIONER ARGENZIANO:** Okay. So then what
22 I have to do as a Commissioner is take into
23 consideration that there are still quality of service
24 problems and also acknowledging that the company is
25 trying to attempt to fix those. And as I've said so

1 many other times, you know, Florida is a place where
2 sometimes you just have stinky water, rusty water. But
3 the problem in my mind is that people are, you know,
4 they have no other choice. And if you had a choice of
5 your own well or whatever, you would have to take care
6 of those problems that arise such as rust and stinky
7 water. But when you're paying a company, you kind of
8 expect certain things to be taken care of, and it seems
9 the company is trying to do that, but at this point
10 there are still quality of service problems. So that's
11 number one for me.

12 Also, let me get this right. Today if we
13 voted with staff's recommendation, we would increase
14 the, the rate for water by 70 percent and 40 percent for
15 wastewater; is that correct?

16 **MR. FLETCHER:** Those are the revenue
17 increases, yes, Commissioner.

18 **COMMISSIONER ARGENZIANO:** Okay. And as far
19 as -- let's go to used and useful. I'm kind of stuck
20 between a rock and a hard place on this one, and I'd
21 like to know if we have any discretion as far as the
22 100 percent used and useful. Because it's not probably
23 a good thing to punish people for being conservation
24 minded, but it's also not a good thing to punish the
25 company for, you know, following the rules and saying,

1 you know, here's what we were supposed to build to and
2 this is what we did. So I'm kind of stuck with that. I
3 have -- I believe there's probably some kind of middle
4 ground to go through on that issue and I'm hoping staff
5 could -- I know staff made their recommendations, but do
6 we have to go to 100 percent used and useful? Is there
7 some leeway?

8 Also on salaries, I have a really, a very big
9 concern. How many positions are we really talking
10 about? How many new positions are we really talking
11 about that have been added?

12 **CHAIRMAN CARTER:** Commissioner, you want, you
13 want staff to respond to the used and useful first?

14 **COMMISSIONER ARGENZIANO:** Yes. Yes. Yes.

15 **CHAIRMAN CARTER:** And then to the salary?
16 Staff.

17 **COMMISSIONER ARGENZIANO:** That would be great.

18 **MR. RIEGER:** Yes. Concerning your questions
19 about used and useful, what particularly were you
20 interested in as far as --

21 **COMMISSIONER ARGENZIANO:** I guess the
22 100 percent build out.

23 **MR. RIEGER:** Yes.

24 **COMMISSIONER ARGENZIANO:** And I've just,
25 I'm not -- like I said, I feel like we're all probably

1 stuck between a rock and a hard place on this one
2 because I really don't think that we should punish
3 people for being conservation minded and actually ask
4 them to use more water because they're going to be
5 paying more or want them to use more water in a state
6 that has to be conservation minded. But at the same
7 time, if the company has rules by DEP that says this is
8 how you shall build this plant and this is what you
9 should build, if the statutes say you can recover for
10 doing so, how do you punish the company for that also?
11 Is there, is there -- I guess I'm not sure how to ask
12 the question. Is there any kind of leeway that a
13 Commissioner would have as far as trying to meet in the
14 middle of that somewhere? Is there any -- was there any
15 discussion amongst staff?

16 **MR. RIEGER:** Well, I'm not sure if you have
17 been able to -- Mr. Reilly from OPC did present
18 alternatives here, and I'm not sure if you received that
19 paperwork. Let me go over again one more time as far as
20 in reference to leeway. Of course staff still believes
21 that since the system service area is built out, per
22 rule it should be 100 percent used and useful. But
23 Mr. Reilly did turn, submit --

24 **COMMISSIONER ARGENZIANO:** The vacant land?

25 **MR. RIEGER:** Pardon, ma'am?

1 **COMMISSIONER ARGENZIANO:** Are you going to
2 refer to the vacant land that's there? I'm sorry. I
3 didn't mean to cut you off. Just continue. I'm sorry.

4 **MR. RIEGER:** Right. Mr. Reilly did submit
5 alternatives for the Commission to consider. The first
6 alternative was to do wastewater used and useful
7 calculation based on the actual test year flow criteria,
8 which basically reflected a 39 percent used and useful.
9 The other alternative was to use the past rate case
10 Commission-approved used and useful for the wastewater
11 plant, which I believe reflected basically an 80 percent
12 used and useful based on the criteria that existed in
13 the last rate case.

14 **COMMISSIONER ARGENZIANO:** Okay. Well, what
15 discretion do we have for setting the used and useful
16 percentage?

17 **MR. JAEGER:** Commissioner Argenziano, this is
18 Ralph Jaeger, legal staff. Rule 25-30.432 is the
19 applicable rule, and it's actually fairly short. And as
20 Mr. Reilly said, the first two sentences deal with
21 matching the denominator with the numerator, the flows
22 on a three-month maximum deal, and based on that is what
23 we came up with the 39 percent. But then about halfway
24 down it says, "In determining the used and useful
25 amount, the Commission will also consider other, other

1 factors such as the allowance for growth," and let me
2 just -- "whether the permitted capacity differs from the
3 design capacity, whether there are differences between
4 the actual capacities of individual components of the
5 wastewater treatment plant and the permitted capacity of
6 the plant, and whether flows are decreased due to
7 conservation or a reduction in number of customers, and,
8 of course, whether the plant is built out."

9 So you do have -- you know, this is what you
10 consider. So I don't think you're locked into any of
11 those and you have to -- I think what you said, the rock
12 and the hard place, was conservation, reduction in
13 number of customers, and then whether the plant is built
14 out. And so you can take all of that into consideration
15 and you're not locked into the 39 percent or anything
16 else. You have to just consider all of the available
17 data and then you can make a decision.

18 **COMMISSIONER ARGENZIANO:** Okay. And the rule
19 doesn't require any particular result?

20 **MR. JAEGER:** I don't think the rule requires a
21 particular result, but it says what you have to
22 consider.

23 **COMMISSIONER ARGENZIANO:** Okay. Okay. And
24 then on the salary --

25 **CHAIRMAN CARTER:** Hang on a second,

1 Commissioner. I think -- Mr. Fletcher, did you want to
2 comment on that?

3 **MR. FLETCHER:** I was just getting ready to
4 comment on the salary position.

5 **CHAIRMAN CARTER:** Okay. One second.
6 Commissioner, are you ready for the salaries question?

7 **COMMISSIONER ARGENZIANO:** Yes, sir. Yes.

8 **CHAIRMAN CARTER:** Okay. Mr. Fletcher.

9 **MR. FLETCHER:** Yes. Commissioner Argenziano,
10 on the Northbrook office employees, those are up in
11 Northbrook, Illinois. The positions that were added
12 over the past four years were 22 positions up there.
13 And for the Altamonte Springs office, for the Labrador
14 sister company there were five, excuse me, four
15 positions in the Altamonte Springs office that were
16 added including Customer Service Representatives and an
17 Account Manager. And then as far as operators that were
18 more like Area Managers, and, again, that Director
19 that's part of the Florida, covers Florida and the south
20 region, there were about five new positions, and those
21 are two that were included among that five.

22 **COMMISSIONER ARGENZIANO:** So you're saying
23 about nine for Florida?

24 **MR. FLETCHER:** Yes. But one of those
25 positions actually goes for Florida and to the south

1 region, so his salary is allocated based on ERCs like
2 the Northbrook employees are.

3 **COMMISSIONER ARGENZIANO:** Okay. How have
4 those positions helped the quality of service issue, if,
5 if they have helped?

6 **MR. FLETCHER:** Well, for one of them, the
7 Cross-Connection Specialist was another one as far as an
8 operator type, it's in order to constantly monitor and
9 make sure that the utility is in compliance with the
10 cross-connection rules mandated by DEP. So that's one
11 aspect there as far as his salary being allocated among
12 the 20 Florida systems.

13 The regional, I guess the company can speak to
14 a little bit more than I could on the Regional Director,
15 part of the south region and the Florida. He oversees
16 all like the budgeting and major construction projects
17 in order to get, obtain or maintain DEP compliance.

18 As far as the other ones, there's one
19 part-time operator that was hired just to handle any
20 excess -- where the normal full-time operators for the
21 water and wastewater treatment plant operators, whenever
22 they cannot be there, that they back them up during
23 hours where they can't be there, and there was part of
24 his allocated time of what he actually spent in order to
25 do that. Those were the, some of the benefits that I

1 see for the operator positions.

2 For the Altamonte Springs position, the
3 Customer Service Representatives that were added,
4 obviously the 20 subsidiaries here in Florida have
5 substantially increased in growth. And to accommodate
6 the customer service calls that are coming into the
7 Altamonte Springs office, that was the need there that I
8 see.

9 **COMMISSIONER ARGENZIANO:** Okay. Did the
10 company want to answer?

11 **CHAIRMAN CARTER:** Commissioner, we didn't hear
12 your last comment.

13 **COMMISSIONER ARGENZIANO:** Did the company want
14 to speak to that?

15 **CHAIRMAN CARTER:** Mr. Friedman, are you
16 interested? Did you want to speak to --

17 **MR. FRIEDMAN:** This is Marty Friedman. I
18 mean, we could talk about, if you want us to go into
19 detail on what each of these people do, I'm sure
20 Mr. Flynn can back it up. I think that Mr. Fletcher
21 gave a good overview of those, certainly the local
22 positions. And although Mr. Williams is listed as a
23 corporate type up in Northbrook, he really resides in
24 the Florida region with, and still here in Tallahassee,
25 although he's treated as a Northbrook employee. So, I

1 mean, unless somebody has a particular question about a
2 particular employee or wants us to go into detail on
3 those, I think that Mr. Fletcher adequately addressed
4 those.

5 **CHAIRMAN CARTER:** Okay.

6 **COMMISSIONER ARGENZIANO:** I guess what I'm
7 getting to is the fact that you had so many people show
8 up at a, at a public hearing with a lot of quality of
9 issues, a lot of quality issues and concerns. And as I
10 said before, I understand the company is attempting to
11 resolve those, but they're not resolved yet and I'm not
12 sure they can be. I heard, I think, the company
13 representative before state something to the effect
14 that, you know, we'll take care of those but we'll make
15 sure we do them prudently. Well, I hope so. But I hope
16 that also means that they can be taken care of because
17 the, so to speak, the customers are trapped, they can't
18 go anywhere else. And their concerns, I think, have
19 been heard loud and clear. So when you add on a
20 223 percent increase in positions and salaries, I really
21 want to know what it does for the quality of service
22 concerns that drove so many people out to that hearing.

23 And I guess, you know, I guess you can go by
24 title of each one of them and then -- I don't think
25 that's necessary, but I was trying to get a more

1 specific answer as to, you know, these are, these
2 people -- I see 22 of them are not even in the state.
3 And the ones that are I'm concerned with and how they're
4 addressing or what the, you know, what they can do to
5 help with the quality issues.

6 And I guess, Mr. Chair, what it comes down to
7 for me is that there are still quality of concerns,
8 concerns for so many people to show up like that, and
9 such a large increase concerns me also. But, then
10 again, on the used and useful I wonder if staff can
11 answer one more question as to do we have the discretion
12 to, to accept either of OPC's alternatives or is there a
13 better one that we can go to? And I, and I don't want
14 to punish the company either for having to do what the
15 DEP has told them to do, but I'm just not sure that
16 we're not punishing the customer while they're still
17 having quality concern issues. And I didn't know if we
18 do have the discretion to take up or amend or change
19 the -- and I guess that's what staff has already
20 indicated we do have that discretion.

21 **CHAIRMAN CARTER:** Why don't we do this,
22 Commissioner. We're going to go to Commissioner Edgar
23 and then Commissioner McMurrin, and then by then maybe
24 staff will have an opportunity to come back to us on
25 the, where our responsibilities and authority rests in

1 terms of determining the used and useful percentage.

2 **COMMISSIONER ARGENZIANO:** Thank you.

3 **MR. FRIEDMAN:** Chairman Carter, might I
4 address one of the issues that Commissioner Argenziano
5 mentioned? And she mentioned it over and over again:
6 They've got, still got quality of service issues,
7 they've still got quality of service issues. I
8 challenge you to tell me what those quality of service
9 issues are. Just because 425 customers in a mobile home
10 community during the season when everybody happens to be
11 there, I can venture to guess, and I've been doing this
12 a long time, and every time you have a customer meeting
13 in a mobile home community, you're going to get a ton of
14 people out there because nobody wants their rates
15 increased. I don't want mine increased. I'm sure that
16 none of you want yours increased. And you get into an
17 environment where you have a mobile home community, a
18 nice tight-knit community that knows, that has a good
19 homeowners association organization, you are going to
20 drive out people to those meetings.

21 **COMMISSIONER ARGENZIANO:** You know what, I --

22 **MR. FRIEDMAN:** And I suggest to you that just
23 because 425 people came to a meeting doesn't really mean
24 that you have, still have quality of service issues.
25 Like I say, I challenge you to tell me what the quality

1 of service issue is.

2 **COMMISSIONER ARGENZIANO:** Mr. Chair, I'd be
3 happy to do that because what you're doing is you're,
4 you're saying to me as a Commissioner who's sitting here
5 trying to listen to both sides that I should disregard
6 450 people out of, out of almost half of the people who
7 live in that area. And I take great maybe exception to
8 the tone that that was just presented in, I really do,
9 because we are the Public Service Commission, and it's
10 times that we do have to listen to, I mean, it's all
11 times that we do have to listen to both sides. And I'm
12 not going to disregard 450 people. I heard rust
13 problems, grease problems, smell problems. So your
14 challenge has been met. Okay? There are still quality
15 of service concerns.

