

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 9

Pages 1534 through 1863

PROCEEDING: HEARING

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

DATE: Wednesday, December 7, 2011

TIME: Commenced at 2:05 p.m.
Concluded at 7:10 p.m.

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

REPORTED BY: JANE FAUROT, RPR
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APPEARANCES: (As heretofore noted.)

DOCKET NUMBER - DATE

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Volume 8.)

CHAIRMAN GRAHAM: Let's get started. YES, I believe you were getting ready to start your questioning of the witness.

MR. CURTIN: Yes, Chairman. Thank you.

CROSS EXAMINATION

BY MR. CURTIN:

Q. Mr. Szczygiel -- I think I got that pronunciation right. Hopefully fair enough.

A. I'm okay with it. Don't worry. You're talking to me.

Q. Because I know -- I apologize if beforehand I mispronounced it. On your rebuttal testimony, in particular, Page 50, you talk about how YES Communities is in the water and wastewater business. What parks do you know of where YES Communities is in the water and wastewater business?

A. And if I may, not that I don't disagree with you, just what line are we referring to?

Q. Oh, excuse me. It's Line 13.

A. I am not aware of YES being in the water or wastewater business.

Q. You're not aware at all?

1 A. No.

2 Q. Do you know if all the parks in Florida -- if
3 YES controls a water and wastewater facility, it's
4 either a pass-through with no profit or they put it in
5 the rent regardless of usage, were you aware of that?

6 A. No, I'm not.

7 Q. Do you want to change your testimony on that?

8 A. Sure, I'd be happy to change my testimony for
9 that.

10 Q. So you're now saying that you don't have any
11 knowledge that they are in the water or wastewater
12 business?

13 A. That is correct.

14 Q. I'll move on front that, then.

15 A. Okay.

16 Q. I'm going to point to your Exhibit Number 11,
17 I think it is SS-11. I know you have modified it to
18 SS-12.

19 A. Okay. So rate case?

20 Q. Yes, the rate case expense. But since I did
21 my notes on SS-11, and most of them are -- I know the
22 numbers have increased, but my questions will be more of
23 a general nature.

24 A. Sure.

25 Q. So if you can pull that up?

1 A. If you don't mind, I'll be using Late-filed
2 12. There's only so many of those books I can carry.

3 Q. I want to talk -- if you would look at SS-11,
4 Page 1, that appears to be a rate case expense on
5 9/30/2011 through completion, and I know you changed the
6 numbers around a little.

7 A. Right. I have the 10/31 numbers in front of
8 me.

9 Q. Exactly. But if I look down at the legal for
10 Holland and Knight, you have a rate of 315 as an average
11 rate?

12 A. Correct.

13 Q. And I don't think that changed in SS-12, I
14 think it is around the same, 315?

15 A. 315.

16 Q. Okay. But you will agree with me that the
17 Florida Bar has an average of 247?

18 A. That is correct. That is for all attorneys,
19 and that was the information we were provided from the
20 Florida Bar. Basically, what we're doing here is we're
21 securing specialized counsel in the area of regulatory
22 matters, and I believe that as you run down to certain
23 specialties that average may not apply or may not be a
24 comparable point of reference.

25 Q. But you used that comparable of 247 to compare

1 it to Ms. Joyce and Ms. Hopper, which are the in-house
2 counsel for Aqua?

3 A. We use it for all of our in-house legal staff.

4 Q. Okay. And you used that in your testimony and
5 in your rebuttal testimony to demonstrate that the hours
6 of -- \$109 rate for Ms. Joyce and a \$95 hour rate for
7 Ms. Hopper were reasonable?

8 A. We basically said that if we had to go out to
9 the market to secure attorneys who aren't specifically
10 litigating cases or matters of that type, we just tried
11 to use an average number for comparison.

12 Q. So you used the Florida Bar 247?

13 A. Correct.

14 Q. And if you take the 247 versus the 315 of
15 Holland and Knight, the average, that's about \$65
16 difference per hour?

17 A. Correct.

18 Q. Okay. And if we wanted to do the numbers and
19 lower that using the 247, all we would have to do is
20 times it by the number of hours which were billed by
21 Holland and Knight and the approximate number of hours
22 and you would get the difference monetarily-wise?

23 A. If you wanted to do it. I don't believe
24 that's the appropriate treatment.

25 Q. I understand. But I won't go through the

1 numbers on it.

2 A. And I understand what you're saying with the
3 math.

4 Q. Let me talk about Ms. Joyce. Ms. Joyce works
5 with you up in Pennsylvania?

6 A. She certainly does.

7 Q. And she is a competent attorney?

8 A. She is a very competent attorney.

9 Q. And you were aware of her background?

10 A. I am aware of her -- I know where she went to
11 school, I know where she got her Master's.

12 Q. Where did she go to school?

13 A. She went to school at Pitt for her legal
14 degree. I'm sorry, she went to Pitt for her
15 undergraduate, Villanova for law school, and for an MBA.

16 Q. Okay. And Villanova is one of the top tier
17 schools?

18 A. I think it's a very good school.

19 Q. And she worked for five years for the
20 Pennsylvania Public Service Commission?

21 A. Yes, she did.

22 Q. And she clerked for Judge Collins of the
23 Commonwealth Court President, which was the head of the
24 statewide appellate courts for Pennsylvania?

25 A. You're getting a little too specific for me,

1 but I do recollect her talking about that.

2 Q. And she worked for Baker and Potts in D.C.,
3 which is a global firm with 725 attorneys?

4 A. Again, now you're gone a little further than
5 our conversations.

6 Q. And Aqua was able to secure Ms. Joyce in
7 regulatory matters, and she's the manager of regulatory
8 affairs, is that correct? Is that her title?

9 A. Yes, she is.

10 Q. And you were able to secure her with an
11 average hourly rate of \$109 hour an hour with her
12 qualifications?

13 A. That is correct.

14 Q. Okay. Did you ever do any sort of, like,
15 request for qualifications published in Florida or a
16 request for negotiations with various law firms?

17 A. Would you say that again?

18 Q. Did you ever do any sort of request for
19 qualifications or request for negotiations with various
20 law firms in Florida to try to find counsel?

21 A. Well, as I may have mentioned before, when we
22 were looking to select regulatory counsel, we
23 interviewed several firms, several attorneys
24 specifically in those firms as to what knowledge and
25 expertise they had.

1 Q. What I'm talking about, did you ever publish
2 something? A lot of times governmental entities and
3 larger corporations will publish things, say, in the
4 Florida Bar Journal like a request for qualifications,
5 or a request for negotiation, and discuss what types of
6 attorneys they want, and that way attorneys provide
7 written materials which you can review on their rates
8 and qualifications?

9 A. I'm not aware of us doing that and I don't
10 think we have.

11 Q. Okay. Does Holland and Knight do any other
12 work other than these two rate cases for you?

13 A. Well, they are our regulatory -- first of all,
14 they are our regulatory attorney, so they handle matters
15 with us that are both ongoing regulatory issues, they
16 handle matters with us relative to acquisitions or
17 divestitures that might take place in the state. They
18 handle ancillary matters like the quality of service
19 with us. That's just in the regulatory arena. Now, we
20 have used Holland and Knight as well as other attorneys
21 on environmental matters.

22 Q. Okay. And do you use Holland and Knight --
23 they are a nationwide firm, do you use them in
24 Pennsylvania, or North Carolina, or Texas, or wherever
25 else you have --

1 A. I am not aware of using Holland and Knight in
2 any other state for Aqua.

3 MR. MAY: Mr. Curtin, we'd like to.

4 (Laughter.)

5 MR. CURTIN: Touche.

6 BY MR. CURTIN:

7 Q. To speed up the process, as he passes those
8 out I will just some questions. These are just cases
9 which I want to mark for identification, but I don't
10 think they really to come into the record. These are
11 cases.

12 I want you to turn -- we are on SS-11, your
13 first one. Just because, like I said, I did my notes on
14 that and they are more of the nature of general
15 questions. I want you to turn to some of the legal
16 bills. Let's turn to Page 28, if you would.

17 A. Is that being passed about? Is that being
18 passed about?

19 Q. Excuse me?

20 A. Is that being passed out?

21 Q. It's being passed out.

22 A. Okay. I'll just wait.

23 Q. No, no. That's not part of what's being
24 passed out. I'm talking about Page 28 of SS-11.

25 A. As I said I have SS-12.

1 Q. Okay.

2 A. If you could either just get me the page, I
3 would be happy to look at whatever your point of
4 reference is.

5 Q. And I notice that the pages have changed. It
6 is actually Holland and Knight's bill of September 16th,
7 2010. Let me see if I can find it in SS-13. The
8 pagination changed tremendously when you did SS-13.

9 A. There's no SS-13.

10 Q. Now, if you turn to -- something appears to
11 off a little bit here, but why don't you turn to AUF
12 24562.

13 A. And we are in AUF-12?

14 Q. Yes, we are on 12 now. It would be easier if
15 you had 11.

16 A. I appreciate it, but just give me the page
17 number.

18 Q. AUF 24562.

19 A. 24562?

20 Q. Yes.

21 A. Yes.

22 Q. That is a July 29th, 2010, invoice, Page 4.
23 And the next invoice there is an October 15th, 2010,
24 invoice at about four pages more at AUF 565?

