

BEFORE THE  
FLORIDA PUBLIC SERVICE COMMISSION

In the Matter of:

DOCKET NO. 100330-WS

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

VOLUME 6

Pages 940 through 1197

PROCEEDINGS: HEARING

COMMISSIONERS  
PARTICIPATING: CHAIRMAN ART GRAHAM  
COMMISSIONER LISA POLAK EDGAR  
COMMISSIONER RONALD A. BRISÉ  
COMMISSIONER EDUARDO E. BALBIS  
COMMISSIONER JULIE I. BROWN

DATE: Thursday, December 1, 2011

TIME: Commenced at 1:42 p.m.  
Concluded at 4:42 p.m.

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

REPORTED BY: JANE FAUROT, RPR  
FPSC Reporter  
(850) 413-6732

APPEARANCES: (As heretofore noted.)

DOCUMENT NUMBER DATE

FLORIDA PUBLIC SERVICE COMMISSION 08828 DEC-8 =

FPSC-COMMISSION CLERK

## I N D E X

## WITNESSES

NAME:	PAGE NO.
Gary P. Miller	
Direct Examination by Mr. Jaeger	946
Prefiled Direct Testimony Inserted	946
Cross Examination by Ms. Christensen	949
Cross Examination by Ms. Bradley	954
Cross Examination by Mr. May	956
Daniela Sloan	
Direct Examination by Mr. Jaeger	959
Prefiled Direct Testimony Inserted	962
Cross Examination by Ms. Christensen	966
Cross Examination by Ms. Bradley	971
Cross Examination by Mr. May	972
Commissioner Jack Mariano	
Direct Examination by Mr. Richards	974
Prefiled Direct Testimony Inserted	976
Cross Examination by Mr. May	991
Ginny Marie Montoya	
Direct Examination by Mr. Jaeger	1016
Prefiled Direct Testimony Inserted	1018
Cross Examination by Ms. Christensen	1020
Cross Examination by Mr. May	1025
Josie Penton	
Direct Examination by Mr. Jaeger	1030
Prefiled Direct Testimony Inserted	1031
Cross Examination by Ms. Christensen	1035
KIMBERLY DISMUKES	
Direct Examination by Ms. Christensen	1041
Prefiled Direct Testimony Inserted	1043
Cross Examination by Mr. May	1152

## EXHIBITS

	NUMBER :		ID.	ADMTD.
1				
2				
3	150			959
4	154, 155			974
5	151			1029
6	152, 153			1040
7	326	Kim Dismukes Prefiled Errata Sheet	1043	
8				
9	427	OPC contract with Acadian Consulting	1115	
10				
11				
12				
13				
14				
15				
16				
17				
18				
19				
20				
21				
22				
23				
24				
25				

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

1  
2 (Transcript follows in sequence from  
3 Volume 5.)

4 **CHAIRMAN GRAHAM:** All right. We finished with  
5 Mr. Poucher. And, Mr. Jaeger, I know that you had, or I  
6 had asked you before we left to make sure that you  
7 organize the way the rest of this day is supposed to go.  
8 So who do we have next coming up?

9 **MR. JAEGER:** Okay. What's contemplated,  
10 Chairman, is we are going to do two DEP witnesses, Gary  
11 Miller and then Daniela Sloan, and then we will insert  
12 Commissioner Mariano after them. Those three have the  
13 farthest to go back, and then we will do two more DEP  
14 witnesses, Ginny Marie Montoya and Josie Penton. They  
15 don't have quite as far to go.

16 **CHAIRMAN GRAHAM:** Okay. My understanding is  
17 nobody has been sworn. So if you are here, if I can get  
18 you to stand up and raise your right hand.

19 (Witnesses sworn.)

20 **CHAIRMAN GRAHAM:** Mr. Jaeger.

21 **MR. JAEGER:** Yes. Staff would call Gary P.  
22 Miller.

23 **GARY P. MILLER**

24 was called as a witness on behalf of the Staff of the  
25 Florida Public Service Commission, and having been duly



1 sworn, testified as follows:

2 DIRECT EXAMINATION

3 BY MR. JAEGER:

4 Q. Mr. Miller, could you please state your name  
5 and business address for the record?

6 A. Yes. Gary P. Miller, 3319 Maguire Boulevard,  
7 Orlando, Florida 32803.

8 Q. And by whom are you employed and in what  
9 capacity?

10 A. Florida Department of Environmental  
11 Protection, and I'm the program manager of the  
12 wastewater compliance enforcement section.

13 Q. And you were just sworn in, correct?

14 A. Correct.

15 Q. Have you prefiled Direct Testimony in this  
16 docket consisting of three pages?

17 A. Yes.

18 Q. Do you have any changes or corrections to your  
19 testimony?

20 A. No.

21 Q. If I were to ask you the same questions, would  
22 your testimony be the same today?

23 A. Yes.

24 MR. JAEGER: Chairman, may we have Mr.  
25 Miller's testimony inserted into the record as though

1 read?

2                   **CHAIRMAN GRAHAM:** We will insert Mr. Miller's  
3 Prefiled Direct Testimony into the record as if read.

4

5

6

7

8

9

10

11

12

13

14

15

16

17

18

19

20

21

22

23

24

25

## 1 DIRECT TESTIMONY OF GARY P. MILLER

2 Q. Please state your name and business address.

3 A. Gary P. Miller, Florida Department of Environmental Protection (FDEP), 3319  
4 Maguire Blvd., Suite 232, Orlando, Florida 32803.

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

6 A. I have a B.S. Degree in Biology. For about 5 years I worked at the Osceola County  
7 Health Department in the Environmental Health Section, and I have worked  
8 approximately 26 years at the FDEP in the Wastewater and Drinking Water Sections.

9 Q. What are your general responsibilities at the Department of Environmental Protection?

10 A. I manage the Wastewater Compliance/Enforcement Section that includes reviewing all  
11 enforcement documents (warning letters, consent orders, notice of violations etc.),  
12 noncompliance letters of all Type I and II domestic wastewater facilities & conducting  
13 enforcement and compliance meetings.

14 Q. Are you familiar with the AUF wastewater systems in Lake, Seminole, and Volusia  
15 Counties, particularly the wastewater treatment systems in Lake County, including  
16 Fairways at Mt. Plymouth, Holiday Haven, Kings Cove, Morningview, Summit Chase,  
17 Valencia Terrace, and Venetian Village, the wastewater treatment systems in Seminole  
18 County, including Chuluota, and Florida Commerce Park, and the Jungle Den  
19 wastewater treatment system in Volusia County?

20 A. Yes

21 Q. Are these systems in compliance with all applicable construction and operating  
22 permits?

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

24 **Chuluota** – Based on the Discharge Monitoring Reports (DMRs), the annual average  
25 daily flow to the effluent sprayfields (R-001) exceeded the permit limit of 0.10 million

1 gallons per day (MGD). The flow exceedance was to be resolved by implementing  
2 public access reuse by December 31, 2010, in accordance with Part VI, Schedules, of  
3 the wastewater permit. As of September 16, 2011, public access reuse has not been  
4 implemented.

5 **Jungle Den** – The Department's inspection on October 15, 2010, indicated that the  
6 physical plant was very rusty, the minimum pH result reported on the DMR for June  
7 2010 was less than the minimum of 6.0 S.U., the percolation ponds had a freeboard of  
8 less than one foot, overflow pump to the sprayfield was leaking and a spray head was  
9 missing in the sprayfield. These deficiencies were addressed in a noncompliance letter  
10 dated November 5, 2010. See Exhibit GM-1. The Department has no records  
11 indicating a response was received regarding these deficiencies.

12 Q. Have any of these AUF systems been the subject of any FDEP compliance  
13 enforcement action within the past three years?

14 A. The Fairways at Mt. Plymouth system is the only facility that has been under  
15 enforcement within the past three years. The system's previous permit expired on June  
16 14, 2010 and they operated without a permit until September 8, 2010. The  
17 enforcement action was resolved via a Consent Order (CO). The CO requirements  
18 have been completed and the case has been closed.

19 Q. Other than any violations discussed above, is AUF in compliance with all DEP  
20 requirements for their wastewater systems in Lake, Seminole & Volusia Counties?

21 A. Yes

22 Q. Is the overall operation and maintenance of these wastewater treatment plants and  
23 collection facilities satisfactory?

24 A. Yes

25 Q. Do you have anything further to add?

- 1 A. No, I do not.
- 2
- 3
- 4
- 5
- 6
- 7
- 8
- 9
- 10
- 11
- 12
- 13
- 14
- 15
- 16
- 17
- 18
- 19
- 20
- 21
- 22
- 23
- 24
- 25

1 BY MR. JAEGER:

2 Q. And, Mr. Miller, did you also file Exhibit  
3 Number GP-1?

4 A. Yes.

5 Q. And do you have any changes or corrections to  
6 that exhibit?

7 A. No.

8 MR. JAEGER: Commissioner, I would tender this  
9 witness for cross.

10 CHAIRMAN GRAHAM: Is there a summary of your  
11 testimony, or are we are going to go straight to cross?

12 MR. JAEGER: We were dispensing with it.  
13 Their testimony is very short, a page or two, and I  
14 think Ms. Christensen generally brings out most of it.

15 CHAIRMAN GRAHAM: Okay. Ms. Christensen,  
16 please.

17 MS. CHRISTENSEN: Thank you. And I want to  
18 thank you for coming today.

19 THE WITNESS: You're welcome.

20 CROSS EXAMINATION

21 BY MS. CHRISTENSEN:

22 Q. In your testimony filed October 6th, 2011, you  
23 address Aqua systems in several counties, correct?

24 A. Correct.

25 Q. And the wastewater systems you address in your

1 testimony are Fairways at Mount Plymouth, Holiday Haven,  
2 King's Cove, Morningview, Summit Chase, Valencia  
3 Terrace, Venetian Village, Chuluota, Florida Commerce  
4 Park, and Jungle Den, correct?

5 A. Correct.

6 Q. In your testimony, you state that the overall  
7 operation and maintenance of these systems for the water  
8 treatment plants and collection facilities are  
9 satisfactory, is that correct?

10 A. Correct.

11 Q. Now, you would agree that over the last three  
12 years some of these systems have had DEP enforcement  
13 actions against them?

14 A. Correct.

15 Q. And you would agree that Aqua is not in  
16 compliance for its Chuluota system, is that correct?

17 A. Correct.

18 Q. And I believe it is on Page 2 of your  
19 testimony, and I think that's following over from Page  
20 1. You discuss that in the Chuluota system, the  
21 effluent sprayfields have exceeded the permit limits, is  
22 that correct?

23 A. That is correct.

24 Q. Can you explain to us a little bit better what  
25 exactly the exceedance problem is and whether that

1 problem has been resolved?

2 A. In their permit they have a limit on their  
3 effluent sprayfield of 100,000 gallons per day, and that  
4 is based on an annual average. That's the limit on it.  
5 The annual average can't exceed 100,000, and for quite  
6 awhile they have been exceeding that. And just recently  
7 they did start using public access reuse, but currently  
8 they are still in violation of their annual average for  
9 the effluent disposal of that sprayfield.

10 Q. Okay. And has DEP taken any enforcement  
11 action with regard to that excess regarding the  
12 sprayfields?

13 A. No formal enforcement action. We wrote a  
14 couple of noncompliance letters and they responded, but  
15 not formal enforcement.

16 Q. Has DEP made a determination of whether or not  
17 it will seek a formal compliance or consent order if the  
18 effluent exceedance problem is not resolved within a  
19 certain amount of time?

20 A. We are not planning on taking any formal  
21 enforcement action, because it appears that they are on  
22 the way of coming back into compliance, even though  
23 currently they are not.

24 Q. How long would DEP wait before it makes that  
25 determination if it hasn't come into compliance, let's



1 say, in the next six months? Would then DEP consider  
2 taking more formal action?

3 A. Yes, it's possible.

4 Q. Okay. Now, you also have Jungle Den as part  
5 of your systems that you monitor, correct?

6 A. Correct.

7 Q. Now, you would agree that Jungle Den was not  
8 in compliance with its construction and operating  
9 permits regarding several deficiencies that were  
10 outlined in a noncompliance letter dated November 2010,  
11 is that correct?

12 A. That's correct.

13 Q. Can you explain what those deficiencies were?

14 A. I can read them to you here. Is that what you  
15 would like me to do, is just read them?

16 Q. Yes, if you know. I mean, if you need to read  
17 off your testimony, that's fine, or if you recall?

18 A. Yes. I mean, I'll just go ahead and read it.  
19 The physical plant was very rusty. The minimum pH  
20 result reported on the DMR for June 2010 was less than  
21 the minimum of 6.0 standard units, SU. The percolation  
22 ponds had a freeboard of less than one foot, overflow  
23 pump to the sprayfield was leaking and a spray head was  
24 missing in the sprayfield. And those are the  
25 deficiencies based on our inspection.

1 Q. Have you received a response from the company  
2 regarding these deficiencies?

3 A. No, we have not as far as the response to this  
4 noncompliance letter.

5 Q. Okay. Now, you also talk about Fairways and  
6 Mount Plymouth was the subject of a consent order for  
7 operating without a permit from June of 2010 until  
8 September 2010, is that correct?

9 A. That's correct.

10 Q. Okay. And can you describe to us what permit  
11 they were operating without and --

12 A. Yes. Sorry.

13 Q. I was going to say and explain why that caused  
14 you to enter into a consent order?

15 A. Yes. This is a renewal permit to operate  
16 their facility. They were supposed to submit an  
17 application 180 days prior to their permit expiring.  
18 They submitted it approximately 60 days prior to the  
19 permit expiring, and we didn't issue a permit for --  
20 therefore, the permit was nonadministratively continued,  
21 so they were technically operating without a permit for  
22 approximately two months. And, therefore, we took  
23 enforcement action for operating without a permit.

24 MS. CHRISTENSEN: I have no further questions.  
25 Thank you.

1           **MR. CURTIN:** No questions.

2           **MR. MAY:** Good morning, Mr. Miller. Good  
3 afternoon, excuse me.

4           **CHAIRMAN GRAHAM:** Wait a second. Ms. Bradley,  
5 do you have any questions?

6           **MS. BRADLEY:** That's okay.

7           **CHAIRMAN GRAHAM:** No, I apologize. I didn't  
8 mean to skip by. Did you have any questions, or Mr.  
9 Richards? Please.

10                                   **CROSS EXAMINATION**

11           **BY MS. BRADLEY:**

12           Q. Sir, in your testimony you talk about some of  
13 the -- and I'm trying to find the exact terminology you  
14 used, but I assume it's dealing with wastewater and you  
15 talked about them exceeding the permits for the effluent  
16 sprayfields.

17           A. Uh-huh.

18           Q. What is the significance of that? What's the  
19 problem with them exceeding this permit limit?

20           A. Well, the effluent disposal area, which is a  
21 sprayfield, is designed to take so much water per day,  
22 per week, or whatever, and that sprayfield was designed  
23 to take no more than an average 100,000 gallons on an  
24 annual average. They are exceeding that. And if they  
25 do exceed it, possibly it could cause runoff or other

1 environmental concerns. But mainly like ponding and  
2 runoff. Therefore, it wouldn't be staying there on the  
3 site. It could actually run off the site, if there is  
4 sprayfield it is not percolating like it should be and  
5 the grass -- the nutrients in the grass are not taking  
6 up the nutrients like it was designed to because you  
7 have got too much water going into that area.

8 Q. And when you were looking at, I think, the  
9 Jungle Den area, you had a number of -- you found a  
10 number of problems in, I guess it was October of 2010.  
11 You say the percolation ponds had a freeboard of less  
12 than one foot. What did you mean by that?

13 A. That means normally you don't want the level  
14 of the pond so high that it could -- if you had a rain  
15 event it could overflow or the berm break. So we like  
16 the freeboard to be below one foot so you have more  
17 leeway for a rain event or whatever. So our inspectors,  
18 when they go out, that's one thing they check to make  
19 sure that their effluent disposal perc ponds have more  
20 than one foot of freeboard. If they don't, we normally  
21 put that in our noncompliance letters.

22 Q. Okay. Now, some of the things you mentioned,  
23 pump to sprayfield was leaking, spray head was missing  
24 in the sprayfield, are those the type things that can be  
25 fairly easily fixed?

1           A.    Yes.

2           **MS. BRADLEY:**  No further questions.  Thank  
3 you.

4           **CHAIRMAN GRAHAM:**  Once again, Ms. Bradley, I  
5 apologize for skipping over you.

6           **MS. BRADLEY:**  That's okay.

7           **CHAIRMAN GRAHAM:**  Mr. Richards.

8           **MR. RICHARDS:**  I have no questions.

9           **CHAIRMAN GRAHAM:**  Thank you.

10           Mr. May.

11                                   **CROSS EXAMINATION**

12           **BY MR. MAY:**

13           Q.    Good afternoon, Mr. Miller.

14           A.    Good afternoon.

15           Q.    I'm Bruce May with the law firm of Holland and  
16 Knight.  We represent Aqua.  I just had a couple of  
17 follow-up questions.  With respect to the statement you  
18 make on Page 2, Lines 3 and 4, just to clarify, you're  
19 aware, are you not, that Aqua began providing public  
20 reuse to the City of Oviedo in October of this year?

21           A.    That's correct, October 18th.

22           Q.    And about how much effluent is going over to  
23 Oviedo now?

24           A.    I'm sorry, I didn't hear.

25           Q.    Approximately how much effluent is going to

1 Oviedo now?

2 A. I mean, I looked at the monthly operating  
3 discharge monitoring report they submitted, which we  
4 received November 28th, which was the due date, and it  
5 looks like approximately on the average maybe half or  
6 more. I'm not sure, but a significant amount is going  
7 there.

8 Q. Around 60,000 gallons a day, does that sound  
9 about right?

10 A. Yes, that sounds about right.

11 Q. Okay. Is the annual average coming down now?

12 A. It should be coming down now, since they are  
13 starting to go to public access reuse, that's correct.

14 Q. I want to follow-up on just a couple of  
15 questions that Ms. Bradley asked you regarding the  
16 Jungle Den system. Were the noncompliance issues  
17 resolved during the permitting process?

18 A. I think most of them were. My previous  
19 testimony, this testimony here, we didn't receive a  
20 formal response to our noncompliance letter, even though  
21 we had an application in-house at the time that some of  
22 those issues were addressed.

23 MR. MAY: Thank you, sir. I have no further  
24 questions.

25 CHAIRMAN GRAHAM: Commissioners, any questions

1 of this witness?

2 Commissioner Balbis.

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

4 I just have one question. I would just like  
5 to clarify on the Jungle Den system. So during your  
6 inspection in December of last year you found  
7 deficiencies in the system and they weren't formally  
8 addressed or a response wasn't received, but there was  
9 an application in hand. Can you just describe what the  
10 permit application was for and how these issues were  
11 corrected through the application process, because I'm  
12 not following it.

13 **THE WITNESS:** Well, I'm the program manager of  
14 the water compliance enforcement section. I'm not in  
15 the permitting section, so I was not directly involved  
16 in the permitting process. But there was a condition in  
17 the permit regarding, like, rusty plant and so forth  
18 that there is a time frame schedule in there for either  
19 them to replace or repair it or connect to another  
20 utility. So there were some of those issues like the  
21 condition of the plant that was addressed in the permit  
22 renewal and it is currently part of the permit as far as  
23 the compliance schedule.

24 **COMMISSIONER BALBIS:** Have you performed an  
25 additional inspection since the December 2010?

1 THE WITNESS: No, we have not.

2 COMMISSIONER BALBIS: Okay. Thank you.

3 CHAIRMAN GRAHAM: Staff, redirect.

4 MR. JAEGER: No redirect.

5 CHAIRMAN GRAHAM: All right. Which exhibits  
6 do we have to put into the record?

7 MR. JAEGER: He had GM-1, which is  
8 Comprehensive Exhibit 150. We would move that exhibit.

9 CHAIRMAN GRAHAM: Moving Exhibit 150 into the  
10 record. Are there any other exhibits to go into the  
11 record?

12 (Exhibit 150 admitted into the record.)

13 MR. JAEGER: And staff would excuse this  
14 witness, if that is okay with the Commission.

15 CHAIRMAN GRAHAM: Mr. Miller, thank you very  
16 much for coming.

17 THE WITNESS: Thank you.

18 CHAIRMAN GRAHAM: Mr. Jaeger?

19 MR. JAEGER: The next witness is Daniela  
20 Sloan.

21 DANIELA SLOAN  
22 was called as a witness on behalf of the Staff of the  
23 Florida Public Service Commission, and having been duly  
24 sworn, testified as follows:

25 DIRECT EXAMINATION

FLORIDA PUBLIC SERVICE COMMISSION



1 BY MR. JAEGER:

2 Q. Please state your name and business address  
3 for the record, Ms. Sloan.

4 A. Daniela Sloan, 2090 East Clower Street,  
5 Bartow, Florida.

6 Q. And you were just sworn in just a few moments  
7 ago, correct?

8 A. Yes.

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

10 A. I'm an environmental specialist with Polk  
11 County Health Department in the drinking water program.

12 Q. And have you prefiled Direct Testimony in this  
13 docket consisting of four pages?

14 A. Yes.

15 Q. Do you have any changes or corrections to your  
16 testimony?

17 A. Yes, I do.

18 Q. Go ahead and make those.

19 A. The three warning notices that are part of  
20 Exhibit 1 are now in closed status, and there is a new  
21 warning notice issued November 1st.

22 Q. I'm sorry, issued November 12th, is that what  
23 you said?

24 A. November 1st.

25 Q. Okay. I'm sorry, I couldn't hear you.

1 Do you have any other corrections?

2 A. No.

3 Q. With those corrections, if I were to ask you  
4 the same questions, would your testimony be the same  
5 today?

6 A. Yes.

7 MR. JAEGER: Chairman, may we have Ms. Sloan's  
8 testimony inserted into the record as though read?

9 CHAIRMAN GRAHAM: We will insert Ms. Sloan's  
10 testimony into the record.

11

12

13

14

15

16

17

18

19

20

21

22

23

24

25

## DIRECT TESTIMONY OF DANIELA SLOAN

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25

Q. Please state your name and business address.

A. Daniela Sloan, Polk County Health Department, 2090 E. Clower St., Bartow, FL 33830.

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

A. I received a Bachelor of Science Degree in Biology from University of Bucharest (Romania), a Master of Science Degree in Environmental Protection and Management of Natural Resources from University of Bucharest, a Master of Science Degree in Biology from Georgia Southern University and a Doctor of Philosophy Degree in Industrial Hygiene from University of South Florida. I have been employed by PCHD since May 2007, currently as an Environmental Specialist II.

Q. What are your general responsibilities at PCHD?

A. I am responsible for ensuring that public water systems in Polk County are in compliance with federal and state Safe Drinking Water Act (SDWA) regulations. My job duties include performing site inspections and sanitary surveys, reviewing bacteriological main clearances, bi-weekly dosage corrosion reports, lead and copper sampling plans and results, entering data in the state Oracle database and initiating enforcement action when necessary.

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

A. Yes.

Q. Has Aqua been the subject of any PCHD enforcement action in the past three years?

A. The Breeze Hill water system has not been subject to any enforcement action in the past three years and has been in compliance with all bacteriological and chemical

1 monitoring requirements. However, positive coliform samples were collected in May  
2 2010. The only out of compliance deficiency found during the 2010 and 2011 annual  
3 sanitary surveys was a leaking well seal, which was corrected on June 23, 2011. The  
4 Lake Gibson Estates water system was not subject to any enforcement action during  
5 the past three years but has been placed in out of compliance status due to leaks around  
6 both well seals. The Orange Hill/Sugar Creek water system, Gibsonia Estates water  
7 system and Rosalie Oaks Water system were sent a warning notice (AKA warning  
8 letter) for failure to sample for nitrates/nitrites in 2010. These letters are attached as  
9 Exhibit DS-1. The Village Water system was not subjected to any enforcement action  
10 during the past three years.

11 Q. Please describe the violation regarding Total Coliform.

12 A. A Breeze Hill resident who owns a nearby mobile home park mistakenly collected four  
13 bacteriological samples from her Breeze Hill residence and submitted them as the  
14 monthly required samples for the mobile home park. The mistake was discovered  
15 upon receiving the positive results. Further investigation and bacteriological sampling  
16 by PCHD revealed that the positive samples were due to a dirty, malfunctioning filter  
17 at the point of entry to the residence and not the quality of the water provided by Aqua.  
18 No further action was required.

19 Q. Please describe the warning notice.

20 A. The Orange Hill/Sugar Creek, Gibsonia Estates and Rosalie Oaks water systems  
21 were sampled for nitrates/nitrites in a timely manner and the results were below the  
22 MCL, but the results were not submitted to our office by the deadline.

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

24 A. Yes. I conducted annual sanitary surveys of the Breeze Hill water system on May  
25 24, 2011, May 25, 2010, April 23, 2009 and March 7, 2008. The only out of

1 compliance violation during these four years was the leaking well seal, which was  
2 corrected in a timely manner each time. Minor deficiencies included no screen and  
3 elbow on the air release valve, maintenance manual not on site, chlorine injection leak,  
4 outdated bacteriological sampling plan, no tank inspection report on site and corrosion  
5 on some components. The system was also reminded that during future alterations the  
6 well must be outfitted with a vent and access port. I also recommended that the casing  
7 height be increased to 12 inches above the concrete pad. I conducted sanitary surveys  
8 of the Orange Hill/ Sugar Creek system on June 9, 2011, May, 26, 2010 and August 6,  
9 2009. The only out of compliance violations involved leaking well seals in 2010. All  
10 deficiencies were corrected according to the schedule. I conducted annual sanitary  
11 surveys of the Rosalie Oaks water system on May 24, 2011, May 25, 2010 and June  
12 10, 2009. The system had only minor deficiencies, which were addressed immediately  
13 following the sanitary surveys. I conducted annual sanitary surveys of the Gibsonia  
14 Estates water system on June 2, 2011 and October 27, 2010. The only out of  
15 compliance deficiencies were found during the 2010 sanitary survey when both well  
16 seals were leaking. The seals were repaired according to the schedule, and the back-up  
17 well had the casing height raised and a new access port and vent installed. I conducted  
18 the annual sanitary survey for the Village Water system on February 22, 2011. This is  
19 a consecutive water system with no treatment facilities, which purchase water from  
20 Polk County Utilities. For the past three years this system had no deficiencies. In  
21 general, the utility is doing a good job about acknowledging the deficiencies found  
22 during inspections and correcting them.

23  
24 Q. Are the plant and distribution systems otherwise in compliance with all environmental  
25 requirements?

A. Yes.

1 Q. Do you have anything further to add?

2 A. These facilities have had 23 boil water notices since 2009. Attached as Exhibit DS-2  
3 is an Excel spreadsheet which lists each occurrence. In each instance the notices were hand  
4 delivered to all affected water connections (customers). Our Department was sent Boil Water  
5 and rescission notices along with the Boil Water Notification Form. One time, a BWN for  
6 Lake Gibson Estates was not able to be rescinded on the specified date; in this case, the  
7 operator notified our Department by email, listing the changes made.

8 Q: Does this conclude your testimony?

9 A: Yes.

10

11

12

13

14

15

16

17

18

19

20

21

22

23

24

25

1 **BY MR. JAEGER:**

2 Q. And, Ms. Sloan, did you also file Exhibit  
3 Numbers DS-1 and DS-2 with your testimony?

4 A. Yes.

5 Q. Do you have any changes or corrections to any  
6 of those exhibits?

7 A. The letters that are part of Exhibit 1 are now  
8 in closed status, the three letters.

9 **MR. JAEGER:** And, Chairman, those exhibits  
10 have been identified as 154 and 155 at this time  
11 pursuant to the Comprehensive Exhibit List.

12 **CHAIRMAN GRAHAM:** Okay.

13 **MR. JAEGER:** And this witness is tendered for  
14 cross.

15 **CHAIRMAN GRAHAM:** Ms. Christensen.

16 **MS. CHRISTENSEN:** Yes.

17 **CROSS EXAMINATION**

18 **BY MS. CHRISTENSEN:**

19 Q. Good afternoon, Ms. Sloan. Thank you for  
20 coming today.

21 A. You're welcome.

22 Q. Now, I think you just said that your testimony  
23 filed October 6th, 2011, addresses Aqua systems in Polk  
24 County regarding their compliance with the Safe Drinking  
25 Water Act regulations, is that correct?

1           A.    Yes.

2           Q.    And you work for the health department,  
3 correct?

4           A.    Yes.

5           Q.    Okay.  And you address the compliance issues  
6 for the following Aqua systems, Breeze Hill, Lake Gibson  
7 Estates, Gibsonia Estates, Orange Hill, Sugar Creek,  
8 Rosalie Oaks, and Village Water, correct?

9           A.    Yes.

10          Q.    And I think in your testimony on October 6th,  
11 2011, you stated that the overall operation and  
12 maintenance of these systems, besides the issues that  
13 you identified in your testimony, were in compliance  
14 with the environmental regulations, is that correct?

15          A.    Yes.

16          Q.    Okay.  And you would agree that over the last  
17 three years these systems have had health department  
18 enforcement actions against some of them, correct?

19          A.    No.  They had warning notice issued, but no  
20 enforcement actions.

21          Q.    Okay.  Well, with that distinction, they have  
22 had warnings -- they have been out of compliance and had  
23 warning letters issued, is that correct?

24          A.    Yes.

25          Q.    Okay.  With that correction, they have had



1 some actions brought to their attention. So let's talk  
2 a little bit about those.

3 A. Okay.

4 Q. Now, you have the Breeze Hill system, correct?

5 A. Yes.

6 Q. And I think in your testimony you cite two  
7 occasions on which the Breeze Hill system had compliance  
8 deficiencies during 2010 and 2011, correct?

9 A. Yes.

10 Q. Now, were both of those instances for a  
11 leaking well seal?

12 A. Yes, I think so.

13 Q. Okay. Now, I think you testified today that  
14 your -- that you had issued warning letters regarding  
15 both of those leaks?

16 A. Yes, we did.

17 Q. Okay. And you testified today that those have  
18 been closed. Can you explain what action resulted in  
19 you closing those?

20 A. The well seal leaks were not part of the three  
21 warning notices in the exhibit. Those are different  
22 issues.

23 Q. Okay. Well, let's talk -- why did you -- is  
24 the water leak issue still open, I guess is the  
25 question?

1           A.    No.  We give them deadlines to correct it  
2 within 30 days and they do that.

3           Q.    All right.  So let's talk about the Orange  
4 Hill, Sugar Creek, Gibsonia Estates, and Rosalie Oaks  
5 systems.  Were those the systems that were sent warning  
6 letters for failing to sample to nitrates?

7           A.    Yes.

8           Q.    Okay.  And although they did the sampling,  
9 Aqua failed to send the results to the health  
10 department, is that correct?

11          A.    Yes.

12          Q.    Okay.  And for that reason you issued the  
13 warning letters?

14          A.    Yes.

15          Q.    Okay.  And can you explain to us what steps  
16 you took in addition to issuing the warning letter  
17 regarding the failure to test for the nitrates?

18          A.    Sure.  It wasn't necessary to take any  
19 additional steps, because they did sample for nitrates,  
20 they just didn't send us the results by the January 10th  
21 deadline.  They sent it, I think, a week or ten days  
22 after the deadline.

23          Q.    Okay.  And that was for each of the systems?

24          A.    Yes.

25          Q.    Okay.  And I think you discussed today that

1 there was a new warning notice that was sent by your  
2 department?

3 A. Yes.

4 Q. Can you explain what that notice was sent for?

5 A. One of Aqua's consecutive systems, Village  
6 Water, did not monitor for lead and cooper during the  
7 June 1st to September 30th moratorium period.

8 Q. Have you received samples for that, from the  
9 Village Water system for the lead and cooper testing?

10 A. I think after we sent them -- after we  
11 notified them they did not sample, they sampled after  
12 the close of the sampling period and provided us with  
13 notices that they sent to customers.

14 Q. Okay. And how late after the close of the  
15 monitoring period did they actually do the sampling?

16 A. I think within the month, but those samples  
17 would not count for the lead and cooper rule.

18 Q. Okay. And as a result of the warning notice,  
19 is there any other action that the department would take  
20 regarding the failure to timely sample for lead and  
21 cooper?

22 A. Yes. We required them to sample next year  
23 during the June 1st to September 30th moratorium period.

24 Q. Okay. And you have not reviewed Aqua's  
25 compliance for other systems outside your jurisdiction,

1 correct?

2 A. Just for the Polk County systems.

3 MS. CHRISTENSEN: Okay. Thank you. I have no  
4 further questions.

5 COMMISSIONER EDGAR: Ms. Bradley.

6 MS. BRADLEY: Thank you.

7 CROSS EXAMINATION

8 BY MS. BRADLEY:

9 Q. On Page 4 of your testimony you talk about the  
10 23 boil-water notices since 2009, and you go on to talk  
11 about Lake Gibson Estates and the fact that something  
12 happened, and I'm not sure when that was, but that that  
13 was not able to be rescinded on the specified date.

14 A. Yes.

15 Q. Okay. When they give out the warning notices,  
16 do they put a date when it is going to be rescinded on  
17 there, or do they wait until after it is taken care of?

18 A. I'm not sure exactly what the process is  
19 because I'm not the one receiving the notices, but I  
20 think they send us the boil-water notices and rescision  
21 notices at the same time, and then they notify us once  
22 the bac-T samples are then okay, that the boil notice  
23 was rescinded. So if that doesn't happen, then they  
24 will tell us why it didn't happen and when they are  
25 going to rescind it.

1 Q. Do you know whether they send out additional  
2 notices to the owners, the homeowners to let them know  
3 we didn't get it fixed in time, and you need to keep  
4 boiling water, or how is that handled?

5 A. I don't think they send the customer recision  
6 notices until they are actually ready to do that.

7 Q. Okay. And do you know why this wasn't fixed  
8 in time and why they had to delay that date?

9 A. No, I don't recall the reason why.

10 MS. BRADLEY: All right. Thank you.

11 MR. RICHARDS: I have no questions.

12 MR. CURTIN: No questions.

13 CROSS EXAMINATION

14 BY MR. MAY:

15 Q. Good afternoon, Ms. Sloan.

16 A. Good afternoon.

17 Q. I'm Bruce May. I represent Aqua. Just a  
18 couple of very quick questions. With respect to the  
19 warning letter that was issued, I think you said  
20 November 12th of this year?

21 A. November 1st.

22 Q. November 1st, I'm sorry. Has that been closed  
23 now?

24 A. No.

25 Q. Could you explain kind of the situation that

1 lead to that warning letter being issued?

2 A. It was issued because Aqua Utilities did not  
3 monitor for lead and cooper in the Village, Village  
4 Water system.

5 Q. Are you sure that warning letter is not  
6 closed?

7 A. It will be closed once they sample next year.

8 MR. MAY: Thank you. No further questions.

9 CHAIRMAN GRAHAM: Commissioners?

10 Commissioner Balbis.

11 COMMISSIONER BALBIS: Thank you, Mr. Chairman.

12 And thank you, Doctor Sloan. I just have one  
13 question. How do Aqua's facilities compare in Polk  
14 County to other utilities, the condition of the  
15 facilities?

16 THE WITNESS: I think overall they are in good  
17 condition and comparable to our other utilities or  
18 county water systems.

19 COMMISSIONER BALBIS: Okay. Thank you.

20 CHAIRMAN GRAHAM: Staff?

21 MR. JAEGER: Staff has no redirect.

22 CHAIRMAN GRAHAM: Which exhibits do you need  
23 to enter?

24 MR. JAEGER: Yes. I would move in Exhibits  
25 154 and 155.

1           **CHAIRMAN GRAHAM:** Exhibits 154 and 155.

2           (Exhibits 154 and 155 admitted into evidence.

3           **CHAIRMAN GRAHAM:** Any other exhibits?

4           **MR. JAEGER:** None that I'm aware of.

5           **CHAIRMAN GRAHAM:** Thank you.

6           Doctor Sloan, thank you very much for coming.

7           **THE WITNESS:** Thank you.

8           **MR. JAEGER:** The next witness we have  
9           scheduled is Commissioner Mariano.

10           **MR. RICHARDS:** Yes. Pasco County would like  
11           to call Commissioner Mariano to the stand.

12           **CHAIRMAN GRAHAM:** Thank you, sir.

13                           **COMMISSIONER JACK MARIANO**

14           was called as a witness on behalf of Pasco County, and  
15           having been duly sworn, testified as follows:

16                           **DIRECT EXAMINATION**

17           **BY MR. RICHARDS:**

18                   **Q.** Please state your name and position for the  
19           record.

20                   **A.** My name is Jack Mariano, Pasco County  
21           Commissioner.

22                   **Q.** And you have been sworn?

23                   **A.** I have been sworn.

24                   **Q.** And did you prefile six pages of testimony in  
25           this case?

1           A.    Yes.

2           Q.    And do you have any changes to that testimony?

3           A.    Yes.  On Page 5, Lines 1 and 2, Aqua has now  
4 responded to our inquiry, and we are working with them  
5 on this issue.

6           Q.    Thank you.  And there are any other changes?

7           A.    No.

8           Q.    And with those changes, is your testimony  
9 still accurate today?

10          A.    Yes.

11                   **MR. RICHARDS:**  Mr. Chairman, I would now ask  
12 that the testimony be moved into the record as though  
13 read.

14                   **CHAIRMAN GRAHAM:**  We will enter Commissioner  
15 Mariano's testimony into the record.

16

17

18

19

20

21

22

23

24

25



1 Q. PLEASE STATE YOUR NAME AND BUSINESS ADDRESS

2 A. Jack Mariano, 8731 Citizens Drive, Suite 150, New Port Richey, FL 34654

3 Q. WHAT POSITION DO YOU HOLD?

4 A. I am a County Commissioner for Pasco County, Florida.

5 Q. ARE YOU SPONSORING ANY EXHIBITS IN THIS CASE?

6 A. Yes, I am sponsoring the following exhibits which are attached to my testimony:

7 **Exhibit JM-1**, which is a collection of Boil Water Notice Surveys completed Aqua  
8 customers in the Jasmine Lakes and Palm Terrace service areas;

9 **Exhibit JM-2**, which is a collection of e-mails and letters received from Aqua  
10 customers;

11 **Exhibit JM-3**, which is a collection of pictures of the repaired effluent pipe,  
12 discarded pipe and location map;

13 **Exhibit JM-4**, which is a June 23, 2011, Department of Environmental Protection  
14 (DEP) Warning Letter;

15 **Exhibit JM-5**, which a collection of pictures of an overflow pipe and plan sheet  
16 showing the location of the pipe;

17 **Exhibit JM-6**, which is a copy of Mike Garrett letter to Aqua re overflow pipe.

18 Q. WHAT IS THE NATURE OF YOUR TESTIMONY IN THIS PROCEEDING?

19 A. My testimony is directed to the issues of Aqua Utilities' level of customer service  
20 and related operations.

21 Q. ARE YOU AWARE OF ANY INSTANCES WHERE AQUA UTILITIES  
22 CUSTOMER SERVICE WAS INFERIOR?

23 A. Yes. As a County Commissioner I have received numerous complaints from my  
24 constituents regarding poor customer service by Aqua Utilities. One particular  
25 instance involved boil water incidents during 2011, where Aqua failed to properly

1 and fully inform its customers of the boil water orders in the Jasmine Lakes and  
2 Palm Terrace service areas. I received complaints about these failures so I  
3 assisted the residents in preparing a "Boil Water Notices Survey." These surveys  
4 were distributed by several residents and collected at the June 14, 2011  
5 community meeting I attended, at which time the surveys were turned over to  
6 me. I sent the completed surveys to Governor Rick Scott with a copy to the  
7 Commission. Copies of the completed surveys are attached as Exhibit 1.

8 Approximately 340 customers from the Palm Terrace and Jasmine Lakes  
9 service areas completed the surveys. The results indicate that Aqua has been  
10 inconsistent in notifying customers of the need to boil water. According to the  
11 surveys, 137 customers stated that they never received any form of boil water  
12 notice; 78 received notice via letter size piece of paper and 92 received a door  
13 hanger. Only 17 received a phone call from Aqua.

14 Over the last few years I have received numerous complaints from Aqua  
15 customers regarding poor quality service, poor water quality and exorbitant rates.  
16 Attached as Composite Exhibit 2 are representative samples of the complaints I  
17 have received. I also attended a March 8, 2011 neighborhood meeting at the  
18 Jasmine Lakes Community Center that was attended by about 300 dissatisfied  
19 Aqua customers who came to express concerns with Aqua's poor quality service  
20 and high rates.

21 **Q. ARE YOU AWARE OF ANY POTENTIAL ENVIRONMENTAL CONCERNS**  
22 **AND/OR PROBLEMS WITH AQUA'S PALM TERRACE WASTEWATER**  
23 **TREATMENT PLANT OPERATIONS?**

24 **A.** Yes. Some nearby residents alerted the county to a possible discharge to a  
25 county stormwater pond adjacent to Aqua's effluent storage ponds. I visited the

1 site with some county stormwater staff personnel and some residents on or about  
2 May 19, 2011. At this time, I observed a PVC pipe crossing a county stormwater  
3 spillway. The pipe was above ground and appeared to be recently repaired as a  
4 small piece of cut PVC pipe was on the ground next to the repair. The replaced  
5 pipe was visible behind Aqua's fence. See Exhibit 3, pictures of the repaired  
6 pipe, discarded pipe and location map. The repaired joint pipe was leaking  
7 slowly at the time of the visit. See page 1 of Exhibit 3, which shows water  
8 beneath the leaking pipe. I understand that the pipe carries treated effluent to  
9 the Aqua's disposal spray field. A Department of Environmental Protection  
10 (DEP) letter states that a break in this pipe discharged effluent to the county's  
11 pond on May 17, 2011. See Exhibit 4, page 2, paragraph #5.

12 The leaking pipe and discarded PVC were potential violations of the  
13 county stormwater regulations; but the county chose not to prosecute these  
14 violations if Aqua agreed to bury the pipe. Aqua has since applied for and  
15 received a County Right-of-Way use permit to place the pipe underground.

16 Additionally, while viewing the aboveground pipe, I noticed percolation in  
17 the county's stormwater pond while effluent was flowing through the pipe. This  
18 raised concerns regarding a possible leak in Aqua's effluent pipe or another  
19 source of discharge of effluent to the county pond. County personnel  
20 investigated historical records and found a plan sheet showing a direct pipe  
21 connection from Aqua's ponds to the county's pond. With the assistance of Aqua  
22 personnel, a direct pipe connection was discovered. See Exhibit 5, pictures of  
23 pipe and plan copy showing the location of the pipe. The county has no record  
24 that would give Aqua the authority to maintain this pipe on county property or to  
25 allow the direct discharge of its effluent to the county pond. We asked Aqua to

1 provide any documentation it may have regarding this matter and Aqua has failed  
2 to respond to our inquiry. See Exhibit 6, letter from Mike Garrett to Aqua.


3 **Q. HAS THE COUNTY ATTEMPTED TO PURCHASE AQUA UTILITIES'**  
4 **SYSTEMS LOCATED IN PASCO COUNTY?**

5 A. For approximately ten years it has been county policy to purchase private utilities  
6 in an attempt to address the adverse impacts many of our residents have  
7 experienced from the poor quality service and/or high rates provided by several  
8 private utilities. The county has been able to purchase several smaller systems  
9 such as Forest Hills Utility, Shady Oaks Utility, and East Pasco Utilities. For  
10 some larger, more troublesome utilities such as Aloha Utilities and Lindrick  
11 Utilities, the county worked with the Florida Governmental Utility Authority  
12 (FGUA) to achieve public ownership of private utility systems. The county is one  
13 of several local government members of FGUA and, in 2009, I asked FGUA to  
14 investigate the purchase of Aqua's Pasco systems. I did this after receiving  
15 numerous complaints from Aqua's customers about extremely high rates and  
16 poor quality service. I understand the FGUA's representatives had discussions  
17 with Aqua in 2009 about selling their systems but little progress has been made  
18 since that time.

19 **Q. DOES THAT CONCLUDE YOUR TESTIMONY?**

20 A. Yes.

21  
22  
23  
24  
25  
26  
27  
28  
29

  
\_\_\_\_\_  
Jack Mariano  
Pasco County Commissioner  
District 5

1 BY MR. RICHARDS:

2 Q. Commissioner Mariano, did you prefile any  
3 exhibits with your testimony?

4 A. Yes, Exhibits JM-1 through 6.

5 Q. Thank you. Would you like to -- were there  
6 any changes to those exhibits?

7 A. No changes to the exhibits.

8 Q. Okay. Would you like to summarize your  
9 testimony at this time?

10 A. Yes, please.

11 I come before you today as someone  
12 representing people that have been struggling  
13 dramatically with poor water quality, water quality  
14 service, and it's not something unique to the county.  
15 We have dealt with the issue over the past few years.