16 And when you are an individual who is trapped
17 in one place, can't go anywhere else, and I'm not
18 saying -- that's not in the derogatory. That is the
19 reality. They are trapped, they can't go anywhere else
20 for their water. If, as I said before, you are a
21 homeowner and you have your own well and your own septic
22 and you have those problems, you can take care of those.
23 They'll cost you more money and that is true. And the
24 same thing occurs when we have a utility providing that.
25 But, nonetheless, there is still odor, rust and problems

1 that they have come out in numbers.

2 I understand people never want to pay more for
3 anything and that's just, that's the way it is, but that
4 doesn't drive my decision just because you don't want to
5 pay more. There has to be a basis for that. But 400
6 people, 450 people or 500 people showing up and telling
7 you about their problems are not going to be disregarded
8 by this Commissioner and I'm going to listen to those.
9 Whether they're true or not, that's what I'm trying to
10 come to a meeting of the minds with. But, nonetheless,
11 I'm still going to listen to those. So your challenge
12 has been met. Yes, there are still quality problems.
13 And I understand that that doesn't make a determination
14 in my mind. What makes a determination in my mind is
15 trying to get answers to the questions of those
16 problems. So, so if you have that many people coming
17 out, number one, that's a red flag. Are they all there
18 just because they don't want to pay any more? Well,
19 perhaps sometimes that's true, and that's what I'm
20 trying to get to the bottom of. But I have seen and
21 heard quality problems. Otherwise, this company
22 wouldn't be taking those measures to correct them if
23 there were no problems.

24 Thank you, Mr. Chair.

25 **CHAIRMAN CARTER:** Thank you. Commissioner,

1 did I -- Commissioner Edgar, you're recognized, and then
2 Commissioner McMurrian.

3 **COMMISSIONER EDGAR:** Thank you. I had a much
4 more specific question, and if we've covered it already,
5 I apologize. But, Mr. Reilly, could you speak to the
6 point that the utility raised a while earlier in the
7 discussion about the facility not being able to be
8 permitted at a different design, as to how that would
9 apply under the interpretation of the used and useful
10 calculations?

11 **MR. REILLY:** I don't concede that point.
12 Number one, Utilities, Inc., did not build this plant.
13 They inherited this plant. It was built years ago by
14 another party. They came in and purchased it. And I, I
15 by no means concede his statement that no other plant
16 could have been built at the time but the plant that was
17 built. That will be something that we will research and
18 obviously take to hearing.

19 He says, "We can't be penalized for building
20 something that we were required to build." Well, in
21 fact, this very same Commission four years ago made an
22 80 percent used and useful adjustment. Well, under the
23 exact same facts this same staff, or not the same staff,
24 but the staff four years ago looking at virtually the
25 same used and useful figures, looking at the same

1 11.7-acre parcel of land that has not been developed and
2 said, no, it's not, it's not built out. Technically
3 it's not built out. We are going to make a used and
4 useful adjustment. That adjustment was much higher four
5 years ago because of that permitted capacity issue on
6 the max, the average daily flow of the max month versus
7 the three months.

8 Commissioner Argenziano was looking, can I
9 have some middle ground? Can I do something with this?
10 And the answer is yes because you can look at the rule
11 and say the rule says it's 39 percent, but you can use
12 your rule that says whether the permitted capacity
13 differs from the design capacity and you can say we do
14 not want to go that far. Even though the rule says it's
15 39 percent, because we held it, it was 80 percent in the
16 last case and there's virtually the same circumstances,
17 there is a difference in the permitted capacity based on
18 that average of the three months, we're not going to
19 penalize the company for that. So we're going to use
20 that language to do the middle, I call it the middle
21 ground. It's hardly middle. It goes from 60, you know,
22 from 80 percent used and useful down to non-used and
23 useful 20 percent versus 61 percent, but it's one-third
24 of an adjustment in effect. I think that would give
25 some credence, some consideration to Commissioner

1 Argenziano and to, you know, all the factors, but within
2 the confines of your rules gives you solid ground to say
3 that the rule could be applied and tempered by this
4 language.

5 **COMMISSIONER EDGAR:** Okay. Thank you.

6 And if I may, Mr. Chairman, just to follow up
7 on that same point I would like to ask the utility to
8 respond or elaborate. And also if our staff has any
9 comment on that more narrow point as to how our rule
10 language interacts with whatever the DEP requirements
11 might have been.

12 **MR. REILLY:** I do have to correct one thing
13 that Mr. Friedman said, and I didn't quite get it out.
14 He was saying that this parcel, this 11.7 has to be sold
15 and has to developed and all of these circumstances have
16 to occur. That is not true.

17 The language that I referred to about sold and
18 developed was the parcels outside the service territory.
19 This 11.7 acres is currently owned by the Forest Lakes
20 Cooperative. It is my understanding it's zoned, it's
21 ready to go. I think it is the economy more than
22 anything else that is keeping it from going forward.

23 I have every reason to believe that it at some
24 point will happen. Now, we don't know when, but it is a
25 known and measurable potential for growth.

1 **COMMISSIONER EDGAR:** I do understand that.
2 That is a little different, though, Mr. Reilly, I think
3 than the point that I'm trying to get clearer in my
4 mind. Which goes back to, Mr. Friedman, comments you
5 made, I think, earlier on when you were first asked to
6 respond as to how our rule interacts, and possibly the
7 point that Mr. Reilly just brought up about how we
8 applied it four years ago in the rate case on point to
9 the comment you made about not being able to use our
10 rule to penalize the utility for something that a sister
11 agency required.

12 Could you speak -- it's a little narrower.

13 **MR. FRIEDMAN:** Yes, I can reiterate that. You
14 know, the rule as was quoted, and it says what it says,
15 it gives you the flexibility to -- in certain
16 circumstances to consider factors other than the strict
17 mathematical calculation. And in this case -- and I
18 have been involved in permitting of water and sewer
19 plants, so I know how DEP looks at the requirements.
20 And I have tried very hard on many occasions to convince
21 DEP that their default numbers in their permitting rules
22 are wrong, and I haven't been successful in doing it and
23 I don't know anybody else that has until you get some
24 actual operating experience, and this plant was built,
25 as Mr. Reilly pointed out, by the original developer,

1 you know, when he was developing the mobile home park.
2 So it's not like he could say we have already got 50
3 customers and based on our experience this is what the
4 per capita usage is.

5 They had to go in there with a piece of land
6 saying we are going to put a mobile home community in
7 here, and the DEP is saying, okay, look at our rule and
8 this will tell you what the per capita that you have to
9 have for each of those spaces in the plant. And I
10 understand it was built in accordance with those
11 requirements.

12 And, you know, it would be interesting to look
13 at what happened in the first year, and I don't know if
14 all of you all were around here when the case first came
15 up, but these customers were paying originally \$15 a
16 month flat rate all the water and sewer you want. I
17 would venture to guess they were using a lot of water
18 when it was 15 bucks for all they want. And so what has
19 happened, and I think as Mr. Rieger said, the
20 consumption has gone down even from the last rate case.
21 And the rule says you shouldn't penalize the utility
22 because they built something prudently and because
23 conservation comes in and makes the used and useful --
24 makes it not 100 percent used and useful.

25 And I would suggest to you that what was done

1 in the last case, you know, it was a PAA case, too. It
2 is one of those things that I'm sure we took exception
3 with having a used and useful adjustment of 20 percent,
4 but it was a PAA case, and as happens in most PAA cases,
5 Mr. Reilly gives up issues because it's not worth going
6 to hearing on, and the utility does, too.

7 And so I would suggest to you that just
8 because you made a mistake last time that nobody
9 complained about that that means you ought to carry
10 through that mistake to this case. I think certainly
11 the prudence is to recognize that that service area is
12 built out. And if Mr. Reilly says that 11 acres is
13 ready to go some time -- he said known and measurable,
14 but he doesn't know when it's going to happen. I think
15 that is kind of contradicting himself. But as I think I
16 heard Mr. Rieger say, even if you add that in there,
17 adding that extra capacity since it's going to be RVs is
18 negligible. And if he can tell me whether I understood
19 him correctly or not, and if that's true --

20 **MR. RIEGER:** That's true.

21 **MR. FRIEDMAN:** -- then certainly that
22 reiterates the staff's correct position that this ought
23 to be 100 percent used and useful.

24 **CHAIRMAN CARTER:** Thank you. Just for a
25 moment, Commissioner Skop to that point.

1 Commissioner Skop and then Commissioner
2 McMurrian.

3 **COMMISSIONER SKOP:** Thank you, Mr. Chairman.

4 And Commissioner Edgar raised a concern and
5 point I had also, with respect to that in terms of when
6 staff responds to Commissioner Edgar's request, and
7 probably our General Counsel would probably be the
8 appropriate person. But I guess if I understand Mr.
9 Reilly correctly, he's asking us to revert back to a
10 lower used and useful percentage than the Commission
11 previously approved. And I'd like to understand from a
12 legal perspective whether that might constitute
13 retroactive ratemaking or whether administrative
14 finality would attach to the Commission's previous
15 order.

16 **CHAIRMAN CARTER:** Commissioners, why don't we
17 do this. I see our legal eagles are huddling right now,
18 and I did not give our court reporters a break. It
19 would be a good time to take a break and we will come
20 back in about 15 minutes.

21 (Recess.)

22 **CHAIRMAN CARTER:** When we took a break staff
23 had taken a moment to respond to Commissioner Skop's
24 question.

25 Staff, you're recognized.

1 **MR. IMHOF:** Thank you, Mr. Chairman. Booter
2 Imhof for the General Counsel's Office.

3 On the points that Commissioner Skop made, the
4 first question was on retroactive ratemaking. We don't
5 believe there is any retroactive ratemaking here because
6 this is an ongoing case and the Commission has a new
7 case in front of them, and they have the ability and
8 duty to look at the factors to decide this case.

9 On the issue of administrative finality, we
10 don't believe -- this is also not an issue because of
11 the changed circumstances and the issue of the
12 consideration by the staff that there is less chance for
13 growth in the used and useful and that that would not
14 address the administrative finality issue.

15 **COMMISSIONER SKOP:** Mr. Chair, I guess my
16 question on administrative finality is the Commission in
17 its prior order had adopted a used and useful percentage
18 of 80 percent, and I guess Mr. Reilly had suggested that
19 39 percent would be appropriate. That's my concern with
20 respect to administrative finality, whether we would be
21 bound by the prior determination of the Commission that
22 80 percent was the minimal used and useful and we could
23 not go below that.

24 **MR. IMHOF:** Well, Commissioner, Mr. Chairman,
25 in the past -- even though our primary recommendation in

1 this case is 100 percent used and useful, the Commission
2 has not reduced past 80 percent in prior cases. I mean,
3 you know, I shouldn't say past 80 percent, but below the
4 determination of used and useful in past cases. So in
5 that case you are absolutely correct.

6 So to kind of sum up, the staff still believes
7 that because of the build-out -- in the past case there
8 was a possibility for construction and the possibility
9 for continued build-out. Here the staff believes that
10 it is built-out under the rule and 100 percent, but we
11 don't believe that in any case that we could go below
12 the 80 percent used and useful.

13 **CHAIRMAN CARTER:** Thank you.

14 Commissioner McMurrin, you're recognized.

15 **COMMISSIONER McMURRIAN:** Thank you, Chairman.

16 I've got several questions, I guess, on these
17 points.

18 **CHAIRMAN CARTER:** You may proceed.

19 **COMMISSIONER McMURRIAN:** On the quality of
20 service, I guess, is where I would start, and I guess I
21 would say first that it seems like what we have been
22 hearing about -- several of the concerns we have heard
23 about mentioned from different parties about what the
24 customers have talked about, the 450 that showed up at
25 the customer meeting. It sounds like a lot of it is

1 aesthetics, but probably a lot of you have heard me say
2 several times for awhile now that that matters, too. It
3 definitely matters to the customers and I think it
4 matters to us.

5 So I guess I want to talk about what the
6 utility has done to address those issues as well as what
7 the utility can do going forward. So I guess on the DEP
8 issues that they monitor and measure, it seems like we
9 are hearing from the staff that DEP is at least
10 satisfied for now on those issues. So perhaps all the
11 standards are being met, but I wanted to ask the utility
12 what have you done to address those aesthetic issues,
13 and is there anything else you can do, and why or why
14 not in response to that question, as well.

15 And as a follow-up to that, you talked about
16 installing covers with respect to the odor problems as
17 one example, and you said that was extremely expensive.
18 So I wanted you to address that, too, and talk about how
19 expensive and how expensive would that be to a customer
20 if that were actually to be done. Because I think it
21 would be good for the customers to hear that kind of
22 analysis as to here are some things we could do, this is
23 how much it would cost you. And for them to sort of
24 have it in their minds, too, do they think it is worth
25 it or not.

1 **MR. FLYNN:** This is Patrick Flynn, again, for
2 the utility. With respect to water quality complaints
3 on the drinking water, our water supply, groundwater
4 supply at Labrador contains iron. It's naturally
5 evident in the water quality. And in order to combat
6 that from being an issue with the water delivered to the
7 customers, we add a sequestrant to keep that iron in
8 solution. By its very nature, sequestrants are limited
9 in their effectiveness over time. So what we do is have
10 a scheduled flushing program to minimize the detention
11 time in our water mains, to reduce the frequency, or
12 occurrence, or duration of when iron might be a problem.
13 And we have been communicating that effort to the Forest
14 Lake Co-op, and the board, and the general manager.
15 They are aware of our efforts, and I think in that way
16 we have succeeded in improving that aspect.