25 A. Okay.

1 Q. I don't see a September 16th, 2010, invoice.
2 I think I have found a problem in your Exhibit Number
3 12, because Exhibit Number 11 has a September 16th,
4 2010, invoice. I don't want to add more rate expense to
5 you than I need to.

6 A. If you give me a chance to maybe look at what
7 was in SS-11, I could see if we just left off a page by
8 accident.

9 Q. Okay. Well, let me go. I will talk about the
10 invoice of July 29th, 2010, 562. Why don't you go down
11 to the entry of July 15th, 2010.

12 A. Back at 24562?

13 Q. Yes, 562.

14 A. And which entry?

15 Q. Yes. There's two entries there, one by
16 Mr. Hatch and one by Mr. May, both on July 15th, 2010.

17 A. Okay.

18 Q. Do you see that?

19 A. No, I don't. You're asking me -- are you
20 referring to the fourth item down?

21 Q. Third entry down for \$77.50, 7/15/2010.

22 A. Okay. I got the \$77.50.

23 Q. And then there is another one for Mr. May for
24 429 on the same date?

25 A. Correct, I do see those.

1 Q. Now, if you look at Ms. Hatch and Mr. May's
2 invoices, can you agree with me that in order to get a
3 rate case expense it's incumbent upon Aqua to produce
4 the documentation for that expense, correct?

5 A. For us to get a rate case --

6 Q. To be entitled to your reasonable rate case
7 expense, it's Aqua's burden of proof?

8 A. Oh, absolutely.

9 Q. Okay. And you agree with me that you are only
10 entitled to your reasonable expenses, correct?

11 A. I would agree.

12 Q. All right. Now, you notice how Ms. Hatch and
13 Mr. May, they have multiple entries of work they
14 performed on that day, correct?

15 A. Yes.

16 Q. But they only have one time entry and one full
17 amount. Is there any way you can tell from these
18 invoices how much was billed on the first time entry,
19 say, for Mr. May for strategy planning to discuss
20 handling of rate case discovery strategies; review
21 discovery files and begin to prepare template documents
22 for use with responding to expected discovery requests,
23 .5 hours. Do you know how much of that .5 was spent on
24 the first task versus the second task?

25 A. No, I do not.

1 Q. And the same thing with Mr. May. Mr. May has
2 five different tasks, but only one actual 1.1 hours and
3 the amount, correct?

4 A. Yes. In 1.1 hours, Mr. May performed five
5 tasks.

6 Q. And there is no reasonable way to know how
7 much time was spent on each one of those tasks the way
8 these documents are written, correct?

9 A. If you wanted to know how many minutes were
10 spent on each task, this does not tell you.

11 Q. So someone going through these bills figuring
12 out each of these tasks and what was billed was
13 reasonable, they could do that from the information
14 provided here for each individual task?

15 A. Well, the person who's approving these bills,
16 meaning Kim Joyce, generally speaking, but also perhaps
17 Troy Rendell, might be able to assess the fact those
18 five matters were discussed during that 1.1 hours.

19 Q. But there would be really no incentive by Ms.
20 Joyce or Mr. Rendell if they are getting all your rate
21 case expense to go through these bills with a fine-tooth
22 comb?

23 A. We absolutely have incentive to go through
24 them as best as we can. Our goal is to maintain rate
25 case expense down as low as possible.

1 Q. Now, you're looking through these bills from
2 the very beginning. You agree with me looking through
3 these bills that a lot of times if it is a single task
4 for a single day you can tell what that amount was
5 billed for that single task, but otherwise Holland and
6 Knight billed multiple tasks and block billed it
7 together on those days?

8 A. Well, I see in this particular case you
9 described five activities. I wouldn't go as far as to
10 call it block bill.

11 Q. Okay. Now, I want you to fast forward to the
12 August 19th, 2011, bill.

13 A. Okay. Could you give me a page reference on
14 that?

15 Q. Yes, I'm looking for it?

16 A. I got you. Somewhere around 24739?

17 Q. Yes, that's where it is. It's a big bill. It
18 starts at 24740.

19 A. Yes, sir, I have it.

20 Q. Okay. Do you see now that here the first
21 entry, July 1st, 2011, do you see how Mr. May, and now
22 it is Gigi Rollini, are billing multiple tasks in one
23 day and billing it all at once, but they put in
24 parentheses a specific amount of time spent for each
25 task?

1 A. Yes.

2 Q. That's the first bill I found starting
3 August 19th, 2011, I think that's right after the appeal
4 where then actually Holland and Knight started
5 separating out the tasks and the amount for each task
6 billed on that date. Do you know what changed there,
7 why that billing changed?

8 A. I specifically do not.

9 Q. Okay. And here you can tell after
10 August 19th, 2011, the way they separated out
11 individually which amounts are being paid for which
12 tasks, correct?

13 A. Well, I mean, as I look at the second entry
14 for Gigi, I see that we are billing what appears to be
15 .4, I guess it's .4 hours, and this copy doesn't have the
16 point on it, but I see a 2 and a 2 and I'm going to
17 assume that that's 20 minutes and 20 minutes.

18 **MR. MAY:** Mr. Curtin, I'll be glad to explain
19 to you why we did this, if you'd like?

20 **MR. CURTIN:** Let me continue with my cross,
21 and we can figure that one out later.

22 **MR. MAY:** Okay.

23 **MR. CURTIN:** Let me just -- like I said, I had
24 the page numbers down for the Exhibit 11 and you
25 actually switched a lot of this stuff around when you

1 did Exhibit Number 12. The same documents, but just the
2 time was switched around.

3 **BY MR. CURTIN:**

4 Q. Now, does Ms. Hooper, she is one of the
5 in-house attorneys at Aqua, does she work for Ms. Joyce?

6 A. Yes.

7 Q. Okay. How many other lawyers do you have
8 in-house?

9 A. For the entire company?

10 Q. Let's start here, how many other lawyers work
11 for Ms. Joyce?

12 A. The only lawyer that works for Kim is
13 Ms. Hopper.

14 Q. Do you have any other lawyers for --

15 A. We have a law department, and in that law
16 department I believe there are three or four attorneys,
17 probably three, with some paralegals. And then our
18 vice-president of acquisition is a lawyer, and there may
19 be more lawyers. We have, of course, our corporate
20 secretary and general counsel, he's a lawyer.

21 Q. I'm talking about people who act as lawyers
22 for the company. Lawyers are like cockroaches; they's
23 everywhere. I'm talking about people who act like
24 lawyers.

25 A. I didn't say that, just for the record.

1 Q. Hey, I'm a lawyer. I can say it. (Laughter.)

2 A. But in terms of -- you have the general
3 counsel, we have a law department that supports all the
4 issues of the corporation and the issues inside of the
5 subsidiaries. And like I said, that is generally two to
6 three attorneys. I believe it's three attorneys. And
7 then the only other specialty that I'm aware of is the
8 rates department, and the rates department is a very
9 unique department in that they process rate cases. And
10 when they're working on direct rate cases, they code
11 their time to those rate cases year in and year out.

12 Q. Okay. And that's Ms. Joyce and Ms. Hopper?

13 A. Yes, as well as --

14 Q. Is it Hopper or Hooper?

15 A. Hopper.

16 Q. Hopper. I had it right.

17 A. She's here.

18 Q. And when you say they code their time
19 specifically to a rate case, they --

20 A. Well, in terms of they do, as all of us, we do
21 many tasks. But when they are working on a direct rate
22 case -- the unique about this, whether it is a lawyer or
23 it is one of our analysts in the rate department, is
24 that when they are working on a rate case, their time is
25 directly coded to that rate case, and it could be

1 through any of our multiple states. So there's portions
2 of Kim's and Mary's time that's charged to rate cases,
3 and another portion of their time that appears in the
4 service company as an expense.

5 Q. I want you to turn to -- let's talk about
6 Ms. Hopper. I think she -- her bills start on 2429
7 right in the beginning of Exhibit Number 12. 24029.

8 A. 024029?

9 Q. Yes.

10 A. Yes.

11 Q. Is this how, the time sheets that you just
12 indicated, that Ms. Hopper and Ms. Joyce would put their
13 time down for a specific rate case?

14 A. Well, this is a summary that we prepared where
15 specifically during these various weeks, each of our
16 in-house employees in this rate case completed the
17 summary schedule which lists the hours that they charged
18 to this case and just this case.

19 Q. Well, when you say summary, who puts the
20 actual time -- if Ms. Hopper is performing some sort of
21 work, when is that time put in?

22 A. Yes. The time sheets that the employee fills
23 out, this is just a summary to make it easier to --

24 Q. Where are the attached time sheets for
25 Ms. Hopper?

1 A. I don't know the exactly how to reference you
2 to this one, but it is starting in the series of the
3 024141 area. If you give me time, maybe I could find it
4 and cross-reference it.

5 Q. Can you repeat that number where it starts?

6 A. Sure. Let me get you to the start. Okay.
7 The employee time sheets, and actually this is Kelly
8 Burns, which is one of our rate analysts. AUF024125.