16 One of the things in coming to the hearing  
17 from last time when the residents came up, you saw a lot  
18 of testimony, a lot of examples from the people going  
19 through extreme hardships between high quality -- high  
20 water prices and low quality, and it is really affecting  
21 their quality of life. Their whole area has been  
22 affected by it.

23 In some of the testimony which I'll cover, one  
24 of things that really infuriated the people when they  
25 were here was that they got to hear a comment from Aqua

1 talking about the procedure they had for the  
2 boiled-water notices. And there was a gentleman that  
3 even stood up holding a white 8-1/2 by 11 piece of paper  
4 that said this is the type of boil water notice I got,  
5 not a door hanger. That impetus from that statement,  
6 and the people weren't able to speak and address that  
7 issue from that point, because it wasn't a hearing that  
8 would have them come back up again, they were so  
9 animated they went out and did their own survey.

10 This boil-water notice survey, which I have  
11 put in for an exhibit, was sent out and 469 people  
12 responded to it. The questions going down the line,  
13 30 didn't respond by circling, but they did put comments  
14 into it, and if you pay close attention to the totals of  
15 Number 4 and 5, it said -- 92 of them said I did receive  
16 a door hanger notice to boil water, and only 50 said I  
17 received a door hanger notice to stop boiling water.

18 As was presented to you after the people had  
19 spoke it was completely different. If you look at all  
20 the numbers through, 137 of them never received either  
21 type of notice, 78 received the 8-1/2 by 11 sheet of  
22 paper. And, Chairman Graham, that might have been the  
23 gentleman that was standing up, one of them was waving  
24 it and you asked him to sit down or you would have him  
25 removed. That is how animated he was, and the rest of

1 people followed notice, as well. Only 24 on Number  
2 6 were told to boil water. So out of 469 -- these  
3 numbers are pretty staggering to me -- 15 were told by a  
4 neighbor to stop boiling water. Seventeen, only 17  
5 received a message from Aqua telling them -- a phone  
6 message to boil water. Only 12 received a phone message  
7 to stop boiling water.

8 Now, unbeknownst to me, but at the hearing we  
9 had in New Port Richey that was over the summer, and by  
10 the way, that is when most of our residents have gone up  
11 north, so there wasn't as much participation as what was  
12 happening beforehand. At that point in time from the  
13 time of the hearing or whatever, after I had submitted  
14 this the people from Palm Terrace also had gone out on  
15 their own completely and unbeknownst to me, and I  
16 submitted these, but they also did their own boil water  
17 notices, which I submitted and, again, show the same  
18 type of evidence.

19 So sitting as a county commissioner, I  
20 listened to what gets said every single time. And when  
21 things get left out to me on presentations that are  
22 before me, it really offends me. I feel that you folks  
23 were misled on what you got for testimony from Aqua in  
24 what is evidenced here by the people speaking out to say  
25 exactly what happens to their neighborhoods. Now, I

1 can't speak to what goes on around everywhere else, and  
2 I don't intend to, but that's something in front of me  
3 that the people have responded to that goes directly  
4 against what was presented before.

5 In the Exhibit JM-2 there is a collection of  
6 e-mails from Aqua. One of them actually talks about  
7 going through the neighborhood, how it used to be, green  
8 grass everywhere in Jasmine Trails. Jasmine Lakes has a  
9 road going through it, Ranch Road is going through it.  
10 It used to be nice and green through there. Now people  
11 can't afford to water their lawns as they have cut back  
12 and back and back. And, frankly, I think when you keep  
13 on raising the rates up, you actually cut down their  
14 revenue coming in, because less people can afford to use  
15 it. But I don't think it is right for teenagers to  
16 shower out in sprinkler heads for people to kind of cut  
17 back. The poor water quality keeps them from doing  
18 other things such as boiling water. They have to go out  
19 and buy water to drink as well as boil their own food.

20 Later on in Exhibit 3 there's a repaired  
21 effluent pipe that is there. I showed you that map from  
22 before. Now, when questioning was going on, as well, it  
23 was talked about -- I think I might have mentioned, I  
24 haven't seen my testimony come back up, but I think I  
25 mentioned that one of the mechanics told me there was



1 many repairs on that project. That was even brought up  
2 as far as a comment later on, but I found out later on  
3 from a DEP letter which is included in your testimony,  
4 as well, it shows there were two breaks that was known  
5 and Aqua was actually responding to it in between the  
6 hearing.

7           So as far as for your body to make decisions  
8 and make recommendations on the information you are  
9 given, I don't think you had everything in front of you.  
10 And that was part of the impetus for me to step forward  
11 to my county commission, which by the way unanimously  
12 approved coming forward to speak before this body to get  
13 this information out in front of you. Because I think  
14 it is very critical that when you make your decisions,  
15 if you don't have the right information, it's hard to  
16 make the right call.

17           So with what was put in front of you and is in  
18 front of you now to me is very significant. There's  
19 other violations that are going on out there. On  
20 Exhibit Number 6 there is a copy of a pipe. I was out  
21 with DEP, and when the sprayfields were coming on we  
22 noticed there was action going on in the water around  
23 there, so we were suspicious as far as was there a pipe  
24 coming in or was there not a pipe coming in. Well, as  
25 we went into the bank and kind of looked in there, we

1 found this pipe unpermitted, but it's an emergency  
2 overflow pipe that goes into our stormwater pond. Now,  
3 by DEP's own rules, we can't have that emergency pipe  
4 there. Okay. It's a violation. We had to cap that  
5 pipe anyway, but they still -- now that they have  
6 responded to us, they have no record of any permit which  
7 is part of the change in the testimony. There is no  
8 record of any permit or any application was done to us,  
9 though we did have the map that was submitted to us.

10 So even under your rules or DEP's rules, that  
11 piping being capped, they don't have the emergency flow  
12 that is going on right now. But that's new evidence you  
13 didn't have before, which I think is very substantial.  
14 When I had sent my letter to the Governor where I was  
15 sending these fliers out as well as CCing you on, I had  
16 a few requests that were on there. One as far as to  
17 consider their overall quality of service to be  
18 marginal, and I think you do need to do more monitoring,  
19 but at the same token I would not even set it up where  
20 they even know you are monitoring them, and let's find  
21 out what kind of customer service you have. Because  
22 over the past few months I have still got other  
23 information where people are still unhappy with the  
24 service they are getting, regardless of what you are  
25 hearing.

1                   Supporting the Office of Public Counsel on  
2 independent water and wastewater operations, these two  
3 systems in Pasco, Palm Terrace and Jasmine Lakes are  
4 real close. Zephyr Shores I can't speak to, because I'm  
5 not as versed with it. But these systems are like fully  
6 built out. When they bought them in '04, their rates, I  
7 think, were less than Pasco County. Now they are about  
8 2-1/2 times that amount. So if every utility is  
9 supposed to stand on its own with the investments and  
10 what has gone in, I think you really need to do a real  
11 intensive counting to figure out how these rates have  
12 gone up so high. Part of it -- if it's the rate  
13 banding, that is another good reason why to get rid of  
14 it.

15                   Why should those people who are on low  
16 incomes, it's a lot of seniors, and the community has  
17 actually changed over the years, because at first their  
18 homes were advertised, I think, for 19 or \$29,000.  
19 Well, the homes that have gone up in price have come  
20 right back again. In this community right now, because  
21 the water rates are so high, people move out if they are  
22 renting because they can't afford the water. And,  
23 number two, it drives the price of the -- the value of  
24 the property down because no one wants to buy it with  
25 the bad water quality and the high prices to go with it.

1 So really the more you raise the rates, the worse the  
2 situation is going to get. People aren't going to be  
3 able to sell their homes. They are going to be stuck in  
4 them. There is going to be higher foreclosure rates.

5 And by the way, as much as they say our  
6 unemployment rate is 12 percent, we are actually up at  
7 32 percent in construction where people don't have jobs.  
8 And part of these vacancies that are in there, the  
9 foreclosures that are in there, there is no water being  
10 pumped because there is no one in there. So the whole  
11 neighborhood is going down. And the higher you raise  
12 the price, I think, and I'm an economics graduate, I  
13 think you are actually hurting their revenues that are  
14 going to come in. If you give a chance to people they  
15 are going to water their lawns, wash their kids, eat  
16 their food, clean up the water quality, you could have a  
17 better situation.

18 As a county commissioner, I don't look to take  
19 over water systems. I don't have any interest in it.  
20 We have to worry with just doing something over the past  
21 month about taking over waste services. And I said no,  
22 the private market is doing it. We don't have any  
23 complaints. Whatever we do for our recycling program  
24 that is coming up, let them do it. Let them be. But  
25 when we have boil-water quality. And when I first got

1 elected to the county commission, I had two utilities in  
2 mind that I wanted to fix the water quality. And I say  
3 that water quality was the number one issue that I had.  
4 That's what I wanted for the people. As much as you saw  
5 everybody here, I had more people for Aloha coming  
6 forward. Commissioner Hildebrand, our chairman this  
7 year, was for 28 years now, is retiring. She has  
8 service with Lindrick, she has experienced all the  
9 issues. Her issues weren't as bad as what Aloha's  
10 people were, but those issues there were just as strong  
11 as right here now.

12 I pulled not to buy the utility, not to join  
13 the FGUA. I actually pulled to take back jurisdiction.  
14 Not that I want to put you guys out of work, but to go  
15 forward to take back jurisdiction locally where I  
16 thought I could put more leverage and more controls on  
17 really making these people perform to what they are  
18 supposed to do. Give good quality water at a good  
19 reasonable price.

20 When my commission didn't want to do that,  
21 what we decided to do is let's put a study group  
22 together. So in the study group some of the information  
23 that came out as far as what could be done is you could  
24 look at rate of return as far as putting the penalties  
25 forward. You could look at even rate managers pay. We

1 didn't get to the whole details to it, because I  
2 actually pulled myself off that commission body because  
3 I didn't want to affect their decision. They came back  
4 and recommended the FGUA.

5           And I'll tell you the great thing about the  
6 FGUA, as much as people are paying higher, they are  
7 getting good water quality. The improvements they have  
8 made, they can see the improvements that have been made,  
9 and people aren't complaining. So we have done the  
10 right things in our area, and that's why I supported the  
11 local control to it. But with the FGUA, at least we  
12 have the local controls. They have done the right  
13 things. Granted, it's expensive when you have to pay  
14 top dollar for a utility, but at the same time the  
15 people are happier now and they can see a situation that  
16 is better for them.

17           We actually have another utility that came  
18 before you recently, Mad Hatter. These people are  
19 fantastic. They do such a great job. They are so  
20 efficient. Their rates are lower than what the county  
21 is. I can't take them over in the sense of I can't pay  
22 them enough money to make it worth his while at this  
23 point in time. They are still trying to work that out,  
24 and if they can work it out, fine, but we are not  
25 pushing to take it over because those rates would be

1 actually lower than what the county would be. We could  
2 do it separately. We wouldn't have to just take them in  
3 FGUA anyway, and that system is one we could incorporate  
4 with ease. But it just hasn't been worked out  
5 number-wise. If it happens, great. If it doesn't, it  
6 doesn't.

7 But I'm focused on good water quality and good  
8 customer service for my people. That's all I'm  
9 interested in. That's the only reason I'm here to try  
10 to speak for the people that can't be here. You know,  
11 they don't have a lot of income. There is not a lot of  
12 up here. They may be not back from up north or  
13 whatever. But in this hearing, I'm glad that we are all  
14 into testimony and we're all sworn, because this  
15 information that I have given you I hope carries a lot  
16 more weight and a lot more credence so that you can  
17 adjust your decision.

18 Thank you very much.

19 **MR. RICHARDS:** Thank you.

20 We would tender the witness for  
21 cross-examination.

22 **CHAIRMAN GRAHAM:** All right. Do any of the  
23 intervenors have anything that is contrary to the  
24 position of Pasco County?

25 **MS. CHRISTENSEN:** No, we don't have any

1 questions that are contrary to Commissioner Mariano.

2 MR. CURTIN: No, Your Honor.

3 CHAIRMAN GRAHAM: Okay. Mr. May.

4 CROSS EXAMINATION

5 BY MR. MAY:

6 Q. Good afternoon, Commissioner.

7 A. Good afternoon.

8 Q. Just a couple of questions I wanted to follow  
9 up with you. I think you would probably be the  
10 appropriate person. I had asked Mr. Poucher earlier.  
11 When FGUA required Lindrick, did the Lindrick customers  
12 get Pasco County rates?

13 A. No, they did not. The reason they did not was  
14 because the money that we had to pay for the utility to  
15 make it financeable had to go up. What did happen,  
16 though, is instead of getting a rate increase of 61  
17 percent, it was closer to 25 percent.

18 Q. There's another utility in Pasco County that  
19 was previously regulated by the Florida Public Service  
20 Commission called Colonial Manor Utility Company. When  
21 the FGUA acquired Colonial in December of 2009, did the  
22 Colonial customers get Pasco County rates?

23 A. No, they did not. And the guise is the way it  
24 works is it depend on what the rate is billed for. I  
25 notice you seem to be cherry-picking a little bit,



1 because you haven't mentioned anything about the Aloha  
2 rates, which are less than Pasco County.

3 Q. With respect to Pasco County privately owned  
4 utilities that were previously regulated by the Public  
5 Service Commission, did the FGUA acquire a company  
6 called Holiday Utility Company in December of 2009?

7 A. I guess so. You have the records.

8 Q. And that utility is located in Pasco County,  
9 correct?

10 A. I'll agree with that.

11 Q. And when FGUA acquired that utility, did the  
12 customers of Holiday Utility receive Pasco County rates  
13 or did they get FGUA rates?

14 A. No. And let me just make it easy for you. We  
15 do not just give people Pasco County rates. What  
16 happens is you have to look at it, set up the tables,  
17 make the chart, and figure what the rates are going to  
18 be based upon what you're going to pay for the utility.  
19 What happens is -- and by the way, we do have one of our  
20 own deputy administrators that sit on that board that  
21 actually watch over the rates and look at it. And we  
22 actually get to make a final decision if we are going to  
23 go ahead and do that. So we are briefed as far as what  
24 the rates are going to be. We are aware of the  
25 ramifications, and we are also usually very happy that

1 FGUA is going to take over what may be a troubled  
2 utility and not give them good water or quality service,  
3 to take them over.

4 Q. Sure. When a customer of FGUA has a quality  
5 of service issue, where do they take that quality of  
6 service issue?

7 A. They take it to the FGUA, and if they have  
8 other troubles, they will call the county commission.  
9 We have very, very few quality calls with the FGUA. And  
10 the ones I do get get rectified very quickly, and I have  
11 had great satisfaction with them.

12 Q. Do any elected officials sit on the FGUA  
13 board?

14 A. No. We have a deputy administrator that we  
15 submit, Michelle Baker. She sits there representing the  
16 county commission. Generally speaking, our utility's  
17 director, Bruce Kennedy, may attend one of the meetings,  
18 as well.

19 Q. Did the FGUA acquire another privately owned  
20 utility in Pasco County called Virginia City Utility  
21 Company?

22 A. Yes, we did.

23 Q. And when the FGUA acquired that, did the  
24 Virginia City customers get Pasco County rates?

25 A. No. The only time someone will get Pasco

1 County rates is if miraculously they would be exactly  
2 the same. What happens with the rates system the way  
3 the FGUA works is they look to find out what the buying  
4 effect would be, what the price would be. It comes  
5 before, they make a decision whether to go forward or  
6 not.

7 Q. I was looking on the FGUA website last night  
8 just to get some clarification. I mentioned earlier the  
9 Colonial Manor customers that were recently acquired by  
10 the FGUA, are they facing a 15 percent rate increase in  
11 2012?

12 A. I don't know that offhand.

13 Q. Are the customers of Holiday Utility Company  
14 that FGUA acquired facing a 15 percent increase in 2012?

15 A. I don't know that offhand, either.

16 Q. You don't know that?

17 A. No, I don't know that. And the chart I have  
18 in front of me doesn't know that, either. So I'm at a  
19 loss for that.

20 Q. Are you actively involved with the FGUA?

21 A. No. We are a member of the FGUA. As a board  
22 of county commissioners, we have a representative that  
23 sits on that board. The basic information that comes up  
24 to us will be if there is going to be a rate increase,  
25 something may be different than projected such as

1 Lindrick that you mentioned earlier. They explain to us  
2 what the situation is and we go forward from that. But  
3 at that point in time the FGUA runs their own operation,  
4 and, again, if we have troubles with customers and they  
5 let us know, our own staff is uncomfortable with  
6 something that is going on, they will let us know.

7 Q. When the FGUA sets rates, the Florida Public  
8 Service Commission has a process that in any rate case  
9 the quality of service is reviewed as a condition to the  
10 rate case. In other words, you have to go through a  
11 quality of service review before you can move forward  
12 with any rate increase. Is there any condition with the  
13 FGUA that would condition an FGUA rate increase on their  
14 meeting certain quality of service standards, or is it  
15 all debt service driven?

16 MR. RICHARDS: Mr. Chairman, I object to this  
17 question.

18 THE WITNESS: Oh, I love this one. I would  
19 love this one, Joe. Let me have it.

20 MR. RICHARDS: Nevermind.

21 CHAIRMAN GRAHAM: Do you rescind your  
22 objection?

23 MR. RICHARDS: Yes, sir.

24 THE WITNESS: Miraculously, since the FGUA has  
25 taken over every single utility, I haven't had a single

1 complaint. So I haven't had to actually position --  
2 have anybody to go up there and actually pose that  
3 question.

4 **BY MR. MAY:**

5 Q. There was another utility in Pasco County that  
6 was recently acquired by the FGUA, Dixie Grove Utility  
7 Company. Are you familiar with that?

8 A. Not offhand, but the name is familiar.

9 Q. And the customers of Dixie Grove are facing a  
10 15 percent increase in water rates in 2012?

11 A. What is it, subject to verify?

12 Q. Subject to check.

13 A. Subject to check.

14 Q. I never understood that, either, Commissioner.  
15 I'm not sure I would ever agree to subject to check.

16 But you talked about a pipe at one of the  
17 facilities that Aqua has down in Pasco County. Has AUF  
18 replaced that pipe?

19 A. The one over the spillway? Yes, they have  
20 replaced that over the spillway. As a matter of fact,  
21 the county worked -- and the discussion came up at the  
22 last meeting what we were going to do about it. We  
23 wanted to get it fixed. That was the pipe that was  
24 white PVC pipe that was not up to code that was  
25 supported by two bricks anchored down by a couple of

1 aluminum stripes. I think you have the pictures of that  
2 up there. That pipe had to go underground to be fit to  
3 code. We worked with them. And we did make sure to  
4 protect our people, because that pipe had to go  
5 underground a long way to get to their sprayfield along  
6 our easements. We gave them the easements. We didn't  
7 charge them, and part of the reason we didn't charge  
8 them is because we didn't want our customers' rates to  
9 go up any further. We worked with them. We made sure  
10 we pressure tested the lines so that it wasn't going to  
11 affect the water body that was right beside it. And the  
12 test was looked over, went over; we cooperated, and that  
13 problem has been solved in regards to that.

14 Q. Now, that pipe that you mentioned that was  
15 broken, that carried treated effluent, did it not?

16 A. I believe it was the second pond, so it would  
17 be. I believe so.

18 Q. So it would be treated effluent, correct?

19 A. Yes, I believe so.

20 MR. MAY: Commissioner, thank you very much.  
21 That's all the questions I had.

22 THE WITNESS: Okay.

23 CHAIRMAN GRAHAM: Commissioner Balbis.

24 COMMISSIONER BALBIS: Thank you, Mr. Chairman.  
25 And, thank you, Commissioner, for being here.

1 A couple of questions. One, the customer surveys that  
2 you collected, were those customers that were in an area  
3 that should have received the boil water notice, or was  
4 it just a general survey sent out?

5 **THE WITNESS:** It was a general survey that  
6 people just commented on. I don't have any specifics  
7 to -- even what the addresses were.

8 **COMMISSIONER BALBIS:** Okay.

9 **THE WITNESS:** If I could, though?

10 **COMMISSIONER BALBIS:** Sure.

11 **THE WITNESS:** If you take a look at some of  
12 their responses, some of the people that got the  
13 boil-water notice didn't get notice to stop boiling.

14 **COMMISSIONER BALBIS:** And in looking through  
15 those, I did note that. I just wanted to make sure that  
16 it wasn't an area that never had a line break and never  
17 should have received a notice, and yet that is counted  
18 as someone who has never received a notice. But in  
19 going through them, there are notes there that indicate  
20 they heard from a neighbor, et cetera. But I just  
21 wanted to know if these were customers that all should  
22 have received one or not, or was it general.

23 **THE WITNESS:** I'm not sure. I'm not sure of  
24 that answer.

25 **COMMISSIONER BALBIS:** Okay. And one final

1 question. You mentioned that your deputy county  
2 administrator, Michelle Baker, is your representative on  
3 the FGUA board?

4 **THE WITNESS:** Yes.

5 **COMMISSIONER BALBIS:** And I assume the boards  
6 votes any rate increases or rate changes, is that  
7 correct?

8 **THE WITNESS:** Yes, we do. And just so you  
9 know, when we do buy -- we bought a bunch of utilities.  
10 We bought them all at once, so I may be familiar with  
11 the timing and affiliations of when they all came in.

12 **COMMISSIONER BALBIS:** I'm focusing more on the  
13 establishment of rates. The FGUA board establishes the  
14 rates, but I assume the county commission gives  
15 direction to its representative?

16 **THE WITNESS:** Correct. If we have one in our  
17 utility area, what they actually did with Lindrick is  
18 they came forward to us to say, look, we had projected  
19 this. It's going to be different and I will go over  
20 why.

21 **COMMISSIONER BALBIS:** And what do you take  
22 into consideration when deciding to change the rates or  
23 advise your representative to vote a certain way on the  
24 board? Do you look at costs, do you look at  
25 affordability, what do you look at?



1           **THE WITNESS:** I think we probably consider  
2 everything, and we will take the recommendation -- we  
3 look very closely. Having our own staff person that is  
4 sitting there watching out, we know she is looking out  
5 for the customers, and she can present the case very  
6 strongly if need be to make a decision either way. And  
7 we have worked with them close. Sometimes when they  
8 first present us with something, I know with Lindrick we  
9 kind of like grilled them down. They found a way to  
10 save some more money and made it go forward, but we do  
11 look at everything.

12           And, again, as far as one of the issues that I  
13 know we always talk about is water quality and marginal  
14 service. The service we have had has been exceptional  
15 with no issues.

16           **COMMISSIONER BALBIS:** So if your  
17 representative on the board came to the Commission with  
18 a 200 percent rate increase, and had it fully backed up  
19 with cost projections, et cetera, you would take into  
20 account affordability into advising them how to vote?

21           **THE WITNESS:** Absolutely. That would be a  
22 long way to go, and I couldn't even imagine that  
23 happening.

24           **COMMISSIONER BALBIS:** Okay. Thank you.

25           **CHAIRMAN GRAHAM:** Commissioner Brown.

1                   **COMMISSIONER BROWN:** Thank you. And thank  
2 you, Commissioner Mariano, for being here today and for  
3 your testimony. How many years have you been in office  
4 as a county commissioner?

5                   **THE WITNESS:** Seven years.

6                   **COMMISSIONER BROWN:** During that time, what  
7 would you say is the single biggest complaint you hear  
8 from your constituents?

9                   **THE WITNESS:** Well, when I first got in,  
10 really water quality was huge down in the Aloha/Lindrick  
11 area. Kind of, I thought we had pretty much taken care  
12 of a lot of trouble utilities and were just going to try  
13 to work on those that were friendly as far as to work  
14 with them. At that point in time, the biggest issue I  
15 had is Aqua Utility system.

16                   **COMMISSIONER BROWN:** Of the Aqua complaints  
17 that you receive, what would you say is the biggest  
18 concern of your constituents that you hear?

19                   **THE WITNESS:** Well, as a county commissioner,  
20 quality of life is our biggest concern. And when you  
21 look at when you have to pay exorbitant rates for water,  
22 when you have a change in life as far as what you're  
23 paying, when you have seniors that can't afford to pay  
24 their bills, and there's other issues that are out  
25 there, too, that they have their own economic struggles

1 with, between the price of gas and price of insurance.  
2 Their affordability of living the way they lived when  
3 they first moved down has dramatically changed, and then  
4 water quality and price of water is a huge detriment in  
5 their quality of life right now.

6 **COMMISSIONER BROWN:** Thank you. And how  
7 frequently would you estimate that you hear from your  
8 constituents about the quality of the product and the  
9 quality of service of Aqua?

10 **THE WITNESS:** I hear it continually. I will  
11 say this, they know that I'm on top of this issue, so  
12 they are kind of waiting to see what happens at this  
13 point in time. They know that they have done everything  
14 they can to educate me. They have seen that I can  
15 support them as far as working together. I came up here  
16 with them to get here. They know I'm coming up here  
17 today, so they will be watching intently. I will say  
18 they are a little bit concerned as far as what the  
19 ruling will be, because of the way it worked out last  
20 time. But they are very well in tune to what is going  
21 on.

22 **COMMISSIONER BROWN:** Okay, thank you. And  
23 last question. Since you have been in office, would you  
24 say there has been an increase, decrease, or status quo  
25 in the amount of complaints you have received about

1 Aqua?

2           **THE WITNESS:** Much higher. As a matter of  
3 fact, when I first got on I didn't have many issues with  
4 them. I guess they had just taken over at that point in  
5 time, but from '06/'07 on, it has escalated and  
6 obviously peaked this past hearing.

7           **COMMISSIONER BROWN:** Thank you.

8           **CHAIRMAN GRAHAM:** Commissioner Brisé.

9           **COMMISSIONER BRISÉ:** Thank you, Mr. Chairman.  
10 On Page 5 of your testimony there's a question about the  
11 county purchasing or the idea of the county attempting  
12 to purchase Aqua Utilities. And per your testimony,  
13 there has been very little progress. So I want to know  
14 from the time that you provided this information in the  
15 deposition until now, has there been any change in that?

16           **THE WITNESS:** There has been no change. From  
17 months before when they worked with the FGUA and they  
18 wanted to combine some other unrelated utility outside  
19 the county to put it together, we -- FGUA told them,  
20 look, they need be separate, because our ultimate goal  
21 would be down the road is actually to make them part of  
22 the county. But until the rates amortize themselves  
23 down, which we hope for Aloha, Lindrick, and the rest,  
24 until they amortize down, they won't be coming in. So  
25 from that point, and because of this hearing going on, I

1 didn't want to get in the midst of any of that. If they  
2 came to us, that would have been fine. They haven't  
3 come to us. We haven't broached it, haven't looked at  
4 it. We are just focusing on the issue before us right  
5 now.

6 **COMMISSIONER BRISÉ:** Okay. Considering that  
7 one of the major complaints that you hear from your  
8 constituents is water quality and service and all of  
9 those type of things, if Pasco County decided as an  
10 entity to pursue, and Aqua agreed to pursue a purchase,  
11 what do you think it would take in terms of not only  
12 money, but effort to bring the quality up to the level  
13 that your constituents are receiving from Pasco County,  
14 and what impact would that have on the customers.

15 **THE WITNESS:** It would be a huge quality of  
16 life boost for the people. It happens to be that we  
17 have county utilities surrounding this whole area. It  
18 would just be a matter of adjusting the water system.  
19 They actually get a lot of water from us anyway, so it  
20 would just be a matter of hooking it up.

21 We would probably have to clean out a lot of  
22 things that are in there right now, but it would be a  
23 very easy takeover for us to implement it. And I think  
24 that would be one of the benefits, if we got to that  
25 point, to actually put the study together, have them go

1 out and look at what improvements need to be made, and  
2 they come back with a plan. And whatever that plan  
3 would be as far as how the numbers would work out is  
4 something that would be set up and looked at.

5 And then if the board decided to move forward  
6 it, would be able to move forward. But as far as the  
7 physicality of everything, it would be a very easy  
8 system from my staff to take it over and improve the  
9 water quality and hopefully keep their rates close to  
10 what the country rates are. Don't know, but hopefully.

11 **COMMISSIONER BRISÉ:** Okay. So from your  
12 vantage point at this point without having all the  
13 numbers and all that stuff in front of you, you would  
14 make the assumption that the rates would remain  
15 relatively flat?

16 **THE WITNESS:** Yes. Well, let me say this. I  
17 think we can deliver the water quality at a better level  
18 of service and a better price, but until you can work  
19 the numbers, you don't know what you have got. So it's  
20 hard to say about the price part. But for everything  
21 else, you know, I think that it's viable.

22 **COMMISSIONER BRISÉ:** All right. Last  
23 question, Commissioner. In Exhibit JM-2 there are  
24 examples of a lot of billing issues from your  
25 constituents, their customers. I know that when I

1 served in a different capacity, I used to receive  
2 complaints of all kinds of stuff, and sometimes my  
3 office would sort of step in the middle and interact  
4 with whomever was the issue. And we would receive  
5 information both from the person who had the complaint  
6 or the company and so forth. So I just want to find out  
7 how your follow-up has been and what has your experience  
8 been with respect to the follow-up to the various  
9 complaints that you have received.

10 **THE WITNESS:** Well, as far as following up and  
11 working with the company, I don't know if we have had,  
12 too much success. We always say we don't have control  
13 over it. Go to the PSC. You know, get them informed as  
14 far as to what is going on. So there hasn't been as far  
15 as a lot of back and forth with that.

16 There was an article in the Suncoast News a  
17 few years ago with the past president, I'll try to say  
18 his name right, Lihvarcik, when he said -- there was a  
19 quote in there about, you know, just because someone  
20 has -- I think it was bad water quality, smelly water,  
21 and black odor -- some type of odor in it, it was a  
22 couple of negative comments, and he brushed it off by  
23 saying something along the line of, well, those are  
24 secondary impacts. Well, those secondary impacts lead  
25 me to call him up and ask him to come down. As a matter

1 of fact, that gentleman that is sitting over there, I  
2 sat with him, as well. I'm sorry, I don't know your  
3 name. But I sat down and had a meeting with them, and  
4 actually at that point I think we did have a  
5 conversation as far as trying to move forward to, you  
6 know, help buy them out to move them forward, but to try  
7 to work on the focus of our getting better water  
8 quality, too. But, really, because of this whole issue  
9 going forward, we kind of let the rate increase work its  
10 way and try to see what happens after the fact. I  
11 didn't want to cloud the issue.

12           **COMMISSIONER BRISÉ:** Okay. So based upon the  
13 information you have just provided, in essence your  
14 constituents probably continually call you about the  
15 same things, even the ones that have provided the  
16 information to you and have told you, look, we are  
17 reaching out to the company. Do those people come back  
18 to you and say, look, I have called them multiple times  
19 on this issue. Can you step in and help me? And, of  
20 course, you provide the response, look, you probably  
21 need to go to the PSC and so forth. But do those same  
22 people come back to you over and over and over again  
23 over the same issue? That's really what I'm trying to  
24 get at.

25           **THE WITNESS:** As far as participating with



1 this -- and, again, it has escalated right now as  
2 this -- you know, the higher the price goes the louder  
3 the screams get. That's what we are feeling right now.  
4 So because of the rate increase and because of the talk  
5 that we had trying to take them over, I just didn't want  
6 to cloud all the issues up. I just try to tell them you  
7 have just got to keep on trying to work it out.

8 **COMMISSIONER BRISÉ:** All right. Thank you  
9 very much, Commissioner.

10 **THE WITNESS:** Thank you.

11 **CHAIRMAN GRAHAM:** Commissioner, welcome. And,  
12 I'm sorry we made you wait so long.

13 **THE WITNESS:** No problem.

14 **CHAIRMAN GRAHAM:** We were, as you saw, tied up  
15 with another witness. Just to let you know, I'm  
16 actually from local government. I spent 12 years of my  
17 life there, so I understand, and I feel for the whole  
18 home rule thing.

19 The question I had, and back to us, one of the  
20 things that our county did was we went through and we  
21 basically bought up all the private-owned water  
22 utilities throughout the county. Did Pasco County have  
23 the ability to buy these systems before Aqua came and  
24 purchased them?

25 **THE WITNESS:** I believe we tried to buy Aqua.

1 I know we bought several systems before. We tried to  
2 negotiate and we did buy a bunch of them over the years.  
3 Through FGUA we had success with a few more, and through  
4 FGUA we will try it again. So we are -- we did actively  
5 go down that road from years ago, probably just like  
6 you, and we had some success and they are now integrated  
7 into the county without any issues. We would still,  
8 again, proceed down the same road again with the same  
9 success we had. We would even do it directly, if we  
10 could.

11 **CHAIRMAN GRAHAM:** But did you have the ability  
12 before -- I mean, was it offered to the county, the  
13 systems that Aqua purchased?

14 **THE WITNESS:** I don't know, and I don't know  
15 what the terms were. Sometimes the numbers would be so  
16 high that we couldn't buy them. So depending on --  
17 whatever we thought was reasonable to buy where we could  
18 keep the rates close, I guess, is the ones we did.  
19 Hindsight 20/20, maybe we would even pay a little bit  
20 more to try to avoid what is happening to our people  
21 right now with Aqua, but that was a judgment that was  
22 before I was in office.

23 **CHAIRMAN GRAHAM:** Were you here earlier when I  
24 was talking to Mr. Poucher, and granted he wasn't  
25 speaking from a profession, but his opinion that he was

1 saying that Aqua was getting these systems for what he  
2 thought were pennies on the dollar, and then they were  
3 allowed to raise the rates to what the book value of it  
4 would be as opposed to what they paid for it. Were you  
5 here for that testimony?

6 **THE WITNESS:** I heard the testimony.

7 **CHAIRMAN GRAHAM:** Now, assuming that he's  
8 correct and Aqua is getting these things on penny on the  
9 dollar, would it have been easier for the county to pick  
10 them up then rather than trying to negotiate it now  
11 after the fact?

12 **THE WITNESS:** As I say, when they were  
13 negotiating that through, that was 2004 maybe? Well, I  
14 think it was before I was in. If they couldn't come to  
15 terms, they couldn't come to terms. And I don't know  
16 what the numbers were at that point in time. I can say  
17 this to you, with Hudson Utilities, Mr. Bamani  
18 (phonetic) when he was negotiating with Mr. Gallagher  
19 (phonetic), our county administrator, they couldn't come  
20 to terms. When it went -- Ni-America came in and bought  
21 them. They paid them a lot more money than the county  
22 figured it was worth. And when they had the  
23 conversation later on, and God bless Mr. Bamani, he  
24 passed away, but he told them something along the line  
25 of I can pay more for a utility than you can pay because

1 I can get my money back by just raising my rates up.

2 So sometimes -- and that was one of the things  
3 I think I might have mentioned to you before, if the  
4 laws were set up a little bit different, maybe it does  
5 it easier for counties and municipalities to actually  
6 take over utilities without the structure that's in  
7 place now. And I'm not an expert to it. I haven't  
8 gotten involved with the legislative action, which I  
9 would like to see something done, but I know that they  
10 are working on that, as well, to try to take a look at  
11 that situation.

12 **CHAIRMAN GRAHAM:** Now, Hernando County just  
13 north of you, I believe. That is just north of you,  
14 correct?

15 **THE WITNESS:** Uh-huh.

16 **CHAIRMAN GRAHAM:** They control all the water  
17 and wastewater in the county, both the public and the  
18 private. And you said that your county talked about it,  
19 but decided not to go down that path. What were some of  
20 the reasons why you decided not to go down that path to  
21 control, quote, your own destiny?

22 **THE WITNESS:** Well, if you have a company like  
23 a Mad Hatter that is providing good water and quality of  
24 service, you let them -- to me, you can let them keep  
25 going. If they want a buyout, then that's great. With

1 the other systems, if we could, and make the numbers  
2 work we would do it. We would buy every single one of  
3 them up, because to me if we could do that with  
4 everybody it would be better off for our citizens across  
5 the board. But when you have got to isolate  
6 one-by-one-by-one it makes it a little bit more  
7 difficult. And you have got to kind of look at what the  
8 numbers are going to come out to be. So we would like  
9 to go down that road. Do we have to go down that road?  
10 No. Again, my major concern is trying to give people  
11 good water quality at good reasonable prices.

12 **CHAIRMAN GRAHAM:** I think you misunderstood my  
13 question. In Hernando County they did not purchase all  
14 the private utilities. They decided rather than the PSC  
15 controlling the water and wastewater, they, the county,  
16 will control the rates of the water and wastewater.

17 **THE WITNESS:** Okay. They took back  
18 jurisdiction.

19 **CHAIRMAN GRAHAM:** Yes.

20 **THE WITNESS:** All right. I'm sorry, I did  
21 misunderstand you. When I was first elected in '04, and  
22 we looked at the situations with Aloha and Lindrick, as  
23 I said before, the first thing I presented to the  
24 Commission was to take back jurisdiction. It was turned  
25 over, I think, back in the '80s. It was a real -- maybe

1 a negative situation that was going on in the county at  
2 that point in time. They didn't bring it up. And three  
3 times I brought it to the commission to take back  
4 jurisdiction. They were afraid of the legal costs that  
5 would be involved in trying to prepare a rate case and  
6 to fight a rate case, especially if you had utilities  
7 that were willing to just keep on going to court with  
8 you. The budget we would have had would have been  
9 \$800,000 year to run it and service that. I still  
10 thought it was worthwhile doing, but a 4-to-1 vote.

11 **CHAIRMAN GRAHAM:** Okay. Fair enough. And the  
12 last thing. I received the -- I was copied on the  
13 boil-water notices and the letter that you sent to the  
14 Governor. Now, you understand that this agency doesn't  
15 control boil-water notices, correct?

16 **THE WITNESS:** I just wanted you to see -- I do  
17 understand that. I wanted you to see with the testimony  
18 that you heard from how Aqua presented it, and you saw  
19 the reaction to the citizens when what was being told to  
20 you from Aqua over here to what the reaction was with  
21 the citizens. They wanted to make sure they went out  
22 and had this communicated to you. I wanted you to see  
23 it. I knew you would eventually get it, but, no, I  
24 understand that. I just wanted you to see what you were  
25 being told so your reactions and your decisions were not

1 based upon 100 percent. And, again, that was one of the  
2 major reasons, knowing everything was going to be under  
3 oath, I wanted to get a chance to show you everything,  
4 that you probably would be able to change your decision  
5 and have a great justification to do so.

6 **CHAIRMAN GRAHAM:** Well, in all fairness,  
7 yesterday this conversation came up with Volusia County  
8 health department and the Department of Environmental  
9 Protection. Those two departments actually control what  
10 happens with the boil-water notices, and we are trying  
11 to get a better understanding -- well, I can speak for  
12 myself. I wanted to get a better understanding of the  
13 mechanism on who puts the policy out there and who makes  
14 sure that it's happening and what repercussions are out  
15 there if it's not happening.

16 And that being said, have you sat down with  
17 both the DEP and the Pasco County Health Department and  
18 talked to them specifically about the boil-water notices  
19 and how they may not be or are not getting to the end  
20 user?

21 **THE WITNESS:** I was going to deal with the PSC  
22 because we had the hearing going through. And I'm not  
23 having that trouble anywhere else in the county, just  
24 right here.

25 **CHAIRMAN GRAHAM:** Okay. That's all the

1 questions I had. Redirect.

2 **MR. RICHARDS:** No redirect.

3 **CHAIRMAN GRAHAM:** Okay. Commissioner, once  
4 again, I apologize for holding you up as long as we  
5 have. Normally, the way I work is I'll put the elected  
6 officials up first, but we had somebody that was there  
7 that we had to finish with that witness.

8 **THE WITNESS:** I appreciate the process. Thank  
9 you very much for having me up.

10 **CHAIRMAN GRAHAM:** Thank you.

11 Mr. Richards, do you have exhibits to enter  
12 into the record?

13 **MR. RICHARDS:** Yes. Exhibits JM-1 through 6.  
14 On the master list, those are Exhibits 141 through 146.

15 **CHAIRMAN GRAHAM:** That is 141, 2, 3, 4, 5, and  
16 146. Any other exhibits to enter into the record?  
17 Seeing none.

18 (Exhibit Numbers 141 through 146 admitted into  
19 the record.)

20 **CHAIRMAN GRAHAM:** Okay. Mr. Jaeger.

21 **MR. JAEGER:** Yes. Staff will go back to its  
22 witnesses. Ginny Marie Montoya.

23 **GINNY MARIE MONTOYA**

24 was called as a witness on behalf of the Staff of the  
25 Florida Public Service Commission, and having been duly



1 sworn, testified as follows:

2 DIRECT EXAMINATION

3 BY MR. JAEGER:

4 Q. Could you please state your name and business  
5 address for the record?

6 A. Ginny Marie Montoya, 7825 Baymeadows Way,  
7 Suite B200, Jacksonville, Florida 32256.

8 Q. Okay. I can barely hear you. So you need to  
9 get a little bit closer.

10 A. Should I repeat it?

11 Q. I heard it.

12 By whom are you employed and in what capacity?

13 A. I'm an Environmental Specialist in the  
14 Drinking Water Section for the Department of  
15 Environmental Protection.

16 Q. And have you prefiled Direct Testimony in this  
17 docket consisting of two pages?

18 A. Yes, I have.

19 Q. Do you have any changes or corrections to your  
20 testimony?

21 A. No, I do not.

22 Q. If I were to ask you the same questions, would  
23 your testimony be the same today?

24 A. Yes.

25 MR. JAEGER: Chairman, may we have

1 Ms. Montoya's testimony inserted into the record as  
2 though read?

3                   **CHAIRMAN GRAHAM:** Yes. We will insert Ms.  
4 Montoya's testimony into the record.

5

6

7

8

9

10

11

12

13

14

15

16

17

18

19

20

21

22

23

24

25

## DIRECT TESTIMONY OF GINNY MARIE MONTOYA

1  
2 Q. Please state your name and business address.

3 A. Ginny Marie Montoya, Department of Environmental Protection (FDEP), Northeast  
4 District (NED), 7825 Baymeadows Way, Suite B200, Jacksonville, FL 32256.

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

6 A. I received a Bachelor of Science degree in Biology from the University of North  
7 Florida in 2008. I also minored in Public Health. I began working for the DEP in July of  
8 2009. I have been there for over three years as a Drinking Water Facility Inspector.

9 Q. What are your general responsibilities at the Department of Environmental Protection?

10 A. I conduct inspections and sanitary surveys for my assigned counties. Within the past  
11 week I was reassigned to Duval and Taylor Counties. However, before that I was the  
12 inspector for all systems west of the St. John's River in Putnam County.

13 Q. Are you familiar with the AUF water systems in Putnam, particularly the Silver Lake  
14 Oaks and Interlachen Lake Estates Systems?

15 A. I am familiar with both. I have dealt with their chemical sampling as well as  
16 performed inspections on both systems.

17 Q. Are these systems in compliance with all applicable construction permits?

18 A. I am not aware of any construction permits involving Silver Lake Oaks or Interlachen  
19 Lake Estates.

20 Q. Have any of these AUF systems been the subject of any FDEP compliance  
21 enforcement action within the past three years?

22 A. In 2005, AUF failed to sample for Disinfection Byproducts at Silver Lake Oaks and  
23 Interlachen Lake Estates. In 2007, Consent Orders were mailed and signed by AUF. In 2008,  
24 and 2009, the cases were closed when full payments of the Consent Orders were made.

25 In August of 2011, a Warning Letter was sent out for Interlachen Lake Estates. See

1 Exhibit GMM-1. In July 2011, the system tested positive for E. coli from Well #2. AUF  
2 failed to notify DEP, complete repeat sampling per the Ground Water Rule, and issue Public  
3 Notices within 24 hours of knowledge of the E. coli positive result. The system has since  
4 performed proper repeat sampling and issued a Public Notice. However, the Department has  
5 deemed the well contaminated and the system has decided to take steps to submit an  
6 application for 4-Log Approval to deal with the microbial contamination. Once submission is  
7 complete and approved by the Department, the warning letter will be closed and no further  
8 enforcement will follow.

9 Q. Other than any violations discussed above, is AUF in compliance with all DEP  
10 requirements for their water systems in (West) Putnam County?

11 A. Yes.

12 Q. Is the overall operation and maintenance of these water treatment plants and  
13 distribution facilities satisfactory?

14 A. Yes. There have been inspections performed in 2010 on both systems. Both systems  
15 had minor deficiencies, but nothing that required immediate action.

16 Q. Do you have anything further to add?

17 A. No, I do not.

18

19

20

21

22

23

24

25

1 BY MR. JAEGER:

2 Q. And, Ms. Montoya, did you also file Exhibit  
3 Number GMM-1?

4 A. Yes.

5 Q. Do you have any changes or corrections to that  
6 exhibit?

7 A. No.

8 MR. JAEGER: Chairman, that exhibit has been  
9 identified as Exhibit 151, and it has been identified,  
10 and I would tender Ms. Montoya for cross.