17 We changed sequestrant agents to a better
18 quality one in an effort to better combat the iron from
19 precipitating out, and I think that has been evident
20 since we have been doing that for the last year and a
21 half or so.

22 On the wastewater plant, the concerns you had
23 about the potential cost for covers, I can't tell you
24 what a definitive amount would be since we have not
25 hired anybody to quantify that cost. However, there are

1 about 13 different treatment tanks or vessels at the
2 plant, and the cost to cover them and to duct air
3 through piping to an odor control apparatus to minimize
4 odor carry or odor generation, I would certainly know
5 that it would be over six figures. It might be
6 substantially more than that.

7 How that translates into a cost per gallon,
8 cost per thousand gallons per wastewater ERC, I
9 really -- I can't tell you. I just don't know. It
10 certainly wouldn't be an inexpensive proposition.

11 **COMMISSIONER McMURRIAN:** And I guess the only
12 other thing, and perhaps staff can help us with some
13 kind of estimate of a six-figure expense, what that
14 would actually do to a customer's expense if -- Mr.
15 Friedman.

16 **MR. FRIEDMAN:** Commissioner McMurrian, you
17 know, when Mr. Flynn talks about covering all the tanks,
18 you know, what they have decided that -- they being the
19 company along in conjunction with DEP, is that is not
20 necessary. The fix that they made which was, you know,
21 a pretty good fix that they rigged up that works, it's a
22 charcoal filter type system, and DEP thought it was a
23 very good system -- I think the staff does, too, and
24 they have been out there -- that that really does take
25 care of the odor problems.

1 Now, will a sewer plant every once in awhile
2 have an odor problem? It's going to. I suggest to you
3 the best-run plant is going to have a problem every now
4 and then. But I would suggest to you that even if we
5 were going to spend six figures to put the rest of the
6 tanks, I'm not sure it would be any better fix than what
7 they have got now. They did something that fixes the
8 odor problem that DEP says works, and I think when Mr.
9 Rieger was out there, and I think he concurs that it is
10 a pretty ingenious system that was relatively
11 inexpensive to fix the problem. So I think the odor
12 problem is really fixed as far as the DEP is concerned
13 and certainly the utility.

14 **COMMISSIONER McMURRIAN:** I appreciate that. I
15 guess what I'm saying is, though -- I'm not trying to
16 say that the utility needs to go out and cover all of
17 its tanks. I don't know. I'm definitely not an expert
18 in that area, and I don't know what the odor problems
19 are other than that we're hearing that they still exist.
20 So whether or not it's more than should exist or not, I
21 have no way of knowing that. And I think that DEP's
22 input on that is going to be important, and is important
23 already.

24 But I think it's good for us to talk about and
25 for the customer -- for you all to talk with your

1 customers, quite frankly, about some of the things that
2 are options out there but, of course, they have huge
3 price tags associated with them, and perhaps it may not
4 make anything any better. But I think if the dialogue
5 between the company and the customers were better,
6 perhaps we would all be better. We would not be
7 discussing some of these aesthetic problems. I think
8 that they might see that there is a certain amount that
9 perhaps you have to live with. I just don't know, but I
10 think that the dialogue between the customers and the
11 company probably could be better there.

12 **MR. FLYNN:** If I could speak to that. My
13 staff has met individually with customers who complained
14 going directly to their location, and has provided
15 opportunities, telephone numbers and means to contact
16 our staff anytime day or night to allow for us to
17 respond in a very short time interval in order to
18 ascertain where odor issues might be arising from. And
19 we have, in fact, had some opportunities to get that
20 feedback.

21 We also have customers who choose not to do
22 that and route their complaints or issues through other
23 parties, and the time delay is disadvantageous to figure
24 out what the source of the problem might be. By and
25 large, odors are generated at headworks before the

1 treatment process gets into full gear, and that has been
2 the focus of where we've addressed our odor control
3 efforts. And we have about been successful in reducing
4 substantially that which was otherwise generated. There
5 is certainly room for additional improvement, and we
6 have an interest in constantly talking with our
7 customers, with the general manager at the community,
8 with the board members, all of whom have been provided
9 with phone numbers and e-mail addresses for our staff,
10 to our staff so that they can get that information
11 rapidly and allow for us to respond rapidly. And we are
12 very happy to do that, and we have been doing that.

13 So I wanted to let you know that that effort
14 has been underway for a long time and will continue to
15 be underway because we understand the importance of
16 having a dialogue between the customers.

17 **COMMISSIONER McMURRIAN:** Okay. And I guess I
18 will direct this to OPC and then to staff. Since I have
19 asked the company if there is anything else they can do,
20 it's probably fair to ask you and the staff as far as
21 what the customers have said and in your experience in
22 this area, do you think there are additional things that
23 the company should be doing that they are not doing and
24 what are those?

25 **MR. REILLY:** I had a conversation with the

1 manager down there this morning right before agenda.
2 You know, what's the status of the lawsuit; what are you
3 doing about the odor issue? And I think I said
4 previously that they were going to go ahead and hire
5 someone, an independent person to look at the problem
6 and come up with some recommendations. They felt they
7 kind of needed to do that before they went to the next
8 step on the lawsuit. So that's one major tangible thing
9 that the co-op association is going to do.

10 I have had anecdotal information that has come
11 in just in the last few days. Several customers that
12 sent the e-mails have suggested, and I have no idea if
13 there is any -- what the validity of this is, that there
14 is some sort of skimming that takes place where they
15 take the solids off of the sewer activity and it goes
16 into an open dumpster. And somehow, I don't know, it is
17 a chute. It has been described to me. I'm going to
18 have to physically go down and look at it, but there is
19 some sort of a process where some of this, I guess, has
20 an odor associated with these solids and so forth that
21 is being skimmed off being dumped into this dumpster
22 which is then physically picked up by Waste Management
23 and carted off of the site.

24 So, you know, it could be some of these
25 activities are generating smells that can be somehow

1 sequestered and controlled. I mean, I think the
2 customers want to obviously address the issue in the
3 least-cost manner. And so I think I'm fair to say that
4 both the associations and the individual customers, that
5 they do get frustrated, and, you know, and I'm just
6 going to put in a word, you know, they do get dismissed
7 as being bellyaching because they are coming in and they
8 are from a mobile home park because -- you know, I think
9 it is disingenuous and it is offensive to me, frankly,
10 the several comments that have been made that the people
11 who go to these hearings complain about colored water
12 and all these things. I feel for them, and I think they
13 are absolutely legitimate.

14 I think the real problem is it is a
15 disconnect. I think you hit it on the head. It is sort
16 of a disconnect between all of these concerns that the
17 customers experience in their homes and what is on the
18 DEP radar as far as what is health related and subject
19 to their jurisdiction. And so I think that those
20 complaints and those problems are as real as can be to
21 those people, and just the same the company can sit up
22 here and say, oh, well, we are meeting all the DEP
23 standards. And we have seen this play out time and time
24 again. So, anyway, I want to stand up for the customers
25 and say I don't think they are just bellyaching because

1 they want a less rate. I think they have real problems
2 and they don't know where else to bring them to, you
3 know, other than the Commission or to these different
4 agencies. Thank you.

5 **COMMISSIONER McMURRIAN:** Obviously we don't
6 either. So I guess this will be to Stan.

7 **MR. RIEGER:** Yes.

8 **CHAIRMAN CARTER:** Commissioner, before you go,
9 did you ask about the cost on the aesthetics? Did you
10 ask that?

11 **COMMISSIONER McMURRIAN:** I did with respect to
12 the covers, and we talked about the six figures.

13 **MR. FLETCHER:** If I may, Bart Fletcher with
14 Commission staff. Based on a \$100,000 investment,
15 including the depreciation and the return on that
16 investment, it would be about \$13,843, which would
17 represent on an average basis to the wastewater
18 customers and additional \$1.29. So for each incremental
19 investment of 100,000 you would have to tack on 1.29 per
20 month on the average bill.

21 **COMMISSIONER McMURRIAN:** On the average bill
22 using about, what, 3,000 gallons a month or something?
23 Oh, that's wastewater.

24 **MR. FLETCHER:** That's just wastewater.

25 **COMMISSIONER McMURRIAN:** Thank you.

1 **CHAIRMAN CARTER:** Sorry, Commissioner, for
2 interrupting.

3 **COMMISSIONER McMURRIAN:** No, thank you. I had
4 gone past that and forgot. Thank you for that.

5 Mr. Rieger, you made a statement in the
6 recommendation about point-of-use treatments being --
7 let me try to find that. In the recommendation that
8 perhaps with systems with water quality issues, and I
9 think you were talking about challenging water quality
10 aesthetics. That point-of-use treatment systems are
11 often the most cost-effective mechanism to achieve
12 customer aesthetic quality objectives. And I think what
13 you said, and I just want to let you elaborate on it is
14 that with these kind of aesthetic issues, iron and
15 sometimes the hydrogen sulfide, and that sort of thing,
16 are you saying some of the best ways to treat that is
17 going to be at the point of use for the customer, that
18 perhaps it's not the most cost-effective way to address
19 it somehow on the utility side.

20 **MR. RIEGER:** That's correct, Commissioners,
21 particularly with the situations with like the iron and
22 the rust that comes through the water, as well as the
23 odor. These point of use units are like filtration
24 devices or other mechanical means to remove the
25 offensive materials that the customers believe should be

1 removed.

2 And, fact in point, there was a lot of
3 customers there that raised their hand that do employ
4 these types of devices. And it is an expenses to them
5 to -- replacing these filters is a significant dollar
6 amount to these particular individuals. But, overall,
7 to require treatment at the treatment facilities would
8 be really not effective. It would be cost prohibitive,
9 particularly since the utility is in compliance.

10 **COMMISSIONER McMURRIAN:** So to my earlier
11 question, going back to that. So you don't believe that
12 there is -- have you identified anything that the
13 utility should be doing to address some of these
14 aesthetic issues that we're hearing from the customers?

15 **MR. RIEGER:** What I found, Commissioner, is
16 that the utility appeared to be very responsive once
17 they received a complaint. We could track it as far as
18 a customer complaining about getting rust in their
19 laundry and their clothes. And that was a normal
20 complaint, clothes discoloration, and the utility --
21 based on their logs we could track about what the
22 response was, about what the utility did. The utility
23 immediately would contact the customer. If there was
24 flushing that would be needed, the utility would report
25 that, and at the end of the line they would actually

1 provide some chemical, Rust-B-Gone or whatever, to redo
2 the clothes with to try to get the rust stain out.

3 If I may, Commissioner, over on the wastewater
4 side, I might want to point out to you as far as the
5 operations of the wastewater facility, although there is
6 no guarantee, things do happen. The wastewater plant
7 does get upset on occasion. Not necessarily in the case
8 of the utility, but it does happen. The odor problem
9 primarily is not because -- and I want to make sure that
10 the Commissioners are aware there is not an indication
11 of the plant not being operated properly. They meet the
12 criteria as set forth by DEP. Odor from a wastewater
13 treatment plant is a normal thing. It may be offensive
14 to those folks who may live real nearby, and in this
15 case, the big problem is the location of the sewer
16 plant, which is bordering right next to the residential
17 area.

18 There are residents that their backyard
19 borders up against the sewer treatment plant property.
20 The utility did not choose the location, nor did these
21 customers; but, unfortunately, that is the case. And
22 from what I am able to see is that the utility is
23 responsive to those types of concerns, as well, and they
24 appear to be doing what they can.

25 Now what else can they do? Who knows. They

1 could try some things to see if it improves. But given
2 the charcoal filtration device that was installed plus
3 the chemical that they put in at the lift station plant
4 to -- the lift station to reduce the odor of the raw
5 sewage, we know what they are doing there and DEP
6 considers that appropriate. And that's all we know at
7 this point.

8 **COMMISSIONER McMURRIAN:** Thank you.

9 I think that does it on quality of service. I
10 had a few on some of those other points. On the used
11 and useful, I can't remember if we ever came back to
12 this, but I think Commissioner Edgar had asked about Mr.
13 Friedman's statement about that the company had
14 permitted the original plant as required, and I don't
15 remember if staff ever addressed that about whether or
16 not they believed -- I think Mr. Reilly did, but I'm not
17 sure if staff ever addressed whether they believed that
18 that was the case.

19 **MR. RIEGER:** As far as the permitting of the
20 original, the size of the facility?

21 **COMMISSIONER McMURRIAN:** That they didn't
22 really have a choice but to permit it for that amount.
23 That they couldn't have permitted it for less, I believe
24 is what Mr. Friedman said.

25 **MR. RIEGER:** I believe Mr. Friedman is along

1 those lines pretty much correct in what he indicated.
2 What we do know is that DEP does not consider PSC used
3 and useful requirements in the form of designing the
4 wastewater treatment facility or the size thereof. So,
5 yes, basically the facility is designed to meet capacity
6 needs of the development of which it is to serve and
7 those capacity needs are based on design flows. That's
8 to say -- that's different from what we do our used and
9 useful, which is based on actual flows.

10 **COMMISSIONER McMURRIAN:** Right. And that has
11 come up in a lot of other cases, too, right? The issue
12 of the utility designs it per working with DEP about
13 what they are supposed to have for engineering
14 purposes --

15 **MR. RIEGER:** That's correct.