9 Q. Hold on, I'm getting there.

10 A. And I might take you to, I believe -- Mary has
11 got pretty handwriting -- 024192.

12 Q. 192 you say?

13 A. 192 is the time sheet for Mary Hopper.

14 Q. Gotcha. And this is the employee's signature,
15 that would be Ms. Hopper's signature?

16 A. I believe so. She's here.

17 Q. And how would I tell which one is for Aqua?
18 Is that the handwritten one in there?

19 A. Well, what she has here is she has had,
20 basically, a series of cases that she probably knows are
21 being processed during this time frame, so she probably
22 just has it for the ease of maintaining it. But as you
23 can see, she is charged to the PA state. With that not
24 going a rate case, that's going to expense. Ten hours
25 that week, or that two-week period, and 62 hours during

1 that two-week period went to the Florida rate case, and
2 that rate code there, M92105, I believe, is the 2010 AUF
3 rate case.

4 Q. So that would be 62 hours -- if I'm reading
5 this right, 62 hours to this rate case?

6 A. To this rate case.

7 Q. Now, where is the description on AUF024192 of
8 what work Ms. Hopper performed?

9 A. Okay. We's going to do this on the fly, but
10 let's take this up to the summary for Mary Hopper for
11 the week of May 22nd.

12 Q. And I have it on May 17th, 2010, one hour,
13 meet to prepare file.

14 A. I agree. I do see that.

15 Q. Okay. Now, on the actual time sheet she
16 signed there is no description, is there?

17 A. No, there is no description.

18 Q. Now, who prepared the summary?

19 A. The summary was prepared by one of the rate
20 analysts for me.

21 Q. All right. So someone other than the person
22 actually performing the work put in the description of
23 what work was performed?

24 A. I believe the person just put it on the
25 schedule. They interviewed each of the people.

1 Q. So they don't -- and when was this summary
2 actually drafted?

3 A. I believe the summary was drafted in this
4 late-filed exhibit as we tried to address some of the
5 concerns about trying to be more descriptive and more
6 complete and more -- basically, micromanage the time a
7 little better.

8 Q. So if I'm getting what you're saying
9 correctly, when Ms. Hopper and Ms. Joyce put in their
10 time contemporaneously with that they have no
11 description, but later for this rate case on your
12 late-filed exhibit someone else, a different person, put
13 in the description of the time spent by Ms. Joyce and
14 Ms. Hopper.

15 A. Well, somebody -- basically, what I'm saying
16 is the employee fills out a time sheet. They code their
17 time to the various rate cases or to the other expense.
18 It was requested that we provide more detailed
19 descriptions of what work was performed. An analyst
20 prepared a spreadsheet, interviewed the people, and just
21 filled out the spreadsheet.

22 Q. But from what I'm understanding from your
23 testimony, the spreadsheet was filled out by an analyst,
24 someone different than the attorney performing the time
25 and not contemporaneously with when the time and work

1 was actually performed. It was done as a late-filed
2 exhibit in this case at times -- at this time entry of
3 May 2010 over a year later?

4 A. The work was performed currently, that is
5 correct. The person that actually performed the work
6 was not the person, but they interviewed the person and
7 they got the information from each and every person.

8 Q. Then starting with AUF24029, which is
9 Ms. Hopper, there's one hour, meet to prepare for
10 filing. The next page, AUF30, I'll just use the last
11 two numbers, there's another one hour, meet to prepare
12 for filing, and then when I look at it, every other
13 entry thereafter except for, I think, attend the PAA
14 hearing, merely states case management including
15 preparing and reviewing discovery. And there's probably
16 another, what would you say, 100 entries or more with
17 that in there?

18 A. Yes, that description is repeated.

19 Q. Other than, I think, on 24033 there's prepare
20 for hearing and attend hearing in May of 2011, which I
21 am assuming was the PAA hearing?

22 A. That is the time frame.

23 Q. Okay. But everything else when I look on
24 there is case management, including preparing or
25 reviewing discovery, just repeated, repeated, repeated?

1 A. We did a lot of discovery.

2 Q. But there's no way that someone reviewing
3 these bills can reasonably tell exactly what discovery
4 they are working on and exactly what they are doing for
5 that?

6 A. There is not a cross-reference to the actual
7 I-roq or POD.

8 Q. Now, the discovery which was done, you had
9 various experts which are also asking for recovery of
10 rate case expense, correct?

11 A. That is correct, yes.

12 Q. And who are they?

13 A. I believe they are Ronald Pasri (phonetic),
14 Daniel Franceski (phonetic), and Timothy Ward
15 (phonetic).

16 Q. And Mr. Ward and Mr. Pascari (phonetic) on
17 your late-filed -- I mean, Exhibit Number 11, they may
18 increased in Exhibit Number 12. In Exhibit Number 11 it
19 was 194,150 for Mr. Ward, and 121,973 for Mr. Pascari.
20 They also helped prepare the discovery responses,
21 correct?

22 A. If they had knowledge, they helped us, yes.

23 Q. Okay. And if you look at Ms. Joyce's -- and
24 I'm assuming your testimony for Ms. Hopper is the same
25 for Ms. Joyce in regards to the summary and the

1 descriptions, that they were put in later on after
2 talking to someone else in the rate case expense?

3 A. If you don't mind, I'll just take a look at
4 it, but the summaries that are in the series of the
5 024027 range, these were just prepared.

6 Q. Okay. And I'm looking for Ms. Joyce's
7 summary?

8 A. You might want to turn to 024019.

9 Q. Thank you. And Ms. Joyce, she has a little
10 bit different descriptions, a little bit more
11 descriptive, but she also on a lot of items says prepare
12 and review discovery case management; case management,
13 prepare and review discovery. There are a lot of
14 discovery issues on there, correct?

15 A. Absolutely.

16 Q. So if I'm getting it correct, if you look at
17 these bills, Mr. Ward and Mr. Pascari could bill for
18 preparing the discoveries, then it goes to -- then
19 Ms. Hopper and Ms. Joyce, both up in Pennsylvania, bill
20 time for the discovery, and then if you look at Holland
21 and Knight you would agree with me there is a lot of
22 time entries for either Mr. May, or Ms. Rollini, or one
23 of his associates to review the discovery, also?

24 A. I believe that, generally speaking, there's
25 actually more to it than that. There is generally a

1 person who is the primary witness, generally one of us
2 that are here, so we have somebody maybe prepare a
3 discovery question, simultaneously let's say it's an
4 expenses matter, I'll review their work as well as
5 either Mary or Kim, and then we submit that paperwork to
6 Holland and Knight for submission to the OPC or to
7 staff. And exactly what reviews Gigi or Bruce may
8 perform, I don't know. But, yes, they do review
9 discovery.

10 Q. Okay. So it's not uncommon, what you are
11 telling me, for four lawyers, two lawyers in
12 Pennsylvania and one or two lawyers down at Holland and
13 Knight to review the same discovery?

14 A. No. I think what I'm trying to say to you,
15 and if I'm not clear I'll try to be clear, it's likely
16 that there is an attorney in-house that's reviewing a
17 given discovery, and there is an attorney at Holland and
18 Knight who is reviewing the discovery. I don't know if
19 they are both reviewing it with the same eye or what
20 aspect they may be looking at, but I'm not saying there
21 is four attorneys looking at every discovery.

22 Q. But you will agree with me from Ms. Joyce's
23 and Ms. Hopper's description of just review and prepare
24 discovery, you can't reasonably determine what they are
25 actually doing for that?

1 A. They do not reference the specific ROGs or
2 PODs that they are working on.

3 Q. Now, let me try to find this. There is also
4 expenses that Holland and Knight had, like copy expenses
5 which were put on the ends of the bills?

6 A. Miscellaneous expenses.

7 Q. Miscellaneous expenses?

8 A. Yes.

9 Q. Now, the copies, when I look on the bills they
10 just have copying expenses, and they will say \$27, \$50,
11 \$100. They don't tell how many copies are actually
12 being made.

13 A. Without looking at a bill, I can't answer
14 that.

15 Q. Why don't you look at 24563?

16 A. Okay. I'm at 24563.

17 Q. Yes. Do you see down there copying, \$27?

18 A. Yes, I do.

19 Q. It doesn't tell you how many copies were made?

20 A. No, sir, it does not.

21 Q. It could be one copy, or it could be 10 cents
22 a copy, 25 cents, or \$27 a copy?

23 A. It may be.

24 Q. It may be. I think I am almost done here.
25 Peace River. Do you remember you talked about that a

1 little bit with OPC, I think, or I don't know who was
2 asking about that.

3 A. What it was, I was asked a question about
4 Peace River, and earlier in the day someone said you
5 acquired it since the last rate case.

6 Q. I understand. I want to go back to that now.
7 When you first acquired Peace River it was under the
8 county's jurisdiction?

9 A. It was under the county's jurisdiction.

10 Q. In what county do you know that is?

11 A. I'm sorry, I do not.

12 Q. Me, neither. Do you know if -- I think
13 it is --

14 A. It may be Hardee County.

15 Q. It may be Hardee. I think it was counsel for
16 Pasco County who was asking some questions about that.

17 A. Right.

18 Q. And you mentioned that when you wanted to move
19 for a rate increase, you talked to the county officials?

20 A. Well, actually we had done a rate increase
21 with the Peace River system a few years prior to this,
22 and unfortunately it has been in need of some capital
23 expenditures and repairs. And as may have been stated
24 earlier, it has 90 customers that have water and
25 wastewater operations or facilities, services. When we

1 were talking, they were asking us what can we do. And
2 we said you only really have two choices in terms of we
3 could file a case directly with you or you could give up
4 your regulatory jurisdiction and hand it to the PSC.