11 CHAIRMAN GRAHAM: Thank you, Mr. Jaeger.

12 Welcome, Ms. Montoya.

13 THE WITNESS: Thank you.

14 CHAIRMAN GRAHAM: Ms. Christensen.

15 MS. CHRISTENSEN: Thank you.

16 CROSS EXAMINATION

17 BY MS. CHRISTENSEN:

18 Q. Good afternoon, Ms. Montoya. You filed  
19 testimony on October -- excuse me, October 6th, 2011,  
20 that addresses Aqua's systems in Putnam County, correct?

21 A. Yes.

22 Q. And the water systems that you address in your  
23 testimony are Silver Lake Oaks and Interlachen Estates,  
24 correct?

25 A. Yes.

1 Q. And as part of your testimony, you stated the  
2 overall operations and maintenance of these systems, of  
3 the water treatment plants and collection facilities are  
4 satisfactory, correct?

5 A. Correct.

6 Q. But would you agree that over the last three  
7 years these systems have had DEP enforcement actions  
8 against them?

9 A. It would be about four years now.

10 Q. Well, let's talk a little bit about that. For  
11 Silver Lakes, you would agree that they were subject to  
12 several consent orders that were not closed until 2008  
13 and 2009, is that correct?

14 A. I'm aware of the ones that I submitted before,  
15 but this was before I worked here, or worked at DEP. So  
16 the only one that I was even aware of was just the  
17 failure to sample for disinfection by-products. I don't  
18 remember exactly when that case was opened. I know when  
19 it was closed, though.

20 Q. Okay. Well, you would agree -- let's look at  
21 Page 1 of your testimony.

22 A. Okay.

23 Q. Lines 23, or 22 through 24.

24 A. Okay.

25 Q. And in there you say in 2005, AUF failed to

1 sample for disinfection by-products at Silver Lake Oaks  
2 and Interlachen Lake Estates. And in 2007 consent  
3 orders were mailed and signed by AUF. And in 2008 and  
4 2009 the cases were closed when full payments of the  
5 consent payments were made. Is that correct?

6 A. Yes. I misspoke before then. I apologize.

7 Q. That's okay. I just wanted to make sure I got  
8 it correct. Now, in August of 2011, Interlachen Lake  
9 Estates was sent a warning letter, is that correct?

10 A. Yes.

11 Q. Okay. And this recent warning letter was due  
12 to a positive test for E-coli in Well Number 2 in July  
13 of 2011, is that correct?

14 A. Yes.

15 Q. And if I am understanding your testimony  
16 correctly, Aqua failed to notify the department  
17 regarding the positive E-coli test, correct?

18 A. Correct.

19 Q. Okay. And they also failed to take a repeat  
20 sample as required by your rule, is that correct?

21 A. Yes.

22 Q. Okay. Now, do you know has that E-coli issue  
23 with Well Number 2 been resolved?

24 A. Yes, it has.

25 Q. Okay. And aside from the warning letter, did

1 the department take any further follow-up action?

2 A. They did, but I was not the one to write a  
3 consent order. However, it has not been sent to the  
4 system and it has not been approved. It has just been  
5 drafted, but it is going to be sent out to the system.

6 Q. Okay. So that would be the subject of a  
7 consent order that will be issued?

8 A. Right. And it's based on the warning letter,  
9 and it's not that they didn't do anything that we asked.  
10 It's pretty much just fining them for not notifying the  
11 public within 24-hour notice. But, again, that has not  
12 been sent out. That is between another inspector and my  
13 supervisor.

14 Q. Okay. And I understand that, but I just want  
15 to clarify a little bit. I think I understood you to  
16 say that that was based on a failure to notify the  
17 public that there was a test for E-coli?

18 A. To notify DEP, right, and then also to issue a  
19 public notice within a certain amount of time.

20 Q. How long did they have to make that public  
21 notice?

22 A. As far as I was concerned they have 24 hours  
23 to notify us, and then they have to issue a public  
24 notice after that. They did issue a public notice, but  
25 just later once they were told to right after the



1 warning letter.

2 Q. How long after the incident was the warning  
3 letter issued?

4 MR. JAEGER: Excuse me.

5 THE WITNESS: A little less than a month.

6 MR. JAEGER: Ms. Christensen, you said after  
7 the warning letter was issued or after the notice? I  
8 was confused.

9 MS. CHRISTENSEN: If I'm understanding the  
10 witness' testimony correctly, and please correct me if  
11 I'm wrong, you said that they did send out a notice to  
12 customers regarding the E-coli test, but that wasn't  
13 until after the warning letter was issued to the  
14 company, correct?

15 THE WITNESS: Right. After they were told to  
16 do so, yes, then they did.

17 BY MS. CHRISTENSEN:

18 Q. Okay. And that warning letter was issued on  
19 August 9th?

20 A. Yes.

21 Q. And I think you said that it was approximately  
22 a month after the incident occurred, correct?

23 A. A little less. The incident occurred on the  
24 19th -- I'm sorry, the 18th and 20th of July.

25 Q. Do you know how long the E-coli, positive

1 E-coli condition persisted?

2 A. It didn't. After the 20th they had no more  
3 E-coli hits.

4 Q. Okay. Now, did you review Aqua's compliance  
5 for any systems outside of Putnam County?

6 A. No, I did not.

7 MS. CHRISTENSEN: Okay. I have no further  
8 questions.

9 CHAIRMAN GRAHAM: Ms. Bradley.

10 MS. BRADLEY: No questions.

11 CHAIRMAN GRAHAM: Mr. Richards.

12 MR. RICHARDS: No questions.

13 CHAIRMAN GRAHAM: YES.

14 MR. CURTIN: No questions.

15 CHAIRMAN GRAHAM: Mr. May.

16 CROSS EXAMINATION

17 BY MR. MAY:

18 Q. Hello, Ms. Montoya.

19 A. Hello.

20 Q. Good afternoon. Just a quick question. The  
21 well at Interlachen, it's now off, correct?

22 A. Yes, it is.

23 Q. Okay. And did AUF collect treated water  
24 samples at the same time?

25 A. Yes.

1           Q.    And what were the results of those treated  
2 water samples?

3           A.    Since they were just sampling from their  
4 normal distribution sites and also from just the first  
5 well that they have still running, everything has been  
6 absent.

7           **MR. MAY:**   Okay.  Thank you very much.

8           **CHAIRMAN GRAHAM:**  Commissioners?

9                   Commissioner Brown.

10          **COMMISSIONER BROWN:**  Thank you.

11                   Am I correct in understanding that the E-coli  
12 incident, that the public did not receive notice for a  
13 month after it occurred?

14          **THE WITNESS:**  A little less than a month, yes.

15          **COMMISSIONER BROWN:**  And is that part of the  
16 consent order that's to be issued?

17          **THE WITNESS:**  As far as what in the draft, I  
18 believe it is addressed.

19          **COMMISSIONER BROWN:**  Do you have the ability  
20 to tell us what the fines or penalties are in the  
21 consent order?

22          **THE WITNESS:**  It depends on the size of the  
23 system.  It also depends on if we take any sort of  
24 good -- or if we see that the system is taking good  
25 faith measures, which they actually have been.  They are

1 replacing the second well, and they have also given us  
2 an application for 4-Log Approval, which shows us that  
3 they are monitoring their bacteriological results and  
4 the quality of the water.

5 **COMMISSIONER BROWN:** I understand that you  
6 have only been at DEP for a few years, but during your  
7 time there is this something that you see amongst water  
8 utilities?

9 **THE WITNESS:** I have only dealt with one other  
10 system, but it hasn't gone this far. They have sampled  
11 repeats, and the repeats have all come back absent. So  
12 after the public notice we have since dropped those  
13 issues and they just continue to sample as they normally  
14 would.

15 **COMMISSIONER BROWN:** Thank you. Thank you for  
16 being here.

17 **THE WITNESS:** Thank you.

18 **CHAIRMAN GRAHAM:** Commissioner Balbis.

19 **COMMISSIONER BALBIS:** Thank you.

20 I just have a few questions. Thank you for  
21 being here this afternoon. Concerning the E-coli sample  
22 result for the facility, the requirement I believe under  
23 40CFR141 is that it is a source water requirement, not a  
24 finished water requirement, correct?

25 **THE WITNESS:** Right.

1                   **COMMISSIONER BALBIS:** And that system, I  
2 believe, is the Interlachen Lakes system. Does it  
3 provide 4-Log removal?

4                   **THE WITNESS:** I'm only thinking because they  
5 were in the process of getting the application approved.  
6 There were some components they needed to install to  
7 have the application be approved, and yesterday I was  
8 sent an e-mail from the engineer who is working with  
9 Interlachen Lake Estates telling me that everything that  
10 was required has been actually implemented into the  
11 system. But a letter -- that day a letter hadn't gone  
12 out saying that they were approved, so I don't want to  
13 say that it's official that they have been 4-Log  
14 approved, because I'm not the one who approves permits.  
15 That is our professional engineer.

16                   **COMMISSIONER BALBIS:** Okay. So at the time of  
17 the violation, did they have the facilities to provide  
18 the 4-Log removal or no?

19                   **THE WITNESS:** No, not then.

20                   **COMMISSIONER BALBIS:** Okay. And a final  
21 question, how does the condition of Aqua's facilities  
22 compare with other similar facilities that you have  
23 jurisdiction over?

24                   **THE WITNESS:** As far as I have seen with both  
25 of the two that I can speak for, the Silver Lake and the

1 Interlachen Lake Estates, when I went on inspection they  
2 had minor deficiencies. Maybe things they needed to  
3 scrape or paint, but the condition of the water appeared  
4 satisfactory.

5 **COMMISSIONER BALBIS:** Thank you.

6 **CHAIRMAN GRAHAM:** Staff, redirect?

7 **MR. JAEGER:** No redirect.

8 **CHAIRMAN GRAHAM:** Okay. Exhibits you wanted  
9 to entire into the record?

10 **MR. JAEGER:** 151, staff requests.

11 **CHAIRMAN GRAHAM:** 151.

12 (Exhibit Number 151 admitted into the record.)

13 **CHAIRMAN GRAHAM:** Okay. Ms. Montoya, thank  
14 you very much for coming down.

15 **MR. JAEGER:** And Ms. Montoya can be excused.  
16 The last DEP witness have is Josie Penton.  
17 Unfortunately, I think she was here at 9:30 this  
18 morning.

19 **THE WITNESS:** I was one of the first ones.

20 **JOSIE PENTON**

21 was called as a witness on behalf of the Staff of the  
22 Florida Public Service Commission, and having been duly  
23 sworn, testified as follows:

24 **DIRECT EXAMINATION**

25

1 BY MR. JAEGER:

2 Q. Ms. Penton, could you please state your name  
3 and business address for the record?

4 A. My name is Josie Penton. My office address is  
5 2353 Jenks Avenue, Panama City, Florida 32405.

6 Q. And you have been sworn in?

7 A. Yes.

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

9 A. I'm employed by the Florida Department of  
10 Environmental Protection. I am an environmental manager  
11 for the Panama City Branch Office. I supervise the  
12 drinking water and the wastewater program.

13 Q. And you are familiar with the Sunny Hills Aqua  
14 system, is that correct?

15 A. Yes.

16 Q. Have you prefiled Direct Testimony in this  
17 docket consisting of three pages?

18 A. Yes.

19 Q. Do you have any changes or corrections to your  
20 testimony?

21 A. I do have changes to Exhibit 2 regarding the  
22 boil-water notices. There were three other boil water  
23 notices issued after I submitted my testimony.

24 Q. Okay. So for your testimony, there was just  
25 three more boiled-water notices, is that correct?

1           A.    Yes.

2           Q.    With those corrections, if I were to ask you  
3 the same questions, would your testimony be the same  
4 today?

5           A.    Yes.

6           **MR. JAEGER:** Chairman, may we have  
7 Ms. Penton's testimony inserted into the record as  
8 though read?

9           **CHAIRMAN GRAHAM:** Yes. We will insert Ms.  
10 Penton's testimony into the record.

11

12

13

14

15

16

17

18

19

20

21

22

23

24

25



## DIRECT TESTIMONY OF JOSIE PENTON

1  
2  
3  
4  
5  
A. 6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25

Q. Please state your name and business address.

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

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

A. I have a B.S. Degree in Chemistry. I have two years of analytical laboratory experience  
analyzing drinking water, wastewater and environmental samples.

I have over 19 years of environmental regulatory experience working for the Florida  
Department of Environmental Protection.

Q. What are your general responsibilities at the Department of Environmental Protection?

A. My general responsibilities involve supervision of the Drinking Water and Wastewater  
(Domestic and Industrial) Programs. I also review domestic wastewater  
collection/transmission system permit applications. Our Panama City Office covers Bay,  
Calhoun, Gulf, Jackson and Washington Counties.

Q. Are you familiar with the AUF water system in Washington County?

A. Yes, the Sunny Hills water system.

Q. Is this system in compliance with all applicable construction permits?

A. Yes

Q. Has this AUF system been the subject of any FDEP compliance enforcement action  
within the past three years?

A. Yes. On December 2, 2010, Consent Order (OGC File No. 10-2288-67-PW) was  
executed aimed at addressing the following violations:

- a) Failure to provide a total useful finished-water storage capacity of at least 25 percent  
of the system's maximum-day water demand as required under Section 62-  
555.320(19)(a), F.A.C;

1 b) Failure to provide satisfactory results of a 20 sample bacteriological well survey before  
2 placing Well 1 into permanent service after having been out of operation for more than  
3 six months, as required under Section 62-555.315(6)(b), F.A.C;

4 c) Failure to perform routine nitrate/nitrite monitoring and raw bacteriological monitoring  
5 of the water produced by Well 1 when it was producing water for public consumption  
6 in July 2007 and August 2007, as required under Section 62-550.500, 62-550.512, and  
7 62-550.518(2) F.A.C;

8 This Consent Order is still in force and is attached as Exhibit JP-1.

9 Q. Other than any violations discussed above, is AUF in compliance with all DEP  
10 requirements for their water system in Washington County?

11 A. This system is currently in compliance. However, a bacteriological maximum  
12 contaminant level violation occurred in August 2010. A letter was sent to the facility in  
13 September 2010, followed by a Non-Compliance Letter in October 2010. A non-compliance  
14 letter was used as the violation was minor and the Department did not intend to pursue further  
15 action if the violation is corrected. This matter was resolved without the need for additional  
16 enforcement. In 2009 Well No. 4 had 0.388 mg/l iron which exceeded the maximum  
17 contaminant level of 0.3 mg/l for iron. Iron is a secondary contaminant and no complaints  
18 were received. No enforcement action was taken on the iron violation.

19 Q. Is the overall operation and maintenance of this water treatment plant and distribution  
20 facility satisfactory?

21 A. Yes. This facility has had five boil water notices since 2009. Attached is a list of  
22 Sunny Hills PBWNs since 2009. See Exhibit JP-2. It appears that the customers were  
23 notified in a timely manner.

24 Q. Are you familiar with the AUF wastewater system in Washington County?

25 A. Yes, the Sunny Hills wastewater system.

- 1 Q. Is this system in compliance with all applicable construction and operating permits?
- 2 A. Yes, the system is in compliance with their operating permit. There is no construction  
3 associated with the current permit.
- 4 Q. Has this AUF system been the subject of any FDEP compliance enforcement action  
5 within the past three years?
- 6 A. No
- 7 Q. Other than any violations discussed above, is AUF in compliance with all DEP  
8 requirements for their wastewater systems in Washington County?
- 9 A. Yes
- 10 Q. Is the overall operation and maintenance of this wastewater treatment plants and  
11 collection facility satisfactory?
- 12 A. Yes
- 13 Q. Do you have anything further to add?
- 14 A. No, I do not.
- 15
- 16
- 17
- 18
- 19
- 20
- 21
- 22
- 23
- 24
- 25

1 **BY MR. JAEGER:**

2 Q. And, Ms. Penton, did you also file Exhibit  
3 Numbers JP-1 and JP-2?

4 A. Yes.

5 Q. And I think JP-2 was the boil-water notice?

6 A. That is correct.

7 Q. And that is where you have already corrected  
8 for the three more boil-water notices, is that correct?

9 A. Yes.

10 Q. Are there any other corrections to the  
11 exhibits?

12 A. No.

13 **MR. JAEGER:** Chairman, those exhibits have  
14 been identified as 152 and 153, and we tender her for  
15 cross at this time.

16 **CHAIRMAN GRAHAM:** Thank you.

17 Ms. Christensen.

18 **MS. CHRISTENSEN:** Yes.

19 **CROSS EXAMINATION**

20 **BY MS. CHRISTENSEN:**

21 Q. Good afternoon, Ms. Penton. And thank you for  
22 your patience.

23 A. Good afternoon.

24 Q. Your testimony you filed October 6th, 2011,  
25 addresses just one Aqua system in Washington County, and

1 that was the Sunny Hills system, correct?

2 A. Correct.

3 Q. Okay. And you state in your testimony that  
4 the operation and maintenance of the Sunny Hills water  
5 treatment plant and distribution system is satisfactory,  
6 correct?

7 A. Correct.

8 Q. Okay. You would agree, though, that over the  
9 last three years the system has had DEP enforcement  
10 action against its water system, is that correct?

11 A. Correct.

12 Q. Okay. And we will talk a little bit about  
13 that action. In December 2010, the Sunny Hills facility  
14 had a consent order issued against them, is that  
15 correct?

16 A. That's correct.

17 Q. And if I'm understanding your testimony  
18 correctly, that was for failing to provide samples, is  
19 that correct?

20 A. There was three actually. Insufficient  
21 storage capacity, the failure to provide satisfactory  
22 results of the 20 sample bacteriological well survey,  
23 and also failure to perform the routine  
24 nitrates/nitrites monitoring.

25 Q. Okay. Well, maybe we can discuss the

1 biological samples and the nitrates. I think the  
2 failure for well capacity -- that storage capacity is  
3 probably fairly self-explanatory, but I did want to find  
4 out from you. Can you tell us a little lit bit more or  
5 explain to us a little bit more what the failure was  
6 regarding the failure to provide satisfactory results  
7 for 20 biological samples?

8 A. Yes. Well Number 1 was out of operation for  
9 more than six months, and it's a requirement before you  
10 place the well back into operation to perform a 20 bac-T  
11 survey, and that was not performed.

12 Q. So if I'm understanding your testimony  
13 correctly, that well was placed back into service?

14 A. Placed back into service.

15 Q. Okay. And do you know if or when they ever  
16 completed the bacteriological survey?

17 A. That was completed -- they ran the 20 bac-T  
18 survey -- I think I have them in my facility file. They  
19 ran the bac-T survey, but that was back in 2007.

20 Q. Okay. And then you also talk a little bit  
21 about failing to perform routine nitrite and nitrate  
22 monitoring and raw bacteriological monitoring?

23 A. That's correct.

24 Q. Okay. And that was also in that same time  
25 frame?

1           A.    Same time frame.

2           Q.    Okay.  I think you also say that in August of  
3 2010, they had a bacteriological maximum containment  
4 level violation, is that correct?

5           A.    Yes.

6           Q.    And that the results of that violation was a  
7 noncompliance letter, is that correct?

8           A.    That's how it -- yes, that's correct.  That's  
9 how it was handled by our district office in Pensacola.

10          Q.    Okay.  And also in 2009, Well Number 4 had an  
11 iron exceedance, is that correct?

12          A.    That's correct.

13          Q.    And that no further action had been taken,  
14 correct?

15          A.    Correct.

16          Q.    Okay.  In your testimony, I think you had said  
17 initially that there had been five boiled water notices  
18 since 2009, and you talked about three additional boil  
19 water notices today?

20          A.    Three additional ones.

21          Q.    Is that three additional boil-water notices  
22 since you filed your testimony on October 6th, 2010?

23          A.    Yes.

24          Q.    Or 2011, excuse me?

25          A.    Yes.

1           Q.    Can you explain to us why those boil water  
2 notices were issued?

3           A.    They were issued because whenever they have,  
4 like, a water main break and they repair it, before they  
5 can -- before they can place it into service they are  
6 required to issue a boil-water notice to those  
7 customers.  And, also, they have to sample the water  
8 main first before they can rescind the boil-water  
9 notice.

10          Q.    So would that have been three separate  
11 incidences of main breaks in the last month and a half  
12 to your knowledge?

13          A.    Yes.

14          Q.    Okay.  Have you reviewed Aqua's compliance for  
15 any systems outside your jurisdiction?

16          A.    No.

17               **MS. CHRISTENSEN:**  Thank you.  That's all I  
18 have today.

19               **THE WITNESS:**  Thank you.

20               **CHAIRMAN GRAHAM:**  Ms. Bradley.

21               **MS. BRADLEY:**  No questions.

22               **CHAIRMAN GRAHAM:**  Mr. Richards.

23               **MR. RICHARDS:**  No questions.

24               **CHAIRMAN GRAHAM:**  YES.

25               **MR. CURTIN:**  No questions.



1                   **CHAIRMAN GRAHAM:** Aqua.

2                   **MS. ROLLINI:** No questions.

3                   **CHAIRMAN GRAHAM:** Commissioners?

4                   Redirect.

5                   **MR. JAEGER:** No redirect.

6                   **CHAIRMAN GRAHAM:** Which exhibits do you want  
7 to --

8                   **MR. JAEGER:** I'm sorry. 152 and 153, staff  
9 would move them in.

10                   **CHAIRMAN GRAHAM:** We will move 152 and 153  
11 into the record.

12                   (Exhibit Numbers 152 and 153 admitted into the  
13 record.)

14                   **CHAIRMAN GRAHAM:** Ms. Penton, thank you very  
15 much for your patience.

16                   **THE WITNESS:** Thank you very much.

17                   **CHAIRMAN GRAHAM:** I apologize for you having  
18 to sit here all day.

19                   **THE WITNESS:** It's okay. Thank you.

20                   **CHAIRMAN GRAHAM:** You're welcome.

21                   That being said, let's take a five-minute  
22 break and then get to, I believe it's OPC's witness.

23                   Is that what's next, Mr. Jaeger?

24                   **MR. JAEGER:** That's correct. Ms. Dismukes is  
25 up.

1                   **CHAIRMAN GRAHAM:** Okay. Thank you.

2                   (Recess.)

3                   **KIMBERLY DISMUKES**

4 was called as a witness on behalf of the Citizens of the  
5 State of Florida, and having been subsequently duly  
6 sworn, testified as follows:

7                   **DIRECT EXAMINATION**

8 **BY MS. CHRISTENSEN:**

9                   **Q.** Good afternoon, Ms. Dismukes. Can you please  
10 state your name and your business address for the  
11 record, please?

12                   **A.** Kimberly H. Dismukes, 5800 One Perkins Place  
13 Drive, Baton Rouge, Louisiana.

14                   **Q.** Now, did you cause to be filed Prefiled Direct  
15 Testimony consisting of 104 pages in this matter?

16                   **A.** Yes, I did.

17                   **Q.** And do you have any corrections to your  
18 prefiled testimony?

19                   **A.** Yes, I do. I submitted an errata sheet that I  
20 believe was just handed out, or is being handed out.

21                   **MS. CHRISTENSEN:** Commissioners, for your  
22 ease, or we can address this one of two ways. I can  
23 either have her read her corrections into the record, or  
24 we might just for ease of simplicity, make the errata  
25 sheet an exhibit and just mark it for identification,

1 and we can move it in at the end of Ms. Dismukes'  
2 testimony.

3 CHAIRMAN GRAHAM: I like the latter. We will  
4 name it 326.

5 MS. CHRISTENSEN: 326?

6 CHAIRMAN GRAHAM: Yes, ma'am.

7 MS. CHRISTENSEN: And we can mark that as Ms.  
8 Dismukes' prefiled errata sheet.

9 CHAIRMAN GRAHAM: Okay. Sounds good.

10 (Exhibit Number 326 marked for  
11 identification.)

12 BY MS. CHRISTENSEN:

13 Q. With the corrections on your prefiled errata  
14 sheet, if I were to ask you those questions today, would  
15 your answers be the same?

16 A. Yes.

17 MS. CHRISTENSEN: I would ask that Ms.  
18 Dismukes' prefiled testimony be entered into the record  
19 as though read.

20 CHAIRMAN GRAHAM: We will enter the witness'  
21 prefiled testimony into the record as read.

1 **Q. WHAT IS YOUR NAME AND ADDRESS?**

2 A. Kimberly H. Dismukes, 5800 One Perkins Place Drive, Suite 5-7, Baton Rouge,  
3 Louisiana 70808.

4 **Q. BY WHOM AND IN WHAT CAPACITY ARE YOU EMPLOYED?**

5 A. I am a partner in the firm of Acadian Consulting Group, LLC which specializes in the  
6 field of public utility regulation. I have been retained by the Office of the Public Counsel  
7 (OPC) on behalf of the Citizens of the State of Florida to analyze the application of Aqua  
8 Utilities Florida, Inc. (AUF, Aqua, or the Company) for increased rates and increased  
9 service availability charges for its water and wastewater systems in 17 Florida counties.

10 **Q. DO YOU HAVE AN APPENDIX THAT DESCRIBES YOUR QUALIFICATIONS  
11 IN REGULATION?**

12 A. Yes. Appendix 1, attached to my testimony, was prepared for this purpose.

13 **Q. DO YOU HAVE AN EXHIBIT IN SUPPORT OF YOUR TESTIMONY?**

14 A. Yes. Exhibit-KHD-1 contains 28 schedules that support my testimony.

15 **Q. HOW IS YOUR TESTIMONY ORGANIZED?**

16 A. My testimony is organized into six sections. In the first section, I give a brief background  
17 of the instant proceeding. In the second section, I discuss significant deficiencies in the  
18 Company's customer service and water quality. In this section, I also recommend that  
19 because of these deficiencies the Commission should reduce the Company's allowed  
20 return on equity by at least 100 basis points. In the third section, I address relationships  
21 between AUF and its affiliates and my recommended adjustments concerning  
22 transactions between AUF and its affiliates. In the fourth and fifth sections, I present my  
23 recommendations concerning bad debt and the Company's revenue and billing

1 determinants, respectively. Finally in the sixth section, I discuss the Company's rate case  
2 expenses and my recommended disallowances.

3 **Q. WHO ARE THE WITNESSES FOR OPC IN THIS PROCEEDING?**

4 A. OPC is sponsoring four witnesses. I am testifying on revenue requirement issues and  
5 quality of service issues. Mr. Earl Poucher is presenting testimony on quality of service  
6 and affordability. Mr. Andrew Woodcock is testifying on engineering issues. Ms.  
7 Vandiver is presenting testimony on quality of service, salaries, and rate case expense.

8 **Q. WHAT IS THE OVERALL REVENUE RECOMMENDATION OF OPC?**

9 A. The combined recommendation of the witnesses for OPC is shown on Schedule 1. This  
10 compares to the increase approved by the Commission during the PAA proceeding of  
11 \$1.75 million for the water operations and \$.86 million for the wastewater operations for  
12 a total of \$2.61 million as shown on Schedule 2.

13 **I. Background**

14 **Q. WOULD YOU PLEASE PROVIDE SOME BACKGROUND TO THIS**  
15 **PROCEEDING?**

16 A. Aqua Utilities Florida, Inc. is a wholly-owned subsidiary of Aqua America, Inc. (Aqua  
17 America or AAI), a publicly traded corporation providing water and wastewater utility  
18 service to more than 3 million customers in 13 states at year end 2010. Aqua America,  
19 originally Philadelphia Suburban Corporation, first acquired water and wastewater  
20 facilities in Florida when it acquired AquaSource Utility, Inc. (AquaSource) and its five  
21 regulated Florida subsidiaries in 2003. In 2004, Aqua Utilities Florida, Inc., one of the  
22 subsidiaries of AquaSource, purchased the water and wastewater systems of Florida  
23 Water Services Corporation (FWSC) located in 10 Florida counties. Following a

1 corporate reorganization in 2006, all of Aqua America's Florida water and wastewater  
2 systems that were under the jurisdiction of the Florida Public Service Commission were  
3 organized as part of AUF, which was made a direct subsidiary of Aqua America.  
4

5 On May 22, 2008, AUF filed an application to increase rates and service availability  
6 charges for its systems in Alachua, Brevard, DeSoto, Highlands, Lake, Lee, Marion,  
7 Orange, Palm Beach, Pasco, Polk, Putnam, Seminole, Sumter, Volusia, and Washington  
8 Counties. It also sought approval for Allowance for Prudently Invested Funds (AFPI)  
9 charges for some of its systems in Highlands, Lake, Polk, Putnam, Orange, Sumter, and  
10 Washington Counties.  
11

12 In the 2008 proceeding, AUF had requested an annual increase of \$4,518,358 for 57  
13 water systems and \$3,856,180 for 25 wastewater systems. By Commission order PSC-  
14 09-0385-FOF-WS, dated May 29, 2009, an increase of \$3,196,877 was approved for the  
15 water systems, and \$2,596,891 was approved for the wastewater systems.<sup>1</sup>  
16

17 Fifteen months later, AUF filed an application for an approval of increased water and  
18 wastewater rates for its systems in Alachua, Brevard, DeSoto, Highlands, Lake, Lee,  
19 Marion, Orange, Palm Beach, Pasco, Polk, Putnam, Seminole, Sumter, Volusia, and  
20 Washington Counties through a Proposed Agency Action (PAA) proceeding. In its filing,  
21 AUF requested rates to produce additional operating revenues of \$2,478,491 for water  
22 and \$1,273,557 for wastewater.<sup>2</sup> The Commission issued its PAA Order on June 13,

<sup>1</sup> Order No. PSC-09-0385-FOF-WS issued May 29, 2009, p. 183.

<sup>2</sup> Order No. PSC-11-0256-PAA-WS, p. 10.

1 2011, approving an increase in revenue of \$1,750,093 for water and \$860,387 for  
2 wastewater. OPC filed a petition protesting portions of the PAA Order on July 1, 2011.  
3 AUF and other parties followed with cross petitions. The Commission issued an Order  
4 Establishing Procedure on July 25, 2011.

5 **Q. DO YOU HAVE A SCHEDULE WHICH SUMMARIZES THE COMPANY'S**  
6 **RATE REQUEST?**

7 A. Yes. Schedule 2 of my exhibit shows the Company's original request and the  
8 Commission's PAA decision. As shown on this schedule, the Company requested an  
9 increase in rates of 32 percent for water systems and 31 percent for wastewater systems.  
10 The Commission approved an increase in rates of 21 percent for water systems and 17  
11 percent for wastewater systems.

12 **II. Quality of Service**

13 **Q. WHAT RULE MUST THE FLORIDA PUBLIC SERVICE COMMISSION (THE**  
14 **COMMISSION) FOLLOW REGARDING A UTILITY'S QUALITY OF**  
15 **SERVICE?**

16 A. PSC Rule 25-30.433(1), Florida Administrative Code, contains the language which the  
17 Commission must follow in evaluating a utility's quality of service. It states:

18 The commission in every rate case shall make a determination of  
19 the quality of service provided by the utility. This shall be derived  
20 from an evaluation of three separate components of water and  
21 wastewater utility operation: quality of utility's product (water and  
22 wastewater); operational conditions of utility's plant and facilities;  
23 and the utility's attempt to address customer satisfaction. Sanitary  
24 surveys, outstanding citations, violations and consent orders on file  
25 with the Department of Environmental protection (DEP) and  
26 county health departments or lack thereof over the preceding 3-  
27 year period shall also be considered. DEP and county health  
28 department officials' testimony concerning quality of service as  
29 well as the testimony of utility's customers shall be considered.

1 Q. ARE YOU PROVIDING TESTIMONY ON ALL THREE ASPECTS OF THE  
2 COMPANY'S QUALITY OF SERVICE?

3 A. No. I am providing testimony on the customer service and water quality issues as  
4 addressed by customers at the service hearings and in correspondence.

5 Customer Service

6 Q. WOULD YOU PLEASE DESCRIBE WHAT IS MEANT BY "CUSTOMER  
7 SERVICE?"

8 A. Customer Service includes the service the Company provides to customers who have  
9 issues, questions, or concerns with any aspect of their water or wastewater service or  
10 billing. Customer Service encompasses communication with customers, the speed and  
11 courtesy of responding to customer questions, and their satisfaction with the resolution of  
12 their concerns or problems. Customer Service also includes all interactions between the  
13 Company and its customers regarding all facets of the service and products that  
14 customers purchase.

15 Q. WHAT HAVE YOU EXAMINED IN ANALYZING THE LEVEL AND QUALITY  
16 OF CUSTOMER SERVICE PROVIDED BY THE COMPANY?

17 A. I utilized the Office of Public Counsel's unofficial transcripts of the Commission's  
18 customer hearings that were held in October and November of 2010 in the areas of  
19 Eustis, Ft. Myers, Gainesville, Greenacres, Lakeland, New Port Richey, Palatka, Sebring,  
20 and Sunny Hills. I also reviewed correspondence filed by customers in this docket. In  
21 addition, I have examined the customer service testimony filed by Ms. Vandiver and Mr.  
22 Poucher.



1 **Q. WHAT WAS THE PURPOSE OF THE CUSTOMER MEETINGS HELD IN**  
2 **OCTOBER AND NOVEMBER OF 2010?**

3 A. The purpose of these meetings was to provide customers and other interested persons an  
4 opportunity to offer comments on Aqua's quality of service, Aqua's proposed rate  
5 increase, and to ask questions and comment on other issues. These meetings were held in  
6 connection with the Company's Proposed Agency Action proceeding.

7 **Q. IS THE COMMISSION CURRENTLY HOLDING CUSTOMER HEARINGS IN**  
8 **CONNECTION WITH THE PROTESTED PAA?**

9 A. Yes. The Commission is conducting hearings in Chipley, Eustis, Ft. Myers, Gainesville,  
10 Greenacres, Lakeland, New Port Richey, Oviedo, Palatka, and Sebring. These hearings in  
11 connection with the protested PAA are scheduled for August 29<sup>th</sup>, 30<sup>th</sup>, and 31<sup>st</sup>;  
12 September 1<sup>st</sup>, 12<sup>th</sup>, 13<sup>th</sup>, and 16<sup>th</sup>; and October 11<sup>th</sup> and 12<sup>th</sup>, all in 2011. The transcripts  
13 of these hearings were not available for use in preparing my testimony.

14 **Q. WHAT OTHER DOCUMENTS HAVE YOU EXAMINED?**

15 A. In addition, customers have mailed and emailed comments and complaints about Aqua in  
16 connection with this case. Schedule 3 of my exhibit contains this correspondence  
17 submitted to the Commission.

18 **Q. DID YOU ALSO EXAMINE CUSTOMER BILLS?**

19 A. Yes. Schedule 4 of my exhibit contains a sampling of customer bills. This sample shows  
20 on pages 1-4 instances where estimated bills are substantially higher than actual usage  
21 and other instances, pages 5-7, where usage is very low in every month but skyrockets in  
22 one month.

1 **Q. HAVE ANY CHANGES BEEN MADE TO THE COMPANY'S CUSTOMER**  
2 **SERVICE OPERATIONS SINCE THE COMPANY'S PREVIOUS FILING IN**  
3 **DOCKET NO. 080121-WS?**

4 A. Yes. The Company's customer service operations have been monitored and reviewed by  
5 the Commission and the Office of Public Counsel since the last rate case. In the last rate  
6 case, the Commission found:

7 Because of our concerns with AUF's customer service, we shall closely  
8 monitor the service provided by AUF for the next six months. We have  
9 three major areas of concern: (1) AUF's failure to handle customer  
10 complaints properly; (2) the Call Centers' process for handling complaints;  
11 and (3) incorrect meter readings and resulting improper bills.<sup>3</sup>

12 A second phase of monitoring followed the initial six months. The Company has  
13 implemented several measures to improve its customer service since the last rate case,  
14 which include: the formation of a Complaint Analysis and Remediation Team,  
15 implementation of a Call Escalation Process, development of a detailed Supervisor Audit,  
16 auditing all its replaced meters in Florida, standardizing its service order processing  
17 system for its field technicians, refining the tracking of customer on-site meter and bench  
18 test procedures, and providing an informational brochure for customers who leave their  
19 residence for extended periods of time.<sup>4</sup>

20 **Q. HAVE YOU EXAMINED THE COMPANY'S CALL CENTER STATISTICS**  
21 **SINCE THE LAST RATE CASE?**

22 A. Yes. I have presented the results of the call center metrics in Schedule 5. Unfortunately,  
23 the data provided by the Company is for all of Aqua America's call centers nationwide,

<sup>3</sup> Order No. PSC-09-0385-FOF-WS issued May 29, 2009, Docket No. 080121-WS; page 14.

<sup>4</sup> Staff Memorandum, March 4, 2010, Docket No. 080121-WS; pages 7-8.

1 thus, specific statistics for Florida customers are not shown.<sup>5</sup> As shown on this schedule,  
2 Aqua improved its rate of calls being abandoned prior to being answered from an average  
3 of 6 percent in the 1<sup>st</sup> quarter of 2008 to 3.1 percent in the last 10 months of 2010. The  
4 Company also improved in answering calls within 90 seconds from 70 percent to 86  
5 percent and the average speed to answer from 86 seconds to 33 seconds. Aqua did not  
6 meet its target abandoned call rate of 5 percent in two months, June at 5.4 percent and  
7 July at 5.6 percent. Aqua did not meet its target rate of answering 80 percent of its calls  
8 within 90 seconds in three months, June at 74 percent, July at 73 percent, and October at  
9 79 percent. Finally, Aqua met its 60 second average speed to answer target in every  
10 month but one, July, which was at 61 seconds. The averages of these results do show an  
11 improvement in Aqua's call center operations since the 1st quarter of 2008. However, as  
12 pointed out by Mr. Poucher, when customers get busy signals these calls are not reflected  
13 in the call statistics.

14 **Q. YOU MENTIONED THAT THE COMPANY DOES NOT HAVE STATE**  
15 **SPECIFIC CALL CENTER DATA. DO YOU HAVE A RECOMMENDATION**  
16 **CONCERNING THIS?**

17 **A.** Yes. I recommend that the Commission order the Company to gather state specific call  
18 center data on a going forward basis, if the cost of doing so is reasonable.

19 **Q. DID THE STAFF CONDUCT ANY EVALUATIONS ON THE COMPANY'S**  
20 **CALL CENTER CUSTOMER SERVICE AS PART OF THE MONITORING**  
21 **PROCESS?**

22 **A.** Yes. They sent out surveys to customers who had submitted complaints and inquiries.  
23 On a scale of 1 to 5, with 1 being poor and 5 being excellent, the survey results showed

---

<sup>5</sup> Final Phase II Quality of Service Monitoring Report, Exhibit D.

1 Overall Satisfaction to be just 2.28.<sup>6</sup> An overall satisfaction rating below average should  
2 continue to raise questions with the Commission.

3 **Q. WHAT CONCERNS WERE RAISED BY CUSTOMERS AT THE SERVICE**  
4 **HEARINGS?**

5 A. There were numerous complaints about the Company's slow response time in resolving  
6 problems as well criticisms of how they were treated by the customer service  
7 representatives. Customers also complained of untimely or inadequate information.  
8 Furthermore, there were many billing issues including unfair billing practices and meter  
9 reading inconsistencies.

10 **Q. WOULD YOU PLEASE DISCUSS THE RESPONSE/SERVICE PROBLEMS OF**  
11 **THE COMPANY THAT WERE BROUGHT UP BY THE CUSTOMERS?**

12 A. Yes. There were numerous complaints about their slow response times. A Gainesville  
13 customer discussed a situation that she had reported to the health department concerning  
14 a neighbor's leak:

15 . . . water ran for nearly two months, down the road, bubbling up, soapy,  
16 all kinds of stuff in this man's front yard and they [the Company] did  
17 nothing. Even after the health department told them they had to do it  
18 instantly. And it took them another 2½ weeks before they ever went out  
19 there and cut the water off to fix the pipe. Now I don't call that customer  
20 service and I call it a health hazard.<sup>7</sup>

21 A New Port Richey customer recounted his story when he had two breaks in his line:

22 I get hold of Aqua, 30 minute standby just waiting on the phone for  
23 somebody to talk to. "We'll get there when we want to get there." That's  
24 more or less what they tell me. Could be two days. Last time they fixed, it  
25 was four days. I had to shut the water off in my house every time I did  
26 something.<sup>8</sup>

<sup>6</sup> Staff Memorandum, March 4, 2010, Docket No. 080121-WS, p. 5.

<sup>7</sup> Transcript of Gainesville Customer Hearing, p.19.

<sup>8</sup> Transcript of New Port Richey Customer Hearing, p. 50.

1 There was also a situation where a Lakeland customer had to help unprepared  
2 technicians:

3 I personally have had to go down and help people fix water main breaks  
4 because they didn't have the equipment on their trucks. Okay? 10 o'clock  
5 at night we've called seven o'clock in the morning there's a water main  
6 break and here comes a group in at 10:00 o'clock at night. They don't  
7 have a pump, they don't have the fittings - they were in someplace else.<sup>9</sup>

8 **Q. WERE THERE ANY COMPLAINTS ABOUT LIFT STATION ALARM**  
9 **ALERTS?**

10 A. Yes. Several customers noted the Company's poor alarm alerts for their lift stations. A  
11 Lakeland customer said:

12 This lift station frequently goes into alarm and it makes a racket and I've  
13 heard it go for as much as 2 or 3 days in a row before someone came over  
14 to service it. Even when I make calls, I can't get through to Aqua Utilities  
15 half the time.<sup>10</sup>

16 While another Lakeland customer said:

17 Why don't you have an alarm system on your sewage system? Okay, from  
18 what I understand from talking to a guy named Dan who is your  
19 technician, he says the way he finds out about it is the neighbor hears the  
20 alarm going off and calls him.<sup>11</sup>

21 **Q. WERE THERE ANY PROBLEMS WITH THE CUSTOMER SERVICE**  
22 **REPRESENTATIVES THEMSELVES?**

23 A. Yes. Not only do customers have to deal with slow response times, but things are  
24 exasperated by customer service representatives who range from ineffective to apathetic,  
25 to downright rude. "And when you do get Customer Service they're so doggone snotty  
26 it's pathetic," exclaimed a New Port Richey customer.<sup>12</sup>

27 A Sebring customer revealed a surprising acknowledgement by a service representative:

<sup>9</sup> Transcript of Lakeland Customer Hearing, p. 26.

<sup>10</sup> Transcript of Lakeland Customer Hearing, p. 50.

<sup>11</sup> Transcript of Lakeland Customer Hearing, p. 48.

<sup>12</sup> Transcript of New Port Richey Customer Hearing, p. 47.

1 In fact, one day I had a problem. So I called and I get a very rude young  
2 lady. Your customer service reps leave a lot to be desired. So after our  
3 conversation, which didn't go too well, I said you know you people are a  
4 bunch of robber barons and she said right back to me "Yes We Are",  
5 Quote.<sup>13</sup>

6 Yet another example of customer service reps' failure to resolve customer billing matters  
7 was told by this Ft. Myers customer:

8 . . . we have had billing issues that go on and on and on, and when you call  
9 the billing department and ask for help, you don't get it, they don't know  
10 what you are talking about, you call executives and ask for help; you don't  
11 get it, they seem to be ineffective in trying to straighten out the problems  
12 that exist, even while admitting that the problems exist. That's bad  
13 service.<sup>14</sup>

14 A Palatka customer pleaded for improvements in customer service:

15 . . . your receptionist or telephone operators or whatever you have going  
16 on there, they either need to be retrained as far as working for customer  
17 service or you need to terminate them. Because my impression of your  
18 company after I got the runaround, it took four days, finally I got my water  
19 turned on. My impression of your company left a really bad taste in my  
20 mouth which is continuing today.<sup>15</sup>

21 A particularly upset New Port Richey customer whose health condition did not need  
22 added stress described her story of having her water shut off even though she paid the  
23 bill:

24 Well, I call on Monday morning, have the name, confirmation number and  
25 time at 7:30 in the morning, when they opened. . . . it [her bill] had  
26 already been paid and confirmed. . . . So, my water got shut off. I had to  
27 pay \$45 to get it turned back on and it took them 2 days to do it. . . . And  
28 the despicable people you have working for you - I am not a person that  
29 gets angered easy. I'm a pastor's wife, but I'm geared up and I hope I have  
30 God on my side through this junk. But I'll tell you what; I'm not going to  
31 put up with it anymore. . .<sup>16</sup>

<sup>13</sup> Transcript of Sebring Customer Hearing, p. 6.

<sup>14</sup> Transcript of Ft. Myers Customer Hearing, p. 6.

<sup>15</sup> Transcript of Palatka Customer Hearing, p. 19.

<sup>16</sup> Transcript of New Port Richey Customer Hearing, pp. 70-71.