16 **COMMISSIONER McMURRIAN:** -- versus how we do
17 the accounting of the used and useful.

18 **MR. RIEGER:** Right.

19 **COMMISSIONER McMURRIAN:** Okay. And I guess I
20 have one other question about used and useful. I still,
21 you know, despite all the discussion we have had today
22 on it, I have still had a hard time following why we
23 have the difference in the last case, which was around
24 the 80 percent versus the 100 percent here. And also I
25 didn't really understand the importance of the

1 three-month average daily flow issue.

2 **MR. RIEGER:** Basically, that is set up from
3 permitted capacity in the utility's existing operational
4 permit. During the course of the last rate case, the
5 operational permit capacity was based on a max month
6 flow criteria. With the new current existing permit
7 that is a three-month criteria.

8 **COMMISSIONER McMURRIAN:** So it's just a
9 difference in the way the permits are issued.

10 **MR. RIEGER:** The difference in the way the
11 permits are issued. It does not necessarily effect the
12 capacity of the plant, it effects the demand on the
13 capacity of the plant.

14 **COMMISSIONER McMURRIAN:** And do we typically
15 follow what the current permit uses so that we would use
16 the three-month average daily flow?

17 **MR. RIEGER:** That is consistent with the rule,
18 yes, with the existing permit.

19 **COMMISSIONER McMURRIAN:** Okay. I think that's
20 it on used and useful. Thank you, Chairman.

21 On salaries and benefits to staff, I wanted to
22 clarify about the positions that we have been talking
23 about. The positions in Illinois are allocated to all
24 Utilities, Inc. systems, correct?

25 **MR. FLETCHER:** That's correct, in all 17

1 states.

2 **COMMISSIONER McMURRIAN:** So every time we have
3 a Utilities, Inc. case, and we do Utilities, Inc.
4 usually system-by-system, we're addressing the piece
5 that gets allocated or that the company wants to
6 allocate to that particular system.

7 **MR. FLETCHER:** All the Northwood employees get
8 allocated on a per ERC basis.

9 **COMMISSIONER McMURRIAN:** Per ERC basis. That
10 was the other question I had. Okay. And we have had
11 other cases with respect to Utilities Inc., and we have
12 been allocating already those systems portions to -- Mr.
13 Reilly, I don't think likes it. I see him. But we have
14 been doing that in the other cases on a consistent per
15 ERC basis.

16 **MR. FLETCHER:** That is correct.

17 **COMMISSIONER McMURRIAN:** Okay. And to Mr.
18 Reilly's point about that there is not much growth in
19 the system, why isn't that a factor or should it be a
20 factor in how we determine the allocation?

21 **MR. FLETCHER:** The Commission decided in a
22 case that went to hearing for one of its sister
23 companies, Utilities, Inc. of Florida in 2002, that the
24 most reasonable method to allocate this -- because you
25 have got situations where some might require more

1 attention than others over the years as a problem
2 arises, so you might have to reallocate based on that.
3 But what they found in that post-hearing decision is a
4 per ERC basis is kind of like the best way to allocate
5 those shared employees.

6 **COMMISSIONER McMURRIAN:** Because generally if
7 you've got a bigger system, that that would have more
8 costs; they should presumably have a bigger cost in the
9 amount of the employees that are used across the whole
10 company.

11 **MR. FLETCHER:** That's correct, and also just
12 based on the ERCs that would take into account which
13 system had experienced growth or not.

14 **COMMISSIONER McMURRIAN:** Okay. And then on
15 rate case expense. On Page 21 of the recommendation, on
16 that chart at the bottom, Mr. Mouring, where the
17 consultant fees for the MS&A, and you all have made the
18 adjustment of the 5,020. I have traced back 2,660 of
19 that to -- I think it was the second adjustment that you
20 go through, and I believe it had to do with -- anyway,
21 I'm trying to trace back the rest of that 5,020, and I
22 guess, also, I just also wanted to talk a little bit
23 more about Mr. Reilly's point about those consultant
24 fees and why were you convinced that the outside
25 consultant rate case expense here was appropriate.

1 **MR. MOURING:** Curt Mouring, Commission staff.
2 In regards to that \$5,020 adjustment, that was an
3 inadvertent oversight by staff in not including a \$2,360
4 reduction to Milian, Swain and Associates, their
5 projection to complete through the PAA process, which
6 consisted of a \$540 reduction for time projected for
7 Debra Swain, and \$1,820 for Maria Bravo. And those
8 reductions were made because the primary duties of
9 Milian, Swain and Associates was in the preparation in
10 response for MFRs, and that those duties have already
11 been performed. That does not affect staff's
12 recommendation at all, but language would be added in
13 the final order.

14 **COMMISSIONER McMURRIAN:** So what you are
15 saying is the 5,020 is the correct adjustment.

16 **MR. MOURING:** That's correct.

17 **COMMISSIONER McMURRIAN:** It's just that
18 2,660 was -- and it was actually the first adjustment.
19 I see it here. The 2,660 at the bottom of Page 18.
20 That is part of it, and you are saying the other
21 2,360 just wasn't explained here.

22 **MR. MOURING:** Correct.

23 **COMMISSIONER McMURRIAN:** And it had to do with
24 Milian, Swain and Associates, as well?

25 **MR. MOURING:** Yes. It was their estimate to

1 complete.

2 **COMMISSIONER McMURRIAN:** Okay. And can you
3 one more time tell me -- oh, you said it was their
4 estimate to complete. And the basis for your adjusting
5 that out, is it a different reason than what's given
6 here for the 2,660?

7 **MR. FLETCHER:** Yes. That's due to a lack of
8 support documentation for the estimate to complete. The
9 other one was related to MFR deficiencies.

10 **MR. MOURING:** That's correct.

11 **COMMISSIONER McMURRIAN:** Okay, thank you.

12 And the second question was about the -- to
13 Mr. Reilly's point about not needing outside
14 consultants. Why was staff persuaded that rate case
15 expense should include those outside consultants here?

16 **MR. MOURING:** Well, although they do have a
17 number of in-house employees at the water service
18 company, they are not all designated for MFR
19 preparations, and it is a time-consuming in-depth
20 process.

21 **COMMISSIONER McMURRIAN:** Do we in other cases
22 see outside consultants used for -- I would probably
23 limit it to Utilities Inc. just because if we try to
24 think of all the other examples it may not be much of an
25 apples-to-apples comparison. But with respect to other

1 Utilities Inc. cases, do we usually see this outside
2 consultant work and is it comparable in the amounts?

3 **MR. MOURING:** It is, yes. I have looked at --
4 I reviewed Miles Grant, their 2008 case just as a
5 comparison. They are very similarly situated utilities,
6 as I mentioned before, and they were comparable.

7 **COMMISSIONER McMURRIAN:** Okay. And then I
8 have one more question about that actually to Mr.
9 Friedman. You said that you didn't think it was
10 appropriate to use the Miles Grant case here, and I know
11 you were talking about with respect to the legal
12 expenses which are near and dear to your heart. But
13 what are the differences in this case versus that case
14 that would justify so many more hours of legal time?

15 **MR. FRIEDMAN:** Commissioner McMurrian, I
16 haven't analyzed, you know, the differences other than
17 just to tell you generically every case is different. I
18 mean, there's more involvement in some respects like the
19 agenda conferences. Sometimes we are sitting here for
20 hours and sometimes it's a PAA and I'm out of here by
21 10:30. And other aspects of the case are the same way.

22 This one was particularly that way because we
23 had these issues that when we learned that Public
24 Counsel had become involved, and generally Steve is kind
25 enough to let us know what issues he's at, and that

1 means we have to get together and spend time with the
2 in-house people, with Milian and Swain and the lawyers
3 to try to analyze what Mr. Reilly and Public Counsel may
4 be raising as issues and to address those.

5 So you just can't -- I just don't think you
6 can compare the rate case expense other than just kind
7 of generally. I don't think you can say in the last
8 case it only took you so many hours to finish it, so
9 this one should be the same amount. It could have been
10 less. If it were a different kind of case it could have
11 been less. I wonder if it were less than the Miles
12 Grant case whether they would have said Marty's was less
13 than Miles Grant, we ought to give him 15,000 more. You
14 know, if it goes one way it ought to go the other way.
15 And I venture to guess to you that they wouldn't give it
16 to me if I didn't spend it, so they ought to not to take
17 it away from me just because they don't think it was
18 comparable to what I asked for in Miles Grant. Thank
19 you.

20 **COMMISSIONER McMURRIAN:** Thank you. I think
21 that's all of my questions, Mr. Chairman.

22 **CHAIRMAN CARTER:** Commissioners, any further
23 questions of staff or the parties?

24 **COMMISSIONER ARGENZIANO:** Yes, Mr. Chairman.

25 **CHAIRMAN CARTER:** Commissioner Argenziano,

1 you're recognized.

2 **COMMISSIONER ARGENZIANO:** Thank you. A few
3 questions.

4 One, I'd like to go back to the aesthetic
5 issue that Commissioner McMurrin was talking about,
6 because at many different hearings and places where we
7 have discussed this issue before, and I said it earlier,
8 the State of Florida is known for having pockets of foul
9 smelling water, rust, you know, egg smelling water in
10 certain areas of the state. And my concern with that is
11 kind of several fold.

12 One is that, and as I said before, if an
13 individual has their own well they take measures to
14 bring that water to the aesthetic value they consider
15 appropriate for themselves, going out and buying iron
16 filters, salt filters, whatever they're called, whatever
17 they can do. I have an aerator on my well to prevent
18 the smell and the black staining, and they can do that.

19 The problem when you have -- or you are
20 captive to one water company that provides water and has
21 the same problem you do in the well. You find the same
22 stinky or rust water. You know, they have the same
23 problems. The problem is for them to fix it on their
24 end it is much more expensive. But also for the
25 consumer who has to pay to get the water or the same

1 quality of water they would have if they had sunk their
2 own well to then fix it at their end creates a very
3 irritating problem for the consumer, which has to be
4 understood by the company as well as the Commission and
5 OPC.

6 You know, it's an irritating factor that, hey,
7 I have to buy the water. I can't have my own well or
8 whatever, and yet if I want to bring it to the aesthetic
9 value that I desire, now I have to pay not only for the
10 water, I have to pay for those treatments to make the
11 water to the level that I want. So there presents a
12 problem.

13 I wonder if the company has ever polled or
14 surveyed their customers saying, you know, look, we
15 recognize the problem and here is what we can do. Here
16 is how much it's going to cost. Are you willing to pay
17 this extra amount, or do you know that there is this
18 remedy of doing it at your house, understanding there is
19 the extra cost to do so, number one.

20 So I would like the company to answer that
21 question, or would they can consider doing a survey to
22 let the people know there is a way to solve this
23 problem. It's not a health problem. It's stinky, it
24 makes your clothes change colors, or whatever, but here
25 is what we could do. And if we fix it, this is how much

1 it's going to cost. If you fix it, this may be the cost
2 to you, but it may be a lot less and a one time -- more
3 or less a one-time fee.

4 The other issue that I wanted to get to was
5 the -- actually what I want to ask Mr. Friedman, as well
6 as Mr. Reilly, and as well as our staff, since we have
7 indicated that DEP does not consider the PSC's used and
8 useful, and this comes up all the time, can you provide
9 me -- let me help you with this. Can you advise me and
10 provide me with any kind of efforts or communications
11 that either one of you have had, and that's including
12 our staff, to DEP to possibly change its rule to
13 recognize the reality presented that we have today in
14 regards to the used and useful issue. And perhaps the
15 PSC could throw its weight behind explaining this
16 dilemma to DEP, because, after all, we all seem to be --
17 and PSC promotes water conservation as well as the DEP.

18 So I guess in two part I'd like to know from
19 each of you what efforts you have made to even go to DEP
20 to try to solve this dilemma, if any, and if there is
21 any willingness to do so.

22 **CHAIRMAN CARTER:** Mr. Friedman.

23 **MR. FRIEDMAN:** Thank you, Commissioners.

24 Commissioner Argenziano, I haven't personally
25 dealt with that. When I addressed the -- I have argued

1 with both the water management districts and DEP in the
2 use of their default per customer usage both in water
3 and wastewater. I have not in doing so made the
4 argument that the Public Service Commission takes a
5 different position.

6 **COMMISSIONER ARGENZIANO:** You have made the
7 argument to DEP or the water management district, is
8 that what you're saying?

9 **MR. FRIEDMAN:** I have not -- in making
10 arguments that the estimated per capita that the water
11 management district or DEP is using is excessive, I have
12 made that argument on numerous occasions. I have never
13 made the argument to the water management district or to
14 DEP the consequences that we have at the Public Service
15 Commission because of that.

16 **COMMISSIONER ARGENZIANO:** Okay. Well, that's
17 the reason I asked. And if OPC and staff could answer
18 the same question.

19 **CHAIRMAN CARTER:** Mr. Reilly.

20 **MR. REILLY:** I believe that DEP prescribes how
21 many customers you can serve with a certain sized plant,
22 but obviously the tasks are different. The PSC is
23 looking at how we are going to allocate the cost of this
24 plant and how much of it is used and useful.

25 The way to reconcile the two that I've been

1 able to arrive at is it is conceivable to go under DEP
2 rules and build your plant in phases so that, you know,
3 Phase I, in effect, can serve a certain service
4 territory. But as it becomes greater, then you can add
5 phases, and that's one way to deal with both assuring
6 adequate capacity by DEP, but at the same time not
7 having too much unused and useful plant. I mean, that's
8 one way to reconcile it.