5 Q. And did you explain to the county officials
6 what the rate increase would be for Peace River if they
7 didn't hand it to the PSC and then consolidate it with
8 all Aqua's other systems?

9 A. Well, what we told them -- we had actually
10 filed a rate case, and in the filing they knew what they
11 were going to have to pay.

12 Q. Okay. Do you know if they abrogated their
13 authority over just this system or over the whole
14 county?

15 A. I don't know specifically.

16 Q. And when did you file that rate case?

17 A. The Peace River?

18 Q. Yes, the one they said that we will send it to
19 the PSC, then?

20 A. Oh, I don't know exactly when, but it would be
21 probably six months prior to them making the request to
22 the PSC.

23 Q. Okay. And how far away from when you filed
24 your second rate case here?

25 A. They came under PSC rule or jurisdiction, I

1 believe, about a year and a half to two years ago.

2 Q. Okay. And you filed this rate action about a
3 year ago or so?

4 A. Yes.

5 Q. Okay. Do you have any sort of litigation
6 budget that you do for your outside law firms? Any sort
7 of budget where you say we have got a rate case, do you
8 have a budget that you can give us?

9 A. Well, in terms of every rate case, we create a
10 rate case budget, but are you going beyond that and
11 asking about just our general expense control?

12 Q. No. A lot of times larger firms, larger
13 companies and firms will ask a law firm to give them a
14 budget, a budget for a specific --

15 A. Every time we ask that question and we receive
16 it. And it is based on certain assumptions such as we
17 will get X amount of discovery, or we will have X number
18 of service hearings, or we're going to have a hearing or
19 maybe we are not going to have a hearing. But, yes, in
20 every state we prepare a budget, which includes all the
21 elements of the rate case.

22 MR. CURTIN: I have no further questions.

23 CHAIRMAN GRAHAM: Thank you.

24 Staff.

25 MS. BENNETT: I have a few questions, but

1 before we start, I've got a couple of housekeeping
2 matters. We have been talking a lot about Late-filed
3 Exhibit 12 to Mr. Szczygiel's deposition, and I would
4 like that marked as, I believe, Exhibit 340. But I have
5 two exceptions. I have discussed with the Office of
6 Public Counsel two pages of that exhibit that they would
7 like removed. We have looked at them and we don't need
8 them. If Aqua is comfortable with them being removed, I
9 would like to have page numbers -- I believe it's
10 24006 and 24008 removed. Is that correct, Ms.
11 Christensen?

12 **MS. CHRISTENSEN:** Yes.

13 **CHAIRMAN GRAHAM:** Aqua?

14 **MR. MAY:** Let me take a quick look. 2400 --

15 **MS. BENNETT:** 24006 and 24008.

16 **MR. CURTIN:** And, Mr. Chairman, I think the
17 only thing I would like to do is mark the three exhibits
18 I have for identification. Since they are cases, I
19 don't need to put them in, but if we can mark -- if you
20 want to do that right now before staff starts marking
21 theirs, I have the Tommer Diamonds, Inc. v. Splendid
22 Diamonds (phonetic) case as 340 for identification.

23 **CHAIRMAN GRAHAM:** Hold on just a second.

24 **MR. CURTIN:** That's where we are at, I think.
25 We can do it 341.

1 **CHAIRMAN GRAHAM:** I was going to say we just
2 marked Exhibit 12 as 340.

3 **MR. CURTIN:** Okay. We will do it Tommer
4 Diamonds v. Splendid Diamonds as 341.

5 **MS. HELTON:** Mr. Chairman, we really don't
6 need to mark -- if they are Southern Second cases that
7 are reported in Southern Second they don't need to be
8 marked.

9 **MR. CURTIN:** That is fine. That was my
10 original inclination. They are all cases.

11 **MS. BENNETT:** Actually, the third case is a
12 New York case.

13 **MR. CURTIN:** They are Second DCA. They are a
14 Second District case. But they are all legal cases. I
15 don't think we need to mark them.

16 **CHAIRMAN GRAHAM:** Ms. Helton.

17 **MR. CURTIN:** If that's staff's position, I
18 would go with staff.

19 **MS. HELTON:** Let me make sure Mr. May has no
20 objection to my statement with respect to if there is a
21 New York case.

22 **MR. MAY:** I don't see the -- I think you have
23 a New York in there, too.

24 **MR. CURTIN:** You know what, I will withdraw
25 the New York case. The two Florida court cases will be

1 fine.

2 MR. MAY: The case law is the case law.

3 MR. CURTIN: I'm fine with that, too.

4 CHAIRMAN GRAHAM: Ms. Bennett.

5 MS. BENNETT: So I would like Late-filed
6 Exhibit 12 as Exhibit 340.

7 MR. MAY: And, Mr. Chairman, I've taken a
8 look, and that's fine with us to remove Bates labeled
9 pages 024006, 024007, and then 024008.

10 CHAIRMAN GRAHAM: I don't think it was
11 6 through 8. I think it was just 6 and 8.

12 MR. MAY: Okay. That's fine. I think we
13 would like to have 7 in there, if we could, because it
14 is a separator just for organizational purposes.

15 MS. BENNETT: You would like 7 removed?

16 MR. MAY: No, in there.

17 MS. BENNETT: Six and 8 are all the ones we
18 wanted removed.

19 MR. MAY: We're fine with that. Thank you.

20 MS. BENNETT: And then I'm going to discuss
21 briefly, staff has two late-filed exhibits that they are
22 going to ask of this witness. I have talked with the
23 Office of Public Counsel, the Attorney General, and
24 Mr. May briefly, and I think we have worked out a
25 resolution for getting the late-filed exhibits into the

1 record with this witness.

2 What I would suggest is that after I ask the
3 questions and he agrees to provide the late-filed
4 exhibit, that we give Aqua perhaps a week to file those
5 exhibits, and then the intervenors would have until
6 January 6th to file an objection if they have any, and
7 then Aqua would have another week until January 13th to
8 file any responses to the objections.

9 **CHAIRMAN GRAHAM:** You said you have two
10 exhibits?

11 **MS. BENNETT:** There are two late-filed
12 exhibits. They have to do with the cost of the
13 monitoring plans, Phase I and Phase II, and how much of
14 those are included in the rate test year and how much
15 more is included in the subsequent test year.

16 **CHAIRMAN GRAHAM:** So we're going to label
17 those 341 and 342?

18 **MS. BENNETT:** Yes, please.

19 **CHAIRMAN GRAHAM:** And, once again, give me a
20 description of 341.

21 **MS. BENNETT:** Phase I Monitoring Plan Costs
22 Included in Test Year.

23 **CHAIRMAN GRAHAM:** And 342?

24 **MS. BENNETT:** Phase II Monitoring Plan Costs
25 Incurred Subsequent to Test Year.

1 **CHAIRMAN GRAHAM:** Okay.

2 **MS. BENNETT:** And I think I have accurately
3 reflected what the parties have discussed about this.

4 **CHAIRMAN GRAHAM:** I don't see anybody waving
5 their hand or shaking their head, so I think you're
6 fine.

7 (Exhibits 341 and 342 marked for
8 identification.)

9 **MS. BENNETT:** Okay.

10 **MR. CURTIN:** I don't remember discussing that
11 with you, but if OPC is okay with and everybody else, I
12 will go with it.

13 **MS. BENNETT:** I did not discuss it with YES.

14 **MR. CURTIN:** We're fine if everybody else is
15 fine with that procedure.

16 **CROSS EXAMINATION**

17 **BY MS. BENNETT:**

18 **Q.** Good afternoon, Mr. Szczygiel.

19 **A.** Good afternoon.

20 **Q.** I just have a few questions. Can you tell me
21 what the total amount of Phase I monitoring plan costs
22 that AUF has actually incurred during the test year?

23 **A.** I'm researching it, and I'm glad you have
24 given me the opportunity to refine it. It is
25 approximately 70,000 to \$100,000.

1 Q. And I believe Ms. Chambers has testified in
2 her deposition, and you can do this subject to check,
3 that it was \$100,000?

4 A. Right.

5 Q. Has AUF amortized its Phase I monitoring plan
6 costs?

7 A. Currently a large portion of the number that
8 will eventually -- let's call it 100,000. Of that
9 100,000, probably in the test year is an amount of about
10 \$85,000, so keep that as kind of a proportional ratio.
11 If it comes in at 70,000, it might be 63,000, but I need
12 to just get those numbers, support them, and hand them
13 to you.

14 Q. Okay. And my question was have those costs
15 been amortized. You said you only --

16 A. Oh, no, they are in the test year as the
17 costs.

18 Q. Okay. And none of the costs have been
19 amortized over more than one year, it's either incurred
20 in that test year or --

21 A. At this point, no.

22 Q. Okay.

23 A. I mean, honestly, I don't know how long
24 monitoring may go on. So, you know, if it had been
25 defined as it's ended, I might have taken a different

1 accounting approach.

2 Q. Okay. And I'm going to ask you in a couple of
3 minutes about Phase II, and when those costs were
4 incurred, but I just want to focus right now on the
5 Phase I monitoring costs. Whatever amount that is that
6 is incurred in the test year is what we are discussing
7 right now. And what I'm going to ask is that you
8 provide a late-filed hearing exhibit by primary expense
9 account for each water and wastewater rate band as well
10 as each stand-alone water and wastewater system for the
11 case showing how much of the Phase I monitoring plan
12 costs that AUF has actually incurred during the test
13 year that were included in its requested test year
14 expenses.