1 A similar incident happened to a Sebring customer whose water should not have been  
2 shut off:

3 But they did not contact their worker to keep him from . . . my name was  
4 on the cut off list. My check had cleared three or four days before cut-off  
5 time. . .<sup>17</sup>

6 One customer expressed her frustrations in trying to resolve concerns about significant  
7 fluctuations in her usage:

8 It took me over four weeks to get someone to come out and check my  
9 meter. . . . We do the same amount of laundry every week. We take the  
10 same amount of showers. Half the time, for three months, we're not even  
11 here. So why am I still getting these high rates? We don't get an  
12 explanation for it, but I would like to know why if we are using like 3,050  
13 gallons can't we be billed for 3,050 gallons or 3,055 gallons instead of  
14 running it up to 4,000.<sup>18</sup>

15 **Q. WERE THERE ANY COMPLAINTS ABOUT FIELD SERVICE TECHNICIANS?**

16 **A.** Yes. Some field service technicians seem indifferent to damages that they may cause:

17 . . . they came there and...tore up the ground around the meter and  
18 everything and...done something to replace the meter....she has  
19 repeatedly asked them to come and refill the hole up and take care of that  
20 problem there cause it doesn't look nice in the back yard and it [sic] is a  
21 very dangerous hazard for Aqua people to leave something untaken care  
22 of like that.<sup>19</sup>

23 A customer at a church described:

24 They turned off the water; I mean we have one toilet in this church, its a  
25 little community church. They had two lines going in there. They turned  
26 off the wrong line without a reason, knocked off all our sprinkling system,  
27 killed over a \$150 to \$200 worth of flowers, never replaced it.<sup>20</sup>

28 A Lakeland customer actually encountered an honest field technician who feared losing  
29 his job if he was too outspoken:

---

<sup>17</sup> Transcript of Sebring Customer Hearing, p.20.

<sup>18</sup> Transcript of New Port Richey Customer Hearing, p. 57.

<sup>19</sup> Transcript of Eustis Customer Hearing, p. 15.

<sup>20</sup> Transcript of Eustis Customer Hearing, p. 25.

1 The man it goes and takes a total water count out of the wells in our  
 2 system, sat there his self and told me, "Mr. Griffin, y'all getting  
 3 overcharged out there, I don't know why but I got a job to protect. . ."<sup>21</sup>

4 **Q. HAVE THERE BEEN PROBLEMS WITH BOIL WATER NOTICES?**

5 A. Yes. Boil water notices were of particular concern for the customers in New Port  
 6 Richey, Gainesville, and Lakeland as there were numerous complaints about the  
 7 notices being untimely or non-existent. ". . . yesterday I received a 'I do not have  
 8 to boil water' notice. I never received a notice to boil water", exclaimed a New  
 9 Port Richey customer.<sup>22</sup>

10 One Gainesville customer got sick because they were not notified in time:

11 . . . I do have a complaint with them about when their pipes break to let  
 12 people know ahead of time not to use the water. Because they had the  
 13 water off once and I went to use it, because I didn't know. The next day I  
 14 found out there was a boil notice and I had got sick and I was sick for a  
 15 few days from it. Because I had already cooked supper with it and  
 16 everything and then the next morning I get up and there was a notice  
 17 saying that the pipe was broken, boil water.<sup>23</sup>

18 A Lakeland customer was concerned for the health of his family:

19 . . . we called because the pressure was low and she – and the person on  
 20 the phone said, "Oh, yes, . . ., they're working on the water. You need to  
 21 boil your water. Don't shower in it. Don't drink it. Don't cook with it."  
 22 Would of been nice to know, . . . I know that things happen and things  
 23 break, ah, if we truly care about customers then a crew would have been  
 24 sent out. Phone calls would have been being made. Something would have  
 25 happened that my wife was not potentially showering and eating, and my  
 26 two year old daughter was not drinking contaminated water that we had to  
 27 find out about because we called Aqua Utilities no one informed us.<sup>24</sup>

28 Evidently, the Company is not adequately informing the community:

<sup>21</sup> Transcript of Lakeland Customer Hearing, p. 21.

<sup>22</sup> Transcript of New Port Richey Customer Hearing, p. 41.

<sup>23</sup> Transcript of Gainesville Customer Hearing, pp. 17-18.

<sup>24</sup> Transcript of Lakeland Customer Hearing, p. 45.



1 . . . bad water, no signs were put up. The signs came up afterwards, "You  
2 do not need to boil anymore." I'm thinking, wait a minute, when did we  
3 start boiling?<sup>25</sup>

4 According to a Sunny Hills customer there is a deficiency in providing timely or adequate  
5 information in his service area:

6 . . . when you did that, ah, putting in those meters the notification to the  
7 community was horrific. For six months we had water that nobody could  
8 drink. We couldn't even use it for our laundry because the condition of  
9 the water was so despicable. When we called we were given very little  
10 information.<sup>26</sup>

11 **Q. WERE THERE BILLING RELATED PROBLEMS DISCUSSED BY**  
12 **CUSTOMERS?**

13 **A.** Yes. Customers complained of not receiving bills, back-billing, being billed when not  
14 using water, and questionable meter readings.

15 **Q. DID CUSTOMERS HAVE COMPLAINTS ABOUT TIMELY BILLING?**

16 **A.** Yes. The Company appears to have major problems with issuing bills in a timely and  
17 consistent manner. This puts unnecessary hardships on customers and makes budgeting  
18 very difficult. Noted one customer from Sebring:

19 Ok, I do not get a bill every thirty days. I don't care what they say. When I  
20 finally get a bill it's always 300 dollars. And it's always 2 months or so  
21 late, three months late. . . . Ok and so you know, I like to have my bill  
22 every month. I see it; I can pay it, stuff like that.<sup>27</sup>

23 When the Company does get around to sending the bills, the total can be  
24 unbearably high:

25 . . . all of a sudden we stopped getting bills at all. I called and complained  
26 and I told them, "Look I'm not getting a bill." All of a sudden they sent us  
27 a bill - I think this time it was \$800 or something like that. . . .<sup>28</sup>

<sup>25</sup> Transcript of New Port Richey Customer Hearing, pp. 48-49.

<sup>26</sup> Transcript of Sunny Hills Customer Hearing, pp. 20-21.

<sup>27</sup> Transcript of Sebring Customer Hearing, p. 13.

<sup>28</sup> Transcript of Lakeland Customer Hearing, p. 31.

1 Things can be difficult when managing multiple entities on a budget as discussed by this  
2 customer from Ft. Myers:

3 I have managed about 8 associations on Captiva and of those 8  
4 associations we only received monthly statements on four. We've gone 4,  
5 6, and close to 8 months without receiving actual bills from Aqua  
6 Utilities.<sup>29</sup>

7 **Q. WHAT WERE SOME OF THE BACK-BILLING COMPLAINTS?**

8 **A.** Many customers complained about back-billing for past services that were for whatever  
9 reason not billed at the time of service:

10 As of yesterday I owe Aqua \$703.60 [sic] and not once because I didn't  
11 pay my monthly water bill; that can be checked right here. Aqua had not  
12 charged me for wastewater for 370 days. Aqua hadn't [sic] charged me  
13 wastewater since I moved in. I simply was not aware of it.<sup>30</sup>

14 Another customer explained that her sister was back billed because the meter was not  
15 working properly:

16 And last summer my sister got a bill from Aqua stating two hundred some  
17 dollars. . . that she owed for back water because the meter was not  
18 working properly.<sup>31</sup>

19 The Company's carelessness was clearly demonstrated in this story by this  
20 customer from Sebring:

21 . . . I been in my house 30 plus years and then all of a sudden they tell me I  
22 didn't pay no connection fee. I said I know I didn't pay no connection fee  
23 to ya'll cause I been in my house for 30 some years. I paid my connection  
24 fee to Mr. Wheeler cause that's who had the water system when I moved  
25 in that house so why should I pay ya'll a connection fee? So they went on  
26 and on about if I didn't pay the connection fee that they were gonna cut  
27 off my water. So I paid the connection fee. . . a couple months down the  
28 road, they give me a credit on my bill saying because they found where I  
29 paid my connection fee. Now what sense [does] that make?<sup>32</sup>

<sup>29</sup> Transcript of Ft. Myers Customer Hearing, p. 8.

<sup>30</sup> Transcript of Gainesville Customer Hearing, p. 11.

<sup>31</sup> Transcript of Eustis Customer Hearing, p. 15.

<sup>32</sup> Transcript of Sebring Customer Hearing, p. 18-19.

1 Q. DID CUSTOMERS COMPLAIN ABOUT INCONSISTENT WATER BILLS?

2 A. Yes. Customers pleaded for an explanation for their inconsistent water bills:

3 . . . calling and trying to get results from somebody at the 800 number.  
 4 Most of the time, they tell you, "If that's what your meter says, that's what  
 5 you have to pay." If you don't pay it, well like the other people, you're out  
 6 of water. Well it takes air, water and food to live, so you're going to pay  
 7 the water bill and hope that you get your money back. . . .

8 \* \* \*

9 I would just like for someone to tell me how my gallons of water each  
 10 month can go from normal to double, from 8,000 to 17,000, from 8,000 to  
 11 14,000. That's not just a few gallons, because everybody's going to have a  
 12 difference but that many – somebody – something is wrong somewhere.<sup>33</sup>

13 Unfortunately, the customer must pay the exorbitant water bills regardless of whether it is  
 14 determined to be a billing error, or else risk having their water shut off:

15 . . . like my bill; it jumped from 92 dollars and 38 cent to 860 dollars. I  
 16 said I can't pay that. How am I going to pay 860 dollars and 52 cents and  
 17 why would it jump from 92 dollars. . . . They said well you come up with  
 18 the 957 dollars and two cent and then we'll get your water cut back on and  
 19 we'll see about looking into it.<sup>34</sup>

20 One person told of a newsworthy incident involving another customer:

21 She actually made the news because her water bill in a month came up to  
 22 4,000 dollars and that is ridiculous. No bill can come up to about 4,000  
 23 dollars and by the time she had to pay, they made her pay 5,400 dollars.  
 24 And whenever she pay, she paid 1,400 dollars they came five days and it's  
 25 usually a 10 day shut-off they came and shut it off five days after she paid  
 26 that amount and they came and she had it off for two months before they  
 27 could come in.<sup>35</sup>

28 The Company does not have a fair way of dealing with unusual circumstances where a  
 29 large spike in water usage suddenly occurs. The customer is left with a difficult financial  
 30 hardship. One customer suggested that the Company be more proactive in dealing with  
 31 these situations:

<sup>33</sup> Transcript of Greenacres Customer Hearing, p. 28.

<sup>34</sup> Transcript of Sebring Customer Hearing, p. 22.

<sup>35</sup> Transcript of Sebring Customer Hearing, pp. 29-30.

1 The water leak turned out to be a busted cap on a PVC pipe that sprayed  
 2 out real small. I got a bill for 3900 dollars for the water leak. It was  
 3 212,000 gallons of water used in a ten day period. . . . They were able to  
 4 cut my bill from 3700 dollars down to 2600 dollars. It still is awful high  
 5 for having an emergency leak; a leak that wasn't my fault. . . . you have  
 6 all these gadgets on top of these meters that's supposed to read the meter  
 7 automatically; why don't they have a computer system that would say  
 8 "gee you got a problem, you just spiked 50,000 gallons in the last 10 days.  
 9 Why don't we notify the customer, you got a problem there?" . . . It's  
 10 ridiculous that you have to wait a two month period to find that you owe  
 11 2600, 2700 dollars to the company.<sup>36</sup>

12 **Q. HAVE CUSTOMERS IDENTIFIED PROBLEMS WITH METER READINGS,**  
 13 **DESPITE THE FACT THAT IN THE LAST RATE CASE THE COMMISSION**  
 14 **ALLOWED THE COMPANY TO INCREASE RATES FOR ELECTRONIC**  
 15 **METERS THAT CAN BE READ REMOTELY?**

16 A. Yes. One New Port Richey customer went to the extreme of shutting off his water and  
 17 padlocking the meter in the hopes of not getting charged, but the Company still estimates  
 18 usage despite these new meters.

19 I went up in June. July I get a bill, a good size bill from Aqua. I called  
 20 Aqua and says, "What's this bill for?" That's for the water you used. I  
 21 said, "Well I got news for ya, I didn't use any water, I shut it off and put a  
 22 padlock on it so that you could not turn it on." And they said, "Oh, well, I  
 23 guess we only estimate them once in a while." Well why put on these  
 24 electronic meters if they aren't doing it every month and she said it's not  
 25 uncommon that every couple of months they don't go around and read  
 26 them, they just estimate your use. So, why go through the expense of  
 27 putting these fancy meters on there without following up onto it?<sup>37</sup>

28 This story exemplifies another problem that customers are having, which are questionable  
 29 meter readings. Explained another New Port Richey customer:

30 I still find it hard to believe that 9,000 gallons of water was used in one  
 31 month. That's more than filling one pool. Ah, then I dropped down from  
 32 the 10,500 to 3,200, then to 2,700 to 1,700 in February, to 2,100 back up

<sup>36</sup> Transcript of Sebring Customer Hearing, pp. 8-9.

<sup>37</sup> Transcript of New Port Richey Customer Hearing, p. 42, emphasis added.

1 to 2,600 in April, 35 jumped to 6,000 to 7,900 and now I'm back down to  
2 2,400 again. Our usage is continual. We do the same amount of laundry  
3 every week. We take the same amount of showers. Half the time, for three  
4 months, we're not even here. So why am I still getting these high rates?  
5 We don't get an explanation for it, but I would like to know why if we are  
6 using like 3,050 gallons can't we be billed for 3,050 gallons or 3,055  
7 gallons instead of running it up to 4,000.<sup>38</sup>

8  
9 **Q. WEREN'T THE NEW RADIO FREQUENCY (RF) METERS SUPPOSED TO FIX**  
10 **THE METER READING PROBLEMS?**

11 A. The Company certainly gave that impression in the last rate case, where it claimed: "The  
12 RF meter will help ensure accurate usage reads which in turn, will result in fewer  
13 estimated bills."<sup>39</sup>

14 **Q. DID THE COMMISSION ALLOW A PRO FORMA ADJUSTMENT IN THE**  
15 **LAST CASE FOR THE COST OF THE NEW RF METERS?**

16 A. Yes. The Commission included an additional \$605,724 in rate base associated with RF  
17 meters.<sup>40</sup> So not only are customers paying for the meters, but it does not appear that  
18 Aqua's metering practices have improved substantially.

19 **Water Quality**

20 **Q. WERE THERE ANY WATER QUALITY COMPLAINTS ADDRESSED BY**  
21 **CUSTOMERS?**

22 A. Absolutely. In addition to the general concerns for the drinkability of the water, many  
23 customers discussed health concerns and resented the additional financial expenses  
24 created by this water.

25 A Eustis customer put it frankly:

<sup>38</sup> Transcript of New Port Richey Customer Hearing, p. 57.

<sup>39</sup> Franklin Direct Testimony, Docket No. 080121-WS, p. 5.

<sup>40</sup> Order No. PSC-09-0385-FOF-WS issued May 29, 2009, p. 17.

1 . . . our water is not drinkable. It has not been drinkable for a long time. It  
 2 smells like rotten eggs or sewage. Either myself or my neighbor calls  
 3 Aqua the 800 number about every two weeks. . .<sup>41</sup>

4 A well-traveled customer said:

5 Like everybody said the quality of the water is the worst I've seen and I've  
 6 been from Texas to Oklahoma to over here. In fifty years. It's so bad it  
 7 clogs up coffee pots, it leaves residue.<sup>42</sup>

8 **Q. DO CUSTOMERS FIND THE WATER QUALITY TO BE CONSISTENT?**

9 A. No. Several customers commented on the inconsistency of the water:

10 . . . the water quality in the Lake Josephine area is fluctuating. Some days  
 11 it smells, some days it tastes like chlorine, some days the pressure is low.<sup>43</sup>

12 \* \* \*

13 . . . it seems we've either got chlorine odor, strong chlorine odor, or sulfur  
 14 odor in the water. It's very few days you don't have an odor in your  
 15 water.<sup>44</sup>

16 **Q. HOW DO CUSTOMERS DEAL WITH THE POOR WATER QUALITY?**

17 A. The poor quality of the water leads many customers to install filters at their own  
 18 expense:

19 As far as the water quality, stinks is a very minor word to put it. . . I had -  
 20 I have two filters on my - two outside filters going through and I can  
 21 hardly change the filters quick enough to keep it clean. Within a week, it  
 22 looks like it's been there for two years, and the water that does come in  
 23 you got that limestone deal, . . .<sup>45</sup>

24 \* \* \*

25 . . . the water's very bad. We have a filter on the refrigerator, we have a  
 26 filter at the sink, we have a filter outside of the house, the water still  
 27 smells like everybody's been saying.<sup>46</sup>

28 \* \* \*

<sup>41</sup> Transcript of Eustis Customer Hearing, p. 13.

<sup>42</sup> Transcript of Gainesville Customer Hearing, p. 15.

<sup>43</sup> Transcript of Sebring Customer Hearing, p. 8.

<sup>44</sup> Transcript of Sebring Customer Hearing, p. 7.

<sup>45</sup> Transcript of New Port Richey Customer Hearing, pp. 41-42.

<sup>46</sup> Transcript of New Port Richey Customer Hearing, p. 95.

1 My neighbor back behind me has this system put in. There's four of them.  
 2 It costs you \$25.00 a month to filter the water out so you can drink it. . . .  
 3 you got the filthiest water that ever was on a planet coming through them  
 4 pipes.<sup>47</sup>

5 **Q. WHAT CONCERNS HAVE CUSTOMERS EXPRESSED ABOUT THE**  
 6 **EXPENSES OF DEALING WITH POOR WATER QUALITY?**

7 A. Many customers feel that it is unfair that they have to bear additional expenses for water  
 8 filters or bottled water when the Company should be providing a quality product in the  
 9 first place:

10 . . . I honestly do not feel as a customer that I should be required to go out  
 11 and purchase a third party water filter to remove the smell from the water  
 12 before I drink it, and I've had to do that for years. . .<sup>48</sup>

13 \* \* \*

14 . . . they send out flyers all the time saying that if you have any kind of  
 15 illness or anything that you can't drink the water. I have a chronic illness  
 16 so I do not drink their water. I have to go buy water. So if I have to buy  
 17 water, why am I having to pay Aqua anything for something that I can't  
 18 drink?<sup>49</sup>

19 **Q. DID CUSTOMERS EXPRESS CONCERNS ABOUT ANY HEALTH**  
 20 **RELATED ISSUES?**

21 A. Yes. Customers are not only bearing additional water expenses for aesthetic  
 22 reasons, but also for health reasons. Customers are seriously concerned about  
 23 how the water affects their health:

24 . . . there was one notification where there was feces in the water along  
 25 with other notes stating that prolonged use of the water and the chemicals  
 26 that are present and being found in the services provided can cause cancer.  
 27 . . . they're putting our health at jeopardy every day that we do drink the  
 28 water; which I think nobody does. The smell, the texture, when you turn  
 29 the faucet on...the only thing that water does is make us have a friendly

<sup>47</sup> Transcript of New Port Richey Customer Hearing, p. 63.

<sup>48</sup> Transcript of Lakeland Customer Hearing, p. 47.

<sup>49</sup> Transcript of Sebring Customer Hearing, p. 23.

1 plumber. It eats out the pipes in your kitchen faucet, your bathroom,  
2 constantly. You're constantly having to replace things due to the water and  
3 I've gotten to know my plumber rather well.<sup>50</sup>

4 Another customer stated:

5 . . . whether you realize it or not this water's so contaminated, we're  
6 ingesting this water, it's making us sick. It's making us sick and as a result  
7 of when you get sick, you go to the Doctors, you go to Walgreens, you  
8 spend more money, which means less money to live.<sup>51</sup>

9 A New Port Richey customer said:

10 When we get the reports, the reports are reading it's contaminated. . . .  
11 Did you ever pour a glass of water from your sink faucet and look at the  
12 crap floating in there? Excuse my french. It's bad. When I gotta use  
13 bottled water to make my coffee, filtered water or bottled water to make  
14 my iced tea, that's a shame. I drank some water the other night cause I ran  
15 out of bottled water and I poured it in my bottle because I have to have a  
16 little bit at night. I almost threw up when I woke up and got the water – the  
17 water woke me up into a total awakesness. It was so bad. The taste was  
18 horrific.<sup>52</sup>

19 Another New Port Richey customer stated:

20 . . . in March of this year in Jasmine Lakes, in the wells in Jasmine Lakes,  
21 there was traces of e-coli bacteria where – where a boil water notice had to  
22 be issued.<sup>53</sup>

23 **Q. DID ANY CUSTOMERS HAVE BLACK OR BROWN WATER COMING OUT**  
24 **OF THEIR PIPES?**

25 **A. Yes. Two New Port Richey customers experienced this problem:**

26 When I turned on the shower, out came black water. I had to drain my  
27 water heater before I could shower upon returning home. . . . I have to put  
28 bleach in my other toilet so it doesn't get a black ring.<sup>54</sup>

29 \* \* \*

<sup>50</sup> Transcript of Sebring Customer Hearing, p. 20-21.

<sup>51</sup> Transcript of New Port Richey Customer Hearing, p. 76.

<sup>52</sup> Transcript of New Port Richey Customer Hearing, p. 46.

<sup>53</sup> Transcript of New Port Richey Customer Hearing, p. 86.

<sup>54</sup> Transcript of New Port Richey Customer Hearing, p. 68.



1 When I went to go give my 4 year old daughter a bath in the tub it filled  
 2 up with brown water. I had to drain all of the water out and run the water  
 3 until it became clear. It's disgusting water. I drink bottled water – my  
 4 whole family. I refuse to drink the disgusting –ah, there's just crap  
 5 particles floating around in their water. . . <sup>55</sup>

6 **Q. CAN IT BE INCONVENIENT TO USE THE COMPANY'S WATER?**

7 A. It certainly can be:

8 . . . when I go to take a shower, I have to wait 3 or 4 minutes for the  
 9 smelly part of the water to get out of the pipes and go down the drain. We  
 10 never drink the water at home. I can't make ice cubes out of the water at  
 11 home. You take it and put it in a drink, as soon as it starts to melt you  
 12 might as well throw that drink out because it will taste terrible. You take a  
 13 glass, put water in it, let it sit on your counter for 10 minutes. Sediment on  
 14 the bottom, ring around where the water's sitting and this is the kind of  
 15 quality water we're getting. It's terrible. We buy nothing but bottled  
 16 water. <sup>56</sup>

17 One customer explained the embarrassment he feels as a result of using the  
 18 Company's water:

19 It's embarrassing to go to see someone out of the community and have  
 20 your clothes, which you've laundered, your hair, which you've washed,  
 21 and your body, which you've scrubbed using soap, in all cases, smell like  
 22 the putrid stuff that comes out of our faucets. <sup>57</sup>

23 **Q. WHAT DID THE CUSTOMERS SAY ABOUT THE COMPANY'S WATER**  
 24 **PLANTS AND RETENTION PONDS?**

25 A. At Captiva Island a customer complained:

26 Quality has also come into question with concerns at the Florida  
 27 Department of Environmental Protection, DEP, concerns that they have  
 28 about the Captiva plant. It's a mess. . . it has to do with their workings  
 29 with the plant, that they are operating without a permit, leaks, and other  
 30 matters. . . <sup>58</sup>

31 In New Port Richey customers had similar complaints:

<sup>55</sup> Transcript of New Port Richey Customer Hearing, p. 80.

<sup>56</sup> Transcript of New Port Richey Customer Hearing, p. 55.

<sup>57</sup> Transcript of Sebring Customer Hearing, p. 10.

<sup>58</sup> Transcript of Ft. Myers Customer Hearing, p. 6.

1 Their retention pond over there off Ranch Road looks like a stink pond. . .  
2 I have got more complaints from our members over there because of the  
3 smell and the dirtiness around there than you can imagine.<sup>59</sup>

4 \* \* \*

5 We've got a plant, a treatment plant in Jasmine Lakes. The treatment  
6 plant, the people in Foxhollow, right behind it can't stand it. They can't  
7 sell their homes and they can't keep them rented because it stinks so bad.<sup>60</sup>

8 **Q. YOU STATED THAT YOU HAD REVIEWED CORRESPONDENCE**  
9 **SUBMITTED BY AQUA CUSTOMERS CONCERNING THIS DOCKET. DID**  
10 **ANY OF THIS CORRESPONDENCE HAVE TO DO WITH THE WATER**  
11 **QUALITY?**

12 **A. Yes. On page 428 of Schedule 3, a customer from Orange Beach described the water as**  
13 **undrinkable, unusable for laundry, and hazardous to pets:**

14 All of this for water that we cannot drink, my clothing is ruined after just a  
15 few washes, I have had three animals die from kidney disease, so now I  
16 have to buy bottled water even for my pets. This is WITH a new water  
17 softener. Paying anything for this water is ridiculous, much less paying  
18 even more.

19 Another customer also had complaints:

20 Aside from the fact that there are so many minerals in their water that we  
21 periodically have to use CLR to clean out our shower heads, bathroom and  
22 kitchen faucets, dishwasher, and every other appliance that uses water, and  
23 the fact that not only can we taste but can smell the chlorine when they  
24 add it to their supply, they just received a rate increase in April. That plus  
25 their "tiered-billing" has caused our water bills to soar!<sup>61</sup>

26 **Q. WAS THERE ANY CORRESPONDENCE CONCERNING THE LACK OF**  
27 **INFORMATION BEING PROVIDED BY AQUA CUSTOMER SERVICE?**

28 **A. Yes. In fact, the residents of Palm Terrace and Jasmine Lakes in Port Richey were so**  
29 **frustrated by the lack of boil notice information being given that they conducted a survey**

<sup>59</sup> Transcript of New Port Richey Customer Hearing, pp. 44-45.

<sup>60</sup> Transcript of New Port Richey Customer Hearing, p. 47.

<sup>61</sup> Schedule 3, p. 427.

1 in their communities. Of the 439 surveys received 137, or 31 percent, of the residents  
 2 reported not having received any kind of notification whatsoever from Aqua as to boil or  
 3 stop boiling their water.<sup>62</sup>

4 **Q. WAS THERE ANY CORRESPONDENCE ABOUT AQUA'S REPUTATION?**

5 A. Yes. A resident of Harbor Hills protested Aqua's takeover of his current water utility  
 6 company, Harbor Hills Utilities, because of Aqua's poor reputation. He was very  
 7 satisfied with his current water provider so he was concerned that there would be a  
 8 decline in the quality of service. He had spoken with many Aqua customers who had  
 9 complained about bad water quality and high bills.<sup>63</sup>

10 **Q. WOULD YOU DESCRIBE THE BILLING CONCERNS RAISED BY THE**  
 11 **CUSTOMERS IN THE CORRESPONDENCE THAT YOU REVIEWED?**

12 A. Customers questioned the water usage they are being charged for as the bills do not seem  
 13 to be representative of their usage. They are particularly perplexed when they compare  
 14 their bills with those of people on other water systems.

15 They claim I am using 5000 gallons a month, and I live with m[y] son, in a  
 16 small 2 bedroom home, we don't water, I have a water saving dishwasher,  
 17 and conserve water best I can. I have been monitoring my gauge outside in  
 18 the ground. It shows, since April 27th, I only used 465 gallons of water.  
 19 My bill went from \$40.00 a month for water, to \$120.00 a month  
 20 immediately after Aqua Utility took over our water. Now, my last bill was  
 21 \$145.00 for the water. I have friends water bills, that live within 3 miles of  
 22 me. One pays \$15.00 a month, and the other was \$19.00.<sup>64</sup>

23 \* \* \*

24 When I bought my home in 2006 the water bill ran between \$35 and \$45  
 25 per month. That was with 5 of us living there. Today with just one person  
 26 (me) living there the bill last month was \$70. Last year when there were  
 27 still 5 living there it ran between \$115 and \$125. People with Lakeland

<sup>62</sup> Schedule 3, p. 76-414.

<sup>63</sup> Schedule 3, p. 468.

<sup>64</sup> Schedule 3, p. 935.

1 Water and Polk county water have a bill of \$35 for the same water usage  
2 as me.<sup>65</sup>

3 \* \* \*

4 When Aqua Utilities acquired Florida Water Services, my sewer bill was  
5 @ \$19.75. For the first almost 3 years, they NEVER charged me for their  
6 services, but gave me credit, and then claimed I was delinquent in paying  
7 my bill to them, and demanded the balance due. I had to go to corporate  
8 level to get this atrocity resolved. Progressively they raised my rate to @  
9 \$30 a month and then jumped to @ \$88 a month. Now it is almost \$100.00  
10 a month, which is @ 5 times the original rate!!!<sup>66</sup>

11 \* \* \*

12 My stepdaughter lives less than half-mile away and when she had five  
13 people in her house, showering a couple times a day and washing every  
14 day, her bill went to \$15. Normally she pays \$10 to \$11 a month for water.  
15 So does my brother. He almost fainted when I told him the normal Aqua  
16 Utilities bill for two people living in the house was \$79. Now Aqua wants  
17 to raise it.

18 The \$79 bill is normal use, not from watering the lawn. It goes to \$99 if  
19 we want our lawn to live. Stones, instead of grass, are cheaper in the long  
20 run.<sup>67</sup>

21 **Q. ARE THESE PROBLEMS RESTRICTED TO FLORIDA?**

22 A. No. In a recent case involving Aqua New York, customers complained that the  
23 Company's water quality was poor because it smelled bad, tasted bad, left unsightly  
24 stains, and in many instances had to be filtered at the customer's cost before one would  
25 drink it. Filters had to be changed frequently, water coils had to be cleaned frequently,  
26 bottled water had to be purchased for consumption, and some said the Company's water  
27 was brown or full of iron. Others had problems with the Company's customer care  
28 including estimated bills, meter problems, and generally bad customer service.  
29 "Customer's concerns were addressed more promptly and reasonably before Aqua

<sup>65</sup> Schedule 3, p. 995.

<sup>66</sup> Schedule 3, p. 1247.

<sup>67</sup> Schedule 3, p. 1267.

1 acquired New York Water Service Corporation," stated a customer.<sup>68</sup> In response to  
2 these water quality and customer care concerns, the Commission mandated a Customer  
3 Service Incentive Mechanism, which would put some of the Company's revenues at risk  
4 to the extent complaints about service quality and billing were not addressed reasonably  
5 going forward. The Commission found that 30 basis points on equity would be at risk  
6 should its "escalated" customer complaint numbers exceed the proposed targets.<sup>69</sup>

7 **Q. HAVE THERE BEEN SIMILAR ISSUES IN OTHER STATES?**

8 **A.** Yes. In an Indiana case, there were significant quality of service issues. Many of the  
9 customers stated that the water was not used, or unusable, for drinking or bathing and the  
10 water was discolored. The Commission was concerned that the Company was not taking  
11 customer complaints seriously and stated:

12 If Utility Center cannot provide water to its customers adequate for the  
13 purposes reasonably expected by its customers, it is this Commission's  
14 responsibility to speak directly to the utility's management, through our  
15 orders, to send a message that service must improve.

16 Having considered the evidence at issue, we find that Utility Center's cost  
17 of equity shall be 9.60%. The Commission recognizes that a 9.60% return  
18 reflects a lower end of the range appropriate for Utility Center and that a  
19 higher return may be appropriate if Utility Center is able to demonstrate  
20 improved performance in its next rate case.<sup>70</sup>

21  
22 Furthermore, in Missouri the Commission ordered Aqua Missouri, Inc. to initiate  
23 a task force to address timely meter readings in the hope of reducing estimated  
24 reads and the pro-ration of bills.<sup>71</sup> In Virginia, 3,400 public comments were

<sup>68</sup> Case 09-W-0237 before the New York Public Service Commission; Order issued January 29, 2010; pp. 71-72.

<sup>69</sup> Case 09-W-0237 before the New York Public Service Commission; Order issued January 29, 2010; pp. p. 11.

<sup>70</sup> Cause No. 43874 before the Indiana Utility Regulatory Commission; Order issued April 13, 2011; p. 16.

<sup>71</sup> Case No. WR-2008-0266 before the Missouri Public Service Commission; Order issued August 28, 2008; p. 5.

1 received in Aqua Virginia's rate case. They included problems with water  
2 quality, customer service, and general economic concerns.<sup>72</sup>

3 **Q. IN THE LAST RATE CASE YOU FILED TESTIMONY ON ISSUES**  
4 **REGARDING CUSTOMER AND QUALITY OF SERVICE. DOES IT APPEAR**  
5 **THAT THE COMPANY'S CUSTOMER AND QUALITY OF SERVICE HAVE**  
6 **IMPROVED?**

7 **A.** No, it does not. While the Commission's monitoring plan has forced the Company to  
8 take steps to make improvements, the overall perception of the quality of service by  
9 customers is still poor with many similar experiences as in the last hearings. For  
10 example, customers had issues with the water quality:

11 I spent \$5,000 on a water filter system to get something safe enough to  
12 drink and cook with. . . . Between the chlorine, the smell, the sediment,  
13 it's quite ridiculous.<sup>73</sup>

14 They also had issues with customer service:

15 They don't know the sleepless nights that I went through laying there  
16 worrying about my water getting shut off. And just the bills that they  
17 were sending me, shut off notices, and improper bills, and no one talking  
18 to me. Being left on hold, being told that someone would be with you.  
19 Asking for a supervisor and never getting a call back from anybody. It is  
20 just -- this is a poor company. This is not a good company.<sup>74</sup>

21 **Conclusion**

22 **Q. BASED ON THE TESTIMONY BY CUSTOMERS AT THE HEARINGS AND IN**  
23 **THEIR CORRESPONDENCE, DOES THE COMPANY'S QUALITY OF**  
24 **SERVICE MEET THE STANDARDS SET FORTH IN THE STATUTES?**

---

<sup>72</sup> Case No. PUE-2009-00059 before the Virginia State Corporation Commission; Order issued October 29, 2010, pp. 2-3.

<sup>73</sup> Transcript of 2008 Sebring Service Hearing, pp. 18-19.

<sup>74</sup> Transcript of 2008 Lakeland Service Hearings, pp. 75-76.

1 A. No, it does not. Section 367.111(2), Florida Statutes, states that a public utility must  
2 provide:

3 . . . such safe, efficient, and sufficient service as is prescribed by part VI  
4 of Chapter 403 and parts I and II of chapter 373, or rules adopted pursuant  
5 thereto; but such service shall not be less safe, less efficient, or less  
6 sufficient than is consistent with the approved engineering design of the  
7 system and the reasonable and proper operation of the utility in the public  
8 interest. If the Commission finds that a utility has failed to provide its  
9 customers with water or wastewater service that meets the standards  
10 promulgated by the Department of Environmental Protection or the water  
11 management districts, the commission may reduce the utility's return on  
12 equity until the standards are met.

13 Customers are still complaining about the same quality of service issues that were raised  
14 in the two preceding rate cases involving the Company. As was discussed earlier, the  
15 Company still has problems with their water quality. Many customers generally find the  
16 water to be undrinkable. There were numerous complaints relating to the water's odor,  
17 color, and contamination. There were also claims that the water made people sick.  
18 Furthermore, customers are still complaining about the poor customer service  
19 representatives and billing problems. Customer service can be difficult to reach, rude,  
20 unhelpful, and slow to respond or provide information. Bills are not consistently  
21 received, meter readings are inconsistent, and disputed bills are not resolved in a fair  
22 manner.

23 **Q. WHAT DID THE COMMISSION FIND CONCERNING THE COMPANY'S**  
24 **QUALITY OF SERVICE IN THE PROPOSED AGENCY ACTION?**

25 A. The Commission reduced the return on equity (ROE) because of their quality of service.  
26 The Commission reduced Aqua's ROE by 25 basis points:

27 . . . because we have found that the quality of service provided by AUF is  
28 marginal, the Utility's ROE will be reduced by 25 basis points, and the

1 revenue requirement and the final rates will be set using an ROE of 9.42  
2 percent.<sup>75</sup>

3 **Q. DID THE COMMISSION REDUCE THE COMPANY'S ROE IN THE LAST**  
4 **RATE CASE?**

5 A. Yes. In the Company's last rate case the Commission deemed Chuluota's quality of  
6 service to be unsatisfactory. The Commission reduced Chuluota's ROE by 100 basis  
7 points and denied their rate increase. The Commission specifically found:

8 We find ourselves in a similar situation here with respect to the Chuluota  
9 system. In addition to the corrective measures described above in our  
10 monitoring plan, we also find there shall be a 100-basis-point reduction to  
11 ROE for the Chuluota water and wastewater systems. In addition, because  
12 of the unsatisfactory quality of service provided to the Chuluota  
13 customers, no increase whatsoever is authorized for the Chuluota  
14 systems.<sup>76</sup>

15 Also, as noted above, because of the Commission's concerns about the customer service  
16 in all of Aqua's systems, the Commission ordered a Quality of Service Monitoring Plan  
17 to be implemented.

18 **Q. WHAT DID THE MONITORING PLAN EVALUATE?**

19 A. It evaluated AUF's handling of customer complaints, their Call Center process for  
20 handling complaints, and possible incorrect meter readings and resulting improper bills.

21 **Q. HAS THE COMMISSION MADE ANY FINDINGS IN CONNECTION WITH**  
22 **THE MONITORING PLAN?**

23 A. Yes. The Commission found "after hearing from our staff, parties, and a number of  
24 customers at the agenda conference, we concluded that, while preliminary results show  
25 substantial improvement in AUF's customer service, additional monitoring was required  
26 to ultimately render a determination as to the adequacy of AUF's quality of service. We

<sup>75</sup> Order No. PSC-11-0256-PAA-WS issued June 13, 2011, p.63.

<sup>76</sup> Order No. PSC-09-0385-FOF-WS issued May 29, 2009, p. 49.



1 order our Staff to continue monitoring the customer service by AUF customer  
2 complaints, meter reading and billing accuracy, and environmental compliance.”<sup>77</sup>

3 **Q. DO YOU AGREE WITH THE COMMISSION’S PAA DECISION TO REDUCE**  
4 **THE COMPANY’S RETURN ON EQUITY BY 25 BASIS POINTS FOR THEIR**  
5 **QUALITY OF SERVICE?**

6 A. In part. I believe the Commission should go further and reduce the Company’s ROE by  
7 100 basis points. The customer testimony and customer complaints, as well as the  
8 information provided in the testimony of Ms. Vandiver and Mr. Poucher, provide clear  
9 indications that despite the Commission’s initial finding of substantial improvement; the  
10 Company has a long way to go before their quality of service can be considered  
11 satisfactory. Therefore, I recommend that the Commission reduce the return on equity it  
12 would authorize in this proceeding by 100 basis points.

13 **Q. IS THERE ANY PRECEDENT FOR REDUCING A UTILITY’S RETURN ON**  
14 **EQUITY BECAUSE OF POOR CUSTOMER SERVICE?**

15 A. Yes, there is. In Docket No. 010503-WU, the Commission set Aloha Utilities’ rate of  
16 return at the minimum of its authorized range and also cut both the president and vice  
17 president’s salaries by 50 percent. In that docket the Commission noted:

18 We have set the rates at the minimum of the range of return on equity  
19 because of the overwhelming dissatisfaction of Aloha’s customers due to  
20 the poor quality of the water service and their treatment by the utility in  
21 regards to their complaints and inquiries. Our actions are consistent with  
22 past decisions in this regard. See Order No. 14931, issued September 11,  
23 1985, in Docket No. 840267-WS, Order No. 17760, issued June 28, 1987,  
24 in Docket No. 850646-SU, Order No. 24643, issued June 10, 1991, in  
25 Docket No. 910276-WS, and Order No. PSC-96-1320-FOF-WS, issued  
26 October 30, 1996, in docket No. 950495-WS.<sup>78</sup>

<sup>77</sup> Order No. PSC-10-0297-PAA-WS issued May 10, 2010, p. 2.

<sup>78</sup> Commission Order PSC-02-0593-FOF-WU issued April 30, 2002, p. 30.

1 In Docket No. 840267-WS, Consolidated Utilities Company filed for an increase in its  
2 water and wastewater rates in Palm Beach County. The Commission's order found:

3 An informal customer meeting was held on February 21, 1985, in Riviera  
4 Beach and was attended by approximately twenty persons. The most  
5 common complaint was an apparent lack of concern by the utility for the  
6 customer's service problems. The utility neither had the facilities which  
7 would permit the customer to establish easy contact nor did it make the  
8 best use of what it had - sometimes taking four days to return a call.

9 Further, staff's investigation discloses that the utility is not properly  
10 maintaining its books and records which is reflected in its quality of  
11 service.

12 On balance, we find that the quality of service is less than satisfactory for  
13 which the utility should be penalized one percentage point on its equity  
14 return.<sup>79</sup>

15 In Docket No. 17760, Ocean Reef Club, Inc. of Monroe County filed for an increase in its  
16 sewer rates. Ocean Reef Club had a history of service quality problems, including a 1985  
17 indictment by the federal government for discharging untreated effluent onto the coral  
18 reefs. That case was settled with Ocean Reef Club paying a fine prior to the filing of its  
19 rate case. Ocean Reef showed that it had made repairs and replacements in its plant. Of  
20 the nine customers who testified at the service hearing, none had any complaints about  
21 service quality.

22  
23 Based upon both the recent history of the utility, and its then current status, the  
24 Commission ruled as follows:

25 . . . we find that although there have been improvements, quality of service  
26 is only marginally satisfactory. We find that given the inadequacies in  
27 quality of service, the appropriate return on common equity should be  
28 reduced by 50-basis points (.5%).

---

<sup>79</sup> Commission Order No. 14931.

1           In addition, we find that the utility should be required to file with the  
2 Commission a monthly report for a period of twelve months. These  
3 reports shall include a summary of each customer complaint received and  
4 the action taken by the utility to resolve each complaint.<sup>80</sup>

5  
6           Still another water and wastewater rate case in which the Commission found the utility's  
7 quality of service unacceptable was the 1990 application of Pine Island Utility  
8 Corporation of Volusia County. A customer service hearing was held in that docket at  
9 which some 45 customers presented comments and complaints. The general complaint  
10 was that the water quality was poor, with offensive tastes, odors, and excessive chlorine.  
11 Customers also complained about the lack of an accessible maintenance person, and the  
12 need for meters. At the time, the water system was operating under a DER consent order,  
13 but the utility had not made the repairs required by the order. The Commission  
14 determined that "the problems experienced by the customers are the result of the utility's  
15 violating DER standards." In this docket the Commission ruled:

16           . . . we find that the utility's quality of service for both water and  
17 wastewater is unsatisfactory. In other cases in which we have found a  
18 utility's quality of service to be unsatisfactory, we have fined the utility a  
19 dollar amount equal to a 1% reduction to its return on common equity.  
20 We shall impose a fine on PIU for its failure to provide safe, efficient, and  
21 sufficient service.

22           The dollar amount associated with a 1% reduction in this utility's return on  
23 common equity is \$314. We believe that in order to properly encourage  
24 the utility to satisfy DER requirements in a timely manner a \$314 fine is  
25 insufficient. We therefore impose a \$1,000 fine, or \$500 per system, for  
26 the utility's unsatisfactory quality of service. However, with the purpose of  
27 encouraging compliance with DER's requirements in mind, we hereby  
28 suspend this fine for six months, until December 10, 1991, in order to  
29 allow the utility time to satisfy DER requirements. If all DER

---

<sup>80</sup> Commission Order No. 17760.

1 requirements are not satisfied by this date, the fine is hereby reinstated  
2 and, thus becomes due and payable.<sup>81</sup>

3 In 1996, the Commission issued an order in Southern States Utilities, Inc.'s (the  
4 predecessor for most of the Aqua systems) application for water and wastewater rate  
5 increases in 23 counties across Florida. In its order the Commission noted that the  
6 regulatory agency witnesses indicated the utility was in compliance with agency  
7 standards for water and wastewater quality. However, customers in many of the  
8 company's service areas were not satisfied with the quality of the water or the quality of  
9 customer service. The majority of the complaints sound very similar to those of many of  
10 Aqua's customer complaints in this proceeding.

11 Customers from several regions in the state complained that the water is  
12 not potable. Others shared physical or medical problems that apparently  
13 occurred from the water. Customers from numerous service areas  
14 complained about the strength or odor from chlorine disinfection.  
15 Customers also reported a sulphur or rotten egg odor. Some customers  
16 have purchased home purifying systems or filters because of odor, taste, or  
17 other reasons. Others stated that they purchase bottled water to drink.

18 A number of customers in numerous service areas complained of water  
19 that stained tile and fixtures, and clogged pipes. Others spoke of corrosion  
20 and premature replacement of plumbing fixtures, and in some cases  
21 complete re-piping of homes due to leaks caused by corrosive water. Some  
22 customers found the water pressure to be unacceptably low, while others  
23 stated that it was too high. A few customers complained of sewage odors,  
24 overflows, or backups.