9 **CHAIRMAN CARTER:** Mr. Willis, you're
10 recognized.

11 **MR. WILLIS:** Thank you, Chairman. As far as
12 staff, I'd like to point out that we have had many, many
13 rule proceedings with the Department of Environmental
14 Protection involved. They are fully aware of how our
15 used and useful adjustments work. They are not
16 necessarily in agreement with all of those methodologies
17 that we use, but they do understand that we use used and
18 useful as a form of ratemaking, which is not what
19 they're doing with their calculations.

20 They're looking at how you design plants.
21 They're concerned with wastewater plants overflowing.
22 They're concerned with redundancy. They're concerned
23 with making sure those plants will operate correctly
24 without malfunctions, whereas we're more concerned with
25 how much of that plant should be allocated to the

1 customers, the current customers of the utility company.

2 But I did want you to know that in all our
3 rule proceedings, the water rules we have for used and
4 useful, the wastewater rules for used and useful, DEP
5 has been a major part of those rule proceedings. They
6 have participated in those rule proceedings. They have
7 provided comments to those rule proceedings. In fact,
8 the very last one, the water treatment plant rules, DEP
9 was instrumental in attending those and providing
10 comments as far as the objective of getting those out.

11 **COMMISSIONER ARGENZIANO:** Marshall, what I
12 asked was what efforts have you made to explain to DEP
13 that we have a dilemma here regarding this rule. Not
14 that they understand, or what we do and what they do is
15 different. I understand that.

16 Has there been any effort on the staff's part
17 in speaking with DEP? And perhaps this really should be
18 the Commission rather than staff going to DEP and
19 saying, "We have a dilemma here. Now, what do you want
20 to do? Do you want to incorporate something into this
21 rule, or what?"

22 Because all we do is talk about it's a DEP
23 problem, and we don't do anything. So what I'm trying
24 to do is gather some effort to put forward some type of
25 conversation with DEP that says here we have a problem

1 and it needs to be addressed. Do you want to address it
2 in your rule, or do you want to keep things the same as
3 they are. And that's what I'm looking for.

4 I think what Marshall is referring to is, you
5 know, the cases they have been in and what DEP's
6 responsibility is and what the PSC's is. I'm asking for
7 an effort to go forward to ask DEP to say we have a
8 problem here. And obviously DEP and PSC have things in
9 common, such as water conservation, and this flies
10 directly in the face against water conservation.

11 So with the company not making any dialogue
12 with DEP, the staff really -- I don't see has made a
13 real effort to say we have a problem, what do you want
14 to do about it. I think now it is incumbent upon the
15 Commission, and I know I'd like to float that around.
16 If not, I'll engage in some conversations to try to
17 figure out what they can do, and if there is a desire
18 to.

19 But, obviously, just going around and saying
20 that we have this dilemma and this is what DEP says,
21 we're going to wind up with the same scenario all the
22 time, which in the face is not fair to the company and
23 is not fair to the consumer, either. So I'm not happy
24 with leaving it the status quo.

25 So I guess that's what I'm putting out there.

1 I'd like to float out that since we are also water
2 conservation minded and also still trying to be fair to
3 the utilities, why don't we put forward an effort to DEP
4 to say, you know, here's the dilemma, here's what we
5 have. Now, do you want to take it into consideration or
6 not? I don't think that's too difficult.

7 **CHAIRMAN CARTER:** We may very well look at
8 that, Commissioner, because I think that along the
9 lines, or Commissioner McMurrian was asking questions
10 pertaining to aesthetics, which I don't think the DEP
11 is -- I think they are more of basically --

12 **COMMISSIONER ARGENZIANO:** Health.

13 **CHAIRMAN CARTER:** -- parts per billion health
14 concerns as opposed to what we're -- and I think we
15 maybe should look at -- I'm going to look to our General
16 Counsel, and maybe we can look at how maybe we can
17 engage in some constructive dialogue with our sister
18 agency on that.

19 **COMMISSIONER ARGENZIANO:** And, Mr. Chair, if I
20 can, if the company would answer the question that I had
21 about aesthetics. Because as I mentioned before, if you
22 are a homeowner with your own well, and you can take
23 measures or choose not to, depending on whether you want
24 to spend the money or not, knowing it may not be a
25 health risk but more of an aesthetic problem, however,

1 they still have the ability to do that.

2 Can the company, or has the company ever put
3 out some type of survey to its customer base that says,
4 you know, we know we have this problem. We understand
5 that it comes from the ground. There is rust in the
6 area. There is stinky water or whatever it is. We are
7 trying to do our best, but to remedy that totally if
8 those are the complaints that we are hearing this is
9 what it would cost us to do versus you doing it by
10 putting in an iron filter, or an aerator, or whatever it
11 may take, a rust remover. And has the company ever
12 surveyed their base? And then I just have one more
13 question to staff in regards to the type of complaints
14 that we heard from those people.

15 **CHAIRMAN CARTER:** Mr. --

16 **MR. FLYNN:** Patrick Flynn for the utility.
17 Commissioner, we have not had any structured survey
18 issued to the customers as you had suggested, and
19 certainly we would be glad to entertain that idea.

20 We do have the means to monitor complaints,
21 both through PSC registration or through direct calls to
22 our office. And in our response to those kinds of
23 calls, we get a feel for the level of -- or the issues
24 that are pertinent to that particular customer base, and
25 in that effort attempt to identify what resolutions we

1 come up with in a more global way to more permanently
2 address those concerns. But to answer your question, we
3 have not organized a survey in a comprehensive way
4 across the Labrador rate base.

5 **COMMISSIONER ARGENZIANO:** Okay. You do
6 understand the point I'm making that a customer -- when
7 there are not health problems, some customers choose to
8 have an aesthetic value delivered with their water. And
9 I know what compounds that problem, as I said before, is
10 that if they had to do that with their own well, it's an
11 expense, and they are not paying for the well water or
12 the electric to pump it up. And I know that it could be
13 problematic in putting that survey out there saying,
14 okay, you know, but I think you kill two birds with one
15 stone.

16 You say, okay, we know we have this problem.
17 You keep complaining about it. It's just part of the
18 region, it's part of what we have in this aquifer that
19 we have to deal with. We can remedy that on a large
20 scale, but it's going to be very much more costly. Do
21 you prefer that, or do you prefer solving it at your own
22 home, and here is a way to do that. And I wonder what
23 the expense would be -- the explanation would be from
24 that survey, or the answers would be from that survey
25 from the people. Because what they're saying is we're

1 paying for water, and yet we can't get it aesthetically
2 where we want it.

3 But if they are told, look, aesthetically that
4 would be what you are getting out of your own well
5 pretty much unless you add these other things, or do you
6 want us to move on with a greater project that costs a
7 lot more, and here is probably what it would cost you.

8 And I think the costs are sometimes very
9 cost-prohibitive especially for smaller utilities. But,
10 I think if you address the people that way,
11 understanding that you have a lot of people coming out
12 and being very loud about the aesthetic quality of their
13 water and their concern for that, and I think maybe that
14 might help solve the problem somewhere down the line.

15 For some people it may not. Some people may
16 say you are providing me with water that I have to pay
17 for, you have to do it, and I don't want to pay extra
18 for it. And I don't think that is reasonable, but maybe
19 you can solve a problem. Maybe a survey would help.
20 I'm not sure, I would just be very curious to know what
21 the people's response would be. Because after they are
22 asked that, then if the answer comes back overwhelmingly
23 we don't want to pay the larger amount. As long as they
24 are realistic and they are not inflated, and I believe
25 that you might get a very resounding no, we don't want

1 to pay that much more. And maybe it's better off to do
2 at our site. I just would be curious to see if that
3 could come to some kind of survey for people out there,
4 and maybe it would go a longer way than you think.

5 **MR. FLYNN:** Commissioner, I would suggest
6 there is two different steps. One is to identify
7 through a survey what level of quality the customers are
8 experiencing and what they would like to have, and then
9 from that survey identify through the help of
10 consultants and engineers what options are available in
11 a technological way to address those concerns and cost
12 estimate those corrective actions.

13 And then return to the customers with the
14 identification, well, this is what it may cost for
15 Options A, B, and C. And to the extent there is an
16 interest and a commitment and a willingness by the
17 customers to acknowledge the cost of their water and
18 sewer service is going to increase because of these
19 various options, and a willingness to pay for that, that
20 there would be a reasonable prudent decision to move
21 forward with the investment to address it in that
22 fashion. And that's all conjectural, but that is one
23 way to go about it.

24 **COMMISSIONER ARGENZIANO:** Absolutely. With
25 adding that little thing in there that says, you know,

1 some of these problems could be addressed by us, a
2 larger picture, or by you understanding that it may cost
3 extra at this point. But it could be something that
4 solves the problem for them with a simple iron filter or
5 whatever. And I don't know that that is the answer to
6 everything, but I think there is no more argument after
7 a survey like that. Either you want the fix or you
8 don't.

9 I mean, at some point people have to
10 understand that Florida doesn't have always the best and
11 clearest water in its aquifers, and sometimes it's going
12 to cost a lot more. I seem to run across this problem
13 throughout the whole state of Florida. And it's not a
14 new problem, it has been happening, I think, since
15 people started putting wells in and started moving into
16 the state of Florida a very long time ago.

17 But, realistically, if you have no health
18 problems in you water, no health issues concerning the
19 quality of water that way, and that's why the next
20 question to staff is can you please go through the types
21 of complaints that you heard from the people. I'd like
22 to know if -- it seems to me at this point most of them
23 seem to be the aesthetic values, and I think that's a
24 real concern, but there may be a different way about
25 getting that corrected. And maybe staff can speak to

1 the types of complaints that came in.

2 **MR. FLYNN:** If I could add one last thing.
3 The problem is that when you are talking about
4 aesthetics, it's oftentimes not easily measurable
5 elements that affect water quality. And by not having
6 it be easily measurable, odor and taste, for example,
7 are very hard to measure. To quantify those in a way
8 that shows what you have and what you want to get to and
9 what it costs to get from A to B is difficult when you
10 have opinions expressed in a survey from 900 customers
11 who have different perspectives on what is acceptable
12 for themselves, or for their neighbors, or for their
13 whole community. It's very difficult to identify what
14 the end point ought to be.

15 **COMMISSIONER ARGENZIANO:** You know, I
16 can understand that to a certain degree, but that's
17 where logic and good management comes in. And anybody
18 could tell you that if it smells like rotten eggs,
19 anything less than that would be preferable. I mean,
20 they can't ask for, you know, the unreal, but you can
21 ask for something similar to being able to put your own
22 rust remover, or aerator, or whatever the problem is.
23 If it's smell, if it's -- just within reason.

24 If the real problem is that there is a lot of
25 rust in this water, then, you know, I don't know how

1 much you could reduce the rust by, what your solution
2 is. That's where management does come in, and
3 engineering, talking about what the options are, how
4 much it could be, and how much it would actually reduce.

5 I know you can't please everybody down to
6 minutia, but it seems to me that you're not going to get
7 anywhere with constantly having people complain. And I
8 know there is always going to be people who complain for
9 whatever the reason, but I think the bulk of the
10 complaints could be remedied, you know, just being
11 realistic.

12 **CHAIRMAN CARTER:** Thank you. Commissioner,
13 you had a question for staff about the types of quality
14 issues.

15 **COMMISSIONER ARGENZIANO:** Yes. I'd like to
16 know what -- we have heard that pretty much the health
17 issues are not there, and I'd like to know if there are
18 any. And also the majority of complaints, were they
19 purely aesthetic and what types of complaints. I'd just
20 like a brief discussion on that, because we talked about
21 aesthetics and we talked about a lot of people being at
22 the meetings. Well, let's talk about the majority of
23 what was said as far as what the aesthetics was. Was it
24 the smell, was it -- you know, I'd just like to hear a
25 typical sampling of some of the complaints.

1 **CHAIRMAN CARTER:** Stan.

2 **MR. RIEGER:** Yes, Commissioner. Stan Rieger
3 with staff.

4 Basically, we have already discussed pretty
5 much all the items that were brought up with the
6 customers, which dealt with taste, odor, and
7 discoloration problems for water. For wastewater, it
8 was primarily the odor problem. And the customers as
9 they attended at the customer meeting, we received basic
10 evidence as to what they believed was wrong. They
11 brought forth used filters from their home treatment
12 devices that showed definite iron in the water. There
13 was some discoloration, and we received some samples of
14 water that may have shown some discoloration. But the
15 primary concerns was what we already listed, taste,
16 odor, and discoloration.

17 **COMMISSIONER ARGENZIANO:** Okay. So then they
18 are aesthetic.

19 **MR. RIEGER:** They truly are aesthetic, yes,
20 Commissioner. Because after a discussion with the DEP
21 about it, the DEP is aware that the utility is providing
22 some initial treatment at the wastewater treatment plant
23 to sequester the iron, and that is to some extent
24 successful. But as has been already alluded to today,
25 that doesn't necessarily mean that it's a 100 percent

1 fix of the problem. It does happen that iron does get
2 through. It settles out, and the utility additionally
3 provides, or does the flushing. They have an initial
4 flushing program that I reviewed that is designed to
5 help remove settled iron, but it is truly aesthetic,
6 yes.

7 **COMMISSIONER ARGENZIANO:** Okay. And did you
8 indicate that or do you know to the extent of which of
9 the customers have their own iron filters, also?