15 A. Yes, we can do that. If I can just ask one
16 clarification point there. You asked for it by rate
17 band and you wanted it broken down by each system?

18 Q. The stand-alone systems.

19 A. Right. I mean, technically we don't record it
20 that way in our ledgers.

21 Q. I'm sorry, not for rate bands, just the
22 stand-alones.

23 A. Okay. Again, the same problem. Because of
24 the cost of services being reduced, we no longer
25 maintain accounting records by system. But I can

1 provide you an allocation that's based on -- the
2 customer account allocation, that would be basically be
3 a representation of that number.

4 Q. So the stand-alones are allocated or not
5 allocated?

6 A. With the last rate case when we went to
7 banding and went to basically a reduced number of cost
8 of service, we used to have approximately 84 cost of
9 services. We were able to reduce that to basically four
10 water bands and four wastewater bands, and we actually
11 have probably about 25 cost centers to support that to
12 meet both our operational reporting as well our
13 regulatory reporting. So I don't have a general ledger
14 that breaks out for the full test year each and every
15 system to their costs.

16 Q. I think we might be talking apples and oranges
17 here.

18 A. That's fine. That's why I wanted to clarify
19 it.

20 Q. I'm not interested in the last stand-alone
21 systems from the last case. I am only interested in it
22 for this rate case expense.

23 A. And in my vernacular, that's what we call rate
24 bands.

25 MR. MAY: Ms. Bennett, just for clarification,

1 are you talking about Breeze Hill, Peace River, and
2 Fairways?

3 MS. BENNETT: Yes.

4 THE WITNESS: Okay. So it's water 1, 2, 3, 4,
5 Breeze Hill and Fairways?

6 MS. BENNETT: And Peace River.

7 THE WITNESS: And Peace River, yes.
8 Absolutely. We will be happy to supply that to you.

9 MS. BENNETT: Thank you.

10 BY MS. BENNETT:

11 Q. And then the next set of questions is about
12 the Phase II Monitoring Plan. What is the total amount
13 of Phase II Monitoring Plan costs that AUF has incurred
14 subsequent to the test year?

15 A. I'm glad you gave me time to be able to
16 respond to that, because unfortunately I don't know
17 today.

18 Q. So as part of your late-filed exhibit, it
19 would be the amount.

20 A. Yes.

21 Q. But I also want to know how much of the Phase
22 II Monitoring Plan costs AUF has actually incurred
23 subsequent to the test year by primary expense account
24 for each water and wastewater rate band, as well as each
25 stand-alone, the three that we talked about, water and

1 wastewater systems in the instant case.

2 **A.** Yes, we will -- my intention is to tell you
3 what the total cost that it was for the case, how much
4 is in the expense in the test year, how much is outside
5 of the test year, or out of the case, and to do it as
6 you have asked for the breakdown by bands and
7 stand-alone system.

8 **MS. BENNETT:** Very good. And that's all the
9 questions I have for this witness.

10 **CHAIRMAN GRAHAM:** Commissioners, any
11 questions? Let's go with Commissioner Brown.

12 **COMMISSIONER BROWN:** Thank you. And I just
13 have a few questions for you, as well. OPC Witness Ms.
14 Dismukes recommended that the Commission order the
15 company to gather state-specific call center data on a
16 going forward basis. Do you happen to know what the
17 cost estimate would be for that?

18 **THE WITNESS:** To provide call center --

19 **COMMISSIONER BROWN:** Yes.

20 **THE WITNESS:** Well, the answer is what do they
21 want? If they want us to gather telephone calls and
22 send telephone calls, which unfortunately they didn't
23 listen to, but we will be happy to comply with whatever
24 is your order. I can give you kind of an order of
25 magnitude. In quality of service, Phase I, we did that

1 type of work. We had to bring in some temporary people.
2 That totalled about \$50,000 of just their cost. So, you
3 know, you ask me to give you a metric off of a sheet
4 that we already prepare, it really just has to be
5 reviewed a little bit internally. It probably doesn't
6 get a direct cost, and it probably has to flow through
7 an attorney, and there might be some attorneys cost to
8 basically perform the filing.

9 COMMISSIONER BROWN: Okay, thank you. And
10 turning to rate case expenses. On Page 54 of your
11 direct testimony --

12 THE WITNESS: My direct?

13 COMMISSIONER BROWN: Yes. I'm sorry,
14 rebuttal. My apologies. Lines 20 to 23. There's an
15 indication that Aqua provided voluminous documents to
16 OPC free of charge, even though, as you know, Florida
17 law provides for costs to typically be born by the
18 requesting party. I just want to know if those copying
19 charges were included in the rate case expenses.

20 THE WITNESS: I believe they are.

21 COMMISSIONER BROWN: Technically not free of
22 charge. With regard to additional rate case expenses,
23 you estimate that there has been over, to date, 991
24 interrogatories and 347 requests for production
25 propounded by OPC in this rate case.

1 **THE WITNESS:** Yes.

2 **COMMISSIONER BROWN:** Do you happen to recall
3 the amount of discovery requests by OPC in the last rate
4 case, given that the last rate case had a greater amount
5 of contested issues?

6 **THE WITNESS:** No, I don't. Let's put it this
7 way; they were both significant. And relative to any
8 other rate case I'm involved in, it's massive. It's
9 massive and redundant. It's hard.

10 **COMMISSIONER BROWN:** Thank you.

11 Also with regard to attorney fees for Mr. May
12 at Holland and Knight, do you happen to know if he has
13 discounted his typical rate to you, \$390 an hour for
14 this Aqua rate case?

15 **THE WITNESS:** I believe Mr. May gives me a
16 discount, but I don't know the exact amount.

17 **COMMISSIONER BROWN:** Okay. In Exhibit 340, it
18 just popped up at me when I just looked at it, there is
19 on Page AUF024003, it's one of the first pages.

20 **THE WITNESS:** Could you help me with what is
21 Exhibit 340?

22 **COMMISSIONER BROWN:** It is the big stack of
23 late-filed.

24 **THE WITNESS:** Oh. Late-filed Exhibit 12, yes.

25 **COMMISSIONER BROWN:** Okay. It is AUF024003.

1 **THE WITNESS:** Yes, ma'am.

2 **COMMISSIONER BROWN:** There is a charge there.
3 It's for rate case expense for the Tampa Tribune for
4 \$158. Do you know if that was erroneously inputted in
5 here and why that would be charged as a rate case
6 expense?

7 **THE WITNESS:** Well, we actually have that
8 invoice probably back here. I can look to see what it
9 was for, maybe, and answer your question.

10 **COMMISSIONER BROWN:** I'm just curious. It
11 popped out at me.

12 **THE WITNESS:** I wish I knew every page here by
13 heart, but I don't have direct knowledge of that one.

14 **COMMISSIONER BROWN:** Okay. Changing gears --
15 we'll wait.

16 **THE WITNESS:** I think I am actually in the
17 section where it probably should be. If you will go to
18 Page 024522.

19 **COMMISSIONER BROWN:** I'm there.

20 **THE WITNESS:** That's for the Tampa Tribune,
21 order confirmation, and I believe the legal notice that
22 was placed is indicated here on this invoice.

23 **COMMISSIONER BROWN:** Okay, thank you. I
24 appreciate you providing that information.

25 Changing from rate case expenses, I'm curious,

1 where is Mr. Rick Fox's office located? Is it in
2 Charlotte, North Carolina, or Florida?

3 **THE WITNESS:** No, Mr. Fox lives in Charlotte.
4 His office is Lady Lake, Florida.

5 **COMMISSIONER BROWN:** Where?

6 **THE WITNESS:** Lady Lake, Florida. That is our
7 state office.

8 **COMMISSIONER BROWN:** What management is
9 located there?

10 **THE WITNESS:** You should ask. Earlier today,
11 I heard a reference that we had 24 managers in Florida.
12 We have 13 employees that reside in the administrative
13 office. One president, one engineer, one compliance
14 aide or assistant, one ops manager who handles the
15 operations, a regulatory manager, who is actually
16 located in Tallahassee, a controller, a meter ops
17 supervisor or organizer, two accountants, two accounting
18 clerks, and two admin, or 13 people in total.

19 **COMMISSIONER BROWN:** Okay. And my question is
20 going back to Mr. Fox. Since he lives in Charlotte,
21 North Carolina, and the corporate office is in Florida,
22 is his travel expenses, all of his travel expenses
23 included in the rate case expense?

24 **THE WITNESS:** No. They are below-the-line.
25 That is the company's decision to basically pay for

1 that, and we do not pass that through to the ratepayer.

2 COMMISSIONER BROWN: Good. Thank you.

3 CHAIRMAN GRAHAM: Commissioner Balbis.

4 COMMISSIONER BALBIS: Thank you, Mr. Chairman.

5 And thank you, Mr. Szczygiel, for coming here
6 again today. I have a few questions for you. There
7 were some questions asked about Holland and Knight's
8 invoices that were quite significant, and there was a
9 lot of detailed provided in the descriptions. Does
10 someone from Aqua review the descriptions to make sure
11 that it's an appropriate charge to be billed to Aqua?