25 Customers expressed concern over the utility's failure to notify its  
26 customers of outages, or to notify them of the potential health or safety  
27 problems that might result from the outages. There was also general  
28 dissatisfaction with the utility's response to service calls or questions.  
29 Customers reported that the utility was slow to respond, or did not  
30 properly respond to water quality problems such as sedimentation,  
31 discoloration, or excessive lead levels. Incidents were reported where the  
32 company damaged customers' property and would not repair the damage.  
33 The utility took a long time to answer requests to have tests conducted.

---

<sup>81</sup> Commission Order No.24643 issued June 10, 1991.

1 Customers presented a variety of complaints with billing. Two customers  
2 had problems with their meter readings. They either had not seen anyone  
3 read their meter, or could not obtain meter reading data from the utility.  
4 Others cited billing problems where SSU was not responsive, or gave an  
5 answer that did not aid in resolving the problem. . . .

6 . . . We have required remedial measures, quarterly reports and customer  
7 education for several specific situations. However, we find that the utility's  
8 less than satisfactory customer service also merits an adjustment in the  
9 utility's return on equity. Therefore, in addition to the corrective measures  
10 imposed upon the utility, we find it appropriate to make an adjustment to  
11 reduce the utility's return on equity by 25 basis points.<sup>82</sup>

12 The customers of Aqua have similar levels of dissatisfaction with the water service, water  
13 quality, and customer service they are receiving compared to the customers of the above  
14 cited utilities. In the above dockets, the Commission reduced the utility's return on  
15 equity by 25 to 100 basis points.

16 **Q. ARE THERE ALSO DIFFERENCES BETWEEN THE INSTANT CASE AND**  
17 **THE OTHER CASES THAT SUPPORT A REDUCTION TO THE ROE OF 100**  
18 **BASIS POINTS?**

19 **A.** Yes, there are several differences. Customers have been experiencing quality of service  
20 problems since the Company's last rate case. While there has been some improvement in  
21 the call center statistics, there are still numerous problems which have not been resolved  
22 including: customer service, billing accuracy, estimated bills, and water quality. Thus,  
23 there has been a continuation of the problems identified in the prior rate case.

24 **Q. SHOULD THE COMMISSION BE CONCERNED ABOUT THE COMPANY'S**  
25 **FAILURE TO CORRECT THESE PROBLEMS?**

26 **A.** Yes. The Commission should closely examine the level of penalties assessed and the  
27 result of those penalties. For example, does the consequence change behavior? Or, is it

---

<sup>82</sup>Florida Public Service Commission Order PSC-96-1320-FOF-WS, issued October 30, 1996, pp. 26-31.

1 simply a cost of doing business? Without significant and meaningful consequences, the  
2 Company could continue to provide mediocre service to its customers, without  
3 consequences.

4 **Q. WHAT WOULD HAPPEN IN A COMPETITIVE MARKET UNDER SIMILAR**  
5 **CIRCUMSTANCES?**

6 A. In a competitive market, the Company would lose customers because of its poor  
7 customer/quality of service. However, in a regulated environment, customers, for the  
8 most part, are forced to stay with their utility provider regardless of the quality of service  
9 provided or the rates that they pay. It is the Commission's responsibility to construct  
10 consequences that will deter actions or inactions that bring about the poor quality of  
11 service. Some customers have gone to the extreme of digging or using wells to reduce  
12 their reliance on Aqua.

13 **Q. WHAT IS THE IMPACT ON THE COMPANY'S REVENUE FROM A 25 BASIS**  
14 **POINT REDUCTION IN THE RETURN ON EQUITY?**

15 A. A reduction on the return on equity of 25 basis points amounts to a reduction in revenue  
16 of less than \$90,000 on a combined basis. This amounts to .01 percent of Aqua  
17 America's 2010 total revenue. Relative to Aqua Florida's total revenue, as filed in this  
18 rate case, a 25 basis point reduction in the ROE is 0.6 percent of total revenue. In  
19 contrast, a 100 basis point reduction would be approximately 2.6 percent of Aqua  
20 Florida's total revenue, but is still only .05 percent of Aqua America's total revenue.

21 **Q. ARE THERE OTHER REASONS WHY MEANINGFUL CONSEQUENCES ARE**  
22 **NEEDED IN THIS CASE?**

1 A. There are 16 systems in this case that are the same systems from the 1996 Southern States  
2 Utilities<sup>83</sup> rate case where the Commission reduced Southern States' ROE for poor  
3 quality of service. Thus, some of the customers of Aqua have been experiencing poor  
4 quality of service for 15 years!<sup>84</sup> In 1997, Southern States Utilities changed its name to  
5 Florida Water Services Corporation.

6 **Q. HOW MANY OF THE SYSTEMS IN THIS RATE CASE WERE FORMER FWSC**  
7 **SYSTEMS?**

8 A. There are 12 water and 4 wastewater systems that were former FWSC and SSU<sup>85</sup>  
9 systems.

10 **Q. WAS THE COMPANY AWARE OF THE DEFICIENCIES OF THE FWSC**  
11 **SYSTEMS WHEN THEY WERE PURCHASED?**

12 A. Yes. The Company knew when it purchased many of the FWSC systems that they were  
13 purchasing old and deteriorating systems that would require repairs and capital dollars to  
14 fix. Aqua purchased the former FWSC systems in June 2004; therefore, it has had seven  
15 years to bring the systems up to par.

16 **Q. WHEN AQUA AMERICA PURCHASED THE FWSC SYSTEMS, DID IT PAY**  
17 **BOOK VALUE?**

18 A. No. When Aqua America purchased FWSC, it paid \$2,702,963 less than book value.<sup>86</sup>

19 **Q. DID THE COMMISSION IMPOSE A NEGATIVE ACQUISITION**  
20 **ADJUSTMENT?**

---

<sup>83</sup> Southern States Utilities was subsequently purchased by Florida Water Services Company.

<sup>84</sup> Order PSC-96-1320-FOF-WS issued October 30, 1996, p. 49.

<sup>85</sup> In 1997 Southern States Utilities changed its name to Florida Water Services Corporation.

<sup>86</sup> Order No. PSC-05-1242-PAA-WS, Docket Nos. 040951-WS, 040952-WS; p. 21.

1 A. No, it did not. Therefore, customers have been paying a return on the net book value as  
2 opposed to the amount paid by Aqua America.

3 **Q. DID THE COMPANY COMMIT TO PROVIDE QUALITY SERVICE TO**  
4 **CUSTOMERS WHEN IT PURCHASED FWSC?**

5 A. Yes, it did. In the transfer application, the Company stated:

6 Aqua America is totally committed to providing its customers with the  
7 highest quality service at the lowest price. In addition, Aqua America and  
8 its subsidiaries have worked in partnership with State and local officials  
9 to address the problems faced by smaller systems that may lack the  
10 financial and/or technical resources needed to comply with evolving  
11 water quality standards.<sup>87</sup>

12 **Q. WOULD YOU PLEASE SUMMARIZE THIS SECTION OF YOUR**  
13 **TESTIMONY?**

14 A. I believe the Commission should reduce the Company's ROE by 100 basis points for its  
15 poor quality of service for the following reasons:

- 16 • Numerous Aqua customers voicing their opinions at the hearings and through their  
17 correspondence have expressed their frustrations about Aqua's poor quality of  
18 service. The complaints are similar to those in the last rate case. In fact, for some  
19 systems, the problems have been going on for 15 years.
- 20 • Even since Aqua America's acquisition of several FWSC (formerly SSU) systems  
21 seven years ago, many of the problems have still not been resolved.
- 22 • Aqua knew that some of those systems had problems when they purchased them.  
23 They paid less than book value, yet customers are still being asked to provide a return  
24 on the full net book value – a difference of \$2.7 million.

---

<sup>87</sup> Joint Application filed August 24, 2004, Docket No. 040951-WS, Exhibit C p.2.



- 1           • Aqua has not honored its commitment to provide its customers with the highest  
2           quality of service at the lowest price as it claimed it would when it asked the  
3           Commission to approve the purchase of many FWSC systems.
- 4           • A 25 basis point reduction in the ROE is not sufficient to change Aqua's behavior.  
5           Therefore, the Commission should find a 100 basis points reduction appropriate.
- 6           • I also recommend that the Commission order the Company to gather state specific  
7           call center data on a going forward basis, if the cost of doing so is reasonable.

8    **III. Affiliate Transactions**

9    **Q. LET'S TURN TO THE NEXT SECTION OF YOUR TESTIMONY**  
10   **CONCERNING AFFILIATE CHARGES. WHAT ADJUSTMENTS DID THE**  
11   **COMMISSION MAKE TO AFFILIATE CHARGES IN ITS PAA ORDER?**

12   A. The Commission made five adjustments. First, findings made during the Affiliate Audit  
13   conducted by the Staff resulted in adjustments, the majority of which were agreed to by  
14   the Utility. As a result, AUF stipulated to a reduction in allocated affiliated charges of  
15   \$170,651.<sup>88</sup> Second, the Commission adjusted the customer allocation for Aqua's sale of  
16   its Fountain Lakes irrigation and wastewater systems. This led to reductions to Plant,  
17   Accumulated Depreciation, O&M expenses, and Depreciation expense by \$98,220,  
18   \$41,358, \$38,743, and \$16,370, respectively.<sup>89</sup> Third, the Commission adjusted  
19   Corporate IT costs, resulting in reductions to Plant, Accumulated Depreciation, and  
20   Depreciation expense by \$50,058, \$20,460, and \$146,949, respectively.<sup>90</sup> The fourth  
21   adjustment relates to the Company's request to include a 2.9 percent executive salary  
22   increase for accounts Contractual Services – Management Fees and Contractual Services

<sup>88</sup> Docket Nos. 080121 & 100330; Order No. PSC-11-0256-PAA-WS issued June 13, 2011, pp. 65-66.

<sup>89</sup> Docket Nos. 080121 & 100330; Order No. PSC-11-0256-PAA-WS issued June 13, 2011, pp. 66-67.

<sup>90</sup> Docket Nos. 080121 & 100330; Order No. PSC-11-0256-PAA-WS issued June 13, 2011, pp. 68-69.

1 – Other. The Commission decided that given the state of the economy, all increases for  
2 Aqua's executives should be eliminated from the Company's normalization and pro  
3 forma adjustments. This resulted in an adjustment of \$3,823 to remove the amount  
4 associated with executive salary increases. The fifth adjustment removed the \$22,623 in  
5 bonus and dividend compensation of AAI's corporate management included in the test  
6 year. The Commission found that this type of incentive compensation aligns the interests  
7 of the executives with the shareholders.<sup>91</sup>

8 **Q. WHY IS OPC PROTESTING THE CHARGES FROM AQUA'S AFFILIATES?**

9 A. The Commission's PAA Order is incorrect in finding the Company has justified the  
10 amount of affiliate charges in this case. The costs charged to the Company by Aqua  
11 Services, Inc. (ASI), who accumulates and allocates common payroll and invoices from  
12 AAI's Pennsylvania office, and Aqua Customer Organization (ACO), who handles  
13 customer billing and the call center, collectively (Service Company), have increased  
14 significantly since the last rate case and the Company has been unable to explain these  
15 increases.

16 **Q. WHY IS IT IMPORTANT TO CLOSELY EXAMINE AFFILIATE**  
17 **TRANSACTIONS?**

18 A. In a situation involving the provision of services between affiliated companies, the  
19 associated transactions and costs do not represent arms-length dealings. Cost allocation  
20 techniques and methods of charging affiliates should be frequently reviewed and  
21 analyzed to ensure that the company's regulated operations are not subsidizing the  
22 nonregulated operations. Because of the relationship between Aqua and the affiliates  
23 which contributes to expenses included on the books of Aqua, the arms-length bargaining

---

<sup>91</sup> Docket Nos. 080121 & 100330; Order No. PSC-11-0256-PAA-WS issued June 13, 2011, p. 71.

1 of a normal competitive environment is not present in their transactions. Although each  
2 of the affiliated companies is supposedly separate, relationships between Aqua and its  
3 affiliates are still close—they all belong to one corporate family—Aqua America, Inc.  
4 In the absence of regulation, there is no assurance that affiliate transactions and  
5 allocations will not translate into unnecessarily high charges for Aqua's customers. Even  
6 when the methodologies for cost allocation and pricing have been explicitly stated, close  
7 scrutiny of affiliate relationships is still warranted. Regardless of whether or not Aqua  
8 America, Inc., the holding company, explicitly establishes a methodology for the  
9 allocation and distribution of affiliate costs, there is an incentive to misallocate or shift  
10 costs to regulated companies so that the nonregulated companies can reap the benefits  
11 with higher profits for shareholders.

12 **Q. DOES THE COMMISSION HAVE ANY GUIDELINES WHICH CONTROL THE**  
13 **PRICING ARRANGEMENTS BETWEEN UTILITIES AND THEIR**  
14 **AFFILIATES?**

15 A. Yes. The Commission has expressed its opinion on affiliate transactions and the  
16 precedent that should be followed when examining affiliate transactions.

17 By their very nature, related party transactions require closer scrutiny.  
18 Although a transaction between related parties is not per se unreasonable,  
19 it is the utility's burden to prove that its costs are reasonable. Florida  
20 Power Corp. v. Cresse, 413 So. 2d 1187, 1191 (Fla. 1982). This burden is  
21 even greater when the transaction is between related parties. In GTE  
22 Florida, Inc. v. Deason, 642 So. 2d 545 (Fla. 1994) (GTE), the Court  
23 established that the standard to use in evaluating affiliate transactions is  
24 whether those transactions exceed the going market rate or are otherwise  
25 inherently unfair.<sup>92</sup>

---

<sup>92</sup> In re: Investigation of rates of Aloha Utilities, Inc. in Pasco County for possible overearnings for the Aloha Gardens water and wastewater systems and the Seven Springs water system. In-re: Notice of intent to increase water and wastewater rates in Pasco County, based upon application of provisions of Section 367.081 (4) (a) & (b), F.S., by Aloha Utilities, Inc. Florida Public Service Commission. Order No. PSC-01-1374-PAA-WS. Issued June 27, 2001, p. 15.

1  
2

**Aqua Utilities Florida, Inc. Affiliates**

3 **Q. WOULD YOU PLEASE DESCRIBE AQUA'S AFFILIATES?**

4 A. Aqua America, Inc., the parent company of Aqua, is a publicly traded holding company  
5 with both regulated and nonregulated subsidiaries operating in 13 states. Schedule 6 of my  
6 exhibit contains an organizational chart of Aqua America, Inc. and its affiliates. In addition  
7 to its regulated subsidiaries, such as Aqua, which provide water and wastewater service,  
8 Aqua America has several nonregulated subsidiaries. According to Aqua America's  
9 website:

10 Aqua America, Inc. is a U.S.-based publicly-traded water and wastewater  
11 utility, serving approximately 3 million people in Pennsylvania, Ohio,  
12 North Carolina, Illinois, Texas, New Jersey, New York, Indiana, Florida,  
13 Virginia, Maine, Missouri and Georgia. Aqua America is listed on the  
14 New York Stock Exchange under the ticker symbol WTR. Its aggressive  
15 growth-through-acquisition strategy has resulted in nearly 200 acquisitions  
16 and growth ventures in the last ten years. These growth ventures have  
17 allowed Aqua America to achieve its growth goals and has had a favorable  
18 impact on its financial performance.<sup>93</sup>

19 **Q. WOULD YOU PLEASE DESCRIBE AQUA AMERICA'S**  
20 **NONREGULATED SUBSIDIARIES?**

21 A. Yes. AAI owns nine nonregulated subsidiaries.

- 22 1) Aqua Acquisition Corporation: Holding company and parent company to G&E  
23 Septic, Inc., which provides nonregulated septage business;
- 24 2) Aqua Development, Inc.: Nonregulated services;
- 25 3) Aqua Resources: Parent company of Aqua Wastewater Management, Inc., which  
26 provides hauling services of residential and commercial septic waste; installation  
27 and maintenance of residential/commercial septic systems;

---

<sup>93</sup> <http://ir.aquaamerica.com/>

- 1 4) Aqua Services, Inc. (ASI): Provides managerial, general and administrative,  
2 engineering, operation services, and customer services provided through Aqua  
3 Customer Operations;
- 4 5) Aqua Indiana – Western Hancock, Inc.: Provides nonregulated wastewater services;
- 5 6) Aqua Operations: Provides water and wastewater operating contracts with municipal  
6 authorities and other parities;
- 7 7) Utility & Municipal Services: Provides data processing, network and  
8 communication support to Aqua Pennsylvania, Inc. (a regulated water and  
9 wastewater utility). It was merged with Aqua Pennsylvania in 2008; and
- 10 8) Suburban Environmental Services: Provides contract operation and maintenance  
11 support for water and wastewater systems. It was merged with Aqua Resources in  
12 2009.<sup>94</sup>

13 **Q. ARE THERE TRANSACTIONS BETWEEN AQUA AND ITS NONREGULATED**  
14 **AFFILIATES?**

15 A. Yes. Aqua has contracted with ASI to provide for a variety of managerial, operations,  
16 and regulatory support. In addition, AAI allocates insurance costs and charges other  
17 costs to Aqua. In total for the test year, the systems in this rate proceeding were charged  
18 \$2.0 million for services provided by ASI and AAI.<sup>95</sup> AUF also allocates common costs  
19 to the systems operated in Florida. These allocated costs amounted to \$1.2 million.<sup>96</sup>  
20 This compares to the Company's total direct costs of \$8.5 million. Thus, of the total  
21 Operations and Maintenance and Administrative and General expenses included in the

---

<sup>94</sup> Company Response to OPC Document Request 47, Interrogatory 51, and Interrogatory 52.

<sup>95</sup> Company Response to OPC Document Request 3, Attachment 6.

<sup>96</sup> Company Response to OPC Document Request 3, Attachment 6.

1 test year of \$9.7 million,<sup>97</sup> 20.6 percent of the costs are charged from ASI or AAI, and  
2 12.4 percent are charged from AUF. Therefore, 67 percent of costs included in the test  
3 year are directly incurred by the individual water and wastewater systems.

4 **Q. IS THERE A SERVICE COMPANY AGREEMENT THAT GOVERNS THE**  
5 **CHARGES FROM ASI TO AQUA?**

6 A. Yes. The Service Company Agreement identifies the following services that Aqua  
7 Services furnishes to Aqua: corporate management; accounting; administration;  
8 communication; corporate secretarial; customer services; engineering; financial; human  
9 resources; information systems; operations; rates and regulatory; risk management; water  
10 quality; legal; purchasing; and fleet services.

11 **Q. HOW ARE THESE COSTS CHARGED TO AQUA?**

12 A. The cost of Aqua Service employees' time billed to Aqua and other affiliates is computed  
13 from the employees' total labor rate. This includes base pay, other compensation, payroll  
14 taxes, benefits, and an overhead factor. In addition, any direct expenses incurred in  
15 connection with services to Aqua are charged directly to that affiliate. If an employee of  
16 Aqua Services performs work that only benefits Aqua, his/her time, computed at the  
17 labor rate as described above, is charged to Aqua. If a project will benefit several  
18 subsidiaries, his/her time is allocated among those subsidiaries based on the subsidiaries'  
19 respective number of customers. Charges for employee time related directly to work for  
20 one or more affiliates are referred to as "service charges." In addition, the departmental  
21 costs associated with the daily operations of Aqua Services are also charged among the

---

<sup>97</sup> Company MFR Schedules B-1 and B-2, Consolidated.

1 Aqua America affiliates as either direct charges to a specific affiliate or allocations  
2 among a group of affiliates.<sup>98</sup>

3 **Q. IS THERE A COST ALLOCATION MANUAL DESCRIBING THE**  
4 **ALLOCATION METHODOLOGY?**

5 A. Yes. The Corporate Charges Allocations Manual contains much language identical to  
6 that found in the Service Agreement between Aqua Services and Aqua regarding the  
7 types of support provided. It also explains the distinction between the categorization of  
8 expenses as either service expenses or sundry expenses. Service expenses are defined as  
9 "labor and overhead of employees" expended on work for a specific subsidiary or group  
10 of subsidiaries. These employees of Aqua Services are categorized by the following  
11 types of services: accounting & financial, administration, customer service,  
12 communications, corporate secretarial, engineering, human resources, information  
13 services, legal, purchasing, rates and regulatory, and water quality. In addition, there are  
14 reports providing backup support for the charges allocated to each state. According to the  
15 Corporate Charges Allocations Manual, these reports contain "total costs by employee,  
16 by type of service, and for the amount of hours charged."

17 **Q. WHAT ARE SUNDRY EXPENSES?**

18 A. The expenses from ASI are classified into two main categories: service and sundry  
19 expenses. Service expenses are the labor and overhead of the employees of AAI and ASI.  
20 The remaining expenses are defined as sundry expenses, and they are direct or indirect  
21 charges and identified by activity codes. Each sundry expense is used to determine how

---

<sup>98</sup> *Corporate Charges Allocations Manual* provided in Response to OPC Document Request 33.

1 costs should be allocated to the state. In this methodology, activities determine whether  
2 costs are to be directly charged to a state or allocated to a group of states.<sup>99</sup>

3 **Nonregulated Affiliates**

4 **Q. DO YOU HAVE CONCERNS ABOUT THE ALLOCATION OF COSTS**  
5 **BETWEEN THE COMPANY AND ITS AFFILIATED SISTER COMPANIES?**

6 A. Yes, I have several. First, Aqua Services performs services for nonregulated affiliates, yet  
7 it does not consistently allocate costs to them. Second, certain operating companies –  
8 Aqua Indiana, Aqua Maine, Aqua New Jersey, Aqua North Carolina, Aqua Ohio, Aqua  
9 Texas, and Suburban Environmental Services, Inc. – provide contract operator services,  
10 but no common costs are allocated for those services.<sup>100</sup> Third, there is no allocation of  
11 costs made to the nonregulated affiliates, even when they have common officers and  
12 directors.

13 **Q. WOULD YOU PLEASE DISCUSS THE FAILURE TO ALLOCATE COSTS**  
14 **FROM AQUA SERVICES TO NONREGULATED AFFILIATES?**

15 A. Yes. As discussed above, the following companies provide nonregulated contract  
16 management services: Aqua Georgia; Aqua Indiana – Western Hancock, Inc; Aqua  
17 Operations, Inc.; Aqua Wastewater Management, Inc.; Suburban Environmental Services  
18 Company; and Utility and Municipal Services, Inc.<sup>101</sup> As mentioned earlier, Aqua  
19 Services provides many services to Aqua's affiliates; however, four affiliates do not  
20 receive allocations from Aqua Services. These include Aqua Georgia, Aqua Operations,  
21 Suburban Environmental Services Company, and Utility & Municipal Services, Inc.<sup>102</sup>

---

<sup>99</sup> *Corporate Charges Allocations Manual* provided in Response to OPC Document Request 33.

<sup>100</sup> Company Supplemental Response to PSC 15-12.

<sup>101</sup> Company Response to OPC Interrogatory 51.

<sup>102</sup> Company Response to OPC Interrogatory 168.



1 Q. DID AQUA SERVICES BEGIN TO ALLOCATE COSTS TO THE  
2 NONREGULATED AFFILIATE AQUA WASTEWATER MANAGEMENT?

3 A. Yes. In the Company's last rate case, it stated that Aqua Services would begin allocating  
4 common costs to Aqua Wastewater Management in 2008.<sup>103</sup> The Company also  
5 explained how Aqua Services planned to allocate common costs to Aqua Wastewater  
6 Management, Inc. As shown below, ASI began allocations to Aqua Wastewater  
7 Management.

8 Per section 2.2 of the Affiliate agreement, services that are made available  
9 by Service Company in common to other Aqua America Subsidiaries,  
10 including Aqua, which services cannot be identified and related  
11 exclusively to a particular Subsidiary, the cost for such services will be  
12 allocated between the Utility Companies and the Non-Regulated  
13 Companies based on the relative proportion at the most recent fiscal year  
14 end of each Subsidiary's total assets to the total assets of all the  
15 Subsidiaries combined. The portion of such costs for such common  
16 services allocated to the Utility Companies or a group of Utility  
17 Companies will be further allocated to each Utility Company or group of  
18 Utility Companies, including Aqua, based on the ratio of the number of  
19 customers served by each Utility Company or the group of Utility  
20 Companies at the most recent fiscal year end to the number of customers  
21 served by all Utility Companies. For purposes of this calculation,  
22 customers of the Utility Companies who receive both water and  
23 wastewater services from a Utility Company will be counted as 1.5  
24 customers.<sup>104</sup>

25 The Company states that Aqua Services allocated to Aqua Resources, the parent  
26 company of Aqua Wastewater Management, costs of \$185,638 in 2008; \$208,234 in  
27 2009; and \$208,444 during the test year.<sup>105</sup>

28 Q. WOULD YOU PLEASE STATE YOUR NEXT CONCERN?

<sup>103</sup> In response to OPC's Interrogatory 17 in Docket No. 080121-WS, the Company stated: "Aqua Wastewater Management is the business providing on-site septic tank pumping and sludge hauling services. No common costs were allocated to Aqua Wastewater Management in either 2006 or 2007. Common costs will be allocated to Aqua Wastewater Management in 2008."

<sup>104</sup> Company Response to OPC Interrogatory 206, Docket No. 080121-WS.

<sup>105</sup> Company Response to OPC Interrogatory 167.

1 A. Yes. My next concern relates to nonregulated contract operator services and management  
2 services by several Aqua America subsidiaries as depicted on Schedule 7. Although  
3 these affiliates provide services to the nonregulated companies, neither Aqua America  
4 nor Aqua Services allocates costs to these clients. The Company explained:

5 To the extent any costs are incurred, such costs are either incurred in the  
6 individual states or allocated from affiliates using the existing affiliates  
7 agreement and underlying allocation methodology consistent with the last  
8 rate case. The agreement and underlying allocation methodology are on  
9 file with the Commission and the allocation methodology was previously  
10 accepted by the Commission in AUF's last rate case. Also, as shown in the  
11 attachment that lists the municipal contracts, in the vast majority of cases  
12 no corporate services are provided; therefore, there are no charges from  
13 Aqua America, Aqua Services, or Aqua Customer Operations.<sup>106</sup>

14 Unfortunately, this explanation fails to adequately explain how the allocation  
15 methodology takes into consideration the fact that the operations of these operating  
16 companies are larger and more complex because they operate and manage these  
17 nonregulated systems. Clearly, the effort required to operate, maintain, and manage a  
18 water facility requires more personnel and support from management. Therefore,  
19 additional oversight and management costs should be allocated to these systems to  
20 recognize the added complexities and size differentials. Failure to take this into  
21 consideration, under-allocates costs to the systems that generate additional nonregulated  
22 revenue for the parent company and over-allocates costs to the regulated companies that  
23 do not have analogous nonregulated operations. Schedules 8 and 9 of my exhibit show  
24 that these contract systems receive a range of services from the AUF affiliates including  
25 managerial, accounting, billing, operations, customer service, A&G, sales, and cash  
26 collection services. Customer counts are not available for many of the systems listed.

---

<sup>106</sup> Response to Staff Request 15-12.

1 Having failed to allocate any costs to these contract systems, costs have been over-  
2 allocated to AUF.

3 **Q. WOULD YOU ADDRESS THE NONREGULATED MANAGEMENT SERVICES**  
4 **PROVIDED BY AFFILIATES OF AUF?**

5 A. Yes. Several AAI systems provide management services to utilities that are not part of  
6 the Aqua family. Management services range from billing and collecting, meter reading,  
7 engineering, operations and maintenance, accounting, A&G, and lab testing.<sup>107</sup>

8 **Q. IS AQUA AMERICA CONTINUING ITS EFFORTS TO ACQUIRE**  
9 **NONREGULATED SYSTEMS?**

10 A. Yes. Aqua America states it continues to pursue opportunities for the acquisition of  
11 nonregulated utilities in order to expand the services they may provide to their current  
12 customer base. In its 2010 Annual Report, Aqua America stated:

13 We continue to explore opportunities for the acquisition of non-regulated  
14 wastewater service and septage businesses that are located near our existing  
15 markets, growing our existing revenue base in this business by offering the  
16 wastewater services to nearby residents with on-site sewer systems, adding  
17 new customers to this business and expanding the services that are provided  
18 to them.

19 While Aqua America has maintained its current level of nonregulated activities, it is  
20 committed to expanding its nonregulated activities through future endeavors in order to  
21 increase its revenue base by providing new services to its existing customers.

22 **Q. DO THE NONREGULATED COMPANIES OF AQUA AMERICA HAVE**  
23 **COMMON OFFICERS AND DIRECTORS WITH THE REGULATED**  
24 **COMPANIES?**

---

<sup>107</sup> Company Response to OPC Interrogatory 57.

1 A. Yes. Schedule 10 of my exhibit shows the common officers and directors of the various  
2 Aqua America affiliates. As shown, Mr. DeBenedictis, Chairman, President, and CEO of  
3 Aqua America and Chairman and President of Aqua Services, is also the Chairman or  
4 President of the following nonregulated companies: Aqua America, Utility & Municipal  
5 Services, Suburban Environmental Services, and Aqua Resources. Mr. Stahl, Chief  
6 Administrative Officer, General Counsel, Secretary of Aqua America, Senior Vice  
7 President of Law & Administration, and Assistant Secretary is also Senior Vice President  
8 and Assistant Secretary of Aqua Resources. As shown on this schedule, there are several  
9 officers or directors of Aqua Services and/or Aqua America who are also an officer or  
10 director of Aqua Resources, Suburban Environmental Services, and Utility & Municipal  
11 Services.<sup>108</sup> However, the Company has failed to demonstrate that their salaries or  
12 benefits are allocated to the nonregulated companies.

13 **Q. WHAT ARE YOUR CONCLUSIONS CONCERNING THE NONREGULATED**  
14 **OPERATIONS?**

15 **Q.** The failure to allocate common costs to Aqua America's nonregulated operations causes  
16 Aqua's regulated operations to subsidize the nonregulated operations. Therefore, the  
17 costs charged and allocated to the Company from ASI and ACO are overstated, while the  
18 profits from the nonregulated operations are recorded below-the-line and benefit  
19 stockholders at the expense of ratepayers.

20 **AUF's Comparative Analysis**

21 **Q. EARLIER YOU MENTIONED THE COMMISSION'S GUIDELINES THAT**  
22 **CONTROL THE PRICING ARRANGEMENTS BETWEEN UTILITIES AND**

---

<sup>108</sup> The data contained on this schedule was produced from the Company's discovery in Docket No. 080121-WS, response to OPC Interrogatory 78, because it was not provided by the Company in the current case.

1           **THEIR AFFILIATES. DID THE COMPANY COMPARE THE ALLOCATED**  
2           **CHARGES TO MARKET RATES?**

3    A.    Yes. Mr. Szczygiel presented information for the calendar year December 2010 that  
4           purports to examine whether allocations from Aqua America and Aqua Services were  
5           below the market rate for the industry.<sup>109</sup> This information examines the cost of services  
6           provided by Aqua affiliates as if AUF operated as a standalone company.<sup>110</sup> The  
7           Company calculated an average hourly rate for engineering, accounting, management,  
8           and customer service charges billed to the Company and compared those rates to various  
9           published average billing rates.

10   **Q.    WHAT ARE YOUR GENERAL CONCERNS WITH THE ANALYSIS**  
11   **PRESENTED BY THE COMPANY?**

12   A.    As I discuss in detail below, there are numerous shortcomings with the Company's  
13           analysis. First, it does not consider that if an outside company provided the services  
14           equivalent to that provided by ASI, a discount would more than likely be offered. The  
15           service company costs charged to AUF account for over 20.8 percent of administrative  
16           and general expenses. It is not unusual for a large customer to receive a discount for  
17           services provided by third parties. Second, the Company's comparison appears to assume  
18           that every hour spent by ASI personnel could be billed at a rate comparable to a skilled  
19           lawyer, consultant, certified public accountants, or professional engineer regardless of the  
20           level of expertise of the ASI employee. This is an unrealistic assumption. Third,  
21           companies typically use outside counsel or consultants for specialized areas of law or  
22           professional services, not the day-to-day operations of a business. To suggest that a

---

<sup>109</sup> Direct Testimony of Stan F. Szczygiel, p. 10.

<sup>110</sup> Direct Testimony of Stan F. Szczygiel, Exhibit SS-2, p. 1.

1 company would outsource at this level is questionable, especially where it cannot be  
2 demonstrated that it would be less costly than providing the service in-house. Fourth,  
3 Aqua's comparison fails to consider that outsourcing at such magnitude would more than  
4 likely be frowned upon by regulators due to the high costs that would be passed to  
5 ratepayers.

6 **Q. WHAT ANALYSIS DID THE COMPANY PERFORM REGARDING THE**  
7 **ENGINEERING CHARGES FROM THE SERVICE COMPANY?**

8 A. Aqua took the total amount of service charges related to engineering and divided it by the  
9 number of hours charged to compute an average rate of \$82/hour.<sup>111</sup> Then AUF collected  
10 rates from two engineering firms it used in the past and calculated a weighted average  
11 rate of \$122 per hour.<sup>112</sup>

12 **Q. ARE THERE ANY PROBLEMS WITH AUF'S COMPARISON OF**  
13 **ENGINEERING COSTS?**

14 A. Yes. First, only using two engineering firms makes the comparison questionable because  
15 there are too few companies in the comparison. Second, there is no comparison of the  
16 education or experience of these companies to the engineering services allocated to Aqua  
17 from the Service Company. Unless the level of expertise and education is similar, the  
18 comparison made by the Company is invalid and not comparable. Third, while the  
19 Company indicated that the \$82/hour of the allocated engineering costs included  
20 "overhead," the Company failed to provide this overhead or explain how it was  
21 determined. There can be no assurance that the "overhead" included in the \$82/hour  
22 figure includes all overhead or that its inclusion makes it comparable to the outside

<sup>111</sup> Direct Testimony of Stan F. Szczygiel, Exhibit SS-2, p. 9.

<sup>112</sup> Direct Testimony of Stan F. Szczygiel, Exhibit SS-2, p. 6.

1 engineering firm's \$122 estimate. Furthermore, as explained earlier, it would be  
2 considered inefficient for the Company to utilize the services of an outside firm for  
3 standard day to day engineering needs.

4 **Q. WHAT INFORMATION DOES THE COMPANY OFFER FOR ITS CLAIM**  
5 **THAT THE LEGAL COSTS CHARGED BY THE SERVICE COMPANY ARE**  
6 **REASONABLE?**

7 A. The Company states that its average hourly rate for legal services is approximately  
8 \$140/hour, which is almost 43 percent lower than the average 2009 billing rate for  
9 Florida law firms of \$247/hour as published in the *2010 Economic & Law Office*  
10 *Management Survey* by the Florida Bar Association.<sup>113</sup>

11 **Q. WHAT ARE YOUR CONCERNS WITH THE COMPARISON OF THE SERVICE**  
12 **COMPANY'S LEGAL CHARGES TO AUF?**

13 A. The *2010 Economic & Law Office Management Survey* does not state that the average  
14 2009 billing rate for Florida law firms was \$247/hour. I attempted to reconstruct how the  
15 Company might have developed this rate. This analysis is presented on Schedule 12. As  
16 shown on this schedule, my estimate, which is based upon the hourly rates and  
17 percentage of attorney's that use those hourly rates, shows a high hourly rate of \$245 and  
18 a low hourly rate of \$220—both of which are less than the Company's \$247 figure.

19 **Q. DID YOU PERFORM ANY OTHER ANALYSES OF THE DATA CONTAINED**  
20 **IN THE 2010 ECONOMIC & LAW OFFICE MANAGEMENT SURVEY?**

21 A. Yes. I also examined the billable hours shown in the survey. The Company's \$140 an  
22 hour for Aqua Services may assume that 100 percent of the person's hours are billable.  
23 However, over 80 percent of the lawyers surveyed billed less than the 2,080 hours

<sup>113</sup> Direct Testimony of Stan F. Szczygiel, Exhibit SS-2, p. 2.

1 available in a year, assuming a 40-hour work week for 52 weeks. It is unclear how many  
2 hours are included in the \$140 estimate assumed by the Company. In other words, in  
3 order to have an apples to apples comparison between the hourly rate of the surveyed  
4 lawyers and the hourly rate of Aqua's lawyers, it is important that the billable hours be  
5 presented on a consistent basis. If the Aqua lawyers were only able to bill at the low end  
6 of the billable hours as reported in the survey, the equivalent hourly rate could be as high  
7 as \$364. At this level there are no savings from using the in-house ASI lawyer. Instead,  
8 the rate is 57 percent higher than the average Florida Bar rate of \$232. This is  
9 substantially different than the Company's conclusion that the rate is 43 percent less than  
10 the average Florida Bar rate. The comparison group does not typically bill 100 percent of  
11 their available hours. Therefore, the ASI hourly rate is implicitly understated and not  
12 comparable to the professional legal hourly rates.

13 **Q. WHAT KINDS OF ACCOUNTING SERVICES DOES THE SERVICE**  
14 **COMPANY PROVIDE AUF?**

15 A. The Service Company provides the following: accounts payable, property accountants,  
16 tax accountants, general ledger accountants, payroll, purchasing, and accounts  
17 receivable.<sup>114</sup>

18 **Q. WOULD YOU DISCUSS THE ANALYSIS CONDUCTED BY THE COMPANY**  
19 **OF THE CHARGES RELATED TO ACCOUNTING SERVICES PROVIDED BY**  
20 **ASI?**

21 A. Yes. The Company calculated the average hourly rate of all the accounting services  
22 provided by the Service Company as \$57/hour.<sup>115</sup> The Company used the 2008

<sup>114</sup> Direct Testimony of Stan F. Szczygiel, Exhibit SS-2, p. 2.

<sup>115</sup> Direct Testimony of Stan F. Szczygiel, Exhibit SS-2, p. 2.



1 PCPS/TSCPA National MAP Survey conducted by the AICPA as a starting point for its  
2 accounting services rate and then adjusted for inflation to bring it to 2010 dollars. Aqua  
3 used the computed hourly rates of four levels of accounting professionals: Directors at  
4 \$161; Managers at \$137; Senior Associates at \$110; and Associates at \$88.<sup>116</sup>

5 **Q. WHAT ARE THE SHORTCOMINGS ASSOCIATED WITH THE COMPANY'S**  
6 **ANALYSIS OF ACCOUNTING CHARGES FROM THE SERVICE COMPANY?**

7 A. There are several. First, given the various accounting functions Aqua Services provides,  
8 combining them all together as one rate hides the differences in experience,  
9 qualifications, and skills needed to perform each function. An accounts payable clerk, for  
10 instance, will not be able to command the same billing rate as a CPA.

11  
12 Second, comparing the average Aqua Services rate to national rates for Directors,  
13 Managers, Senior Associates, and Associates does not provide a meaningful comparison.  
14 These are the kinds of positions held at accounting firms which are at a much higher level  
15 than persons that perform accounts payable, payroll, and accounts receivable accounting  
16 functions at ASI. Clearly, the Commission would not approve hourly rates ranging from  
17 \$88 to \$161 for persons performing accounts payable, payroll, and accounts receivable  
18 accounting functions. Simply put, the Company is comparing apples to oranges.

19  
20 Third, the analysis appears to assume that 100 percent of the ASI hours would be billable.  
21 However, the comparison group does not typically bill 100 percent of their available  
22 hours. Therefore, the ASI hourly rate is implicitly understated and not comparable to the  
23 professional accounting hourly rates.

<sup>116</sup> Direct Testimony of Stan F. Szczygiel, Exhibit SS-2, p. 2.

1 Q. THE NEXT COMPARISON IS MANAGEMENT SERVICES. WHAT  
2 MANAGEMENT SERVICES ARE INCLUDED IN THE SERVICE COMPANY  
3 CHARGES TO AUF?

4 A. Aqua Services charges Aqua for the following management functions: human resources;  
5 information systems; investor relations; financial planning; internal auditing; regulatory  
6 affairs; and corporate governance.

7 Q. WHAT EVALUATION DID THE COMPANY MAKE OF THE COST OF  
8 MANAGEMENT SERVICES PROVIDED BY THE SERVICE COMPANY?

9 A. The Company examined the Association of Management Consulting Firms' survey,  
10 *Operating Ratios for Management Consulting Firms, 2007 Edition*, which shows the  
11 ranges of billing rates of management consultants in the U.S. The Company adjusted the  
12 average billing rates for various levels of consultants for inflation and compared them to  
13 the average hourly cost of all management services allocated from Aqua Services.  
14 Aqua's comparison shows the rates obtained from the survey range from \$115/hour for  
15 an entry level consultant at a small firm to \$468/hour for the highest level consultant at  
16 the largest firm.<sup>117</sup>

17 Q. ARE THERE PROBLEMS WITH THE COMPANY'S ANALYSIS OF THE COST  
18 OF MANAGEMENT SERVICES FROM THE SERVICE COMPANY AS WELL?

19 A. Yes. The Company's analysis of the cost of management services allocated from Aqua  
20 Services suffers from the same deficiencies as its comparison of accounting functions.  
21 The comparison does not take into consideration the differences in employee education,  
22 experience, and requirements, nor does it take into account the fact that management  
23 functions differ across industries.

---

<sup>117</sup> Direct Testimony of Stan F. Szczygiel, Exhibit SS-2, p. 3.

1 Likewise, it fails to take into consideration the difference between the billable hours at a  
2 management consulting firm and the apparent assumption that 100 percent of the hours  
3 ASI would be billable if the services were being performed by a management consulting  
4 firm.

5  
6 The Company used the average of four levels of management consultants based upon  
7 their annual consulting fees of: less than \$2.0 million a year, between \$2.0 million and  
8 \$4.99 million, between \$5.0 million and \$19.99 million, and over \$20.0 million.<sup>118</sup> Using  
9 the average rate for each level produced hourly rates of \$140 for the entry level position,  
10 \$180 for the midlevel position, \$225 for the advanced position, \$300 for the upper level  
11 position, and \$356 for the highest position. Comparing the Service Company hourly  
12 rates to these hourly rates is comparing apples to oranges. I seriously doubt that the  
13 Commission would permit the Company to bill its customers for up to 100,000 hours at  
14 these hourly rates. Consequently, no conclusions can be drawn from the Company's  
15 analysis because it is not a valid market comparison.

16 **Q. DID AUF COMPARE THE CUSTOMER SERVICE CHARGES FROM THE**  
17 **SERVICE COMPANY?**

18 A. Yes. The Company used the *Benchmarking Performance Indicators for Water and*  
19 *Wastewater Utilities: 2007 Annual Survey Data and Analyses Report*, prepared by the  
20 American Water Works Association (AWWA). This showed the average customer  
21 service cost per account is approximately \$44 when adjusted for inflation. According to  
22 Mr. Szczygiel, Aqua America's total customer service charge per account is \$18.12.

---

<sup>118</sup> Direct Testimony of Stan F. Szczygiel, Exhibit SS-2, p. 6.

1 Q. ARE THERE PROBLEMS WITH THE COMPARISON PREPARED BY AUF OF  
2 THE CUSTOMER SERVICE CHARGES FROM THE SERVICE COMPANY?

3 A. Yes. First, the costs included in the AWWA comparison appear to be much different  
4 than the ones included by the Company. For example, the AWWA comparison includes  
5 the activation of new accounts (including meter and service installation costs), meter  
6 reading, meter repair, and meter replacements, and the provision of turn on and turn off  
7 services.<sup>119</sup> These costs are clearly not included in the costs charged by ACO, as it  
8 would be quite difficult for the persons housed in Bryn Mawr to read, replace, and read  
9 meters in Florida.

10  
11 Second, the Company did not know if the AWWA rates used by the Company included  
12 the same functions performed by the Service Company.<sup>120</sup> Likewise, when asked to list  
13 the customer service functions used by AUF from the Service Company, the Company  
14 responded “[n]one”.<sup>121</sup>

15 Q. DID THE COMPANY INCLUDE ALL COSTS IN THE CATEGORIES THAT IT  
16 EXAMINED?

17 A. No. The Company excluded several categories of expenses from its analysis.  
18 Specifically, it excluded contract services, travel expenses, and computer  
19 hardware/software. According to the Company, contract services were excluded because  
20 they are already considered outside professionals; travel expenses were excluded because  
21 they would be billed separately and in addition to an outside contractor’s hourly rate; and

---

<sup>119</sup> American Water Works Association. Benchmarking Performance Indicators for Water and Wastewater Utilities: 2007 Annual Survey Data and Analyses Report, p. 27.

<sup>120</sup> Company Response to OPC Interrogatory 263.

<sup>121</sup> Company Response to OPC Interrogatory 263.