10 **MR. RIEGER:** Yes. There are some customers
11 that have the filtration devices that they use, and that
12 was a complaint about how expensive it was to replace
13 the filters. So there is an expense, an additional
14 expense that the customers incur either through the
15 purchase of a filtration device at their house or
16 through they buy their own bottled water.

17 **COMMISSIONER ARGENZIANO:** So then their
18 complaints would be, well, even though we have our own
19 rust remover, it's costing us more in filters. Is their
20 water still affected by a lot of rust, even though they
21 have a rust remover?

22 **MR. RIEGER:** Well, I think a lot of it had to
23 do -- as far as these devices and the installation or
24 the location of these devices, they go all the way from
25 a filtration device that's installed right at the intake

1 to the residence itself where all of the water is
2 treated through a filtration device, and all of it, all
3 the water including the water that goes through the
4 laundry is through this filtration device.

5 That's in some cases. And in other cases, if
6 there is any treatment involved at the household it
7 could be right at the sink where -- as you are well
8 aware of some of these devices, what they look like --
9 the water from the kitchen sink is filtered by some
10 device that's attached to the faucet there.

11 So there is a variation about how the
12 customers handle what they should do as far as
13 personally treating the water coming in all the way from
14 the treatment devices as well as buying the bottled
15 water.

16 **COMMISSIONER ARGENZIANO:** Uh-huh. And if I
17 can ask Mr. Reilly a question, Mr. Chair.

18 **CHAIRMAN CARTER:** You're recognized. Mr.
19 Reilly is here.

20 **COMMISSIONER ARGENZIANO:** Mr. Reilly, if the
21 company is trying to remove the rust before it gets to
22 the homeowner in the most economical way they can, and
23 the only other way is maybe incurring a lot more expense
24 of passing that on to the customers, what do you
25 suggest? I mean, you do know that Florida has -- we

1 have these pockets of bad water, and it may be not bad
2 health-wise, but bad water aesthetically. Do you have a
3 solution? Do you know of a solution that would not be
4 so overwhelmingly expensive to provide aesthetically
5 clear and maybe non-smelling water to the customers?

6 **MR. REILLY:** No, I don't have that solution as
7 to how to do that. I would concur that it probably
8 would be a good idea for the company to try to canvass
9 the customers and come to an understanding of the
10 problem and then perhaps offer alternative solutions.
11 And then, you know, our office could perhaps participate
12 in reviewing those solutions and weighing the
13 cost/benefit analysis.

14 **COMMISSIONER ARGENZIANO:** Can I ask another
15 question?

16 **MR. REILLY:** At the end of the day this is
17 going to have some impacts on the customers. Of course,
18 I would love to focus the Commission's attention on
19 those three big issues which are going to have
20 tremendous impacts on their rates at some point. But on
21 the aesthetic issue, I think that is about all you can
22 do is assess the problem and come up with the least-cost
23 solution that can address the problem.

24 **COMMISSIONER ARGENZIANO:** Right. But as you
25 know, we're looking at customer complaints, and that is

1 an issue OPC brings forward, too, service, quality of
2 service, and that is quality of the product also. And
3 if it's, you know, really not the fault of the supplier
4 and to correct it to the point where it would be
5 acceptable to the consumer it would be most expensive,
6 then I'm not sure that, you know -- I mean, if I had
7 quality of service issues that said, look, the company
8 is not doing their best to try to change the quality of
9 the product, or if there is health concerns, well, then
10 I would say that is the tool that I have as a
11 Commissioner to say that I can't move forward.

12 And OPC, you know, uses quality of service and
13 rightfully so in many cases, but I'm not so sure that
14 for aesthetic issues -- you know, if the company was
15 doing nothing to try to remedy the aesthetic issues,
16 then I would have a problem with that. But at this
17 point that tool seems to be diminished to me because of
18 the fact that the company is trying, and because I don't
19 know the results of a survey if the people would want to
20 self-impose higher rates, or if it would be worth it,
21 you know, and that's where I'm asking OPC if you are
22 using the quality of service issue, is it fair to do in
23 a case where it's aesthetics versus health issues? I'm
24 trying to use the tool I have, but I'm not sure it fits.

25 **MR. REILLY:** Well, you know, the cost of

1 remedying the aesthetic, you know, I think we would like
2 to look at the Options A, B, C, D, E, F, you know, and
3 just see what the relative costs are, and hopefully have
4 the customers be involved in that decision. The context
5 of the poor quality of service was just a backdrop to
6 understand these incredible rate increases. There was a
7 way to get a handle on the rate increases if we could
8 address some of these key issues.

9 You know, on the used and useful issue, this
10 plant is no more used and useful today than it was four
11 years ago. It is no more built out today than it was
12 four years ago. There's that same 11.7-acre parcel.
13 So, I mean, there are avenues available to the
14 Commission to keep things even the same on that. There
15 is no basis to jump it from 80 percent to 100 percent,
16 and that's 10 percent of this rate increase.

17 **COMMISSIONER ARGENZIANO:** And I understand
18 that, but it seems to come down to that rule that DEP
19 has also. And in one respect it is actually
20 punishing -- or if you want to respond to that, it seems
21 to be punishing the company for following the rule to
22 say this is the --

23 **MR. REILLY:** I would like to respond to it.

24 There is no one in this room that knows that
25 the plant that was built by the person years and years

1 ago was -- could be no different, or larger, or smaller
2 than it was built. No one in here was even involved in
3 that process.

4 We have the plant that we have. The
5 Commission has looked at this in the past and it was
6 80 percent used and useful four years ago applying this
7 rule. Applying this same rule it went down from
8 80 percent to 39 percent at really no fault of the
9 company except that it redid the permit based on a
10 different basis and that basis caused a lower percentage
11 concerns of, you know, the precedent that Commissioner
12 Skop mentioned. We acknowledge that the Commission
13 might not want to reduce the used and useful. We just
14 didn't feel that there were any circumstances that this
15 was any more built-out than it was four years ago, so
16 that our suggestion was leave the used and useful the
17 same. There's no changes that warrant going to
18 100 percent used and useful.

19 So I don't think the company has been
20 penalized at all. It's applying the Commission's rule,
21 and the circumstances don't warrant bumping it from 80
22 percent to 100 percent because the -- you know, with the
23 impacts to the customers.

24 **CHAIRMAN CARTER:** One second.

25 Staff, Mr. Rieger.

1 **MR. RIEGER:** Yes. I just wanted to make a
2 point of clarification. In the last rate case for the
3 wastewater plant used and useful there was growth
4 consideration. In fact, we did allow 35 ERCs for growth
5 back then. So there was some potential for growth left
6 in the development. Now there isn't. They're built out
7 with just four lots remaining, which is insignificant.
8 But I wanted to point that out that that
9 consideration -- there is a difference between back then
10 as far as growth potential and current where there is
11 not.

12 **CHAIRMAN CARTER:** Mr. Reilly, had you finished
13 your point?

14 **MR. REILLY:** That's fine.

15 **CHAIRMAN CARTER:** Okay. Commissioner -- I'm
16 going to go to Commission Skop, Commissioner Argenziano,
17 unless you have another question.

18 **COMMISSIONER ARGENZIANO:** Well, just for OPC
19 one other question about their --

20 **CHAIRMAN CARTER:** Okay. You're recognized.

21 **COMMISSIONER ARGENZIANO:** -- about the
22 opposition of the salary and the increases. Can you be
23 really specific about your opposition? I mean, if these
24 are positions needed, and there is an argument that they
25 are needed and they are growing, can you be more

1 specific as to your opposition?

2 **MR. REILLY:** I will try to do that. I don't
3 believe that there is not growth. There is growth. I
4 don't know how much is customer growth. We do know
5 revenue growth is like 39 percent. I mentioned the
6 figure. There has been some pretty significant growth.

7 My only argument to the Commission was I
8 argued from a policy standpoint that growth should pay
9 for growth. That as the company grows, it's going to
10 need and be able to justify more and more positions to
11 service that growth. It's just that I'm arguing from a
12 policy standpoint that the Commission should not allow
13 this utility to allow its positions to grow -- the
14 positions to grow beyond what could be justified by the
15 growth.

16 In short, the growth should be able to pay for
17 more and more positions to be added? But if you are
18 adding them too fast, what's going to happen is your per
19 cost to per customer is going to go way up, and that is
20 exactly what has happened here. I believe this company
21 is adding positions at a faster pace than the growth can
22 pay for it. Consequently, when you allocate all of
23 those multiple positions that they have added in the
24 last four years and take them to this little utility,
25 Labrador, it results in a 223 percent increase allocated

1 in these costs, and that is unreasonable to these poor
2 people.

3 I mean, I can't go to each position. I'm sure
4 they can justify a lot of the positions. I would just
5 stagger in the growth in those positions to have it pay
6 for itself. What's to keep the company, you know, that
7 is the basic argument is it's unreasonable to add so
8 many positions in such a short period of time that if
9 there was sufficient growth there to pay for that, you
10 would expect that either they would stay the same or
11 actually the allocated costs would go down per customer,
12 because there's so much growth to pick up those
13 positions.

14 But if you get your positions way ahead of
15 your growth, this is what happens. You have the
16 allocations beginning to get more and more expensive and
17 the costs of salaries and benefits is going up
18 exponentially. And what happens, it effects the poor
19 ratepayers. It means -- in fact, I think this is a
20 third. Just this one -- I think the one little
21 recommendation, I will look at our recommendation, but
22 it's significant. It is 80 -- yes, the salary alone
23 increased. If you just did a normal cost of living CPI
24 indexing in increased salaries versus what they are
25 proposing, it makes a difference of \$80,000 in the

1 revenue requirement out of a \$250,000 rate increase.

2 So it is a very, very significant issue, and
3 it is driving a lot of this rate case, and it's
4 increasing the cost of our clients, the customers, and
5 it becomes particularly problematic when you have these
6 poor people who really don't know how they are going to
7 get through the month.

8 So when I'm balancing this customer at
9 Labrador how he doesn't know how to get through the
10 month from all these positions they are adding beyond
11 their growth, I'm pleading to the Commission to say, no,
12 we are going to give you a reasonable growth of cost and
13 salaries and increases, but we're not going to grant you
14 this -- and have you allocate down to Florida customers
15 these significant unreasonable salary and benefit
16 increases.

17 **COMMISSIONER ARGENZIANO:** Mr. Chair, can the
18 company respond to that as far as moving too fast and
19 this could be a driving force for the rate case.

20 **CHAIRMAN CARTER:** Mr. Friedman.

21 **MR. FRIEDMAN:** Yes. Thank you, Commissioners.
22 You know, I can't get into the details, but neither can
23 Mr. Reilly about the driving force for these. Some of
24 the specific positions were discussed that were mandated
25 more or less by DEP requirements, like a new backflow

1 prevention technician because of the enforcement -- more
2 aggressive enforcement that DEP has given against
3 utilities for their backflow prevention programs and
4 testing of backflow prevention devices. And so, you
5 know, that's a person you can identify and say, bam,
6 that's the reason we need it.

7 The other ones, we added John Williams as a
8 Director of Public Affairs, you know, and other
9 positions like that that, you know, as a company grows a
10 company needs to be more sophisticated, and I think that
11 Mr. Williams has more than justified whatever little
12 amount is allocated down to the folks at Labrador for
13 what he does, and I would suggest to you that the other
14 positions at the corporate level are the same way. What
15 small amount is allocated down to Labrador are
16 legitimate corporate purposes that the customers should
17 pay for.

18 I would like to reiterate something that Bart
19 Fletcher mentioned earlier. In trying to compare the
20 last rate case with this rate case, and it is not, I
21 don't think it is an insignificant number, is that there
22 was -- in the last rate case, they did not annualize the
23 salaries. They took the actual salaries for the year.
24 So if you had an operator that was only there for half a
25 year, you used an allocated amount instead of what that

1 person is really going to cost you in a whole year. And
2 so in this rate case, typical with what is done at the
3 Commission, we annualize the salaries. And so that is
4 also the basis for some of the difference in what the
5 actual is and what Mr. Reilly has come up with in his
6 calculations.

7 **MR. REILLY:** I would correct one thing.
8 Attorney Friedman said that it was a 2002 test year the
9 last time, and it is, in fact, a 2003 test year for the
10 last rate case.

11 **MR. FLETCHER:** Chairman, if I may.

12 **CHAIRMAN CARTER:** Bart.

13 **MR. FLETCHER:** That is correct, it is a 2003
14 test year, but what I also wanted to point out, if you
15 look at OPC's handout on the salaries and benefits, one
16 of the most important and significant reasons why
17 salaries has increased is the capitalized salaries, as
18 well. So if you take that into account, the percentage
19 that they have for a 223 percent increase, if you take
20 into consideration the capitalized amount, that would
21 drop it to 85 percent.

22 **CHAIRMAN CARTER:** I wanted to go to
23 Commissioner Skop and then Commissioner Edgar.
24 Commissioner Argenziano, did that answer your question?

25 **COMMISSIONER ARGENZIANO:** Yes, it did for now.

1 Thank you, Mr. Chair.

2 **CHAIRMAN CARTER:** Okay. Commissioner Skop and
3 then Commissioner Edgar.

4 Commissioner Skop, you're recognized.

5 **COMMISSIONER SKOP:** Thank you, Mr. Chairman.

6 I just had a quick question on Issue 7, and then at the
7 appropriate time I would like to be recognized for a
8 motion, which would take up the issues before us in
9 logical groupings.