12 THE WITNESS: Absolutely.

13 COMMISSIONER BALBIS: Okay. And it's
14 interesting, I'm having flashbacks to when I was in the
15 private sector where one of the biggest stressors of the
16 week is filling out your time sheet and remembering what
17 you did on Monday or Tuesday on a Friday. We spoke
18 about -- you and I spoke about the management of certain
19 tasks, and how a manager can assure that a task, if it,
20 again, should take ten hours that 20 hours weren't
21 spent. Do you recall that conversation?

22 THE WITNESS: I sure do.

23 COMMISSIONER BROWN: Okay. And you indicated
24 that you personally or a manager should know how much a
25 task -- how much time a task should take.

1 **THE WITNESS:** True. When I give an employee a
2 task or an assignment, I have an expectation in my mind
3 of what it should take. I generally have a conversation
4 with them because I'm often giving them a task that is
5 competing with other tasks. So we not only negotiate
6 the time frame of the task, but it put it in
7 juxtaposition of all the other assignments that need to
8 be filed or completed within a stated period of time.

9 **COMMISSIONER BALBIS:** My question is, how can
10 a manager manage employees performing tasks if there are
11 no descriptions in their time sheets indicating what
12 they performed in that amount of time?

13 **THE WITNESS:** Because we manage the task. We
14 have to-do lists; we have action requirements; we have
15 various deadlines. They don't appear on a time sheet.
16 They appear basically on work lists that all of us
17 maintain.

18 **COMMISSIONER BALBIS:** But a supervisor has to
19 approve the time sheet, correct?

20 **THE WITNESS:** Absolutely.

21 **COMMISSIONER BALBIS:** And then they review
22 it -- I mean, what do they review on the time sheet,
23 then?

24 **THE WITNESS:** Well, as I may have mentioned to
25 you before, first of all, the only thing that goes on

1 the time sheet is an accounting of 40 hours a week. And
2 as most of our employees in the service company are
3 nonexempt -- or, I'm sorry, exempt employees or
4 professional staff, they generally work far more than 40
5 hours a week. So to try to reconcile -- excuse me, to
6 try to reconcile the 40 hours that are put on the time
7 sheet to the 60 hours that they may be working, you're
8 on two different levels. Again, you're managing that
9 more from a task list or an assignment list trying to
10 meet your various priorities versus the time keeping of
11 the 40 hours that gets charged.

12 **COMMISSIONER BALBIS:** Okay. And I guess I'm
13 still confused in that you scrutinize Mr. May's bills to
14 determine that based on the description it is an
15 appropriate charge, and yet you do not that have same
16 scrutiny on your own charges to the account. So at
17 least a written description is not provided.

18 **THE WITNESS:** I would agree with your
19 statement about written descriptions. Again, when a
20 vendor, Mr. May or any service vendor that is charging
21 you hours, Mr. May may be working 100 hours a week, and
22 he may be billing me 50 hours a week. I'm only worried
23 about the 50 hours that he's billing me, and basically I
24 want to make sure that I have gotten that service.

25 Again, our employees work -- the nonexempts

1 work a 40-hour work week, so, please, I'm not saying
2 everybody in our company works these massive hours, but,
3 again, the goal there is to maintain and reduce
4 overtime. But the exempt employees go far beyond that.
5 And, again, when you are trying to review the efficiency
6 or the effectiveness of employee work, there is a whole
7 different plain that you are on than just the time sheet
8 itself. Our time sheet is not for a cost accounting
9 metric other than a cost allocation metric. And as I
10 have mentioned to you, we only allocate generally about
11 1,835 hours out of a 2,080 hour work year, hours in a
12 year. Because in our billing rate we include their time
13 off, which is the difference between the 1835 and the
14 2080. And, again, there has been some confusion about
15 that. People think we bill out a full 2080. We don't.

16 **COMMISSIONER BALBIS:** I don't disagree with
17 you, but you have to understand our position that the
18 justification provided for rate case expense and other
19 expenses are the time sheets that seem to lack the
20 descriptions that would --

21 **THE WITNESS:** Okay. So then let's just talk
22 about rate case expenses. The only employees that
23 charge rate case expenses are the employees in the rates
24 department. So in their world, again, even though they
25 are limited to the 40 hours that they charge out, again,

1 they work 60 hours a week for, let's say, the Florida
2 rate case. The Florida rate case will only be charged
3 for that week 40 hours. The manager who is in charge of
4 that rate case, whether it be Troy Rendell or myself,
5 and the attorneys who are working with me, which these
6 employees report to Kim Joyce. In essence, she signs
7 the time sheet, but I review the time records every week
8 or every month and make sure that I agree with the
9 amounts that have been charged to our rate cases. So
10 there is actually a double control in our organization
11 when it comes to internal rate case expense.

12 **COMMISSIONER BALBIS:** Okay. Do you have a
13 billable hour requirement for these rate case employees?
14 Are they expected to bill 90 percent of their 40 hours,
15 or --

16 **THE WITNESS:** No. Trust me, we have got
17 enough rate cases to keep people busy. I mean, I
18 performed an analysis -- there was some question of
19 double dipping, which I was kind of taken aback by,
20 because that statement was made without any evidence or
21 any documentation from the company. And, unfortunately,
22 what was just lifted from Exhibit 12, which is totally
23 fine, I appreciate it, was an analysis that said, look,
24 I'm going to show you what Kim Joyce -- her 2,080 hours
25 were in the test year and the year after the test year.

1 And, yes, in her world maybe she charges 55 percent of
2 her time in the test year to the rate case expense and
3 the year after it is 54 percent. Again, evidence to
4 anybody that might have looked at it that there is
5 absolutely no double dipping of that --

6 **COMMISSIONER BALBIS:** And I just want to be
7 clear, Mr. Szczygiel, I'm not asking about double
8 dipping.

9 **THE WITNESS:** Oh, I understand.

10 **COMMISSIONER BALBIS:** My question is is there
11 a billable hour or an accounting requirement, a certain
12 percentage?

13 **THE WITNESS:** The requirement is basically to
14 do the requirements of the job. If you get in
15 discovery, and discovery has to be responded to in ten
16 days, or two weeks, or a month, you have to work the
17 necessary hours to get that done. We only bill 40 hours
18 a week.

19 **COMMISSIONER BALBIS:** So then the reason why
20 there are no administrative duties that are listed in
21 their time sheet is -- are you saying it's because they
22 are working more than the 80 hours?

23 **THE WITNESS:** No, I'm just simply saying that
24 we have never done that before. And to be quite honest
25 with you, we just had more time -- if it's necessary

1 it's necessary. Don't get me wrong, I'm not trying to
2 set the criteria. But, again, no other rate case that
3 we have filed either in Florida or any other state have
4 we gone below the level of recordkeeping we currently
5 have. As a matter of fact, with the enhancements that
6 we have made here in this case, it's further than we
7 have gone in any other rate case that I have been a
8 party to.

9 **COMMISSIONER BALBIS:** And, again, I apologize
10 for not being clear. Let's try this again. All of the
11 time sheets that are included in this Late-filed Exhibit
12 12 indicate a full -- it appears to be a full 80 hours
13 for each employee that spent -- for a two-week period
14 that spent on a rate case, whether it's Texas,
15 Pennsylvania, Florida.

16 **THE WITNESS:** It's a distribution of their 80
17 hours, which could be multiple rate cases or just G&A
18 time. When we were looking at Ms. Hopper, there was two
19 line items, one was for Pennsylvania, which was G&A,
20 that means not a dollar of that cost or hours came to
21 Florida --

22 **COMMISSIONER BALBIS:** And I understand, I
23 understand that.

24 **THE WITNESS:** -- as rate case expense.

25 **COMMISSIONER BALBIS:** So what your testimony

1 states is that -- and in this exhibit that there was no
2 administrative time spent, there was no "nonproductive
3 time spent." That you have your employees billing 40
4 hours a week or they are working more than 40 and they
5 are just not tracking that?

6 **THE WITNESS:** Right. But if they are doing 40
7 hours of -- if they are doing 20 hours of administrative
8 time, they are coding it to the administrative account.
9 They are not charging a rate case unless they are
10 specifically working on a rate case.

11 **COMMISSIONER BALBIS:** And I guess just the
12 ones I have gone through, I haven't seen an
13 administrative account, but that doesn't mean it's not
14 here.

15 **THE WITNESS:** Again, this exhibit
16 unfortunately that I don't have, but of the analysis I
17 performed, I specifically showed how many hours of time
18 in the 2,080 hours were time off, how many hours were
19 administrative time. Some of it might have been
20 specific to a state because they may have been doing an
21 assignment in Virginia for us for some matter, and then
22 how much of their time was spent on various rate cases.
23 And, again, if you had every person's time sheet for a
24 year you would have that same extract that I have.

25 **COMMISSIONER BALBIS:** Okay. So I guess I'm

1 wondering if I wasted a lot of my time in my career
2 filling out time sheets that I didn't have to, but thank
3 you for your testimony.

4 **CHAIRMAN GRAHAM:** Commissioner Edgar.

5 **COMMISSIONER EDGAR:** Thank you. Just a couple
6 of very brief questions, I think. I'm looking at Page
7 52 of your rebuttal testimony.

8 **THE WITNESS:** 52?