1 computer and hardware expenses were excluded because they would be billed separately  
2 and in addition to an outside contractor's hourly wage.<sup>122</sup>

3 **Q. IS THERE A PROBLEM WITH EXCLUDING TRAVEL EXPENSES?**

4 A. Yes. AUF is owned by an out of state company. Therefore, there are undoubtedly travel  
5 expenses incurred as a result of this extended relationship. In fact, it is likely that the  
6 majority of the travel expenses are related to travel to the different utilities which AAI  
7 owns throughout the United States. Since Aqua is allocated a portion of these costs, it is  
8 only appropriate that they be included in the comparison. Customers should not be  
9 required to pay for excessive travel costs due to the fact that Aqua is headquartered in  
10 Bryn Mawr, Pennsylvania. The Commission has found that customers should not bear  
11 the added costs associated with Companies that are located outside the state of Florida.  
12 For instance, in KW Resort Utilities' most recent rate case, the Commission found that

13 Although it is the owner's choice of where he wishes to reside, the  
14 customers shall not be required to pay the cost of travel because the owner  
15 chooses to live a considerable distance from KWRU. We believe this issue  
16 is related to a utility's choice to maintain its books and records outside the  
17 state of Florida. Rule 25-30.110(1)(c), F.A.C., requires a utility to  
18 reimburse the Commission for the reasonable travel expense incurred by  
19 each Commission representative during any review of the out-of-state  
20 records of the utility or its affiliates if it chooses to keep its records outside  
21 the state. Based on this rule, a utility is permitted to keep its records  
22 outside the state, but must reimburse the Commission for any travel that  
23 must be incurred to view the records. Similarly, we have denied Federal  
24 Express costs incurred by a utility to ship its records to Florida.<sup>123</sup>

25 Therefore, since the Company did not distinguish the types of travel that it omitted in its  
26 comparison, it should not be excluded from the analysis. Furthermore, in response to  
27 OPC interrogatory 264, the Company stated that the "Service Allocations" did not  
28 include travel. Therefore, it is not clear why these costs were removed.

<sup>122</sup> Szczygiel, Exhibit SS-2, p. 9.

<sup>123</sup> Order No. PSC-09-0057-FOF-SU, Docket No. 070293-SU, p.35.

1 Q. WHAT ABOUT COMPUTER HARDWARE AND SOFTWARE COSTS?  
2 SHOULD THESE BE EXCLUDED?

3 A. While I agree that extensive computer hardware usage and software development costs  
4 would be charged separately by an outside contractor, it does not appear that the types of  
5 costs being excluded by the Company are analogous. The hardware and software costs  
6 are related to the day to day operations of the AAI, ASI, and ACO in providing service to  
7 its affiliates. They are not specific software development costs incurred for a specific  
8 application or hardware costs caused for specific project usage. Unless there are unusual  
9 applications and needs for a client, outside professionals do not charge for software and  
10 hardware costs. The Company has not demonstrated that the costs excluded are  
11 extraordinary in nature and would be separately charged by an accounting, legal, or  
12 management firm. Therefore, the Commission should reject this exclusion.

13 Q. DID YOU PREPARE AN ANALYSIS WHICH REMOVED THESE  
14 EXCLUSIONS?

15 A. Yes. This analysis is presented on Schedule 13. This Schedule demonstrates that  
16 including these amounts has a fairly significant impact on the hourly rate for management  
17 professionals. As shown, the hourly rate increases from \$127.53 to \$138.05.

18 Q. DO ALL OF THE HOURLY RATES STILL REMAIN BELOW THE  
19 COMPANY'S ESTIMATED MARKET RATES?

20 A. No. The hourly rate for their management professionals is above the Company's  
21 estimated market rate.

22 Q. MR. SZCZYGIEL CLAIMS THAT THE HOURLY COMPARISONS  
23 PRESENTED ON EXHIBIT SS-2 WERE "THOROUGHLY REVIEWED" BY

1 THE COMMISSION STAFF IN CONCLUDING ITS RECOMMENDATION  
2 THAT AUF HAD MET ITS BURDEN OF PROOF CONCERNING THE  
3 REASONABLENESS OF AFFILIATE CHARGES.<sup>124</sup> DO YOU AGREE WITH  
4 THIS STATEMENT?

5 A. There is no discussion on page 87 of the Staff Recommendation which is cited as support  
6 for Mr. Szczygiel's statement. While there is a discussion in the Staff Recommendation  
7 on the information presented in SS-2, it merely restates the assertions made by the  
8 Company. There is no concurrence or analysis by the Staff.

9 Q. WHAT IS YOUR RECOMMENDATION REGARDING THE COMPARATIVE  
10 ANALYSES CONDUCTED BY AUF?

11 A. I recommend the Commission reject the Company's analyses. The standard to use in  
12 evaluating affiliate transactions established by the Florida Supreme Court is whether  
13 those transactions exceed the going market rate or are otherwise inherently unfair. The  
14 comparisons prepared by the Company do nothing to support their contention that the  
15 affiliate charges are charged at the lower of cost or market. Nor do they show that the  
16 transactions do not exceed the going market rates. The Company's comparisons merely  
17 provide a broad view of the various billing rates that legal, engineering, accounting and  
18 management professionals could earn. The Company did not establish what rates AUF  
19 would have to pay as a standalone company in order to obtain engineering, legal,  
20 accounting, management, and customer service services. Likewise, it failed to  
21 demonstrate that the level of services provided by ASI would be required if Aqua were a  
22 standalone water company. There are many water and wastewater companies that  
23 operate throughout the U.S. which are not owned by a holding company and which are

---

<sup>124</sup> Direct Testimony of Stan F. Szczygiel, Exhibit SS-2, p. 11.

1 not provided support services by an affiliate. These companies, as shown in my  
2 comparative analysis, provide water service at a cost significantly lower than the cost  
3 provided by AUF.

4 **Q. IF THE COMMISSION DECIDES THAT A MARKET-BASED COMPARISON IS**  
5 **APPROPRIATE, DID YOU PREPARE AN ALTERNATIVE ANALYSIS?**

6 A. Yes. My alternative analysis is presented on Schedule 13. My analysis accounts for the  
7 difference in the Service Company hourly rates if travel and computer hardware and  
8 software are not excluded from the Service Company hourly rates. In addition, I adjusted  
9 these hourly rates to account for the fact that an outside service provider cannot bill 100  
10 percent of their time. To account for this, I increased the Service Company hourly rate to  
11 account for this difference, as explained below. I estimated the amount of billable time  
12 based upon the average billable time presented in the Florida Bar Association's *2010*  
13 *Economics and Law Office Management Survey* (the source used by the Company for the  
14 market-based legal rates).

15  
16 As shown on Schedule 12, the average hours billed annually by outside lawyers was  
17 1,482 which represents 71 percent of the 2,080 hours for a person working 40 hours per  
18 week. To account for the difference in billable hours between outside professionals and  
19 the hours used by the Service Company, which are assumed to be 100 percent billable, I  
20 increased the hourly rate of the Service Company categories by 40 percent to \$196 per  
21 hour. This is the increase required to produce an hourly rate that is comparable to the  
22 average hours billed for outside counsel of 1,482 compared to the total of 2,080. This



1 calculation adjusts the billable rates for Service Company personnel to be comparable to  
2 outside professionals.

3 **Q. DID YOU MAKE ANY ADJUSTMENT TO THE MANAGEMENT**  
4 **CONSULTANT HOURLY RATE?**

5 A. Yes. I did. The hourly rates for management consultants ranged from a high of \$468 for  
6 the “highest level” per hour to a low of \$115 for “entry level.” The highest hourly rate is  
7 equivalent to annual compensation of \$973,440—which is far higher than most, if not all  
8 managers of the Service Company, and it exceeds the 2010 salary of Mr. DeBenedictis,  
9 the President of Aqua America, of \$554,499.<sup>125</sup> As explained earlier, the hourly rates for  
10 the management consultants cannot be considered a market comparison to the Service  
11 Company’s management personnel. Nevertheless, if the Commission finds this approach  
12 to be valuable, I recommend that they use the lowest hourly rates of the management  
13 firms shown. I also adjusted the percentage assigned to each management level category  
14 as reflected on Schedule 12. I have depicted those as follows: \$115 for entry level, \$135  
15 for midlevel, \$182 for advanced, \$312 for upper level, and \$307 for the highest level.  
16 Using these hourly rates and the revised weights produces a composite rate of \$161—  
17 which is \$46 less than the Service Company adjusted hourly rate.

18 **Q. WHAT ADJUSTMENT DO YOU RECOMMEND IF THE COMMISSION**  
19 **DETERMINES THIS APPROACH IS APPROPRIATE?**

20 A. Once the adjustments that I recommend are taken into consideration, the Service  
21 Company hourly rate for management services is \$194 compared to the market rate of  
22 \$161. As shown on Schedule 14, these more appropriate market-based hourly rates  
23 produce an adjustment to Service Company management services of \$3.7 million. If

<sup>125</sup> 2010 Aqua America, Inc. Definitive Proxy Statement, p. 32.

1 these adjustments are converted to the Aqua Florida level, the adjustments for the  
2 systems included in the test year amounts to \$79,968 for management charges.

3 **Affiliate Charges**

4 **Q. WHAT IS THE AMOUNT OF AFFILIATE CHARGES INCLUDED IN THE**  
5 **TEST YEAR?**

6 A. As shown on Schedule 7, the amount of affiliate charges included in the test year is \$3.2  
7 million. This is comprised of approximately \$270,000 allocated from AAI, \$1.5 million  
8 allocated from ASI, and \$230,000 allocated from ACO. In addition, approximately \$1.2  
9 million was directly charged to AUF from ASI, which was allocated across the AUF  
10 systems.

11 **Q. HAVE THE AFFILIATE CHARGES INCREASED SINCE THE COMPANY'S**  
12 **PREVIOUS RATE CASE?**

13 A. Yes. I am focusing primarily on Accounts 634 and 734, Contractual Services-  
14 Management Fees (Management Fees), and Accounts 636 and 736, Contractual Services-  
15 Other, as the Company was unable to explain the increases in the expenses included in  
16 these accounts. Schedules 15 contains the comparison analogous to the one required by  
17 the Commission as part of the MFR Schedules B-7 and B-8. Schedule 16 graphs the  
18 increase in cost from the prior test year to the current test year. It also contains the  
19 Company's attempt to explain the huge increases in affiliate charges from the last rate  
20 case to the current rate case, which exceeds the growth in customers and the CPI-U.

21 **Q. WHAT WAS THE INCREASE IN MANAGEMENT FEES?**

22 A. As depicted on Schedule 15, Contractual Services - Management Fees have increased  
23 281 percent since the Company's previous rate case. The Company claims the increase is

1 due to a "Shift in recording of Regional and Corporate Admin allocations from Misc  
2 Expenses to Management Fees and an increase in annual management fees."<sup>126</sup>  
3 Interestingly, while Management Fees increased by approximately \$1.3 million, the  
4 combined decrease in both the water and wastewater Miscellaneous Expenses, Accounts  
5 675 and 775, was about \$168,000—significantly less than the increase in the  
6 Management Fees.

7 **Q. DID CONTRACTUAL SERVICES – OTHER ALSO INCREASE**  
8 **SIGNIFICANTLY?**

9 A. Yes. Account Contractual Services – Other contains the ACO allocations, ACO Lockbox  
10 Fees, WorkFlow Processing Fees, and WorkFlow Billing Postage which are allocated to  
11 AUF. This account increased by 68 percent for the water operations, while the  
12 wastewater operations decreased by 20 percent since the last rate case. The Company's  
13 reason for the changes is the same for both accounts: "We had increases in IT Software  
14 and Hardware Maintenance costs, Outside Services Maintenance Costs (for planned and  
15 emergency facility maintenance), Outside services other, offset by decreases in Outside  
16 services operations (due to an operational change in method of meter reading from using  
17 an outside contractor to using an employee to conduct meter readings)."<sup>127</sup>

18 **Q. HAS THE COMPANY BEEN ABLE TO STATE THE PORTION OF THE**  
19 **INCREASES IN MANAGEMENT FEES THAT RELATE TO THE INCREASES**  
20 **IN COSTS VERSUS THE PORTION THAT RELATES TO THE CHANGE IN**  
21 **PROCEDURES FOR RECORDING THE EXPENSES?**

---

<sup>126</sup> Company MFR Schedules B-7 and B-8.

<sup>127</sup> Company's Response to OPC Interrogatory 131.

1 A. No. The Company has been evasive when asked to provide the reason for the change in  
2 the procedure for recording the expenses and the amount related to each reason. For  
3 example, when asked to provide the amounts related to the “shift in the allocation of  
4 costs,” from Miscellaneous Expenses (Accounts 675 and 775) to Management Fees the  
5 Company provided this response:

6 Shift in recording of Interstate Admin Management Fees from accounts  
7 675863 and 775863 in 2007 to accounts 634800 and 734800 for the Test  
8 Year. In the test year we have Regional Management Fees (Financial  
9 Analyst employee charges) included in accounts 634801 and 734801  
10 which did not exist in the prior test year. These 2 changes caused the  
11 difference of \$317,953 [for AUF Water Rate Band 1] in the Contractual  
12 Services Mgmt Fees account 634 and 734 in the Test Year.<sup>128</sup> (emphasis  
13 added)

14 The Company never quantified the impact of each change – which would appear to be a  
15 simple task, as the salary for the Financial Analyst employee should be readily available.

16 **Q. DID THE COMPANY QUANTIFY THE INCREASES IN ITS CONTRACTUAL  
17 SERVICES-OTHER ACCOUNT WHICH WOULD BE ALLOCATED FROM  
18 ASI?**

19 A. No. The Company has been equally evasive when asked to quantify the amounts  
20 associated with the increase in IT Software and Hardware Maintenance costs recorded in  
21 this account.<sup>129</sup>

22 **Q. DID OPC ATTEMPT TO OBTAIN ADDITIONAL INFORMATION ON THE  
23 CAUSES FOR THE INCREASE IN THESE COSTS AS PART OF THE PAA  
24 PROTEST?**

25 A. Yes. In follow-up discovery, OPC requested that the Company specifically quantify the  
26 amount attributable to the change in the increase in Intracompany Clearing Accounts

<sup>128</sup> Company Response to OPC Interrogatory 185.

<sup>129</sup> Company Response to OPC Interrogatory 186.

1 634.863 and 734.863 for Contractual Services – Management Fees. The Company  
2 initially objected.<sup>130</sup> OPC also requested the Company to provide all analyses which  
3 examined the increase in Contractual Services – Management Fees. The Company  
4 initially objected to the request on the basis that OPC “erroneously assumes” there is an  
5 increase in 634 and 734 Contractual Services – Management Fees.<sup>131</sup> The Company  
6 provided responses to these questions in the form of a spreadsheet which showed  
7 monthly amounts from 2008 to 2009. There was no analysis or information that  
8 demonstrated that the increase in management above the level of inflation and customer  
9 growth resulted from other justifiable causes.

10 **Q. IS IT APPROPRIATE TO PASS UNJUSTIFIABLE INCREASES IN**  
11 **MANAGEMENT FEES AND CUSTOMER OPERATIONS ALLOCATIONS TO**  
12 **RATEPAYERS?**

13 A. No. The Company would have the Commission believe its centralized operations  
14 provide benefits to Florida customers; however, AUF has not been able to quantify or  
15 substantiate these “so-called” benefits. Even in the last case, when asked to “[p]lease  
16 quantify the savings associated with the consolidation of the customer service and state  
17 how such savings are reflected in the Company’s filing, including the location in the  
18 MFRs and associated workpapers of the calculations by filename and tab,” the Company  
19 responded: “AUF is unable to quantify the savings with the consolidation of customer  
20 service. Any such savings is reflected in the Affiliated Transactions Volume 1, Appendix  
21 1.”<sup>132</sup>

---

<sup>130</sup> Company Response to OPC Interrogatory 210.

<sup>131</sup> Company Response to OPC Document Requests 163 and 164.

<sup>132</sup> Company’s Response to OPC Interrogatory 136, Docket No. 080121-WS.

1 Q. THE COMPANY HAS BEEN UNABLE TO JUSTIFY THE HUGE INCREASE  
2 FROM THE LAST RATE CASE TO THIS RATE CASE FOR CHARGES FROM  
3 THE SERVICE COMPANY. WHAT DO YOU RECOMMEND?

4 A. As explained above, OPC attempted to obtain additional information from the Company  
5 to analyze the cause for the increases to the affiliate charges. While the Company  
6 ultimately responded to OPC discovery, the information supplied did NOT shed any light  
7 on the reasons for the high increases in management fees in the test year. Therefore, I  
8 recommend that, if the Commission does not adopt my recommended peer analysis  
9 discussed next, that, at a minimum, it adjust test year expenses to hold these charges to  
10 the level incurred in the prior rate case plus growth in customers and inflation. This  
11 adjustment would be \$1.2 million before accounting for the shift from miscellaneous  
12 expenses for water and \$361,000 for wastewater, as shown on Schedule 17. As shown on  
13 this Schedule, after accounting for the shift in miscellaneous expenses to management  
14 fees or contractual services other, there remains a significant unexplained increase in  
15 costs. Specifically, using this approach shows that management fees should be reduced  
16 by \$882,388 for the water operations and by \$348,674 for the wastewater operations.

17 Comparative Analysis

18 Q. THE COMPANY HAS BEEN UNABLE TO EXPLAIN THE HUGE INCREASES  
19 IN CHARGES FROM ASI AND ACO. HAVE YOU ALSO PREPARED AN  
20 ANALYSIS WHICH EXAMINES AUF'S SERVICE COMPANY CHARGES  
21 RELATIVE TO OTHER WATER COMPANIES OF A SIMILAR SIZE THAT  
22 CAN BE USED TO EXAMINE THE REASONABLENESS OF THESE  
23 CHARGES?

1 A. Yes. I compared AUF's customer and administrative-related expenses with other water  
2 and wastewater utilities regulated by the Commission. By using only the customer and  
3 administrative portion of expenses, this allows for a direct comparison of the services and  
4 expenses charged to AUF by ASI.

5 **Q. WHAT ACCOUNTS ARE YOU EXAMINING IN YOUR COMPARATIVE**  
6 **ANALYSIS?**

7 A. I am comparing charges included in the following accounts: Salaries and Wages –  
8 Employees; Salaries and Wages – Officers and Directors; Contractual Services –  
9 Accounting; Contractual Services – Management Fees; Contractual Service-Other; and  
10 Miscellaneous Expenses. The services provided by ASI include accounting, financial,  
11 administration, customer service, communications, corporate secretarial, engineering,  
12 human resources, information services, legal, purchasing, rates and regulatory, and water  
13 quality. Some of the companies in the comparison group also have affiliate charges  
14 while others do not. It is necessary to include all of the accounts described above in the  
15 comparison because those companies that do not have service companies would record  
16 the costs for these service company functions, not under Contractual Services -  
17 Management Fees or Contractual Services – Other, but in these other accounts, like  
18 Salaries and Wages. Also, I am only examining the Administrative and General (A&G)  
19 and Customer portion of the O&M expenses, which is shown separately in the Annual  
20 Reports filed with the Commission for the Class A and B companies. Because this  
21 information is not readily available in the annual reports for the Class C utilities, I applied  
22 a weighting based upon the portion of A&G and Customer expenses to total expenses in  
23 these accounts for the Class B utilities. For example, customer accounts expenses are 34

1 percent of total expenses for Salaries and Wages for Class B water companies. The 34  
2 percent is then applied to the Salaries and Wages expenses for Class C companies to  
3 arrive at each company's customer account expense portion. This process was repeated  
4 for each account included in my comparison.

5 **Q. IN THE COMPANY'S LAST CASE AND IN THE PAA YOU PREPARED**  
6 **ANALYSES THAT EXAMINED AUF'S SERVICE COMPANY CHARGES**  
7 **RELATIVE TO OTHER WATER COMPANIES OF A SIMILAR SIZE. BOTH**  
8 **THE COMPANY AND COMMISSION EXPRESSED CRITICISMS OF YOUR**  
9 **ANALYSIS. HAVE YOU PREPARED RESPONSES TO THEM?**

10 A. Yes. I examined the criticisms expressed by the Company and the Commission, and have  
11 conducted further evaluations in order to address their concerns. My comparative analysis  
12 in this proceeding addresses each concern raised by the Company and the Commission.

13 **Q. LET'S BEGIN WITH THE COMPANY'S CRITICISMS. HOW DO YOU**  
14 **RESPOND TO AQUA'S CRITICISM THAT YOU IGNORE THE RESULTS OF**  
15 **THE STAFF'S AFFILIATE AUDIT CONDUCTED IN THE LAST CASE THAT**  
16 **FOUND NOTHING TO SUGGEST THE AFFILIATE CHARGES WERE**  
17 **UNREASONABLE OR IMPRUDENT?**<sup>133</sup>

18 A. One objective of the Staff's audit conducted in the prior rate case was "to determine that  
19 operation and maintenance expenses are stated, calculated and allocated properly."<sup>134</sup> To  
20 that end, the Staff obtained and reviewed total expenses allocated to the individual  
21 systems from AAI and within Aqua. The Staff's audit consisted of tracing expenses  
22 allocated to the individual systems to the general ledgers; reviewing and recalculating the

<sup>133</sup> Docket 100330. Aqua Utilities Florida, Inc.'s Second Supplemental Response To Citizens' Preliminary Areas Of Concern. Dated May 3, 2011, p. 1.

<sup>134</sup> Docket 080121-WS. Auditor's Report. Dated September 18, 2008, p. 6.



1 methodology of allocating expenses from AAI and AUF; and sampling allocated  
2 expenses for the proper amount, period, classification, whether non-utility related,  
3 nonrecurring, unreasonable and imprudent.<sup>135</sup>

4  
5 The Staff's audit for the most part is an auditing function that tracks charges to be sure  
6 they are posted correctly and included appropriately in the MFRs. While the Staff will  
7 find some expenses that are inappropriate, they are more typically in line with specific  
8 costs that have been disallowed by the Commission in the past, such as charitable  
9 contributions or political contributions. More importantly, the Audit did not examine the  
10 affiliate charge in light of the opinion expressed by the Florida Supreme Court, which  
11 states the standard must be whether the transactions exceed the going market rate or are  
12 otherwise inherently unfair.<sup>136</sup> Therefore, my analysis was conducted, not to ignore the  
13 Staff's audit in the previous case, but to examine the question of whether the charges  
14 allocated from Aqua's affiliates exceed the going market rate or are otherwise inherently  
15 unfair, which was not examined in the Staff's audit.

16 **Q. AQUA STATES THAT OPC MISQUOTED THE COMMISSION IN AN EFFORT**  
17 **TO JUSTIFY ITS COMPARISON GROUP OF CLASS C UTILITIES.<sup>137</sup> IS THE**  
18 **COMPANY CORRECT IN ITS ASSESSMENT?**

19 A. No. Aqua alleges I erroneously claimed the Commission stated that an analysis using  
20 Class C utilities was more appropriate. In the previous rate case, I compared Aqua to  
21 Class A utilities. In that case, the Commission found:

<sup>135</sup> Docket 080121-WS. Auditor's Report. Dated September 18, 2008, p. 6.

<sup>136</sup> GTE v. Deason, 642 So. 2d 545, 548 (Fla. 1994).

<sup>137</sup> Docket 100330. Aqua Utilities Florida, Inc.'s Second Supplemental Response To Citizens' Preliminary Areas Of Concern. Dated May 3, 2011, p. 1.

1 Although AUF is considered a Class A utility, we note that it is actually a  
 2 collection of many different widely dispersed systems, most of which  
 3 would be considered class C utilities if on a stand-alone basis. The  
 4 comparison group proposed by witness Dismukes does not take this into  
 5 account and inaccurately compares AUF to Class A single systems.<sup>138</sup>

6 In order to take into account the fact that Aqua's systems would be considered Class C  
 7 utilities on a standalone basis, as stated in the Commission's Order, the comparative  
 8 group used in the analysis conducted for the PAA consisted of Class C utilities.

9 **Q. AQUA STATES THAT IT IS ERRONEOUS TO COMPARE IT TO ONLY CLASS**  
 10 **C UTILITIES BECAUSE IT OWNS SEVEN WATER SYSTEMS AND SIX**  
 11 **WASTEWATER SYSTEMS THAT WOULD BE CONSIDERED CLASS B IF**  
 12 **THEY WERE REQUIRED TO REPORT ON A STANDALONE BASIS.<sup>139</sup> HAVE**  
 13 **YOU ADDRESSED THIS CONCERN?**

14 **A.** Yes. I have examined Aqua's systems included in the case and have determined that on a  
 15 standalone basis, 14 would be considered Class B and 47 Class C.

16 **Q. AUF CLAIMS THAT USING THE AMOUNTS FROM ITS ANNUAL REPORTS**  
 17 **LEADS TO OVERSTATING THE ALLOCATED COSTS OF ASI BECAUSE**  
 18 **THE ANNUAL REPORTS CONTAIN BOTH ALLOCATED AND NON-**  
 19 **ALLOCATED COSTS.<sup>140</sup> DID YOU USE THE AMOUNTS FROM AUF'S**  
 20 **ANNUAL REPORTS?**

21 **A.** No. I have not used the data from Aqua's Annual Reports. I have used the information  
 22 from its general ledger for the test year. For the comparison companies, I did use the data  
 23 from their Annual Reports filed with the Commission. However, to account for the

<sup>138</sup> Docket No. 080121, Order No. PSC-09-0385-FOF-WS, issued May 29, 2009, p. 78.

<sup>139</sup> Docket 100330. Aqua Utilities Florida, Inc.'s Second Supplemental Response To Citizens' Preliminary Areas Of Concern. Dated May 3, 2011, p. 2.

<sup>140</sup> Docket 100330. Aqua Utilities Florida, Inc.'s Second Supplemental Response To Citizens' Preliminary Areas Of Concern. Dated May 3, 2011, p. 2.

1 difference between the year ending 2009 Annual Report data and the test year April  
2 2010, I inflated the amounts for the comparative companies to bring them up to the year-  
3 ending April 2010 level.

4 **Q. BOTH THE COMPANY AND THE COMMISSION EXPRESSED SPECIFIC**  
5 **CONCERNS WITH YOUR COMPARISON GROUP. WOULD YOU PLEASE**  
6 **COMMENT ON THIS?**

7 A. Yes. Below I examine and explain each concern raised by the Commission and the  
8 Company. In this proceeding, my starting point was to gather the data of every Class B  
9 and C water and wastewater company regulated by the Commission. I have listed each of  
10 these companies on Schedule 18. I then eliminated companies to take into consideration  
11 differences between the companies and Aqua. The reasons for elimination are listed at  
12 the top of the page. If a company was removed from the group, an "X" is placed in the  
13 applicable column indicating the reason for elimination.

14 **Q. WOULD YOU PLEASE ADDRESS AUF'S CONCERN THAT THE DATA USED**  
15 **IS WIDELY DISPERSED, INDICATING THE UTILITIES USED HAVE**  
16 **DISSIMILAR OPERATING CHARACTERISTICS AND COSTS, AND THUS**  
17 **CANNOT BE USED FOR COMPARATIVE PURPOSES?**<sup>141</sup>

18 A. Yes. Although I do not believe operating characteristics have as much of an impact on  
19 customer and administrative expenses as the Company does, for argument's sake I took  
20 into consideration the location of the utilities included in the comparative group.  
21 Specifically, I eliminated companies that do not have operations in the same counties as  
22 AUF's systems included in this case. I have prepared Schedule 19 which is a map of the

---

<sup>141</sup> Docket 100330. Aqua Utilities Florida, Inc.'s Second Supplemental Response To Citizens' Preliminary Areas Of Concern. Dated May 3, 2011, p. 2.

1 State of Florida. The counties in which Aqua systems in this rate case operate in are  
2 shaded in yellow. The counties where the comparative companies operate are shaded in  
3 orange, and where there is overlap, those counties are striped.

4 **Q. WHAT IS THE COMPANY'S CONCERN WITH THE ANNUAL REPORT DATA**  
5 **YOU USED IN YOUR ANALYSIS?**

6 A. The Company stated that the comparison group contains a high number of Class C  
7 systems that report no Salaries & Wages or Employee Pensions & Benefits expenses.  
8 Thus, the average costs of the comparative group would be understated.<sup>142</sup>

9 **Q. WHY WERE COMPANIES THAT DID NOT REPORT ANY SALARIES &**  
10 **WAGES OR EMPLOYEE PENSIONS & BENEFITS EXPENSES INCLUDED IN**  
11 **YOUR PRIOR ANALYSES?**

12 A. I included companies that did not report any Salaries & Wages or Employee Pensions &  
13 Benefits if the company recorded Contractual Services expenses, thus applying the  
14 premise that the operations were performed by an outside party. However, to be  
15 conservative and eliminate all concerns, in the analysis I am presenting in this  
16 proceeding, I excluded companies that did not report any expenses under Salaries &  
17 Wages, and I have excluded Pensions and Benefits from the analysis.

18 **Q. DID THE COMMISSION EXPRESS CONCERNS WITH YOUR**  
19 **COMPARATIVE ANALYSIS IN ITS PAA ORDER?**

20 A. Yes, the Commission raised three areas of concern, most of which were similar to the  
21 Company's concerns. I have addressed each of these below.

22 **Q. WHAT IS THE COMMISSION'S FIRST CONCERN?**

---

<sup>142</sup> Docket 100330. Aqua Utilities Florida, Inc.'s Second Supplemental Response To Citizens' Preliminary Areas Of Concern. Dated May 3, 2011, p. 3.

1 A. The Commission's first concern is that there is a lack of demonstration that the Class C  
2 utilities included in the comparative analysis have any water or wastewater system costs,  
3 service territories, customer demographics, and/or any other operating characteristics  
4 similar to AUF.<sup>143</sup>

5 **Q. WHAT IS YOUR RESPONSE CONCERNING OPERATING**  
6 **CHARACTERISTICS?**

7 A. I do not believe operating characteristics would have a significant impact on customer  
8 and administrative expenses. Nevertheless, as shown on Schedule 18, I have removed the  
9 companies that have unique or more costly treatment processes.

10 **Q. WHAT ABOUT THE COMMISSION'S CONCERN ABOUT SERVICE**  
11 **TERRITORIES AND CUSTOMER DEMOGRAPHICS? DID YOU ACCOUNT**  
12 **FOR THIS?**

13 A. Yes. I only used companies that were in the same counties in which AUF operates. By  
14 including only companies in the same counties, the comparison group would have similar  
15 demographics and service territories. Therefore, any material difference in administrative  
16 and general expenses caused by different demographics or service territories should be  
17 reduced or eliminated.

18 **Q. THE COMMISSION'S NEXT CONCERN IS THAT MAKING THE**  
19 **ADJUSTMENT YOU RECOMMENDED WOULD RESULT IN RATES THAT**  
20 **ARE CONFISCATORY.<sup>144</sup> WOULD YOU PLEASE ADDRESS THIS ISSUE?**

21 A. Yes. The Commission stated that the U.S. Supreme Court has held that rates set so low  
22 as to deny an adequate rate of return are confiscatory.<sup>145</sup> However, if the utility is

<sup>143</sup> Docket No. 100300. Order No. PSC-11-0256-PAA-WS. Issued June 13, 2011, p. 74.

<sup>144</sup> Docket No. 100300. Order No. PSC-11-0256-PAA-WS. Issued June 13, 2011, p. 75.

1 allowed to earn a return on its prudently incurred plant and to recover its prudently  
2 incurred costs, the Commission would not be setting rates that are confiscatory. And, if  
3 affiliate costs are not prudently incurred, disallowing recovery of such costs is not  
4 confiscatory.

5 **Q. WOULD YOU PLEASE ADDRESS THE COMMISSION'S NEXT CONCERN?**

6 A. Yes. The Commission's final concern is that the bulk of allocations from ASI include  
7 salaries for engineers, accountants, and many other professional positions, and my peer  
8 analysis did not compare the duties, activities, and responsibilities of any AUF-sister  
9 company employees with any specific employees of the Class C utilities in its analysis.<sup>146</sup>  
10 However, it is not necessary to compare the duties, activities, and responsibilities of  
11 employees to determine that, under the Florida Supreme Court's standard, the affiliate  
12 costs charged to AUF are otherwise inherently unfair. As described below, my market  
13 comparison of other similarly situated water and wastewater companies demonstrates that  
14 the charges from ASI and ACO are "otherwise inherently unfair".

15 **Q. ARE COMPARISONS USED BY THE COMMISSION IN OTHER AREAS?**

16 A. Yes. Comparative analyses are often performed for determination of the cost of equity.  
17 Commissions often use hypothetical capital structures in determining the overall cost of  
18 capital in instances where a utility's capital structure is unusual or too costly. These  
19 hypothetical capital structures are often derived from examining the capital structure of  
20 other utilities.

21 **Q. HAS THE COMPANY PRESENTED A COMPARATIVE ANALYSIS?**

---

<sup>145</sup> Docket No. 100300. Order No. PSC-11-0256-PAA-WS. Issued June 13, 2011, p. 75.

<sup>146</sup> Docket No. 100300. Order No. PSC-11-0256-PAA-WS. Issued June 13, 2011, p.74.

1 A. Yes. Aqua has presented its own comparative analysis, which does not compare the  
2 duties, activities, and responsibilities for Aqua compared to the comparative groups.  
3 While I do not endorse the comparison prepared by Aqua, it nevertheless demonstrates  
4 that the complexities associated with determining the reasonableness of affiliate  
5 transactions and the services provided in these situations require that the Commission  
6 look beyond its traditional approaches.

7 **Q. WOULD YOU EXPLAIN YOUR COMPARATIVE ANALYSIS?**

8 A. Yes. As explained above, Schedule 18 contains all the companies that were examined for  
9 inclusion in my analysis. The companies removed from the analysis and the reasons for  
10 their elimination are also shown. Ultimately, my comparison group consists of 15 Class  
11 B companies and 29 Class C companies. My analyses consists of only Class B and Class  
12 C companies, as the AUF systems included in this rate case would all be considered Class  
13 B or Class C companies on a standalone basis. When developing the Class B/Class C  
14 peer group, I weighted the Class B and Class C companies' data in proportion to the  
15 revenue of the systems in each rate band. For example, in water Rate Band 1, 3 systems  
16 are Class B with total revenue of \$2.2 million, and 3 systems are Class C with total  
17 revenue of \$322,000. Therefore, water Rate Band 1 revenue is made up of 87 percent  
18 Class B systems and 13 percent Class C systems. I applied these ratios to the Class B  
19 and Class C peer company expenses and customers to develop the cost per customer to  
20 compare to water Rate Band 1 affiliate charges.

21 **Q. HOW DID YOU EXAMINE THE INDIVIDUAL SYSTEMS INCLUDED IN THE**  
22 **RATE CASE?**

1 A. For the individual systems, I matched each system's Class ranking to the Class  
2 comparison. For example, Breeze Hill would be considered a Class C company on a  
3 standalone basis; therefore, its affiliate charges were compared only to Class C  
4 companies.

5 **Q. WHAT WERE THE RESULTS OF YOUR ANALYSIS FOR A&G COSTS ON A**  
6 **CUSTOMER BASIS?**

7 A. Schedule 21 compares the cost per customer of Aqua's water and wastewater A&G  
8 compared to the respective peer group for each rate band and each individual system. As  
9 shown, for Rate Band 1, for the water operations, the peer group's A&G cost per  
10 customer is \$55 compared to Aqua's of \$89. On a per customer basis, the Company's  
11 expenses are 62 percent higher than the peer group average. When you compare the  
12 Company's wastewater A&G expenses for Rate Band 1 on a per customer basis of \$88 to  
13 the peer group of \$34, it shows that AUF's expenses are 159 percent higher. The  
14 remaining rate bands are also shown on this schedule. Examining individual systems, the  
15 peer group cost applicable to Breeze Hill is \$43 for water and \$34 for wastewater  
16 compared to Aqua charges to Breeze Hill of \$84 per customer for water and \$85 for  
17 wastewater. The remaining systems are also shown on this schedule. Based on the total  
18 for all Rate Bands and systems, under the peer group approach, the A&G expenses  
19 should be reduced by \$653,387 for the water operations and \$322,922 for the wastewater  
20 operations.

21 **Q. WHAT DOES YOUR ANALYSIS SHOW FOR CUSTOMER SERVICE**  
22 **EXPENSES?**



1 A. In all instances the cost per customer for customer service related expenses were less than  
2 the comparison group. Therefore, no adjustment was necessary.

3 **Q. DID YOU ALSO EXAMINE THE A&G EXPENSES ON AN EQUIVALENT**  
4 **RESIDENTIAL CONNECTION (ERC) BASIS?**

5 A. Yes. I performed the same analysis on an ERC basis as well, and these results are shown  
6 on Schedule 21. As shown under the first approach for water Rate Band 1, the peer  
7 group's A&G cost per ERC is \$51 compared to Aqua's of \$87. Thus, on a per ERC  
8 basis, the Company's expenses are 71 percent higher than the peer group average.  
9 Comparing the Company's wastewater A&G expenses for Rate Band 1 on a per ERC  
10 basis of \$88 to the peer group of \$34, it shows that AUF's expenses are 159 percent  
11 higher. The remaining rate bands are shown on this schedule as well. Examining  
12 individual systems, the peer group cost applicable to Breeze Hill is \$42 for water and \$34  
13 for wastewater compared to Aqua charges to Breeze Hill of \$86 per ERC for water and  
14 \$84 per ERC for wastewater. Fairways and Peace River are also shown on this schedule.  
15 In total for all Rate Bands and systems using ERCs, the A&G expenses should be  
16 reduced by \$674,659 for the water operations and \$302,721 for the wastewater  
17 operations.

18 **Q. DID YOU EXAMINE ANY OTHER DATA WHICH DEMONSTRATES THAT**  
19 **THE COMPANY'S RATES ARE UNREASONABLY HIGH?**

20 A. Yes. I compared the typical monthly bill of AUF's water and wastewater systems, under  
21 the rates approved by the Commission in the PAA, to the other water and wastewater  
22 systems operating in the same county. The results of my comparison are shown on  
23 Schedule 22.

1 Q. **WHAT DOES YOUR COMPARISON SHOW?**

2 A. My comparison shows that when compared to other water and wastewater utilities  
3 operating in the same county, AUF's charges are the highest most of the time. AUF's  
4 systems operate in 18 counties, and AUF has the highest water rate in 12 of the counties  
5 while it has the highest wastewater rate in 14. The typical monthly bills for AUF's  
6 systems are most often above average as well. Out of 26 water systems, 25 (or 96  
7 percent) have rates higher than the average of the other utilities' rates in the same county,  
8 and all 17 wastewater systems' rates are higher than the average of the remaining  
9 utilities' rates in the same county. For example, in Alachua County, Aqua's Arrendondo  
10 system has a typical monthly water bill of \$49.52, which is 329 percent higher than the  
11 typical monthly bill of Kincaid Hills Water Company, the only other water company  
12 operating in Alachua County in the sample. In Polk County, AUF has four wastewater  
13 systems: Breeze Hill, Lake Gibson Estates, Rosalie Oaks, and Village Water with a  
14 monthly typical bill of \$49.52. The average for the remaining wastewater systems in Polk  
15 County is \$22.90. Thus, the AUF systems are 116 percent higher than the average.

16 Q. **BASED UPON YOUR ANALYSES AND COMPARISONS, DID YOU FIND THAT**  
17 **THERE IS A BENEFIT TO THE CUSTOMERS ASSOCIATED WITH AUF**  
18 **BEING OWNED BY AQUA AMERICA?**

19 A. No. Taking into consideration that AUF is part of the nation's largest investor owned  
20 provider of water and wastewater services, I would have expected to see a benefit to the  
21 customers of Florida as a result of their association with Aqua America. However, as the  
22 above schedule demonstrates, customers do not appear to have experienced any  
23 beneficial economies of scale associated with being part of a larger organization.

1 Q. ARE YOU MAKING AN ADJUSTMENT FOR THE ADDED COSTS FOR  
2 MANAGEMENT FEES CHARGED FROM ASI?

3 A. Yes. I recommend that the Commission reduce test year expenses to reflect a lower cost  
4 consistent with the costs that are incurred by other water and wastewater companies. The  
5 analysis that I have conducted shows that the layers of management associated with  
6 ownership by Aqua America have not produced any cost savings for customers and, in  
7 fact, have resulted in excessive costs. The Company has failed to demonstrate that there  
8 are economies of scale associated with being part of a bigger organization where costs  
9 allegedly can be spread over more customers resulting in a lower cost per customer. In  
10 fact, when compared to other companies, the opposite appears to be true—there are  
11 diseconomies of scale.

12  
13 My analysis clearly demonstrates that the costs charged to the Company by Aqua  
14 Services are otherwise inherently unfair. After addressing each concern raised by the  
15 Company and the Commission in connection with my peer analysis, my comparison  
16 shows that there are no financial benefits of being associated with a larger company like  
17 Aqua America.

18 Q. HOW DID YOU DEVELOP YOUR FINAL RECOMMENDATION?

19 A. My recommendation is based upon an average of the per customer and per ERC peer  
20 approaches. These results are shown on Schedule 21. For all systems, I recommend a  
21 disallowance for ASI A&G expenses of \$664,023 for the water operations and \$312,822  
22 for the wastewater operations.

1 Q. DO YOU HAVE AN ALTERNATIVE RECOMMENDATION IF THE  
2 COMMISSION DOES NOT ACCEPT YOUR PRIMARY RECOMMENDATION?

3 A. Yes. As discussed earlier, the Company provides no documentation for the increases in  
4 management fees and customer operations allocations since the previous rate case. In an  
5 effort to ensure that customers are not required to pay for increases that the Company  
6 cannot explain, I recommend that the Commission adjust expenses to the level consistent  
7 with the growth in customers and inflation. In addition, I also made adjustments to  
8 reflect the shifts in expenses the Company claims are to blame for the huge increase in  
9 the management fee. As shown on Schedule 17 under this approach test year expenses  
10 would be reduced by \$882,388 for the water operations and \$348,674 for the wastewater  
11 operations.

12 Q. YOUR TESTIMONY AND ANALYSIS ON THE CHARGES FROM ASI AND  
13 ACO INDICATE THAT THE SYSTEMS PURCHASED BY AQUA AMERICA  
14 DO NOT APPEAR TO BENEFIT FROM THE LARGER ORGANIZATION.  
15 SHOULD THE COMMISSION CONSIDER ALTERNATIVES?

16 A. Yes. As described thus far in my testimony, the affiliate relationship between the Aqua  
17 operating systems and its parent and Service Company do not appear to provide sufficient  
18 benefits to justify the added costs. Although it sounds appealing to have a larger, more  
19 financial viable company purchase small, troubled systems, I do not believe that the  
20 Company has shown that the added costs provide commensurate benefits to the  
21 customers. The Commission should carefully examine the viability of Aqua's business  
22 plan of buying small, troubled systems and then seeking rate increases.

1 Q. WOULD YOU PLEASE SUMMARIZE YOUR AFFILIATE TRANSACTIONS  
2 RECOMMENDATIONS?

3 A. Yes. I recommend the following:

- 4 • The Commission should reject the Company's market analysis as it contains  
5 numerous flaws and does not demonstrate that the costs charged by its affiliates do  
6 not exceed the going market rates. The Company also does not establish what rates  
7 AUF would have to pay as a standalone company in order to obtain engineering,  
8 legal, accounting, management, and customer service services. The Company's  
9 comparison merely provides a broad view of the various billing rates various legal,  
10 engineering, accounting and management professionals charge.
- 11 • If the Commission decides a market analysis is appropriate, I recommend the  
12 Commission adopt my alternative analysis, which would reduce test year expenses by  
13 \$79,968 for management fees.
- 14 • I recommend the Commission adopt the comparative analysis I prepared and reduce  
15 test year expenses for the water operations by \$664,023 and the wastewater  
16 operations by \$312,822 for the management fees that are being allocated to the  
17 Company from Aqua Services.
- 18 • If the Commission does not adopt my recommended peer analysis, I recommend in  
19 the alternative that the Commission adjust test year expenses to hold these charges to  
20 the level incurred in 2007 plus growth in customers and inflation, less the shift in  
21 miscellaneous expenses. This results in a reduction to water expenses of \$882,388  
22 and to wastewater of \$348,673.

- 1           ● The analyses that I have prepared demonstrate the charges from ASI and ACO are  
2           “otherwise inherently unfair” in accordance with the GTE court case.
- 3           ● The Commission should carefully examine the viability of Aqua’s business plan of  
4           buying small, troubled systems and then seeking rate increases. Although it sounds  
5           appealing to have a larger, more financial viable company purchase small, troubled  
6           systems, the Company has shown that the added costs do not provide commensurate  
7           benefits to customers.