10 But just briefly on Issue 7, I guess it's my
11 understanding based on the staff analysis that the
12 utility requested an 11.7 percent ROE, and I guess staff
13 had calculated that the appropriate ROE under the
14 leverage formula that was previously in effect would
15 have been 12.34. So if that could be briefly explained.

16 **MR. FLETCHER:** Yes, Commissioner Skop.

17 In their MFRs, at the time they filed it, only
18 the 2007 leverage formula was in effect. That
19 corresponds to their request of 11.70. The 2008
20 leverage formula, the final order came out on it
21 December 31st, 2008. And based on Commission practice
22 it used the leverage formula in effect at the time of
23 the Commission's vote. However, given the measurable
24 changes and what was approved at the earlier item, Item
25 6, the leverage formula for 2009 was approved, the

1 difference between the '08 and '09 is 121 basis points
2 difference. So staff felt that although it is a
3 departure in Commission practice to use the leverage
4 formula in effect at the time of your vote, due to the
5 substantial changes we felt it best to recognize those
6 and go with the 2009 leverage formula.

7 **COMMISSIONER SKOP:** And I appreciate that
8 explanation because that would have been my follow-up
9 question as to the methodology for the departure, and I
10 think that gets back to the ping-pong issue that we had
11 in the previous thing. But just two quick observations.

12 This case was filed at the same time or
13 roughly the same time that a previous case had come
14 before us, being the Utilities Inc. case, which actually
15 got the higher ROE. Is that correct?

16 **MR. FLETCHER:** That is correct. You had Eagle
17 Ridge -- sister companies Eagle Ridges -- Eagle Ridge
18 Utilities Inc., Mid-County, and Tierra Verde (phonetic),
19 as well. At that time we didn't have the calculations
20 done for the 2009 leverage formula.

21 **COMMISSIONER SKOP:** And I respect and
22 appreciate that. I think that I'm comfortable with the
23 staff recommendation; I think it is the right thing to
24 do. That is tempered somewhat by making sure that the
25 Commission has consistent and uniform outcomes in terms

1 of if things were happening at the same point in time
2 you have the same cases being filed. Making sure,
3 unless we have good reason, which I think staff has
4 articulated, not departing from what would be expected
5 to be fair and equitable across the board.

6 But I think in this case it's warranted. I
7 also think that the staff recommendation in terms of
8 adopting the leverage formula that was just previously
9 adopted by the Commission in Item 6 also indirectly
10 addresses some of the subjective and aesthetic water
11 quality issues that have been expressed by customers at
12 the customer meetings and also have been discussed
13 extensively here. So I have a comfort level with that.

14 I appreciate staff's thorough analysis.
15 Again, somewhat tempered by the concern of making sure
16 we have consistent and uniform outcomes. But I think it
17 could go either way. In this case I think the tie goes
18 to some of the other concerns that we have heard.

19 But, Mr. Chairman, at this point I will yield
20 to Commissioner Edgar and then I would like to be
21 recognized for a motion.

22 **CHAIRMAN CARTER:** Commissioner Skop, I will
23 come back to you for your motion; but at this point in
24 time, I'll just see if there are any further questions.

25 Commissioner Edgar, you're recognized.

1 **COMMISSIONER EDGAR:** Thank you.

2 I just wanted -- and I think this point has
3 been made a couple of times, but to staff, on the
4 question about the adjustments for salary and benefits
5 and some of the discussion that we have had along that,
6 am I correct that the allocation of salaries as
7 reflected in the staff recommendation today is the same
8 allocation that has been approved by this Commission
9 recently in other Utilities Inc. cases?

10 **MR. FLETCHER:** That's correct, Commissioner.
11 For six other sister companies of Labrador, it is the
12 same salaries that are being allocated down.

13 **COMMISSIONER EDGAR:** Okay. And, again, I know
14 we have gone over and over on this, so just one more
15 question and then I'm done on this one. But, Mr.
16 Reilly, I don't recall you raising concerns about the
17 impact of that allocation on customers in some of those
18 other instances. And I do completely recognize that
19 every rate case is different and you need to kind of
20 pick and choose the issues to highlight and all of that,
21 but I guess I'm not clear even listening to the
22 discussion that we have had today as to what --
23 realizing that they are generally all small utilities,
24 what in this instance perhaps is more unique to raise
25 the concern that you have about the salary allocation.

1 **MR. REILLY:** It gets to the point where the
2 customers -- I guess it's the customer group and the
3 customer concerns and their ability to pay drives a
4 little bit, you know.

5 **COMMISSIONER EDGAR:** Certainly.

6 **MR. REILLY:** And whether you can take a case.
7 We don't get involved in a case and take it to hearing
8 when there is not an interest to do so. We went to some
9 of these same cases; we felt just as passionately about
10 the inappropriateness of what was happening in the
11 salaries, and it was not justified. But if you go to a
12 customer hearing and there is nobody there, you know, it
13 is just very hard to take some of those issues and to do
14 what we have done today or to take it to hearing.

15 I mean, you just have to have the level of
16 customer concern and interest to take the risk and the
17 difficulty of taking it to hearing. This is the step
18 that I tried to take short of going to a hearing.
19 Failing that, you know, I have to go back and report and
20 tell whatever the Commission decides today, that this is
21 what we are dealing with and these are our options and
22 our choices. But it is just like Mr. Friedman said, you
23 know, just because it is a PAA, I mean, it doesn't mean
24 you agree with some of the things that come out. You
25 pick and choose. You have finite resources, and that's,

1 of course, what our office does.

2 **COMMISSIONER EDGAR:** Sure. And I appreciate
3 that answer, Mr. Reilly, I really do. And I do
4 understand, obviously, there is give and take and having
5 to have, again, allocation also of resources internally
6 for you and for us, as well.

7 Thank you, Mr. Chairman.

8 **CHAIRMAN CARTER:** Thank you.

9 Commissioners, before I recognize Commissioner
10 Skop, any further questions?

11 Hearing none, Commissioner Skop.

12 **COMMISSIONER ARGENZIANO:** Mr. Chair.

13 **CHAIRMAN CARTER:** Yes, ma'am. Commissioner
14 Argenziano.

15 **COMMISSIONER ARGENZIANO:** What if we have two
16 Commissioners with two motions?

17 **CHAIRMAN CARTER:** Well, let's see.

18 Commissioner Skop asked to be recognized first. Let's
19 see how his motion -- just in case they're
20 contradictory, if his motion fails, then we'll recognize
21 for another motion.

22 **COMMISSIONER ARGENZIANO:** Okay. Go ahead.

23 **CHAIRMAN CARTER:** Okay. Commissioner Skop,
24 you're recognized for a motion.

25 **COMMISSIONER SKOP:** Thank you, Mr. Chairman.

1 I'm going to try and take these in logical
2 order based on some of the issues that have been
3 addressed and where there may be differences of opinion.
4 But I would respectfully move at this time to move staff
5 recommendation as to Issues 1, 2, and 3.

6 **COMMISSIONER EDGAR:** I can second that.

7 **CHAIRMAN CARTER:** We have a motion and
8 properly seconded as to Issues 1, 2, and 3. Is there
9 any discussion? Any questions? Any debate?

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

12 (Vote taken.)

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

15 Commissioner Skop.

16 **COMMISSIONER SKOP:** Thank you, Mr. Chairman.

17 With respect to the next issue, it will be a
18 single issue. I would move, based on staff's
19 discussion, to move staff recommendation as to Issue 4.

20 **COMMISSIONER EDGAR:** Second.

21 **CHAIRMAN CARTER:** On Issue 4. Issue 4. Any

22 --

23 **COMMISSIONER ARGENZIANO:** I'm sorry, Mr.
24 Chair, I didn't hear, and my phone seems to be ready to
25 die. Can we hang a minute and let me use my other

1 phone? I have to call back. It's beeping and I'm going
2 to lose you. I'm sorry.

3 **CHAIRMAN CARTER:** We'll come back at a quarter
4 after.

5 **COMMISSIONER ARGENZIANO:** Thank you.

6 (Recess.)

7 **CHAIRMAN CARTER:** Okay. We're back on the
8 record.

9 Commissioner Argenziano, can you hear us?

10 **COMMISSIONER ARGENZIANO:** Yes, I can, Mr.
11 Chairman.

12 **CHAIRMAN CARTER:** Okay.

13 **COMMISSIONER ARGENZIANO:** There's really
14 something wrong with the phones today.

15 **CHAIRMAN CARTER:** Thank you.

16 Commissioner Skop, we lost contact on -- I
17 think you were making a motion on Issue 4. You're
18 recognized.

19 **COMMISSIONER SKOP:** Thank you, Mr. Chairman.

20 I would respectfully move to adopt the staff
21 recommendation as to Issue 4.

22 **COMMISSIONER EDGAR:** Second.

23 **CHAIRMAN CARTER:** It has been moved and
24 properly seconded. Commissioners, any questions? Any
25 debate?

1 **COMMISSIONER ARGENZIANO:** Yes.

2 **CHAIRMAN CARTER:** Commissioner Argenziano,
3 you're recognized in debate.

4 **COMMISSIONER ARGENZIANO:** Well, I think that
5 the used and useful at 100 percent is inappropriate at
6 this time, and I just think it's wrong. It should have
7 been at least reduced to 80 percent. But that's the
8 motion and I will dissent. Thank you.

9 **CHAIRMAN CARTER:** Commissioner, we could
10 barely hear you, but I believe that you think it should
11 be 80 percent. Is that right?

12 **COMMISSIONER ARGENZIANO:** Yes, that's correct.

13 **MR. REILLY:** For the wastewater part?

14 **CHAIRMAN CARTER:** For the wastewater?

15 **COMMISSIONER ARGENZIANO:** Yes.

16 **CHAIRMAN CARTER:** Yes. See, I heard fine.
17 I've got the super ears. Not the big Spock ears, but
18 the super ears. But that was the perspective on that,
19 and the motion was on the 100 percent.

20 **COMMISSIONER SKOP:** Yes.

21 **CHAIRMAN CARTER:** Commissioners, any further
22 debate?

23 **COMMISSIONER SKOP:** Mr. Chair.

24 **CHAIRMAN CARTER:** Commissioner Skop.

25 **COMMISSIONER SKOP:** Thank you, Mr. Chair.

1 Just as a point of clarification, the reason
2 that I made the motion for the staff recommendation was
3 based on the argument before us in terms of what I
4 thought the most compelling argument was. I know staff
5 had its position. I listened carefully to Mr. Reilly's
6 argument, but, again, I thought the staff recommendation
7 was appropriate for the reasons that staff articulated.

8 **CHAIRMAN CARTER:** Okay. Any further debate?

9 **COMMISSIONER ARGENZIANO:** Yes, Mr. Chair.

10 **CHAIRMAN CARTER:** Commissioner Argenziano,
11 you're recognized.

12 **COMMISSIONER ARGENZIANO:** And the reason I
13 think it is inappropriate is for the reasons that
14 Mr. Reilly had indicated, and I thought it was a fair
15 compromise to go to 80 percent, and that's all I need to
16 say. Thank you.

17 **CHAIRMAN CARTER:** Thank you.

18 Commissioners, any further debate? Hearing
19 none. There is a motion and a second. All in favor,
20 let it be known by the sign of aye. Aye.

21 **COMMISSIONER EDGAR:** Aye.

22 **COMMISSIONER SKOP:** Aye.

23 **COMMISSIONER McMURRIAN:** Aye.

24 **CHAIRMAN CARTER:** All those opposed, like
25 sign.

1 **COMMISSIONER ARGENZIANO:** Aye.

2 **CHAIRMAN CARTER:** Show it done.

3 Commissioner Skop, you're recognized.

4 **COMMISSIONER SKOP:** Thank you, Mr. Chairman.

5 The next grouping of issues would be Issues 5 through
6 10, and I would respectfully move staff recommendation
7 for Issues 5, 6, 7, 8, 9, and 10.

8 **COMMISSIONER EDGAR:** Second.

9 **CHAIRMAN CARTER:** It has been moved and
10 properly seconded on the next grouping of issues.
11 Commissioners, any --

12 **COMMISSIONER ARGENZIANO:** Mr. Chair.

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

15 **COMMISSIONER ARGENZIANO:** First, I need to
16 find out from you how is it that Commissioner Skop seems
17 to be the only one to make a motion? And is there a
18 certain order here that we are using? And then,
19 secondly, I need to ask since there is no specific
20 category or issue for the salaries, I would like to know
21 how we are going to -- before I vote on any other issue,
22 how are we going to address the salaries if there is no
23 issue indicated for that salary, or would it be Issue 14
24 that would somehow encompass that issue?

25 **MR. FLETCHER:** Chairman, if I may.

1 **CHAIRMAN CARTER:** Bart.

2 **MR. FLETCHER:** We didn't have a specific issue
3 on the salaries. It would affect, would be your
4 operating income before any increase, Issue 13; it would
5 affect Issue 14; and, of course, the fallout would be it
6 would affect obviously the rates. And then because it's
7 dealing with salaries, it would also affect the working
8 capital because we are using 1/8th of O&M expense and
9 rate base, Issue 5 and 6.

10 **COMMISSIONER ARGENZIANO:** Mr. Chairman, do you
11 see how complicated that is? Since we don't have a
12 specific category, then I would have to -- if everyone
13 was amenable to staff's recommendations, and I was not
14 because I think that salaries should be reduced by the
15 80,000, how would I do that now with all of these
16 different issues? And it's not very clear to me, over
17 the phone especially.

18 **CHAIRMAN CARTER:** Okay. Let's hang on for a
19 second. Bart, you said that would impact on Issue 5?