9 **COMMISSIONER EDGAR:** 52. And the question and
10 your response to the question there in the middle of the
11 page that addresses testimony by Ms. Dismukes regarding
12 staffing levels at customer service hearings.

13 **THE WITNESS:** Yes.

14 **COMMISSIONER EDGAR:** To your knowledge, does
15 Ms. Dismukes make a specific recommendation as to
16 specific employees, or specific time, or tasks that
17 should be disallowed due to attendance at customer
18 service hearings?

19 **THE WITNESS:** Not my knowledge. I mean,
20 generally these service hearings, sometimes they are
21 during the day, but mostly they are during the night.

22 **COMMISSIONER EDGAR:** I have been to many.

23 **THE WITNESS:** I'm sure. I've been at a few
24 with you. The employees that go are the employees that
25 are affecting the customers. I mean, it is the

1 president, the engineer, the operations manager.
2 Generally, it's the supervisor of the system, and
3 sometimes it is even the facility operators of the
4 system that come here basically on their own time. If
5 you want to limit it, you can limit it, but --

6 **COMMISSIONER EDGAR:** Can I ask you -- and I
7 don't mean to interrupt, but you have definitely got my
8 ears perking up there. What do you mean by on their own
9 time?

10 **THE WITNESS:** Well, if it is in the evening,
11 they are not getting compensated for that. Let's say it
12 is a facility operator, an hourly employee. They are
13 not compensated for that.

14 **COMMISSIONER EDGAR:** So that is not a charge
15 that would be attributed somewhere in rate case
16 documentation to rate case expense?

17 **THE WITNESS:** For the nonexempt employee, the
18 answer is no. For the exempt employee, again, the
19 question is when does the day stop? Surely their whole
20 salary is in Florida, and surely the portion, the
21 60 percent that is allocated to this case would be in
22 there. But they are coming there more for the concern
23 of wanting to hear what the customers say to improve
24 their own operations.

25 **COMMISSIONER EDGAR:** I'm going to come at it

1 from a slightly different angle, I think. The last two
2 sentences in your written testimony in the section that
3 I have drawn your attention to, and I will it, it says,
4 "I believe that it is important for employees to attend
5 service hearings. It would be irresponsible not to have
6 employees present who could assist customers." And I
7 will say just for me, I agree completely with both of
8 these statements. But I am wondering, since this is an
9 issue that OPC has raised in some of the testimony that
10 they have presented, how is the decision made as to the
11 staffing level for the customer hearings?

12 **THE WITNESS:** Well, I will tell you what I
13 know of that right now. Surely you have your president
14 there, you have your regulatory manager for the state
15 there, you have your engineer there, and you have your
16 operations manager there.

17 If you are going to have an opportunity for
18 customers to maybe come and look at their bills, we will
19 bring our customer service meter ops manager in-state,
20 Stacy Barnes. Again, an exempt employee. And he would
21 then have access to the computer and he could handle
22 questions outside of the hearing room.

23 You may then have your direct supervisor of
24 those systems there, and you actually may have some
25 people who are boots on the ground in the systems. In

1 all honesty, I think it is -- having only experienced a
2 few hearings in Florida, but I have been to several, I
3 think it is a very good experience for you to get
4 balance as to how to provide good service.

5 **COMMISSIONER EDGAR:** If attendance of
6 employees at customer service meetings were not able to
7 be recovered through rate case expense, would the
8 staffing level be the same?

9 **THE WITNESS:** That's kind of a hard question
10 to answer, because if I'm paid -- if I spent eight hours
11 doing my engineering, and then I have to get in my car
12 and drive to the hearing, are you going to bifurcate my
13 14 hours? I don't know. But let's just say in your
14 example of if an employee were during the day asked to
15 do that, and you told us that you didn't want us to
16 recover that, I don't think we'd have a problem taking
17 that out.

18 **COMMISSIONER EDGAR:** Okay. I'm going to a
19 different point on the next page, the top of Page 53.
20 I'm wondering if this is a typo or if I am just reading
21 it wrong. Lines 5 and 6 -- beginning on Line 4 through
22 Line 6 where you say, "To treat AUF differently from
23 other Florida water and wastewater utilities would be
24 discriminatory and place AUF at an unfair advantage in
25 the utility industry." Is that supposed to be

1 disadvantage?

2 **THE WITNESS:** An unfair disadvantage.

3 **COMMISSIONER EDGAR:** Okay. So it's a typo.

4 **THE WITNESS:** It's a bad thing. It's a bad
5 guy.

6 **COMMISSIONER EDGAR:** Do you believe that AUF
7 is treated differently in Florida from publicly-owned
8 water and wastewater utilities?

9 **THE WITNESS:** I don't know enough about other
10 Florida water and wastewater utilities to make that
11 statement, but I have seen some decisions that were made
12 in AUF's case that when I looked at a different case
13 they were treated in a different way. I could call that
14 unfair. I mean --

15 **COMMISSIONER EDGAR:** A different factual
16 scenario maybe?

17 **THE WITNESS:** I would say that it's really the
18 facts and circumstances, but when you look at something
19 and see somebody gets a salary increase and you don't,
20 or somebody gets an included expense and you don't, you
21 are left to say maybe the question is what were the
22 differences in the facts and circumstances.

23 **COMMISSIONER EDGAR:** On a third unrelated
24 point in response to a question from Commissioner Brown
25 about a specific charge in some of the information we

1 have been given, the charge to the Tampa Tribune, was
2 that to your knowledge for a required legal notice?

3 **THE WITNESS:** Yes. I believe it actually has
4 the description right there.

5 **COMMISSIONER EDGAR:** And then would it be
6 correct of me to presume that there would also be
7 similar charges for other newspapers across the state
8 for --

9 **THE WITNESS:** Yes. This just happened to come
10 in during this update period. And in the previous
11 update it would have still been an estimated expense.
12 And we updated the bills through October 31st in this
13 last opportunity to update the rate case expense, and
14 even reached out to Mr. May and was able to get his bill
15 through November 15th.

16 **COMMISSIONER EDGAR:** All right. Thank you.

17 **CHAIRMAN GRAHAM:** Commissioner Balbis.

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

19 I just have two quick questions for you, Mr.
20 Szczygiel. The time sheets that are included in
21 Late-filed Exhibit 12, is that the only time sheet an
22 employee fills out at the end of the two-week pay
23 period?

24 **THE WITNESS:** Yes, it is.

25 **COMMISSIONER BALBIS:** Okay. And changing the

1 topic quite a bit. In several of Mr. May's descriptions
2 there was listed something about a decision or strategy
3 on PAA process or something to that effect. I mean, I
4 can pull it out and quote it, but my question is who
5 made the decision to go forward with a PAA process
6 versus the hearing track and why?

7 **THE WITNESS:** I mean, ultimately the person
8 made the ultimate decision was the regional president,
9 Christopher Franklin. He was consulted by myself, Troy,
10 Kim Dismukes, and Bruce May. I mean, what we were
11 trying to do was develop an approach to basically reduce
12 rate case expense. To do something in a cost-effective
13 and efficient way. And I think we demonstrated at the
14 May agenda that this rate case -- we had processed at
15 that point costs of about \$900,000, and I think your
16 order authorizes us to get recovery of about 778, which
17 is down by 50 percent what the previous rate case was.
18 The other rate case was about \$1.8 million.

19 **COMMISSIONER BALBIS:** But I would assume that
20 you knew that at any time -- well, not at any time, but
21 after the PAA decision is made that a party would simply
22 have to protest the decision and then we would move
23 forward with the hearing track that we are going through
24 now.

25 **THE WITNESS:** That is the way the process

1 works.

2 **COMMISSIONER BALBIS:** Did you receive any
3 indications from any of the intervenors that they either
4 would or would not protest the decision once made?

5 **THE WITNESS:** No, sir. I remember when I was
6 here last, I think I received a question from staff
7 asking me if I was aware that there was a meeting, there
8 was a discussion of whether or not to file the PAA, but
9 I did not attend that meeting, and I know no one has
10 knowledge of that.

11 **COMMISSIONER BALBIS:** And, Mr. Chairman, I
12 appreciate a little latitude here, because I'm probably
13 straying a little bit from this rebuttal testimony, but,
14 you know, maybe it's that I forgot to ask when you were
15 giving your Direct Testimony. But do you feel -- let me
16 see how I want to ask this. If we would have gone
17 through the traditional hearing track from the
18 beginning, there would have been an associated rate case
19 expense that you were trying to avoid as you indicated
20 by going through the PAA process. So the question is
21 has there been additional rate case expense, or are we
22 at the point where if you would have gone through the
23 hearing track we would have had all of this rate case
24 expense anyways, or has there been a significant
25 additional amount of rate case expense?

1 **THE WITNESS:** About the only thing I can point
2 out to you, and there may be more, but the only one that
3 I can think of is the fact that we had to have two sets
4 of public input hearings.

5 **COMMISSIONER BALBIS:** Okay. Thank you. I
6 have nothing further.

7 **CHAIRMAN GRAHAM:** Redirect.

8 **MS. CHRISTENSEN:** Can I clarify one thing? I
9 think the witness misspoke and he said Kim Dismukes. I
10 think he meant to say Kim Joyce.

11 **THE WITNESS:** Oh, okay. I'm sorry.