8   **IV. Bad Debt Expense**

9   **Q. LET’S TURN TO THE NEXT SECTION OF YOUR TESTIMONY. WHAT DID**  
10 **THE COMMISSION ORDER IN THE PAA CONCERNING BAD DEBT?**

11 A. The Commission found that bad debt expense should be examined against a three-year  
12 average. Using the three-year average of \$386,221, the Commission found that the  
13 Company’s bad debt should be reduced by \$3,199.<sup>147</sup>

14 **Q. WHAT ARE YOUR CONCERNS WITH THE DECISION IN THE PAA?**

15 A. I have two primary concerns. First, the data used by the Commission is seriously flawed.  
16 Second, I disagree with the use of a three-year average given Aqua’s specific  
17 circumstances—its poor billing, customer service, and meter reading practices. These  
18 factors contribute to the level of bad debt. Therefore, the Commission’s three-year  
19 average approach penalizes customers for the Company’s unsatisfactory customer  
20 services by imposing a higher than appropriate bad debt in test year expenses.

21 **Q. WHAT AMOUNT OF BAD DEBT IS INCLUDED IN THE TEST YEAR?**

---

<sup>147</sup> Docket No. 100330-WS. In re: Application for increase in water/wastewater rates in Alachua, Brevard, DeSoto, Hardee, Highlands, Lake, Lee, Marion, Orange, Palm Beach, Pasco, Polk, Putnam, Seminole, Sumter, Volusia, and Washington Counties by Aqua Utilities Florida, Inc. Order No. PSC-11-0256-PAA-WS on June 13, 2011. p.81.

1 A. I have prepared Schedule 23 to show the level of bad debt for each rate band and the  
2 individual systems. As shown, for Rate Band one, the test year level of bad debt for both  
3 water and wastewater combined was \$59,538, for rate band two it was \$50,273, for rate  
4 band three it was \$51,872, and for rate band four it was \$209,875. The individual  
5 systems also incurred bad debt as follows: Breeze Hill's bad debt was \$134, Fairways'  
6 bad debt was \$4,277, and Peace River's bad debt was \$13,452. In total for all systems  
7 test year bad debt amounted to \$389,421—this represents about 3 percent of the test year  
8 revenue.

9 **Q. HOW DOES THE COMPANY'S TEST YEAR BAD DEBT COMPARE TO**  
10 **EARLIER YEARS?**

11 A. As shown on Schedule 23, comparing the test year (May 2009-April 2010) to the year  
12 before (May 2008-April 2009), the test year is slightly higher. Likewise, the test year is  
13 somewhat higher than the other year examined by the Commission, November 2009 to  
14 October 2010. However, the test year is substantially higher than the period of May  
15 2007-April 2008.<sup>148</sup>

16 **Q. LET'S ADDRESS YOUR FIRST CONCERN WITH THE COMMISSION'S**  
17 **ADJUSTMENT. HOW IS THE DATA USED BY THE COMMISSION WRONG?**

18 A. The historical data used by the Commission to determine the "appropriate" level of test  
19 year bad debt is reflected on Schedule 23. The Commission used the three year average  
20 for the periods of May 2008 to April 2009, May 2009 to April 2010, and November 2009  
21 to October 2010. However, the three-year average used by the Commission to estimate  
22 the reasonableness of the test year expenses includes the test year expenses. This is  
23 clearly inappropriate as it distorts the average. If the test year is abnormally high or low,

---

<sup>148</sup> Discovery is outstanding on the period May 2007 to April 2008.

1 it will incorrectly raise or lower the comparative average. Moreover, it is incorrect to  
2 include in an average the data that is being tested for reasonableness.

3 **Q. WHAT IS THE NEXT PROBLEM WITH THE COMMISSION'S DATA?**

4 A. It is not a true three-year average. It uses May 2008 to April 2009, May 2009 to April  
5 2010 (which is the test year), and November 2009 to October 2010. While it is three  
6 different time periods, as noted above the second period is the test year and is therefore  
7 incorrect. The third time period includes six months of the test year and therefore suffers  
8 from the same flaw as including the test year in the average. By including not only the  
9 test year in the average, but then including another six months of the test year in the  
10 average, the data used to test the reasonableness of the test year bad debt expense is  
11 erroneous as it double counts six months of the test year.

12 **Q. WHAT IS THE THIRD PROBLEM WITH THE DATA USED BY THE**  
13 **COMMISSION?**

14 A. An examination of the data shows that there are clearly some outliers that should not be  
15 included in the average. For example, for the year ending April 2009, wastewater Rate  
16 Band 2 showed bad debt of \$172,880 or 45 percent of the total for all systems of  
17 \$384,815. Looking at the same Rate Band, for the years prior to and after April 2009,  
18 this shows that this system's bad debt for the year ending April 2009 is clearly irregular.  
19 As shown, it was \$27,929 for the year ending April 2008, \$8,746 for the year ending  
20 April 2010 and \$10,501 for the year ending October 2010.

21 **Q. HOW DID YOU CORRECT THE DATA USED BY THE COMMISSION IN THE**  
22 **PAA?**



1 A. My corrections are reflected on page 1 of Schedule 24. I have made two corrections to  
2 the Commission's calculations. First, I have removed the test year from the three year  
3 average. Second, I used the average of May 2007 to April 2008 and November 2009 to  
4 October 2010 to correct the outlier for wastewater Rate Band 2. This produced an  
5 estimate of \$19,215 for Rate Band 2 for the period May 2008 to April 2009. Schedule 24  
6 shows by rate band and system the adjustment to bad debt expense that would result  
7 under this recommendation. As shown, my recommendations indicated that bad debt  
8 expenses for the test year should be reduced by \$81,633 under this methodology.

9 **Q. DO YOU RECOMMEND THE ADJUSTMENT OF \$81,633 TO BAD DEBT**  
10 **EXPENSE?**

11 A. No, I do not. Aqua has experienced billing, customer service, and meter reading  
12 problems in the past. This has contributed to the prior year level of bad debt being higher  
13 than normal which renders prior data inappropriate to test the reasonableness of test year  
14 data.

15 **Q. WOULD YOU EXPLAIN THESE PROBLEMS?**

16 A. Yes. In the Company's last rate case, it had installed a new billing system which caused  
17 considerable billing problems. Also, Aqua installed new meters which it claimed  
18 contributed to significant billing errors in 2007. Obviously, billing errors of this  
19 magnitude would lead to higher than normal bad debt in 2007 and 2008. Customers were  
20 also very dissatisfied with the Company's customer service and billing practices which  
21 would have also led to higher than normal bad debt expense. In fact, I presented  
22 testimony in the last rate case demonstrating that customers were dissatisfied with the  
23 Company billing and customer service since 2007.

1 Q. HAVE THERE BEEN BILLING AND SERVICE QUALITY PROBLEMS  
2 DURING THE TEST YEAR THAT COULD CONTRIBUTE TO HIGHER BAD  
3 DEBT EXPENSE RELATIVE TO A COMPANY WITH GOOD BILLING  
4 PRACTICES THAT ALSO PROVIDES QUALITY CUSTOMER SERVICE?

5 A. Yes. As explained in the first section of my testimony, customers are still experiencing  
6 billing problems associated with untimely or inadequate information, meter reading  
7 inconsistencies, and estimated bills. This undoubtedly will lead to higher bad debt  
8 expense during the test year relative to a utility that has good billing and customer service  
9 practices.

10 Q. WHAT CHANGES DO YOU RECOMMEND TO THE APPROACH TAKEN IN  
11 THE PAA TO ESTABLISH THE TEST YEAR LEVEL OF BAD DEBT?

12 A. The Commission used a three-year average to test the reasonableness of Aqua's bad debt  
13 expense.<sup>149</sup> While this approach might be appropriate where there are no billing or  
14 customer service issues, it is clearly inappropriate where such problems exist, as in the  
15 current case. Comparing the Company against itself, especially when there have been  
16 billing and customer service problems in the past, essentially sends the signal that there  
17 will be no consequences, except to customers, for the Company's bad billing and poor  
18 customer service practices. It must be determined by the Commission first that the  
19 practices of the Company have yielded a level of bad debt that is reasonable and therefore  
20 appropriate for comparison to the test year. No such showing has been made in this case.

---

<sup>149</sup> Docket No. 080121-WS. In Re: Application for Increase in Water and Wastewater Rates in Alachua, Brevard, DeSoto, Highlands, Lake, Lee, Marion, Orange, Palm Beach, Pasco, Polk, Putnam, Seminole, Sumter, Volusia, and Washington Counties by Aqua Utilities Florida, Inc. Order No. PSC-09-0385-FOF-WS on May 29, 2009, p. 95.

1 Q. **HAVE YOU COMPARED AQUA'S BAD DEBT TO OTHER FLORIDA WATER**  
2 **AND WASTEWATER UTILITIES?**

3 A. Yes. This comparison is depicted on page 2 of Schedule 24.

4 Q. **WHY IS THERE SUCH A BIG DIFFERENCE BETWEEN THE COMPANY'S**  
5 **BAD DEBT AND THE PEER GROUP'S BAD DEBT?**

6 A. The difference between the Company's bad debt and the average for comparable  
7 companies is substantial enough that the Commission should clearly place the burden on  
8 the Company of demonstrating what causes these differences. As explained in the first  
9 section of my testimony, this difference is likely due to the Company's poor customer  
10 service, inadequate billing practices, and service quality problems.

11 Q. **WHAT IS YOUR RECOMMENDATION?**

12 A. I recommend that the Commission adjust test year bad debt to a level that is consistent  
13 with good billing, customer service, and meter reading practices. It is clearly unfair to  
14 charge customers, through higher bad debt, because of the Company's failures.

15 Q. **DO YOU HAVE A RECOMMENDATION THAT WILL ENSURE THAT**  
16 **CUSTOMERS ARE NOT HELD RESPONSIBLE FOR THE COMPANY'S POOR**  
17 **BILLING, CUSTOMER SERVICE, AND METER READING PRACTICES?**

18 A. Yes. Schedule 24 shows a comparison of the test year bad debt per customer for all rate  
19 bands compared to the peer group water and wastewater utilities. As shown on this  
20 schedule, the bad debt allowance for Aqua is \$78,605. This compares to Aqua's test year  
21 bad debt of \$389,421. As shown on this schedule, using this methodology, the resulting  
22 adjustment to test year bad debt expense is \$310,816.

23 Q. **WOULD YOU PLEASE SUMMARIZE YOUR RECOMMENDATIONS?**

1 A. Yes.

- 2 • The Commission should reject the bad debt allowances allowed in the PAA.
- 3 • Adjust test year bad debt to a level that is consistent with good billing, customer
- 4 service, and meter reading practices; and reduce test year bad debt by \$310,816.

5 In the alternative, using a more appropriate 2-year average, bad debt expense should be

6 reduced by \$81,633.

7 **V. Revenue/Billing Determinants**

8 **Q. LET'S TURN TO THE NEXT SECTION OF YOUR TESTIMONY. WHAT ARE**

9 **YOU ADDRESSING CONCERNING TEST YEAR REVENUE AND BILLING**

10 **DETERMINANTS?**

11 A. I am addressing the Company's claims that its sales have declined in the test year.

12 Specifically, in its application the Company stated that one of the reasons for the need to

13 increase its rates stems for a reduction in consumption of 16 percent below the

14 Commission's repressed consumption calculations in the last rate case. According to the

15 Company, this reduction in consumption and corresponding declines in revenue are

16 significant and are directly attributable to the unanticipated installation of a large number

17 of private irrigation wells in AUF's service area. Consequently, the Company states that

18 its water volume sales are not producing revenues sufficient to cover the costs that the

19 Commission determined were reasonable in the last rate case.<sup>150</sup>

20 **Q. DO THE COMPANY'S BUDGET VARIANCE REPORTS ADDRESS**

21 **REDUCTIONS IN CUSTOMER USAGE?**

---

<sup>150</sup> Aqua Utilities of Florida, Application of Aqua Utilities Florida, Inc. For Increased Water and Wastewater Rates, and for Approval of Increased or Revised Service Availability Charges and Allowance for Funds Prudently Invested Charges, p. 2.

1 A. Yes. An examination of the budget variance reports for the test year discussed several  
2 instances of reduced consumption. For example, for the months of June, July,  
3 September, December, January, February, March and April, the budget variance reports  
4 explain Aqua missed its revenue targets due to reduced consumption. In addition, for  
5 several months the difference between actual and the budget is explained by customers  
6 digging wells in Scottish Highlands which is in Rate Band 1.

7 **Q. DO YOU BELIEVE THAT CURRENT CUSTOMERS SHOULD BEAR THE**  
8 **INCREASED REVENUE REQUIREMENT ASSOCIATED WITH THIS**  
9 **REDUCTION IN USAGE IN THIS PROCEEDING?**

10 A. No, I do not for several reasons. First, the Company is in a much better position than  
11 customers to bear the revenue loss associated with customers either reducing  
12 consumption due to financial hardship, unreasonably high rates, or to poor quality of  
13 service. These factors are largely beyond the control of customers and are more under  
14 the control of the Company. Moreover, the Company is authorized by the Commission to  
15 earn a return on equity which includes a component to compensate stockholders for risk.  
16 An inherent risk in any company is the loss of revenue due to a variety of reasons like  
17 economic downturns, competition, conservation, and alternative suppliers. It is unfair to  
18 ask customers to also make the Company whole for lost revenues due to reduced sales,  
19 under the current circumstances. Stockholders are in a much better position to manage  
20 this risk than ratepayers. If the Commission requires customers to bear this risk, then it  
21 should clearly take this factor into consideration in setting the Company's cost of equity.

22 **Q. WHAT IS YOUR RECOMMENDATION?**

1 A. I recommend that the Commission increase test year revenue to reverse the test year  
2 impact of reduced usage that is either due to the Company's high rates, poor customer  
3 service, or factors that are beyond the control of customers. Stockholders, not ratepayers,  
4 should bear the risk of this revenue loss.

5 **Q. HAVE YOU PREPARED A SCHEDULE WHICH SHOWS YOUR**  
6 **RECOMMENDATIONS?**

7 A. Yes. Schedule 25 shows my recommendations. As depicted on this Schedule I  
8 recommend that test year revenue be increased by \$372,925. Billing determinants by rate  
9 band are also shown on this schedule.

10 **VI. Rate Case Expense**

11 **Q. WOULD YOU PLEASE DISCUSS AUF'S RATE CASE EXPENSE REQUEST?**

12 A. Yes. The Company requested rate case expenses of \$670,268<sup>151</sup> in its original rate filing  
13 of September 1, 2010. During the Proposed Agency Action process, the Company  
14 submitted documentation which showed that the actual amount totaled \$650,944 and  
15 AUF re-estimated an additional amount of \$236,928. In its PAA decision, the  
16 Commission reduced the Company's requested rate case expenses of \$887,872 by  
17 \$109,602 resulting in an approved a rate case expense of \$778,269.<sup>152</sup>

18 **Q. WHAT IS THE COMPANY'S CURRENT RATE CASE EXPENSE REQUEST?**

19 A. The Company's most recent rate case expense request is \$1.2 million. As shown on  
20 Schedule 26, this consists of \$529,772 in legal fees, \$415,192 in consulting fees,

<sup>151</sup> Docket No. 100330-WS. In re: Application for increase in water/wastewater rates in Alachua, Brevard, DeSoto, Hardee, Highlands, Lake, Lee, Marion, Orange, Palm Beach, Pasco, Polk, Putnam, Seminole, Sumter, Volusia, and Washington Counties by Aqua Utilities Florida, Inc. Order No. PSC-11-0256-PAA-WS on June 13, 2011. p.84.

<sup>152</sup> Docket No. 100330-WS. In re: Application for increase in water/wastewater rates in Alachua, Brevard, DeSoto, Hardee, Highlands, Lake, Lee, Marion, Orange, Palm Beach, Pasco, Polk, Putnam, Seminole, Sumter, Volusia, and Washington Counties by Aqua Utilities Florida, Inc. Order No. PSC-11-0256-PAA-WS on June 13, 2011. p.84.

1 \$159,692 in service company fees, and \$144,663 in travel and other fees. This amounts  
2 to \$56.00 per customer for the systems that are part of the instant rate increase request.

3 **Q. HOW LONG HAS IT BEEN SINCE THE COMPANY RECEIVED ITS LAST**  
4 **RATE INCREASE?**

5 A. It has been one year and four months since Aqua's last rate case was decided by the  
6 Commission. The Company's last rate case was filed on May 22, 2008, and was decided  
7 on May 29, 2009 (2008 Rate Case).<sup>153</sup>

8 **Q. WHAT AMOUNT OF RATE CASE EXPENSE DID THE COMPANY REQUEST**  
9 **AND WHAT DID THE COMMISSION ALLOW IN THE 2008 RATE CASE?**

10 A. In the Company's 2008 Rate Case, the Company requested \$1,782,586. The  
11 Commission, however, allowed \$1,501,609.<sup>154</sup> This amounts to \$63.64 per customer for  
12 the systems that were part of the last rate case. In total between the two rate cases,  
13 customers are being asked to pay approximately \$119.64 per customer in return for which  
14 the Company's rates will be raised for the benefit of shareholders.

15 **Q. SHOULD THE COMMISSION ALLOW THE COMPANY TO RECOVER 100**  
16 **PERCENT OF ITS REQUESTED RATE CASE EXPENSE?**

17 A. No. I recommend that the Commission disallow a portion of the rate case expense  
18 requested in this proceeding in several areas.

19 **Q. WHAT IS THE FIRST REASON THAT YOU RECOMMEND THE**  
20 **COMMISSION DISALLOW A PORTION OF THE COMPANY'S REQUESTED**

---

<sup>153</sup> Docket No. 080121-WS. In re: Application for increase in water and wastewater rates in Alachua, Brevard, DeSoto, Highlands, Lake, Lee, Marion, Orange, Palm Beach, Pasco, Polk, Putnam, Seminole, Sumter, Volusia, and Washington Counties by Aqua Utilities Florida, Inc. Order No. PSC-09-0385-FOF-WS on May 29, 2009.

<sup>154</sup> Docket No. 080121-WS. In re: Application for increase in water and wastewater rates in Alachua, Brevard, DeSoto, Highlands, Lake, Lee, Marion, Orange, Palm Beach, Pasco, Polk, Putnam, Seminole, Sumter, Volusia, and Washington Counties by Aqua Utilities Florida, Inc. Order No. PSC-09-0385-FOF-WS on May 29, 2009. p. 103.

1           **RATE CASE EXPENSE?**

2    A.    The Company was required to file modifications to its MFRs due to the six deficiencies  
3           in the MFRs found by the Staff. It is common practice for the Commission to disallow  
4           the costs associated with revising MFRs.

5    **Q.    WHAT IS YOUR SECOND CONCERN REGARDING RATE CASE EXPENSE?**

6    A.    My second concern relates to the number of persons Aqua brought to the service  
7           hearings. I recommend that all excessive costs associated with bringing unnecessary  
8           Aqua persons to the service hearings should be removed from rate case expense. To the  
9           extent that Aqua believes that it is necessary to have 5 or more employees attend these  
10          service hearings, that is a cost the Company should bear, not the ratepayers.

11   **Q.    IN A PATTERN SIMILAR TO THE PRIOR RATE CASE DID THE COMPANY**  
12          **FRUSTRATE THE DISCOVERY PROCESS AND CAUSE UNNECESSARY**  
13          **DELAY AND COSTS?**

14    A.    Yes. Just as in its last rate case, the Company frustrated the discovery process  
15          and caused unnecessary delay and costs because it produced hard copies of documents.  
16          Most if not all of these documents were available electronically; yet, it required persons  
17          for OPC to travel to the Holland and Knight offices to examine hard copies of documents.  
18          The inefficiency and intentional obfuscation should not be permitted by the Commission.  
19          I have been involved in many rate cases in recent years and have never encountered a  
20          utility which frustrated the discovery process in the manner conducted by Aqua. I  
21          recommend that all costs included in the rate case associated with producing unnecessary  
22          hard copies of documents that are available electronically should be disallowed. This  
23          would include the costs of printing and compiling the documents as well as the persons



1 that monitored the on-site reviews at the law office of Holland and Knight. This tactic  
2 not only created more costs for ratepayers, it also caused OPC to expend valuable  
3 resources to review documents which could have been provided more efficiently in an  
4 electronic format without all the wasted paper.

5 **Q. ARE THERE OTHER SPECIFIC DISALLOWANCES THAT YOU**  
6 **RECOMMEND?**

7 A. Yes. Ms. Vandiver identified several rate case expenses that should be disallowed.

8 **Q. IS THERE PRECEDENT FOR DISALLOWING RATE CASE EXPENSES IN**  
9 **FLORIDA?**

10 A. Yes, the Commission has disallowed rate case expenses on many occasions  
11 because it has found them to be imprudent. Many of the Commission's decisions on this  
12 issue are set forth in Order No. PSC-02-0593-FOF-WU. In that order, the Commission  
13 addressed Order No. PSC-98-1583-FOF-WS, issued November 25, 1998, in Docket No.  
14 971663-WS, where Florida Cities Water Company was seeking recovery of court costs  
15 (and the rate case expense associated with the docket filing). In that case the  
16 Commission found that the incurrence of rate case expense was imprudent and denied the  
17 utility's request for recovery. Also, in Order No. PSC-96-1320-FOF-WS, issued October  
18 30, 1996, in Docket No. 950495-WS, the Commission denied legal rate case expense of  
19 \$25,000 incurred for what it deemed an imprudent appeal of an oral decision on interim  
20 rates. In addition, in Order No. 18960, issued March 7, 1988, in Docket No. 861338-WS,  
21 the Commission determined that expenditures for misspent time were imprudent and  
22 reduced the requested rate case expense by \$32,500. Finally, in Order No. PSC-02-0593-  
23 FOF-WU, issued April 30, 2002, the Commission found: "As discussed above, it is the

1 utility's burden to prove that its requested costs are reasonable. We find that filing  
2 combined water and wastewater rate cases would have resulted in material cost savings,  
3 and the customers should not be made to pay because Aloha incurred imprudent rate case  
4 expense." Id. at p. 77.

5  
6 In Order No. PSC-06-0170-PAA-WS issued March 1, 2006, for Plantation Bay Utility  
7 Company, the Commission stated that "[u]nder this Commission's rate setting authority, a  
8 utility seeking a change in rates must demonstrate that its present rates are unreasonable."  
9 Id. at p. 36. The Commission found it inappropriate to approve rate case expense for  
10 water because of the utility's recent overearnings posture. The utility's decision to file  
11 for water rate relief was imprudent and "the customers should therefore not have to bear  
12 this cost." Id. at p. 36. No rate case expense was allowed for water.

13  
14 In a 2006 rate case, Utilities Inc. of Florida provided two sets of estimates for its  
15 consultants to complete the case. However, no justification was provided for the high set  
16 of estimates. Therefore, in Order No. PSC-07-0505-SC-WS, issued June 13, 2007, the  
17 Commission removed the differences. The Commission also made several adjustments  
18 related to costs incurred to correct deficiencies in the MFR filing, as well as several  
19 adjustments for unsupported hours and expenses. In addition to the adjustments, the  
20 allocation of rate case expense for two counties was disallowed. Because the rates did  
21 not change for one county, and were reduced for the other, the rate case expense  
22 associated with the filings for those counties was disallowed. In all, the Commission  
23 disallowed \$173,052 in rate case expense.

1  
2 More recently, in Order No. PSC-07-0865-PAA-SU, issued October 29, 2007, the  
3 Commission stated “[w]e have broad discretion with respect to allowance of rate case  
4 expense; however, it would constitute an abuse of discretion to automatically award rate  
5 case expense without reference to the prudence of the costs incurred in the rate case  
6 proceedings.” *Id.* at p. 34. In this case, the Commission disallowed \$50,543 of the  
7 \$196,080 in rate case expense requested by Utilities, Inc. of Sandalhaven. The  
8 Commission cited a number of adjustments for MFR deficiencies, errors, undocumented  
9 and unsupported hours and unreasonable expenses of employees and consultants.  
10 Similarly, in Order No. PSC-07-0287-PAA-WS, issued April 3, 2007, for Lake Placid  
11 Utilities, Inc., the Commission’s adjustments and disallowances totaled \$101,239 for  
12 MFR deficiencies, and for unsupported and unreasonable expenses. Schedule 27 shows  
13 fourteen recent rate cases where the Commission disallowed significant portions of the  
14 rate case expense. In each of these cases, adjustments were made for hours spent on  
15 MFR filing deficiencies and for expenses that were not supported by detailed  
16 documentation.

17 **Q. DO YOU RECOMMEND THAT THE COMPANY RECOVER 100 PERCENT OF**  
18 **THE RATE CASE EXPENSE FOUND REASONABLE BY THE COMMISSION?**

19 A. No. I recommend that the Commission require that rate case expense be shared between  
20 ratepayers and stockholders. In particular, I recommend a 50/50 sharing. There is no  
21 reason to require customers to bear the entire burden of rate case expense. Customers do  
22 not directly benefit from a rate case and are not the party asking for rates to be increased.  
23 Aqua is the party seeking a rate increase. Furthermore, the beneficiary of increased rates

1 is predominately the Company's stockholders. A primary motivation for filing a rate  
2 increase is to increase shareholder wealth. Therefore, I recommend that prudent rate case  
3 expense be shared equally between ratepayers and stockholder.

4 **Q. ARE YOU AWARE OF ANY COMMISSIONS THAT REQUIRE RATE CASE**  
5 **EXPENSE TO BE SHARED BETWEEN RATEPAYERS AND**  
6 **STOCKHOLDERS?**

7 A. Yes. In New Jersey, the Board of Public Utilities has had a long-standing and well  
8 established policy of a 50/50 sharing of rate case expenses. In a case for Jersey Central  
9 Power and Light, the Board Staff noted that "[w]hile a rate case benefits the ratepayers  
10 through the continuation of safe, adequate and proper utility service, it also benefits  
11 shareholders, because the Company has a renewed opportunity to earn a fair return on  
12 equity."<sup>155</sup> This is not only for electric companies in New Jersey. In fact, in 2007, Aqua  
13 New Jersey was ordered to split its rate case expenses 50/50 between shareholders and  
14 customers as "[a] rate case arises for the benefit of a company's **shareholders**, who  
15 should then be required to shoulder some of the burden."<sup>156</sup>

16  
17 In Illinois, in 2006 the Commission approved Staff's proposed treatment of rate case  
18 expense for Commonwealth Edison Company which required shareholders to ". . . bear  
19 the capital costs associated with improving their investment through increased rates,  
20 while ratepayers bear the average annual cost for the continued provision of safe reliable

---

<sup>155</sup> BPU Docket No. ER02080506; Docket No. ER02080507; Docket No. EO02070417; Docket No. ER02030173; Docket No. ER95120633, New Jersey Board of Public Utilities, May 17, 2004, Dated.

<sup>156</sup> BPU Docket No. WR05121022; OAL Docket No. PUC 3338-06; BPU Docket No. WRO6120897, New Jersey Board of Public Utilities, January 17, 2007, Dated, emphasis added.

1 service.” Staff explained that without this treatment, there is little to no incentive for the  
2 Company to keep its rate case expenses to a minimum.<sup>157</sup>

3  
4 Sharing of rate case expenses has also been ordered in Minnesota. The Commission  
5 found “that shareholders, as well as ratepayers benefit from the rate case process and,  
6 therefore, the costs incurred by the Company in the course of that process should be  
7 shared between ratepayers and shareholders.”<sup>158</sup>

8 **Q. ARE YOU AWARE OF ANY UTILITIES THAT HAVE ACCEPTED A SHARING**  
9 **OF RATE CASE EXPENSE BETWEEN STOCKHOLDERS AND**  
10 **RATEPAYERS?**

11 A. Yes. In Docket No. PUC 7281-03 before the New Jersey Board of Public Utilities, a  
12 utility witness, testifying on behalf of Elizabethtown Water Company, stated in his  
13 rebuttal testimony that: “Although the costs of a rate case filing are a reasonable cost of  
14 operation for any utility particularly in this case where the Company was required to file  
15 pursuant to a Board Order, the Company will not oppose Mr. Henkes’ proposal that those  
16 costs be shared between ratepayers and shareholders.”<sup>159</sup>

17 **Q. DO YOU HAVE ANY RECOMMENDATIONS REGARDING RATE CASE**  
18 **EXPENSE THAT DEALS WITH THE EFFECTS OF THE COMPANY FILING**  
19 **ONE RATE CASE ON TOP OF ANOTHER?**

20 A. Yes. As describe above, this rate case comes a little more than one year after the last rate  
21 case. The Commission should not encourage utilities to file rate cases one on top of  
22 another with little time in between. The burden of pancaking rate cases is placed squarely

---

<sup>157</sup> Docket No. 05-0597, Illinois Commerce Commission, July 26, 2006.

<sup>158</sup> Docket No. E-001/GR-91-605, Minnesota Public Utilities Commission, June 12, 1992.

<sup>159</sup> Docket No. 080121, Response to OPC Document Request 197.

1 on the shoulders of ratepayers. Yet, again it is the stockholder that benefits the most from  
2 rate cases. Therefore, to help ameliorate the impact of rate case expense, I recommend  
3 that the Commission defer recovery of the rate case expense approved in this proceeding  
4 until the rate case expense from the prior proceeding is fully amortized. After the 2008  
5 rate case expense has been amortized, the Company should be permitted to amortize the  
6 rate case expense found reasonable in this proceeding over four years. In the interim, the  
7 Company should be permitted to earn a return on the unamortized balance.

8 **Q. WOULD YOU PLEASE SUMMARIZE YOUR RECOMMENDED**  
9 **ADJUSTMENTS TO RATE CASE EXPENSE?**

10 **A.** Yes. I recommend the following adjustments to the rate case expense requested in this  
11 proceeding:

- 12 • The Commission should disallow the costs associated with the Company's revision of  
13 its MFRs, consistent with Commission precedent.
- 14 • All excessive costs associated with bringing unnecessary Aqua persons to the service  
15 hearings should be removed from rate case expense.
- 16 • The Commission should disallow all costs included in the rate case associated with  
17 producing unnecessary hard copies of documents that are available electronically  
18 during the discovery process. This would include the costs of printing and compiling  
19 the documents as well as the persons that monitored the on-site reviews at the law  
20 office of Holland and Knight.
- 21 • Rate case expense disallowances identified by Ms. Vandiver.
- 22 • Rate case expense should be shared 50/50 between ratepayers and stockholders.

- 1           • I also recommend that the Commission defer the rate case expense approved in this  
2 proceeding until the rate case expense from the prior proceeding has been fully  
3 amortized. After the 2008 rate case expense has been amortized, the Company should  
4 be permitted to amortize the rate case expense found reasonable in this proceeding  
5 over four years. In the interim, the Company should be permitted to earn a return on  
6 the unamortized balance.

7 **VII. Conclusions and Recommendations**

8  
9 **Q. WOULD YOU PLEASE SUMMARIZE YOUR RECOMMENDATIONS**  
10 **REGARDING THE COMPANY'S WATER QUALITY AND CUSTOMER**  
11 **SERVICE?**

12 A. Yes. I believe the Commission should reduce the Company's ROE by 100 basis points  
13 for its poor quality of service for the following reasons:

- 14           • Numerous Aqua customers voicing their opinions at the hearings and through their  
15 correspondence have expressed their frustrations about Aqua's poor quality of  
16 service. The complaints are similar to those in the last rate case. In fact, for some  
17 customers and systems, the problems having been going on for 15 years.
- 18           • Even since Aqua America's acquisition of several FWSC (formerly SSU) systems  
19 seven years ago, many of the problems have still not been resolved.
- 20           • Aqua knew that some of those systems had problems when they purchased them.  
21 They paid less than book value, yet customers are still being asked to provide a return  
22 on the full net book value – a difference of \$2.7 million.

1 • Aqua has not honored its commitment to provide its customers with the highest  
2 quality of service at the lowest price as it claimed it would when it asked the  
3 Commission to approve the purchase of many FWSC systems.

4 • A 25 basis point reduction in the ROE is not sufficient to change Aqua's behavior.  
5 Therefore, the Commission should find 100 basis points appropriate.

6 • I also recommend that the Commission order the Company to gather state specific  
7 call center data on a going forward basis, if the cost of doing so is reasonable.

8 **Q. WOULD YOU PLEASE SUMMARIZE YOUR AFFILIATE TRANSACTIONS**  
9 **RECOMMENDATIONS?**

10 A. Yes. I recommend the following:

11 • The Commission should reject the Company's market analysis as it contains  
12 numerous flaws and does not demonstrate that the costs charged by its affiliates do  
13 not exceed the going market rates; and they do not establish what rates AUF would  
14 have to pay as a standalone company in order to obtain engineering, legal,  
15 accounting, management, and customer service services. The Company's comparison  
16 merely provides a broad view of the various billing rates various legal, engineering,  
17 accounting and management professionals charge.

18 • If the Commission decides a market analysis is appropriate, I recommend the  
19 Commission adopt my alternative analysis, which would reduce test year expenses by  
20 \$79,968 for management fees.

21 • I recommend the Commission adopt the comparative analysis I prepared and reduce  
22 test year expenses for the water operations by \$664,023 and the wastewater



1 operations by \$312,822 for the management fees that are being allocated to the  
2 Company from Aqua Services.

- 3 • If the Commission does not adopt my recommended peer analysis, I recommend in  
4 the alternative that the Commission adjust test year expenses to hold these charges to  
5 the level incurred in 2007 plus growth in customers and inflation, less the shift in  
6 miscellaneous expenses. This results in a reduction to water expenses of \$882,388  
7 and to wastewater of \$348,673.
- 8 • The analyses that I have prepared demonstrate the charges from ASI and ACO are  
9 “otherwise inherently unfair” in accordance with GTE.
- 10 • The Commission should carefully examine the viability of Aqua’s business plan of  
11 buying small, troubled systems and then seeking rate increases. Although it sounds  
12 appealing to have a larger, more financial viable company purchase small, troubled  
13 systems, the Company has shown that the added costs do not provide commensurate  
14 benefits to customers.

15 **Q. WOULD YOU PLEASE SUMMARIZE YOUR RECOMMENDATIONS**  
16 **REGARDING BAD DEBT?**

17 **A.** Yes.

- 18 • The Commission should reject the bad debt allowances allowed in the PAA.
- 19 • Adjust test year bad debt to a level that is consistent with good billing, customer  
20 service, and meter reading practices; and reduce test year bad debt by \$310,816.

21 In the alternative, using a more appropriate 2-year average, bad debt expense should be  
22 reduced by \$81,633.

1 Q. WHAT ARE YOUR RECOMMENDATIONS AS TO THE COMPANY'S  
2 REVENUE AND BILLING DETERMINANTS?

3 A. I recommend that the Commission increase test year revenue to reverse the test year  
4 impact of reduced usage that is either due to the Company's high rates, poor customer  
5 service, or factors that are beyond the control of customers. Stockholders, not ratepayers,  
6 should bear the risk of this revenue loss.

7 Q. WHAT ADJUSTMENTS ARE YOU RECOMMENDING TO RATE CASE  
8 EXPENSE?

9 A. I recommend the following adjustments to the rate case expense requested in this  
10 proceeding:

- 11 ● The Commission should disallow the costs associated with the Company's revision of  
12 its MFRs, consistent with Commission precedent.
- 13 ● All excessive costs associated with bringing unnecessary Aqua persons to the service  
14 hearings should be removed from rate case expense.
- 15 ● The Commission should disallow all costs included in the rate case associated with  
16 producing unnecessary hard copies of documents that are available electronically  
17 during the discovery process. This would include the costs of printing and compiling  
18 the documents as well as the persons that monitored the on-site reviews at the law  
19 office of Holland and Knight.
- 20 ● Rate case expense disallowances identified by Ms. Vandiver.
- 21 ● Rate case expense should be shared 50/50 between ratepayers and stockholders.
- 22 ● I also recommend that the Commission defer the rate case expense approved in this  
23 proceeding until the rate case expense from the prior proceeding has been fully

1           amortized. After the 2008 rate case expense has been amortized, the Company should  
2           be permitted to amortize the rate case expense found reasonable in this proceeding  
3           over four years. In the interim, the Company should be permitted to earn a return on  
4           the unamortized balance.

5   **Q.   DOES THIS COMPLETE YOUR TESTIMONY, FILED ON SEPTEMBER 22,**  
6           **2011?**

7   **A.   Yes.**

1 **BY MS. CHRISTENSEN:**

2 Q. And, Ms. Dismukes, did your prefiled testimony  
3 have exhibits attached to it labeled Appendix 1, and  
4 Exhibit 1 with Schedules 1 through 28 labeled KHD-1,  
5 Schedule 1?

6 A. Yes, it did.

7 Q. Okay. Do you have any corrections to KHD-1,  
8 Schedule 1 through Schedule 28?

9 A. No, I do not.

10 **MS. CHRISTENSEN:** I would ask that the witness  
11 be allowed to provide her five-minute summary.

12 **CHAIRMAN GRAHAM:** Yes, please.

13 **THE WITNESS:** Good afternoon, Commissioners.  
14 I want to thank you for trying to accommodate my  
15 schedule. It didn't really work out, but I do  
16 appreciate the effort.

17 My testimony addresses several areas. First,  
18 I addressed Aqua's customer service and water quality  
19 issues as raised by AUF's customers. During the course  
20 of this proceeding, numerous customers have expressed  
21 dissatisfaction about the company's slow response time  
22 in resolving their problems, poor treatment by Aqua's  
23 customer service representatives, lack of communication  
24 on boil-water notices, unfair billing practices, and  
25 meter reading inconsistencies. Customers are also

1 complaining about the poor quality of their water. Some  
2 customers are filtering their water or buying bottled  
3 water. They have raised health concern issues and  
4 expressed frustration with brown and smelly water.

5 The problems that Aqua customers are  
6 experiencing is not exclusive to Florida. Aqua's  
7 customers in several other states are also having  
8 similar problems, which raises the question of whether  
9 or not these problems are systemic. I think it's  
10 important to note that when Aqua purchased several of  
11 the systems in this rate case it knew that there were  
12 problems with these systems and it purchased these  
13 systems for less than book value.

14 When it purchases systems, it told the  
15 Commission that it was going to fix these systems, and  
16 I'm going to quote to you what they said in their  
17 transfer application to the Commission. "Aqua America  
18 is totally committed to providing its customers with the  
19 highest quality of service at the lowest price. In  
20 addition, Aqua America and its subsidiaries have worked  
21 in partnership with state and local officials to address  
22 the problems faced by smaller systems that may lack the  
23 financial and/or technical resources needed to comply  
24 with evolving water standards." That's the end of the  
25 quote.

1           AUF has not honored its commitment to its  
2 customers by providing the highest quality of service at  
3 the lowest price. In the proposed agency action, the  
4 Commission ordered a 25-basis-point reduction to the  
5 company's return on equity. However, I don't believe  
6 that this is sufficient. 25 basis points amounts to  
7 just .01 percent of Aqua America's revenue. As you  
8 know, the Commission reduced the ROE in the last rate  
9 case for Chuluota and it also denied the rate increase.  
10 This seems to have spurred AUF to make needed changes.  
11 I believe that the Commission needs to go beyond a 25  
12 basis point reduction and reduce AUF's return on equity  
13 by 100 basis points.

14           The second area that I address is AUF's  
15 transactions with its affiliates, which totaled  
16 3.2 million during the test year. My primary  
17 recommendation is based upon a peer comparison of the  
18 affiliated costs charged to AUF compared to other Class  
19 B and Class C water and wastewater companies that  
20 provide services in the State of Florida.

21           In its PAA, the Commission raised several  
22 concerns with the comparative analysis that I performed,  
23 and I have addressed each of those concerns in this  
24 proceeding. The Commission's concerns included that  
25 there was a lack of demonstration that the utilities

1 included in the comparative analysis have any water or  
2 wastewater system costs, service territories, customer  
3 demographics, and/or any other operating characteristics  
4 similar to AUF. To address the concern about operating  
5 characteristics, I removed the companies that have  
6 unique or more costly treatment processes. To address  
7 the concern related to service territories and customer  
8 demographics, I included only companies in the same  
9 counties where Aqua systems are operated. In addition,  
10 I also made other adjustments and refinements to my  
11 comparison. My peer analysis showed that compared to  
12 the peer group, the A&G expenses should be reduced by  
13 \$664,000 for the water operations, and \$331,000 for the  
14 wastewater operations.

15           The third area that I address relates to bad  
16 debt expense. There were several problems with the bad  
17 debt analysis adopted in the PAA, which used a  
18 three-year average to compare to the test year bad debt  
19 expense. This average is distorted because it included  
20 the test year, which by definition shouldn't be included  
21 in the data to determine whether or not the test year  
22 level is normal. Second, the three-year average also  
23 included six months of the test year twice. Third, the  
24 test year, as well as the prior years used to create the  
25 three-year average, contained problems with poor

1 billing, customer service, and meter reading practices  
2 which all contribute to the company's bad debt. In  
3 addition, there is also a concern that the bad debt may  
4 include back-billing charges that exceeded 12 months  
5 allowed to be recovered from customers. To address  
6 these problems, I recommend that the Commission compare  
7 the test year bad debt to the companies in my peer  
8 analysis. This approach indicates that test year bad  
9 debt should be reduced by 311,000.

10 My next recommendation concerns the reductions  
11 in consumption during the test year. There was evidence  
12 presented by customers that the company's decline in  
13 consumption is contributed by its poor customer service  
14 and water quality and high rates. Current customers  
15 should not have to bear the increased revenue  
16 requirement under current circumstances. These factors  
17 are beyond the customers' control, yet in the company's  
18 control. I recommend that the Commission increase test  
19 year revenue by \$373,000 to reverse this test year  
20 impact of reduced usage.

21 My final set of recommendations concerns rate  
22 case expense. First, I recommend specific adjustments  
23 to rate case expense that are typical of the types of  
24 adjustments the Commission makes. These have been  
25 presented by Ms. Vandiver. Second, I recommend that



1 prudent rate case expense be shared 50/50 by ratepayers  
2 and shareholders, as shareholders predominately benefit  
3 from rate cases. Lastly, I recommend that the  
4 Commission defer the rate case expense approved in this  
5 case until the rate case expense is fully amortized from  
6 the 2008 rate case. The company should still be allowed  
7 to earn a return on the unamortized balance of that rate  
8 case expense. That completes my summary.

9 **MS. CHRISTENSEN:** We tender the witness for  
10 cross-examination.

11 **THE WITNESS:** I haven't been sworn.

12 **CHAIRMAN GRAHAM:** Can I get you to stand and  
13 raise your right hand.

14 (Witness sworn.)

15 **CHAIRMAN GRAHAM:** Thank you. Do any of the  
16 other intervenors have a point of view that's contrary  
17 to OPC with this witness?

18 **MR. RICHARDS:** (Indicating negatively.)

19 **MR. CURTIN:** No, Chairman.

20 **CHAIRMAN GRAHAM:** Okay. Mr. May.

21 **CROSS EXAMINATION**

22 **BY MR. MAY:**

23 Q. Good afternoon, Ms. Dismukes.

24 A. Good afternoon, Mr. May.

25 Q. It's been awhile.

1           A.    Not that long.

2           Q.    It's good to see you.  We are going to get you  
3 out of here.

4           A.    Thank you.

5           Q.    I'm Bruce May with the law firm of Holland and  
6 Knight appearing today on behalf of Aqua.  And you and I  
7 spoke several weeks ago at your deposition.

8                    Do you recall that?

9           A.    Yes.

10          Q.    Do you have your deposition with you, Ms.  
11 Dismukes?

12          A.    I do.

13          Q.    Okay, great.  In the interest of time, I'm not  
14 going to rehash the details of the deposition.  I'm  
15 going to try to focus my questioning on some of the  
16 points that you just summarized.  But before I begin, I  
17 wanted to have a bit of a dialogue with you regarding  
18 the concept of negative acquisition adjustments.  And I  
19 think you just discussed that in your summary, correct?

20          A.    Yes, I did.

21          Q.    Now, the issue of negative acquisition  
22 adjustments was addressed in the last rate case, was it  
23 not?

24          A.    Yes, it was.

25          Q.    And you made a proposal in the last rate case

1 to reduce the company's rate base due to a negative  
2 acquisition adjustment, correct?

3 A. That's correct.

4 Q. And that recommendation was denied by the  
5 Commission?

6 A. Yes, it was.

7 Q. And negative acquisition adjustments are not  
8 part of this rate case, are they?

9 A. No, they are not. And in my summary I wasn't  
10 making reference to the fact that I was proposing a  
11 negative acquisition adjustment. I was just telling the  
12 Commissioners that when Aqua purchased several of these  
13 systems, that they purchased them for less than book  
14 value. But the full amount is in rate base.

15 Q. Yes, ma'am. I was just trying to clarify, I  
16 guess from my point of view, to understand -- that issue  
17 has been disposed of as a result of the last case,  
18 correct?