20 **MR. FLETCHER:** If there was a reduction in
21 salaries, there would be an impact on the working
22 capital, Issue 5. Rate base, it would impact that.

23 **CHAIRMAN CARTER:** Commissioner Argenziano, I
24 think what we probably ought to do just for -- and see
25 if this would help. We'll just -- why don't we just

1 take one issue at a time, and that would help to kind
2 of -- I know that, you know, you are looking at the same
3 thing we are, but we'll move it that way, and that way
4 we will get an opportunity to have some debate on each
5 one of the issues as we go through them. And then we
6 can have staff to tell us what impact that would have,
7 since there is no specific delineation as to the terms
8 of the salaries.

9 **COMMISSIONER ARGENZIANO:** Okay.

10 Mr. Chairman, that's fine, except for the
11 fact -- and with all due respect to Commissioner Skop,
12 this is nothing against him, but if Commissioner Skop
13 seems to be the one who's designated to make the
14 motions, and I object to that, not because it's
15 Commissioner Skop, but it should be any Commissioners'
16 right to make a motion. It seems to me that we are
17 going in a particular order here that doesn't make rhyme
18 or reason to me. If I would like to have something on
19 the record or a vote on the record, I should be able to
20 have a motion also. So I'd like to know from you as the
21 administrative chairman of this committee how are we
22 doing the motions, and why does it seem to be designated
23 to one Commissioner.

24 **CHAIRMAN CARTER:** Well, initially, my initial
25 thought was that there would be basically one motion,

1 and we didn't get -- we're now into the point to where
2 we are taking motions individually. So at this point in
3 time, I suppose what we can do is we can revert -- we
4 will just take it from there.

5 Commissioner Skop has moved Issues 1 through
6 4. We have dealt with that. And I did say that we
7 could have other motions, so let's do this,
8 Commissioners. Let's kind of back up for a second,
9 because we can get into our discussion and debate.

10 Let's do this. Commissioner Argenziano, on
11 Issue 5 you're recognized for a motion.

12 **COMMISSIONER ARGENZIANO:** Mr. Chairman, I'm
13 going to have to respectfully ask for a two-minute
14 break, because now I have to re-revive. That's why I
15 asked that question as to how we do this since there is
16 no specific issue. So if --

17 **CHAIRMAN CARTER:** Let me do this. Before you
18 go on break, Commissioner, let's see if staff can kind
19 of crank out something to help you better on that issue
20 as it relates to the salaries.

21 **MR. FLETCHER:** Chairman, if I may.

22 **CHAIRMAN CARTER:** Bart.

23 **MR. FLETCHER:** It would be Issue 13 is what
24 she can vote on the salaries. It is the operating
25 income before any increase. That would be -- so all the

1 other issues would be a fallout.

2 **CHAIRMAN CARTER:** So, Commissioner Argenziano,
3 does that help any?

4 **COMMISSIONER ARGENZIANO:** Hang on one second,
5 Mr. Chairman.

6 **CHAIRMAN CARTER:** Issue 13. Let's kind of go
7 there for a moment before we take a break. Let's just
8 kind of go to Issue 13 and have staff kind of lay that
9 out.

10 Bart, you're recognized.

11 **MR. FLETCHER:** Issue 13 is what is the
12 appropriate test year water and wastewater income before
13 any revenue increase, and that's kind of like the
14 catch-all for any adjustments to operating expenses.

15 And if I may, sir, since we're talking about
16 the salaries, I wanted to go back to OPC's adjustment
17 schedule to make sure I can clarify what I mentioned
18 earlier about the capitalized salaries of 29,000. That
19 means that -- there has been no increase in those
20 salaries, it's just the company's treatment of \$29,000
21 worth of salaries. So if you see the figure, the
22 adjusted 2003 salary, the \$38,749 number, you would have
23 to increase that by 29,000. That would give you
24 \$67,749.

25 **CHAIRMAN CARTER:** Wait a second.

1 Commissioner, are you there? Okay. Everybody
2 hold on. Let's take five. (Pause.)

3 **CHAIRMAN CARTER:** We are trying to
4 re-establish communications. Staff, can you guys kind
5 of crank something out that will relate to -- as it
6 would shake out with the salaries and benefits? And
7 probably I think rate case expense will be simpler, is
8 that correct?

9 **MR. FLETCHER:** Correct.

10 (Recess.)

11 **CHAIRMAN CARTER:** We are back on.
12 Commissioner Argenziano, sorry about the communications
13 snafu again. Staff told me that the Issue 13 is that --
14 the vote on Issue 13 will handle that, and whatever
15 shakeout in the ramifications of the salaries and
16 benefits will flow from that. So however we vote on
17 Issue 13, that will impact on that.

18 **COMMISSIONER ARGENZIANO:** Okay. If that is
19 correct, then that's fine with me.

20 **CHAIRMAN CARTER:** Okay.

21 **MR. FLETCHER:** And if I may, Chairman.

22 **CHAIRMAN CARTER:** Bart.

23 **MR. FLETCHER:** Just on that salary and
24 benefits work paper, I just wanted to clarify that you
25 see the bottom number there, the excess over index

1 expenses, the \$80,583, that's the incorrect number. You
2 need to lower that by \$29,000. That would give you
3 51,583. The reason why is that is not an increase in
4 salaries, that is just a different treatment of the
5 difference from the '03 case and the '07 case where the
6 company had projects going on and they capitalized it.
7 So it was put into plant-in-service or recorded in
8 plant-in-service. Whenever something is capitalized,
9 the salary is recorded in plant-in-service, not the
10 expenses in salary and wages. So based on my
11 calculations, it would not be the 223 percent increase,
12 it would be about 85 percent.

13 **CHAIRMAN CARTER:** Okay.

14 **COMMISSIONER ARGENZIANO:** Mr. Chair.

15 **CHAIRMAN CARTER:** Commissioner Argenziano.

16 **COMMISSIONER ARGENZIANO:** To make this less
17 complicated, and I know which way it is probably going
18 to go anyway, but I still want to make the motion and
19 have that on record. I would just prefer to make the
20 motion now to move to reduce by 80,000 the salaries and
21 have staff make whatever adjustments there needs to be.
22 And in the odd chance that the motion passed, and I
23 doubt it will, but that's the motion that I would like
24 to make now and to just get it over with so I'm not
25 confused as to what the other issues then are going to

1 mean.

2 **CHAIRMAN CARTER:** I think we can go to Issue
3 13 now. I don't think there's anything magical about
4 going from one to the other.

5 Commissioner Argenziano on Issue 13.

6 **COMMISSIONER ARGENZIANO:** The motion is, as I
7 stated, I'd like to reduce the amount by 80,000, and
8 that compensates for the salaries, which I think are
9 inappropriate at this time. And have staff -- give
10 staff the discretion to make whatever adjustments on the
11 other issues they need to be, if the motion were to
12 pass.

13 **CHAIRMAN CARTER:** There's a motion,
14 Commissioners.

15 Commissioner Skop for a question.

16 **COMMISSIONER SKOP:** Thank you, Mr. Chairman.

17 Commissioner Argenziano, with respect to the
18 proposed \$80,000 reduction to salaries, what is the
19 specific basis for that? I guess I'm trying to follow
20 the numbers that staff had and the number you are
21 suggesting. So if you could elaborate on that, I would
22 greatly appreciate it.

23 **COMMISSIONER ARGENZIANO:** The specific reason
24 for me making the motion, is that what you're asking?

25 **COMMISSIONER SKOP:** No, the basis on the

1 \$80,000 in terms of what salaries or what specific basis
2 the \$80,000 is from.

3 **COMMISSIONER ARGENZIANO:** From what I heard,
4 Commissioner Skop, during the entire hearing so far,
5 that reduction would reflect the reasonable -- I mean,
6 what I think is unreasonable salary increases at the
7 time. And I think Mr. Reilly had indicated before a
8 number, and I just think it would be appropriate to
9 reduce that number at this time rather than go ahead and
10 move forward with an increase in salaries based on what
11 we have heard during the entire meeting from staff, from
12 OPC, and from my own staff.

13 **COMMISSIONER SKOP:** Thank you.

14 **COMMISSIONER ARGENZIANO:** I hear a funny
15 noise. Can you hear me okay, because I'm afraid I'm
16 going to get knocked off again.

17 **CHAIRMAN CARTER:** We can hear you; we can hear
18 you.

19 **COMMISSIONER ARGENZIANO:** Okay.

20 **CHAIRMAN CARTER:** Commissioners, there is a
21 motion. Is there a second? Yes, ma'am.

22 **COMMISSIONER ARGENZIANO:** I'm sorry, it's just
23 that the company -- I guess I wasn't following what
24 Commissioner Skop had asked. But I guess the basis is
25 that the company has the burden of proof for all

1 expenses, and it hasn't proven to me that these are not
2 moving too fast, as Mr. Reilly from OPC had indicated,
3 and I don't think that they have made the burden of
4 proof to me. So I guess that's the basis, and that may
5 answer Commissioner Skop's question better.

6 **CHAIRMAN CARTER:** Okay. Is there a second?

7 Hearing none --

8 **COMMISSIONER ARGENZIANO:** Mr. Chair, it will
9 go on the record that no one seconded the motion, right?

10 **CHAIRMAN CARTER:** I beg your pardon?

11 **COMMISSIONER ARGENZIANO:** It will go on the
12 record that the motion was made?

13 **CHAIRMAN CARTER:** The motion was made and
14 there is no second, that is correct.

15 **COMMISSIONER ARGENZIANO:** That's great. Thank
16 you.

17 **CHAIRMAN CARTER:** Thank you.

18 Commissioner Edgar, you're recognized for a
19 motion.

20 **COMMISSIONER EDGAR:** Mr. Chairman, I know that
21 we have discussed a couple of different ways of trying
22 to address this. Sometimes we go individually through
23 issues, sometimes we do groupings, and sometimes we take
24 them all. So I would like to put out there for your
25 consideration and my colleagues' consideration a motion

1 to address Issues, I believe, 5 through 23, or what
2 remain.

3 And my motion would be that we adopt the staff
4 recommendation on all remaining issues, which I believe
5 is 5 through 23, with the one exception of on Issue 11
6 adopting the adjustments to the rate case expense that
7 OPC has suggested in the last page of the handout that
8 they made.

9 **COMMISSIONER SKOP:** Second.

10 **CHAIRMAN CARTER:** It has been moved and
11 properly seconded. Commissioners, is everyone clear on
12 the motion? Any questions?

13 **COMMISSIONER ARGENZIANO:** Mr. Chair.

14 **CHAIRMAN CARTER:** Commissioner.

15 **COMMISSIONER ARGENZIANO:** I think I agree with
16 Commissioner Edgar just to go ahead and move on them now
17 all at once in bulk.

18 **CHAIRMAN CARTER:** Okay. Did you hear with the
19 exception, Commissioner?

20 **COMMISSIONER ARGENZIANO:** I didn't hear the
21 exception, I apologize.

22 **CHAIRMAN CARTER:** Okay. She mentioned with
23 the exception of Issue 11.

24 **COMMISSIONER EDGAR:** Excuse me, Mr. Chairman.
25 The motion is to address all issues, and as

1 part of that to approve the staff recommendation on all
2 remaining issues with the exception to the staff
3 recommendation on Issue 11. So it would be to address
4 Issue 11, as well, but to make an adjustment in addition
5 to what the staff had recommended, and for that
6 adjustment to request or to approve the adjustment to
7 rate case expense that OPC had put forward in the last
8 page of their handout.

9 **CHAIRMAN CARTER:** Thank you. You explained it
10 far better than I did.

11 **MR. FLETCHER:** Chairman, if I may?

12 **CHAIRMAN CARTER:** Yes, sir. Bart.

13 **MR. FLETCHER:** Just a point of clarification
14 there that staff can be given administrative approval to
15 address all the fallout issues resulting.

16 **CHAIRMAN CARTER:** That is incumbent in the
17 motion.

18 **COMMISSIONER EDGAR:** I would absolutely
19 explicitly include that.

20 **MR. FLETCHER:** Okay.

21 **CHAIRMAN CARTER:** Commissioner Skop.

22 **COMMISSIONER SKOP:** Thank you, Mr. Chair.

23 And to Commissioner Edgar's motion, which I
24 second, just to put the numbers to the words. That
25 would basically be a further reduction as advocated by

1 OPC to remove the consultant fees in the amount of
2 \$59,415. Would that be correct?

3 **COMMISSIONER EDGAR:** Yes.

4 **CHAIRMAN CARTER:** Commissioner Argenziano,
5 were you clear on the --

6 **COMMISSIONER ARGENZIANO:** Got it.

7 **CHAIRMAN CARTER:** Okay. All right.

8 Commissioners, any further debate?

9 Hearing none. All in favor of the motion, let
10 it be known by the sign of aye.

11 (Vote taken.)

12 **CHAIRMAN CARTER:** All those opposed, like
13 sign?

14 Show it done. Staff, you have administrative
15 leave to take care of the fallout issues.

16 Commissioners, anything else for the good of
17 the order? Thank you all. We are adjourned.

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1 STATE OF FLORIDA)
 2 COUNTY OF LEON) : CERTIFICATE OF REPORTERS

3
 4 WE, LINDA BOLES, RPR, CRR, and JANE FAUROT,
 5 RPR, Official Commission Reporters, do hereby certify
 6 that the foregoing proceeding was heard at the time and
 7 place herein stated.

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

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

18 DATED THIS 15th DAY OF JUNE, 2009.

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