19 A. Correct. And I wasn't trying to bring it up  
20 in this case.

21 Q. Okay. Thank you. I've got a lot of notebooks  
22 here.

23 **MR. MAY:** In the interest of time, I have only  
24 one exhibit that I'd like to maybe hand out now, Mr.  
25 Chairman.

1                   **CHAIRMAN GRAHAM:** Please.

2                   **MR. MAY:** And, Kim, this is essentially the  
3 contract. I just want to go over a couple of quick  
4 items here that we discussed at the deposition.

5                   **CHAIRMAN GRAHAM:** We will label this Exhibit  
6 327. And, Mr. May, do you have a title for this?

7                   **MR. MAY:** This is the Office of Public  
8 Counsel's contract, consulting contract with Ms.  
9 Dismukes' firm, Acadian Consulting. It's actually a  
10 contract and an amended contract, but it would be a  
11 composite exhibit.

12                   **CHAIRMAN GRAHAM:** Please continue.

13                   (Exhibit Number 427 marked for  
14 identification.)

15 **BY MR. MAY:**

16                   Q. You currently manage Acadian Consulting Group,  
17 do you not?

18                   A. That's correct.

19                   Q. And at your deposition you testified that in  
20 your managerial capacity you are responsible for setting  
21 some of your staff's salary?

22                   A. That's correct.

23                   Q. And your employees receive periodic  
24 performance reviews, correct?

25                   A. That's correct.

1 Q. And you found it effective to establish salary  
2 levels based upon performance reviews, correct?

3 A. Yes.

4 Q. And I think you stated that your employees can  
5 receive percentage increases in their salary based upon  
6 performance, correct?

7 A. That's correct.

8 Q. And I think, as a manager, you found that a  
9 performance-based salary structure incentivizes -- and  
10 I'm using your terms -- continued superior performance,  
11 isn't that correct?

12 A. Our pay for our performance structure, yes,  
13 but it's not the same type of pay for performance  
14 structure that Aqua offers. It's different. They just  
15 get a percentage increase. It's not tied to particular  
16 metrics that need to be made.

17 Q. I think you also testified as a manager, a  
18 competitive salary structure is one of the things an  
19 employer needs to take into consideration in order to  
20 attract and retain qualified employees, is that correct?

21 A. Yes.

22 Q. And you are currently under contract with the  
23 OPC to provide consulting services for this rate case,  
24 correct?

25 A. That's correct.

1           Q.   Exhibit Number 327, is that your contract with  
2 the Office of Public Counsel for this case?

3           A.   Yes, it is.

4           Q.   And this contract was amended on December 13th  
5 to add additional timekeepers to the contract?

6           A.   To add additional timekeepers?

7           Q.   Yes. Take a look at the second whereas clause  
8 on the next to the last page of this packet. It states,  
9 "Whereas, the second party, which would be Acadian, has  
10 hired several additional employees since approval of the  
11 original contract for professional services, and said  
12 employees are necessary for second party to continue to  
13 provide consulting services to the first party,"  
14 correct?

15          A.   Correct.

16          Q.   Under your consulting contract with the OPC,  
17 your company's travel and per diem expenses are charged  
18 separately, correct?

19          A.   That's correct.

20          Q.   And you also bill separately for Federal  
21 Express?

22          A.   That's correct.

23          Q.   And the contract sets forth the hourly rates  
24 of the timekeepers that work on this rate case, correct?

25          A.   The timekeepers?

1 Q. Employees. I use timekeepers. I guess that's  
2 a legal --

3 A. Okay. Yes, these are the employees of the  
4 firm that may or may not have participated in assisting  
5 me with the rate case. They are consultants and  
6 analysts.

7 Q. But under Exhibit Number A they were added to  
8 the contract because they were putting time on the file,  
9 correct, they were working on the case?

10 A. All these people were not added.

11 Q. Who was added to --

12 A. Well, I don't have the original Exhibit A.

13 Q. Would it have been Alison Lewis (phonetic),  
14 Marlene Lawson, and Matthew Rappalo (phonetic)?

15 A. I don't have the original one.

16 Q. I guess just to short-circuit the question,  
17 there were additional employees added to this list from  
18 the original -- from the date of the original contract,  
19 correct?

20 A. That's correct. We had either added staff or  
21 inadvertently omitted somebody from the original list.

22 Q. Sure. And the second amendment, which  
23 occurred in June of this year, this is the last page of  
24 the document, that extended the contract through  
25 June 30th, 2012?

1           A.    That's correct.

2           Q.    Okay.  And I think you have already talked  
3 about you served as a consultant for the Office of  
4 Public Counsel in the last case for AUF, correct?

5           A.    Yes, and the case before that.

6           Q.    The issues in the last case were broader in  
7 scope than the issues in this case, correct?

8           A.    That's correct.

9           Q.    And that's because the last case was a fully  
10 litigated rate case and this is a PAA rate case, is that  
11 correct?

12          A.    That's correct.

13          Q.    In the last case, other than your firm, the  
14 only outside consultant that OPC retained was Mr. Andrew  
15 Woodcock, is that correct?

16          A.    In the last case?

17          Q.    Yes.

18          A.    I believe that to be correct, yes.

19          Q.    Now, during this rate case, the OPC retained  
20 you, Mr. Woodcock, and also added another consultant,  
21 Larkin and Associates, did it not?

22          A.    That's correct, yes.

23          Q.    And I think you testified at the deposition  
24 that Larkin and Associates are assisting primarily on  
25 rate base issues and tax issues, correct?



1           A.    Yes, Larkin and Associates assisted with rate  
2 base and tax issues.  And if I might just explain, in  
3 terms of the work on the last case versus this case,  
4 Larkin and Associates and I basically split the work up.  
5 So they took the rate base part of the equation and I  
6 basically took the operating and the revenue piece.  The  
7 overall scope -- the amount of the consultant fees was  
8 about the same, maybe a little bit more.

9           Q.    Ms. Dismukes, would you please turn to Page 2  
10 of your testimony.  On Line 4 and 5 you state that you  
11 are testifying on revenue requirement issues and quality  
12 of service issues, correct?

13          A.    Yes.

14          Q.    I'm going to focus on the revenue requirement  
15 side of your testimony first, and then we'll talk a  
16 little more on quality of service.  With respect to  
17 revenue requirement, during your deposition you and I  
18 chatted about the concepts of precedent and regulatory  
19 certainty, did we not?

20          A.    Yes, we did.

21          Q.    And you stated that precedent generally means  
22 something that has been established and should be  
23 followed, correct?

24          A.    I think I explained, yes, that precedent is  
25 something that is usually set by the Commission through

1 more than one order, several orders. Generally, it will  
2 be followed unless there is additional evidence  
3 submitted in the case or the utility doesn't meet its  
4 burden of proof.

5 Q. I'd like to talk with you about some of the  
6 risks that may occur if the Commission fails to follow  
7 precedent. Can you explain to me, again, your  
8 understanding of regulatory certainty?

9 A. Regulatory certainty is basically allowing --  
10 not allowing -- creating an environment where the  
11 utility basically understands the parameters under which  
12 it's being regulated.

13 Q. I think we talked about the importance of  
14 regulatory certainty for utilities because utilities  
15 make large capital investments and they need to have an  
16 idea as to whether or not there is a reasonable  
17 expectation they can recover those investments, correct?

18 A. Yes. But they also bear the burden of proving  
19 that those investments are just and reasonable and used  
20 and useful.

21 Q. You and I agree on that. Thank you.

22 On Page 67 of your deposition, you agreed  
23 that, and I'm quoting, the Commission should set rates  
24 that allow a utility an opportunity to earn a fair  
25 return on its prudent investments that have been devoted

1 to the public service, correct?

2 A. Yes, that's correct.

3 Q. You would agree, would you not, that a  
4 regulated utility should be permitted to set rates which  
5 will produce revenues that are sufficient to, one, cover  
6 reasonable operating costs, and, two, provide the  
7 utility with an opportunity to earn a reasonable return  
8 on prudent investments that are used and useful,  
9 correct?

10 A. Would you repeat the question?

11 Q. Sure. That's a long one. You would agree  
12 that a regulated utility should be permitted to set  
13 rates that will produce revenues that are sufficient to  
14 cover the utility's reasonable operating costs and  
15 provide the utility with an opportunity to earn a  
16 reasonable return on prudent investments that are used  
17 and useful in providing service to the public?

18 A. I would say that is correct, except when  
19 you're talking about operating costs it would be  
20 reasonable and prudent.

21 Q. Okay. And that revenue level that we just  
22 discussed is called a revenue requirement, correct?

23 A. That's correct.

24 Q. Ms. Dismukes, a substantial part of your  
25 testimony focuses on affiliated transactions, correct?

1           A.    That's right.

2           Q.    And you testified in AUF's last rate case on  
3 affiliated transactions, isn't that correct?

4           A.    That's correct.

5           Q.    And in the last case you argued that affiliate  
6 charges to AUF should be adjusted because they were  
7 unreasonable, right?

8           A.    That's correct.

9           Q.    Now, the Commission did not accept your  
10 recommended adjustments in the last case, correct?

11          A.    That's correct.

12          Q.    I think in your summary you mentioned that  
13 your adjustments are based on a comparison of AUF to  
14 other utilities, correct?

15          A.    Other comparable peer companies, yes, that's  
16 correct.

17          Q.    Let's look at Page 92 of your deposition.

18          A.    I'm there.

19          Q.    I think you agreed that different utilities  
20 have different operating costs and expenses, correct?

21          A.    Yes, that's correct, but I'm not examining  
22 their operating costs and expenses. What I'm examining  
23 are the administrative and general expenses which are  
24 different than their operating expense.

25          Q.    But they are still an expense to the company,

1 correct?

2 A. Operating expenses?

3 Q. Yes.

4 A. Yes.

5 Q. And administrative and general expenses, too,  
6 correct?

7 A. Yes.

8 Q. Okay. I think you just mentioned that your  
9 analysis and your recommended adjustments to AUF's  
10 affiliated charges are based upon a group of other  
11 utilities that you refer to as a peer group, correct?

12 A. That's correct.

13 Q. And just so we are clear, Ms. Dismukes, you  
14 have two peer group schedules; one in Schedule 18 and  
15 the other in Schedule 21, is that correct?

16 A. Schedule 18, that's correct.

17 Q. Schedule 21, and I think --

18 A. 21 is where the actual calculations and  
19 adjustments are. I just wanted to make sure the numbers  
20 were correct.

21 Q. Right. And then there is another peer group,  
22 for a lack of better term peer group, in Schedule 24  
23 that you use to make adjustments to bad debt expense,  
24 correct?

25 A. That's the same peer group that was used in

1 the examination of the administrative and general  
2 expenses.

3 Q. I just want to get -- I want to confirm that  
4 you and I had this discussion at your deposition,  
5 because it's going to streamline a lot of my questions.  
6 Because as I understand it, your peer group in Schedule  
7 18 is your larger peer group, and then there are some  
8 subsets of that same peer group that appear in Schedule  
9 21 and 24, correct?

10 A. The same peer group are in 21 and used to make  
11 the adjustment in Schedule 24, yes.

12 Q. Okay.

13 A. Which you're right, it is a subset of  
14 basically the population of Class B and C water and  
15 wastewater companies in the State of Florida.

16 Q. And you testified during our deposition that  
17 the system costs for each of the utilities in your peer  
18 groups would not be the same as the system cost for AUF,  
19 correct?

20 A. If you're talking about system operating  
21 costs --

22 Q. Correct.

23 A. -- yes. But, again, I'm not adjusting the  
24 operating costs or recommending an adjustment to the  
25 operations or maintenance costs of Aqua. My adjustments

1 are to the administrative and general. Basically, the  
2 overhead costs of the company.

3 Q. Sure. And I want to make sure we are  
4 comparing apples-to-apples here. You haven't physically  
5 inspected any of the utilities that are listed in your  
6 peer group, correct?

7 A. No, I have not. And, nor was it necessary to  
8 in order to conduct the analysis that I did.

9 Q. And you haven't independently audited the  
10 books and records of any of the utilities listed in your  
11 peer group, correct?

12 A. I have not audited any of the utilities  
13 included in my peer group, nor do I believe that  
14 Mr. Szczygiel audited the CPA firms, the law firms, et  
15 cetera, that were included in his market analysis.

16 Q. I would love to have you and Mr. Szczygiel  
17 come back next week and talk about the differences of  
18 opinion y'all have with respect to how different costs  
19 are allocated and which bucket you put them in, but,  
20 unfortunately, I'm not sure that's going to be  
21 happening.

22 You haven't independently verified that the  
23 design of the water treatment systems in your peer group  
24 are the same design as the water treatment facilities  
25 that AUF owns and operates in Florida, correct?

1           A.    That's correct.  And, again, I don't believe  
2           that this is necessary, because what I'm looking at is  
3           the administrative and general expenses.  Plus,  
4           furthermore, as I indicated in my summary, I did take  
5           into consideration different treatment processes and  
6           removed those that were considered more costly to  
7           operate -- your reverse osmosis, your ion exchange.  I  
8           did take them out of the population, because that was an  
9           issue addressed by the Commission in the PAA order.

10          Q.    So you don't believe the administrative  
11          expenses of a company has anything to do with the  
12          operational characteristics of the company?

13          A.    No.  I believe that they are somewhat related,  
14          but they are not -- the operating characteristics are  
15          not significantly, do not significantly affect the  
16          administrative and general expenses.  And as a matter of  
17          fact, in response to OPC's Interrogatories 275 and 276,  
18          we asked the company to describe all relationships  
19          between administrative and general expenses and the  
20          methods used to treat water.  And the company responded,  
21          "Based upon AUF's understanding of the interrogatory,  
22          AUF states there is no relationship."  In interrogatory  
23          276, we asked the company, "Please describe all  
24          relationships between administrative and general  
25          expenses and the method used to treat wastewater."  The



1 company responded, "Based upon AUF's understanding of  
2 the interrogatory, AUF states that there is no  
3 relationship."

4 Q. Have you spoken with any employee of any of  
5 the utilities listed in your peer groups?

6 A. No, I have not.

7 Q. Have you assisted the Office of Public Counsel  
8 in any rate proceeding before the Public Service  
9 Commission for any of the peer group utilities listed in  
10 your schedules?

11 A. I believe in my deposition I said that I was  
12 involved, I believe, in the Shangri-La case. That was  
13 very many years ago. I don't believe it ever went to  
14 hearing, though.

15 Q. Other than the Shangri-La Utility case, you  
16 haven't assisted the OPC in any rate proceeding for any  
17 of the peer group utilities, have you?

18 A. No, I haven't. And I'm not going to repeat  
19 myself, but it really wasn't necessary.

20 Q. You and I disagree on that. And you haven't  
21 reviewed any of the outside work papers for any of the  
22 peer group utilities you include in your testimony,  
23 correct?

24 A. Outside work papers for what?

25 Q. For any of the peer group utilities listed in

1 your schedules?

2 **MS. CHRISTENSEN:** Could we get a definition of  
3 what Mr. May means by the words outside work papers?

4 **MR. MAY:** I was talking about audit work  
5 papers, but let me just drill down to the question.

6 **BY MR. MAY:**

7 **Q.** You haven't performed any financial analysis  
8 to determine the earnings level of those utilities you  
9 include in your peer group analysis, have you?

10 **A.** No, I have not. But I will say that in  
11 connection with your previous question, which you were  
12 talking about audit work papers, and I'm sorry, I didn't  
13 hear the word audit.

14 **Q.** I apologize, I didn't say audit.

15 **A.** Okay. I did examine several of the end  
16 reports. And as you know, in the Commission's annual  
17 reports they have to have an officer or director usually  
18 attest to the -- basically, the data that is submitted  
19 in the annual report. And in several of those annual  
20 reports they also indicate who their auditors are, and  
21 many times they were Price Waterhouse or Bob Nixon's  
22 firm, all reputable auditing companies.

23 **Q.** And you haven't analyzed whether any of the  
24 peer group utilities you have included in your testimony  
25 have any outstanding violations with any environmental

1 regulator?

2 A. No, but Aqua does.

3 Q. And you haven't independently verified whether  
4 any of the utilities you included in your peer group  
5 analysis have kept their books and records in accordance  
6 with NARUC System of Accounts, have you?

7 A. Well, I have not independently audited that.  
8 But as I said before, in connection with the annual  
9 reports that are filed with the Commission, there is an  
10 officer or director that signs for the validity of those  
11 annual reports. And in many instances they indicate who  
12 their auditors are, and they have been Price Waterhouse  
13 or Bob Nixon's firm or other accounting firms that I'm  
14 familiar with given my work here in Florida in the water  
15 and sewer industry.

16 Q. And you haven't analyzed whether any of the  
17 utilities you include in your peer group analysis have  
18 had an audit performed by the Florida Public Service  
19 Commission staff within the last five years, have you?

20 A. No, nor was it necessary to.

21 Q. Have you analyzed whether any of the utilities  
22 listed in your peer group analysis are owned by real  
23 estate developers?

24 A. No.

25 Q. Have you independently analyzed the duties and

1 responsibilities of the employees of the utilities you  
2 have included in your peer group analysis?

3 A. No, I have not, but I also don't believe that  
4 Mr. Szczygiel either examined the duties of the CPAs  
5 that he included in his market analysis, or the lawyers  
6 that he included in his market analysis. That's not the  
7 idea of what you need to do when you're creating a peer  
8 group and you are doing a peer comparison. When the  
9 Commission, for example, uses a peer group to set a rate  
10 of return on equity, they don't expect the rate of  
11 return witness to go in there and audit the books and  
12 records of the utility that is included in the peer  
13 group.

14 Q. At your deposition you stated that you hadn't  
15 independently analyzed whether any of the utilities  
16 included in your peer group analysis are losing money,  
17 correct?

18 A. That's correct.

19 Q. And you stated you didn't have the budget to  
20 perform that kind of analysis, correct?

21 A. Basically, it gets back to the fact that if  
22 the criteria is that in order to use a peer analysis  
23 that you have to audit the books and records, then there  
24 will never be a peer analysis because it is just too  
25 expensive. But as I just said in my previous answer,

1 peer analyses are done quite frequently in rate cases,  
2 and it is not the expectation that the books and records  
3 of the peer group be audited in order to have those peer  
4 companies compared to the utility in question.

5 Q. Have you independently analyzed whether any of  
6 the utilities listed in your peer group analysis have  
7 been abandoned?

8 A. I don't believe they would have been abandoned  
9 as of the time they filed an annual report with the  
10 Commission. I don't know if they have been abandoned  
11 since that time. But even if they were, the data that  
12 was included in the annual report is still valid data.

13 Q. Have you independently analyzed whether any of  
14 the utilities listed in your peer group analysis are in  
15 receivership?

16 A. No, I have not, and nor was it necessary to.

17 Q. Have you independently analyzed whether any of  
18 the entities listed in your comparative peer group  
19 analysis have been sold or transferred to a governmental  
20 entity?

21 A. No, I have not, and nor was it necessary to do  
22 so.

23 Q. Let's look at Page 80 of your testimony.

24 A. Did you say 80?

25 Q. Yes, ma'am.

1           A.    I'm there.

2           Q.    You previously stated that peer group analyses  
3 have been used in previous rate cases to establish  
4 rates. Can you give me an example?

5           A.    In other jurisdictions? Yes.

6           Q.    I'm talking about practicing before this  
7 Commission, before the Florida Public Service  
8 Commission.

9           A.    The Commission uses, I believe -- if they are  
10 using the information that has been presented by other  
11 experts in the rate case, they have used -- those  
12 experts will use peer groups to determine the return on  
13 equity. In situations where the particular utility does  
14 not have a typical capital structure, they will use a  
15 peer group to establish a hypothetical capital structure  
16 that can be used, instead of the utilities that might  
17 have a very costly capital structure.

18                   As I was about to say, I am familiar with  
19 other jurisdictions, and in particular the American  
20 Water Companies use a peer analysis to present their  
21 conclusions as to the appropriateness of their affiliate  
22 charges and their service company charges. They  
23 actually compare themselves to electric utilities and  
24 their service companies.

25           Q.    Okay. Let's just focus on Florida. Can you

1 cite me a case where the Florida Public Service  
2 Commission has adjusted a utility's expenses, not ROE  
3 and not capital structure, adjusted a utility's expenses  
4 using a peer group analysis?

5 A. I cannot cite you a case as I sit here today.

6 Q. I think you mentioned previously that it's  
7 important for the Florida Public Service Commission to  
8 follow regulatory precedent, isn't it?

9 A. That's correct. But I also think that the  
10 Commission, if all they did is follow regulatory  
11 precedent, we shouldn't even bother to be here and have  
12 a hearing. We can just, you know, determine the cases  
13 based upon regulatory precedent.

14 Q. Let's shift gears a little bit, Ms. Dismukes,  
15 and I'm going to speed up a little bit in my questioning  
16 because I know you have got to scoot. I'd like to go  
17 back to the Commission's deliberations on affiliated  
18 transactions in the last case. You would agree, would  
19 you not, that in the last case, AUF's Witness, Mr.  
20 Szczygiel, testified that if AUF did not receive the  
21 administrative and support service from its affiliates  
22 it would have to secure those services from outside  
23 vendors and it would be more expensive to the  
24 ratepayers, correct?

25 A. I don't remember him saying that in the last

1 case. I don't deny that he did. I don't have  
2 recollection of that today.

3 Q. Now, in this case, AUF has provided additional  
4 support for the reasonableness of its affiliated  
5 transactions, has it not? I'm referring to the Florida  
6 Market Study in Mr. Szczygiel's Exhibit SS-2.

7 A. You're saying that they provided information,  
8 more information in this case than they did in the last  
9 case?

10 Q. Yes, ma'am.

11 A. I would agree with you that Mr. Szczygiel  
12 provided a comparison of the hourly rates of Aqua  
13 Services employees to the billable rates of lawyers and  
14 CPAs. He did do that. I don't agree with his  
15 comparison.

16 Q. I understand y'all have a philosophical  
17 accounting disagreement, and I respect that. Let's turn  
18 to Page 51 of your testimony.

19 A. Okay.

20 Q. Mr. Szczygiel's study -- I think you just  
21 agreed with this, but Mr. Szczygiel's study essentially  
22 compares the hourly rates of AUF's in-house  
23 professionals to other accounting, engineering, legal,  
24 and management professionals, correct?

25 A. That's correct.



1 Q. And you state that the Florida market study  
2 calculated the weighted cost of outside engineering  
3 firms at \$122 per hour, correct?

4 A. Did you say turn to Page 50?

5 Q. 51, I'm sorry. I'm on Lines 10 and 11, Ms.  
6 Dismukes.

7 A. That's correct.

8 Q. And isn't it correct that one of your  
9 criticisms of Mr. Szczygiel's Florida Market Study is  
10 that it overstates the outside -- excuse me, in that it  
11 overstates the cost of outside engineering consultants,  
12 correct?

13 A. That it overstates the cost of outside  
14 engineering consultants? Well, I have a lot of  
15 criticisms of his engineering hourly rate. One is that  
16 he only used two engineering firms. Second, there is no  
17 comparison to the education experience of these  
18 companies to the engineering services allocated to Aqua  
19 from the service company. Third, the company indicated  
20 that the \$82 an hour of allocating engineering costs  
21 included overhead, and the company failed to provide  
22 this overhead or explain how it was determined.

23 Q. Yes, ma'am. But, again, back to my question,  
24 one of your criticisms of the market study is that it  
25 overstates the cost of outside engineering consultants,

1 correct?

2 A. Could you point me to --

3 Q. If you disagree with me, that's fine, but I  
4 guess that's my question.

5 A. I don't believe I stated that in my testimony.

6 Q. What is the weighted cost per hour for the  
7 engineering firms included in AUF's market study?

8 A. 122.

9 Q. And what is the hourly rate for OPC's  
10 engineering expert in this case?

11 A. I don't know.

12 Q. Subject to check, that's \$185 hour, correct?

13 MS. CHRISTENSEN: I believe the witness  
14 answered she doesn't know.

15 BY MR. MAY:

16 Q. You don't know?

17 A. I don't know.

18 Q. Have you read Mr. Szczygiel's rebuttal  
19 testimony?

20 A. I have.

21 Q. And he has responded to your concerns with  
22 respect to having too narrow a group of engineers to  
23 calculate the cost of outside engineering services, has  
24 he not?

25 A. Yes, and I believe that he added two firms, I

1 think.

2 Q. One of which was Mr. Woodcock's firm?

3 A. That I don't remember.

4 Q. Mr. Szczygiel's study calculates the hourly --  
5 in-house hourly rate for in-house engineering services  
6 at \$82 hour, correct?

7 A. That's correct.

8 Q. And you would agree that Aqua Services, Inc.'s  
9 in-house engineering hourly rates are less than the  
10 hourly rates paid by OPC for its own engineer?

11 A. That's correct. But I think you have to look  
12 at it differently than comparing the in-house hourly  
13 rates to the hourly rate for a consultant. You have to  
14 look at the difference in education, experience,  
15 specialty, the type of work that's being done. Clearly,  
16 you're not going to pay, you know, every engineer an  
17 hourly rate at the rate that a consultant would charge.  
18 It would be extremely inefficient, most likely, to have  
19 somebody at a very high hourly rate performing very low  
20 engineering services.

21 Q. Let's switch over to bad debt expense. You  
22 previously testified that it's important for the  
23 Commission to follow regulatory precedent, correct?

24 A. That's correct.

25 Q. And you would agree that the Commission

1 practice and precedent is to establish bad debt expense  
2 by using the utility's three-year average bad debt  
3 expense?

4 A. Yes. But there are serious problems with the  
5 bad debt analysis that was included in the PAA, and I  
6 went over them in my summary. It's just completely  
7 inappropriate.

8 Q. Now, you're proposing that the Commission  
9 deviate from past precedent, right?

10 A. No, I am proposing that -- first of all, what  
11 was used in the PAA didn't include a three-year average  
12 of bad debt prior to the test year, it included the test  
13 year. And not only did it include the test year, but it  
14 included six months of the test year twice. It's  
15 completely inappropriate to judge the reasonableness of  
16 the test year bad debt by including the test year bad  
17 debt in the analysis.

18 Q. What's your calculation of the appropriate  
19 three-year average for AUF's bad debt expense?

20 A. I did a subsequent analysis of the bad debt by  
21 removing the test year bad debt, and there was a year  
22 that had a very high -- a system that had a very high  
23 level of bad debt, and I used -- I removed that. If  
24 you're looking at just my bad debt year-to-year  
25 comparison, I believe my bad debt adjustment was

1 approximately \$79,000. But I had recommended that the  
2 Commission actually use my peer analysis, because by  
3 using the peer analysis you are removing the bad debt  
4 that is caused by poor customer service, poor quality of  
5 service, things of that nature.

6 Q. There's that peer analysis, again. Let's chat  
7 about it a little bit. Now, the other utilities that  
8 you are using to adjust AUF's bad debt expense are  
9 listed on Page 2 your Schedule 24, correct?

10 A. No, they're the same peer group that I used  
11 for the administrative and general expenses, which is  
12 Schedule 21.

13 Q. Okay. So it's Schedule 21. All right.

14 A. But 24 actually performs the calculation.

15 Q. Okay, I'm sorry. So the questions I asked  
16 with respect to your analysis of those companies listed  
17 in your peer group analysis for purposes of the bad debt  
18 adjustment that you are proposing would hold true now,  
19 right? I don't have to ask you the same litany of  
20 questions that I went through earlier, correct?

21 A. No, you don't have to ask me the same litany  
22 of questions that you asked me with respect to the  
23 administrative and general expenses, but my answers  
24 would be the same, that there is no need to, in a peer  
25 analysis, to audit the books and records, or that the

1 operating and maintenance expenses have to be the same.  
2 That's just not necessary in the analysis that I  
3 performed.

4 Q. So just to shorten the line of questioning,  
5 you haven't performed any in-depth analysis of those  
6 utilities' books, records, costs, or operating  
7 characteristics, correct?

8 A. I don't know that I would say that. In the  
9 peer analysis, we took into consideration areas where  
10 there were differences in terms of fine-tuning the peer  
11 group. We looked at the entire population. We removed  
12 companies that had expensive treatment processes. We  
13 removed companies that weren't operating in the same  
14 earlier as Aqua. And we made other, you know, minor  
15 adjustments. We made sure that if there were no  
16 salaries and wages booked in the annual report, we  
17 didn't include them in our peer analysis.

18 If there was data that looked questionable in  
19 terms of their ERCs and the number of customers, which  
20 is the denominator in our analysis, we did not include  
21 them. So we took a population of -- I'm not sure  
22 exactly how many, but over 100 companies, I believe, and  
23 got it down to something much smaller by focusing it in  
24 and bringing it as close to the characteristics of Aqua  
25 Utilities as we could.

1           Q.    Let's talk a little bit about the bad debt  
2 expense and the peer group analysis that you performed  
3 with respect to the bad debt expense.  But, first, just  
4 for the record, you can't identify any case where the  
5 Florida Public Service Commission has adjusted expenses  
6 of a utility in a rate case using a peer group analysis,  
7 have you?

8           A.    I can't, as I sit here today.  That does not  
9 mean that the Commission has not done that.

10          Q.    Now, when you selected the utilities for your  
11 peer group adjustment, the bad debt expense, you  
12 selected only those utilities that were in Schedule 21,  
13 I think, that were operating in the same county as Aqua,  
14 correct?

15          A.    And had the same operating characteristics,  
16 yes.

17          Q.    You didn't consider any other socioeconomic  
18 factors for the respective utility customer basis that  
19 might affect bad debt expense, did you?

20          A.    Well, that was one of the reasons that in  
21 selecting the criteria to determine the peer group,  
22 rather than take the whole population of the State of  
23 Florida in terms of water and wastewater companies, we  
24 only used those companies that were operating in the  
25 same county as Aqua.

1           Q.    You will agree with me, won't you, that there  
2 may be vastly different socioeconomic factors and  
3 conditions within one county, correct?

4           A.    There can be different socioeconomic factors  
5 within one county, yes.

6           Q.    Have you ever been to Palm Beach County,  
7 Florida?

8           A.    Yes.

9           Q.    You would agree that on the eastern side of  
10 that county it's extremely affluent, correct?

11          A.    That I can't tell you.

12          Q.    And on the western side of that county it's a  
13 disadvantaged area of the state, would you agree with  
14 that?

15          A.    I don't know.

16          Q.    Okay.  But you would agree that there may be  
17 vastly different socioeconomic factors within one  
18 county?

19          A.    I answered that question.

20          Q.    Let's turn to rate case expense.  During the  
21 deposition we discussed that rate case expense included  
22 in the PAA order was around \$778,000, correct?

23          A.    That's correct.

24          Q.    Let's turn back to Page 2 of your consulting  
25 contract, Exhibit 327.  Now, one of your roles and



1 duties and responsibilities under your contract is to  
2 prepare discovery to serve on AUF, correct?

3 A. That's correct.

4 Q. And on Page 83 of your deposition, you agreed  
5 that the larger the volume of discovery in a rate case  
6 the higher the rate case expense, Lines 5 through 11.

7 A. I said I generally agree that the larger the  
8 volume of discovery in a rate case the higher the rate  
9 case expense, correct.

10 Q. And on Line 11 you said, yes, I would agree  
11 with that, correct?

12 A. Correct. But I would like to add that I  
13 believe that rate case expense could be lowered if the  
14 utility didn't put up such a fight to produce the  
15 documents.

16 Q. Thank you. You stated at your deposition that  
17 you didn't know the exact number of interrogatories or  
18 requests for production of documents that you prepared  
19 in this case, correct?

20 A. Well, they weren't all prepared by me.

21 Q. Do you know how many interrogatories and  
22 requests for production of documents that OPC has served  
23 on Aqua in this case?

24 A. I know what you allege, but I don't agree with  
25 that because of the fact that typically when you count

1 the interrogatories that OPC has served, you typically  
2 count the subparts. And as Ms. Vandiver addressed  
3 yesterday, it's not necessarily appropriate to count the  
4 subparts, because it's not necessarily asking for  
5 additional information or additional documents. It's  
6 asking for clarification or making sure that we get  
7 exactly what we want.

8 Q. But you would agree under the Florida Rules of  
9 Civil Procedure that in a traditional litigated case in  
10 circuit court, normally the number of interrogatories  
11 are limited to 30, including subparts?

12 A. I don't know about the subparts, but I have  
13 read many years ago that the limitation is  
14 30 interrogatories. But I think you need to take into  
15 consideration, perhaps, the differences in complexities  
16 between whatever is going on in that arena and the  
17 amount of data that is required to be collected in these  
18 proceedings, the volumes of information that are  
19 provided in these proceedings, and it's not really an  
20 appropriate comparison.

21 Q. Sure. And the amount of money involved in a  
22 case would also dictate the amount of discovery in some  
23 instances, correct?

24 A. Are you talking about the amount of the rate  
25 increase?

1 Q. Yes. Just the value of the case, the value of  
2 the transaction?

3 A. To some degree, but I wouldn't say there is  
4 anywhere near a one-to-one relationship there.

5 Q. What is the amount of the rate increase that  
6 Aqua is requesting in this case?

7 A. I think it's right at three million. No?

8 Q. A little bit more. It's about -- right around  
9 4 million.

10 A. Four million, sorry.

11 Q. Mr. Szczygiel has testified that OPC has  
12 propounded 796 interrogatories and 299 requests for  
13 production of documents. You just indicated you don't  
14 necessarily agree with that number, do you?

15 A. I do not.

16 Q. Okay. What's your number?

17 A. I didn't count them.

18 Q. You and I had a discussion, a similar  
19 discussion in the last rate case about discovery, did we  
20 not?

21 A. Your memory is better than mine.

22 Q. And I think we discussed Florida Power and  
23 Light's request for a need determination of a nuclear  
24 power plant in Docket Number 070650-EI. And in the last  
25 case you agreed that the anticipated cost of FPL's

1 nuclear power plant would exceed \$10 billion, correct?

2 A. I don't believe I testified to that.

3 Q. Do you know how much a nuclear power plant  
4 costs?

5 A. Nuclear power plants are very expensive.

6 Q. Over a billion dollars, correct?

7 A. Yes, they are.

8 Q. So we are in the billions and not millions,  
9 correct?

10 A. That's correct.

11 Q. Do you understand that the customers of FPL  
12 are paying the cost of that billion dollar plant through  
13 the Nuclear Power Plant Cost-Recovery Clause today?

14 A. I am aware of the fact that the Commission has  
15 such a rider, yes.

16 Q. Do you know how many interrogatories and  
17 requests for production of documents the Office of  
18 Public Counsel served on FPL in the course of that  
19 billion dollar need determination proceeding?

20 A. No, I don't.

21 Q. Subject to check, would you agree that OPC  
22 served two interrogatories and 17 requests for  
23 production of documents on FPL in that proceeding?

24 MS. CHRISTENSEN: Objection to relevancy to  
25 this proceeding. And, two, she already testified she

1 didn't know.

2           **MR. MAY:** I think it goes directly -- excuse  
3 me. I think it goes directly to the heart of rate case  
4 expense in this case, with all due respect.

5           **CHAIRMAN GRAHAM:** I think this question came  
6 up with another witness and the objection came up, and I  
7 had overruled the objection. I'm curious myself with  
8 the answer. If she doesn't know, you can say you don't  
9 know.

10           **THE WITNESS:** Yes. I wasn't involved in that  
11 proceeding. I don't know what -- and I know  
12 Ms. Vandiver answered that question, and I think she  
13 gave an accurate description of, you know, what was  
14 going on with respect to Public Counsel and why the  
15 number of questions asked were asked. I don't know.  
16 I'm not involved in that.

17           **MR. MAY:** I can move on. I think the answer  
18 is found in Docket Number 070650, and it can be  
19 officially recognized by the Commission through our  
20 briefings.

21 **BY MR. MAY:**

22           **Q.** Please turn to Page 96 of your testimony.

23           **A.** Okay.

24           **Q.** I'd like to talk with you about your rate case  
25 expense proposals. Under Florida law, a water and

1 wastewater utility is entitled to recover all of its  
2 reasonable rate case expense, correct?

3 A. Yes, I would agree with that.

4 Q. However, you are recommending that Aqua only  
5 be allowed to recover 50 percent of the reasonable rate  
6 case expense found by the Commission, correct?

7 A. I am recommending that the stockholders absorb  
8 the other 50 percent of the rate case expense because  
9 they are the ones that are the primary beneficiary of  
10 the rate case expense.

11 Q. You and I had this discussion at your  
12 deposition. You agreed that the 50/50 split of  
13 reasonable rate case expense has never been ordered  
14 before by this Commission, has it?

15 A. No, it hasn't been ordered before by this  
16 Commission, but it has been ordered by other commissions  
17 in the United States. And, in fact, in the last rate  
18 case one of your witnesses, Mr. Prettyman, actually  
19 endorsed a 50/50 sharing of rate case expense in another  
20 jurisdiction.

21 Q. Is he our witness in this case?

22 A. No, he's not.

23 MR. MAY: We learn.

24 (Laughter.)

25 BY MR. MAY:

1 Q. Let's turn to the ROE penalty. Ms. Dismukes,  
2 you are recommending a 100 basis point ROE penalty in  
3 this case, correct?

4 A. I am recommending a 100 basis point reduction  
5 to the company's return to equity, that's correct.

6 Q. And in the last case the Commission found that  
7 the quality of service for the systems subject to this  
8 rate case was marginal, correct?

9 A. That's correct, it did.

10 Q. And the Commission didn't impose an ROE  
11 penalty on AUF for the systems in this rate case -- in  
12 the last case, correct?

13 A. That's correct, but it has done so in the PAA.

14 Q. Can you turn to Page 28 of your testimony.

15 **CHAIRMAN GRAHAM:** Mr. May, just to let you  
16 know, in about the next ten minutes we're going to end.  
17 You do not have to end your questioning of this witness,  
18 just get to a point, a pausing point so when we  
19 reconvene on Wednesday -- I just want to let you know in  
20 the next ten minutes you need get to the point where  
21 it's a comfortable break.

22 **MR. MAY:** Okay.

23 **BY MR. MAY:**

24 Q. At the top of the page on Page 28, you cite  
25 Section 367.111(2) for the proposition that the

1 Commission can reduce AUF's return on equity, isn't that  
2 correct?

3 A. Yes.

4 Q. Can you read for the record the last sentence  
5 in that citation?

6 A. "If the Commission finds that a utility has  
7 failed to provide its customers with water or wastewater  
8 service that meets the standards promulgated by the  
9 Department of Environmental Protection or the Water  
10 Management Districts, the Commission may reduce the  
11 utility's return on equity until the standards are met."

12 Q. What standards promulgated by the Florida  
13 Department of Environmental Protection or the Water  
14 Management Districts are you testifying have not been  
15 met in this case?

16 A. I'm not testifying on those Department of  
17 Environmental Protection Agency standards.

18 Q. Please turn to Page 1 of your testimony. At  
19 Lines 17 and 18 you state that you discuss the  
20 significant deficiencies in the company's water quality,  
21 correct?

22 A. That's correct. That is from the customer's  
23 perspective from the customer hearings, the transcripts  
24 from the customer hearings.

25 Q. Please turn to Page 22 of your testimony.



1           A.    Okay.

2           Q.    You refer to a transcript of a customer  
3 hearing in Fort Myers where a customer complained about  
4 some water quality issues, do you not?

5           A.    That's correct.

6           Q.    Were you at the Fort Myers customer service  
7 hearing?

8           A.    No, I was not.

9           Q.    Well, I was there, and there was no customers  
10 that testified at that customer service hearing.  
11 Actually, there were no customers that attended that  
12 customer service hearing.

13          A.    Well, you know what, I think maybe the  
14 citation is incorrect, because it says at Captiva  
15 Island, which is not in --

16           **MS. CHRISTENSEN:** I'm sorry, can I clarify?  
17 Is Mr. May suggesting that there were no customers at  
18 the customer meeting or the service hearing, because  
19 this is the customer hearing citation.

20           **MR. MAY:** I'm just reading her testimony. She  
21 said at a customer service hearing.

22           **MS. CHRISTENSEN:** No, she said customer  
23 meeting in the citation, so there was a difference.  
24 There is a service hearing and there is customer  
25 meetings that were held.

1           **MR. MAY:** The citation is transcript of Fort  
2 Myers customer hearing. It's Footnote 58. Do you want  
3 to correct the testimony? Because, I mean, I can't  
4 testify, but my recollection is there were no customers  
5 that attended that customer service hearing.

6           **THE WITNESS:** Everything in my testimony is  
7 related to the informal customer meetings that took  
8 place during the PAA, and those meetings were  
9 transcribed by the Office of Public Counsel, and that's  
10 what we reviewed.

11 **BY MR. MAY:**

12           **Q.** So when you refer to a customer hearing in  
13 your testimony, you're not referring to the sworn  
14 testimony customer service hearings that the Commission  
15 conducted ten of those service hearings before the PAA  
16 protest, are you?

17           **A.** That's correct. These were the -- like I  
18 said, the informal meetings that happened during the  
19 PAA, that's correct.

20           **Q.** So your quality of service review was not of  
21 sworn testimony, correct?

22           **A.** I wasn't there. I don't know if it was sworn  
23 or not. I believe that I have similar issues brought up  
24 by customers during the actual formal customer service  
25 hearings that took place that was sworn testimony. I

1 would be happy to provide that to you. I have got very  
2 similar quotes. Many of those happened either at the  
3 time that we were preparing the testimony or after we  
4 had prepared the testimony.

5 Q. We're dealing with a -- I'm sorry, are you  
6 finished?

7 A. I'm done. Thank you.

8 Q. I guess my struggle, Ms. Dismukes, is we are  
9 dealing with the prefiled testimony structure of this  
10 case, and I can only address, and I can only analyze  
11 sworn testimony and prefiled testimony. So I'm a little  
12 bit at a loss. But let's move on.

13 I want to talk to you a little bit, and I will  
14 try to wrap this up, about your testimony regarding the  
15 water quality. You are not a water quality expert, are  
16 you?

17 A. No, I'm not.

18 Q. And you have no training in water quality  
19 analysis?

20 A. No, I do not.

21 Q. And you are not a toxicologist?

22 A. No.

23 Q. And you have no training in toxicology?

24 A. That's correct.

25 Q. And you are not a hydrologist?

1           A.    No, I'm not.

2           Q.    And you have no training in hydrology?

3           A.    No, I do not.

4           Q.    You have no training whatsoever in water  
5 quality analysis, do you?

6           A.    I have no technical training, that's correct.

7           Q.    And I think we have discussed, you have never  
8 inspected one of Aqua's treatment systems, have you?

9           A.    No, I have not.

10          Q.    And you have never inspected one of Aqua's  
11 water treatment systems, either, have you?

12          A.    No, I have not.

13                **MR. MAY:**  I think I'm at a stopping point, Mr.  
14 Chairman.

15                **CHAIRMAN GRAHAM:**  Okay.  Just to let the  
16 parties know, once again, as I said before, that the  
17 Emergency Management Team is running drills next  
18 Wednesday morning.  I believe the drill is going to go  
19 from 7:00 to 9:30 or so, so just take that into account  
20 because we will be starting at 9:30, and parking will  
21 probably be extremely scarce.  So you may want to make  
22 plans around that one way or the other.

23                We will be going -- we are scheduled to go on  
24 Wednesday and Thursday of next week.  We will be going  
25 about 7:00 o'clock at night both nights, if need be.

1 And hopefully we will get it done then. Are there any  
2 other questions, concerns, statements before we adjourn  
3 for the week?

4 **MR. CURTIN:** I would say that I have contacted  
5 Ms. Kurz, and that her mother's medical situation went  
6 very well, so she should be here pending any unforeseen  
7 circumstances.

8 **CHAIRMAN GRAHAM:** Okay. Anything else? I  
9 want to thank you all for your patience this week. And  
10 travel safe, and we will see you next Wednesday.

11 Thank you.

12 (The hearing adjourned at 4:32 p.m.)

13 (Transcript continues in sequence with  
14 Volume 7.)

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25

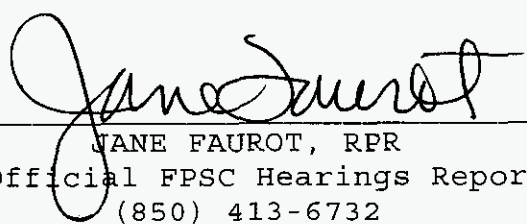
STATE OF FLORIDA        )  
                                  :  
                                  :        CERTIFICATE OF REPORTER  
COUNTY OF LEON        )

I, JANE FAUROT, RPR, Chief, Hearing Reporter Services Section, FPSC Division of Commission Clerk, do hereby certify that the foregoing proceeding was heard at the time and place herein stated.

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

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

DATED THIS 8th day of December, 2011.

  
\_\_\_\_\_  
JANE FAUROT, RPR  
Official FPSC Hearings Reporter  
(850) 413-6732