12 **CHAIRMAN GRAHAM:** Thank you.

13 **THE WITNESS:** Too many Kims.

14 **CHAIRMAN GRAHAM:** Mr. May.

15 **MR. MAY:** Thank you, Mr. Chairman.

16 **REDIRECT EXAMINATION**

17 **BY MR. MAY:**

18 Q. Mr. Szczygiel, I wanted to refer you back to a
19 line of questioning that Commissioner Edgar presented to
20 you regarding whether certain AUF employees were
21 charging any of their salaries as rate case expense.
22 And I wanted to expand on that a little bit and have you
23 provide an explanation to me and the Commission and the
24 parties, does any AUF employee charge any salary to rate
25 case expense?

1 A. The only AUF employees who charge salary to
2 rate case expense are the employees in the rates
3 department. That is approximately six people.

4 Q. Thank you. I thought Commissioner Brown asked
5 you a question regarding -- I think she was referring to
6 Page 50 of your Rebuttal Testimony regarding the number
7 of interrogatories and requests for production of
8 documents that the company has responded to in this
9 case.

10 A. Yes.

11 Q. In your position with Aqua, are you familiar
12 with the companies or the operating subsidiaries of
13 Aqua's various rate cases around the country?

14 A. I am familiar with the operations and rate
15 cases in all states that are in the midwest and southern
16 area; Illinois, Indiana, Ohio, Virginia, North Carolina,
17 Florida, Texas. I think I got them.

18 Q. Can you comment on the volumes of discovery in
19 this case compared to other regulatory jurisdictions
20 where Aqua affiliates operate?

21 A. First of all, it's by volume at least
22 50 percent more than I have in any other rate matter and
23 often our other rate cases are higher in value. I mean,
24 I will file an \$8 million case and I may get 400
25 interrogatories and discovery questions. And as I

1 mentioned, I'm not trying to be petty, but often a lot
2 of these questions are redundant. They are the same
3 question. I mean, we say see the response to I-roq 30.
4 This is a lot of work that we have here, and I kind of
5 sometimes wonder if it's all fully absorbed, so it's a
6 little frustrating for me.

7 Q. Mr. Poucher stated last week that Aqua's
8 management had various layers of management in Florida
9 and nationwide that was driving, I think, the rates of
10 the company up. Can you respond to that?

11 A. Sure. I mean --

12 MS. CHRISTENSEN: Objection. I think it goes
13 beyond the scope of the cross-examination or the
14 questions that were asked from the Commissioners on his
15 rebuttal testimony.

16 BY MR. MAY:

17 Q. You were involved in the last rate case, were
18 you not?

19 A. Yes, sir.

20 Q. And you testified on affiliated transactions?

21 A. Yes, I did.

22 Q. Did you hear Commissioner Balbis' questions to
23 Ms. Dismukes earlier today regarding affiliated
24 transactions?

25 A. Yes, I did.

1 Q. The management fees in this case from Aqua's
2 affiliates, how does that compare to the management fees
3 in the last case?

4 A. They have decreased. I asked you to look at
5 Exhibit SS-4, because I prepared SS-4 --

6 **MS. CHRISTENSEN:** I'm going to object, again.
7 This still goes beyond what was asked as far as
8 cross-examination from any of the intervenors, staff, or
9 the Commissioners on his Rebuttal Testimony.

10 **CHAIRMAN GRAHAM:** Ms. Helton.

11 **MS. HELTON:** I honestly don't know whether it
12 was beyond the scope or not. If you think that it was,
13 it's within your discretion to not allow Mr. May to
14 question. However, it is also within your discretion if
15 you want to hear the answer to the question. But
16 typically our practice is if it is beyond the scope,
17 especially on redirect, then the Commissioners -- the
18 Chairman does not allow it.

19 **CHAIRMAN GRAHAM:** I have heard the question or
20 this conversation with several other witnesses. I don't
21 recall hearing it with this rebuttal witness, so I guess
22 I will not allow it.

23 **MR. MAY:** I guess I was following up on a
24 question from Commissioner Balbis to the previous
25 witness, and I'll withdraw the question.

1 **CHAIRMAN GRAHAM:** Is that it, then, with
2 redirect?

3 **MR. MAY:** That's it for redirect.

4 **CHAIRMAN GRAHAM:** Okay. All right. Which
5 exhibits do we need to put in?

6 **MR. MAY:** Aqua would move Mr. Szczygiel's
7 exhibits to his rebuttal testimony which are marked 208
8 through 215.

9 **CHAIRMAN GRAHAM:** We will input 208 through
10 215 into the record.

11 (Exhibit Numbers 208 through 215 admitted into
12 the record.)

13 **MR. MAY:** And then I think it is my
14 understanding that Late-filed Exhibit 12 has --

15 **MS. BENNETT:** Staff will move Late-filed
16 Exhibit 12, which is Exhibit 340, into the record at
17 this time.

18 **CHAIRMAN GRAHAM:** We will move 340 into the
19 record.

20 **MS. BENNETT:** We would move 341 and 342 into
21 the record, subject to the objections.

22 **CHAIRMAN GRAHAM:** We will move 341 and 342
23 into the record, subject to the objections.

24 What are those dates again?

25 **MS. BENNETT:** The witness will provide the

1 late-filed exhibits a week from today. The intervenors
2 have until January the 6th to file their objections.
3 Sooner would be nice, but January 6th. And then Aqua
4 would have seven days after they have filed their
5 objections, so January 13th to respond.

6 **CHAIRMAN GRAHAM:** Does everybody understand
7 those dates?

8 **MS. CHRISTENSEN:** Yes. And Office of Public
9 Counsel would move in in 335 through 339.

10 **CHAIRMAN GRAHAM:** 335, 336, 337, 338, and 339.
11 (Exhibit Numbers 335 through 339 and 341 and
12 342 admitted into the record.)

13 **MR. MAY:** Mr. Chair, there is one more
14 housekeeping item with respect to Mr. Szczygiel's
15 deposition. Again, I haven't had a chance to talk with
16 Ms. Christensen or the parties, but through e-mail
17 exchange my understanding was that there was no
18 disagreement in moving in the late-filed exhibits of Mr.
19 Szczygiel with the exception of Late-filed Exhibit
20 Number 12.

21 **MS. CHRISTENSEN:** Frankly, from last week I
22 can't recall what our agreement was regarding any of the
23 late-filed exhibits. I know we did have the exception
24 to 12, which I think we have taken care of today. I
25 think they're okay, and I would go ahead and tentatively

1 say yes. And if I have any issues, I'll try to bring
2 them up before the end of the hearing.

3 **CHAIRMAN GRAHAM:** Okay.

4 **MR. MAY:** That will give us an opportunity to
5 make the necessary copies and then OPC can review and
6 object, I guess, if they see fit. Thank you.

7 **CHAIRMAN GRAHAM:** Okay. We had Frank Seidman
8 who was stipulated. Have we moved his testimony into
9 the record?

10 **MR. MAY:** I believe that we have, Mr.
11 Chairman. I think that was Hearing Exhibit Number 227.

12 **CHAIRMAN GRAHAM:** Yes, I have it checked off,
13 so I guess we did move that into the record.

14 **MR. MAY:** I think that was stipulated on the
15 29th of November.

16 **CHAIRMAN GRAHAM:** Okay.

17 **MR. JAEGER:** Chairman, we always wait until he
18 comes up to put the testimony in, so at this time we
19 would put in the testimony, and, yes, his Exhibit 227
20 has been stipulated to be admitted.

21 **CHAIRMAN GRAHAM:** And so the means we will
22 also put in his prefiled rebuttal testimony as though
23 read into the record.

1 **AQUA UTILITIES FLORIDA, INC.**

2 **REBUTTAL TESTIMONY**

3 **OF**

4 **FRANK SEIDMAN**

5 **Docket No. 100330-WS**

6 **Q. Please state your name, profession and address.**

7 A. My name is Frank Seidman. I am President of Management and Regulatory
8 Consultants, Inc. My address is 18444 Lost Lake Way, Jupiter, Florida, 33458.

9
10 **Q. State briefly your educational background and experience.**

11 A. I am a Professional Engineer, registered to practice in the state of Florida. I hold
12 a Bachelor of Science degree in Electrical Engineering from the University of
13 Miami, and I have also completed several graduate level courses in economics at
14 Florida State University, including public utility economics. I have over 40 years
15 experience in utility regulation, management and consulting. This experience
16 includes nine years as a Staff member of the Florida Public Service Commission;
17 two years as a planning engineer for a Florida telephone company; four years as
18 Manager of Rates and Research for a water and sewer holding company with
19 operations in six states; and three years as Director of Technical Affairs for a
20 national association of industrial users of electricity. I have been providing rate
21 and regulatory consulting services in Florida for over 30 years. Specifically, with
22 regard to the water and wastewater industry, I have participated in the preparation
23 and presentation of numerous rate cases, most of which were considered by this
24 Commission. Many of those cases were made final through the Proposed Agency

1 Action procedures; others went to public hearing in which I presented direct
2 and/or rebuttal testimony. I have prepared or participated in the preparation of all
3 phases of water and wastewater financial, rate and engineering sections of the
4 Minimum Filing Requirements (MFRs), including used and useful. I have also
5 participated in most of the water and wastewater rulemaking procedures before
6 this Commission. I have also prepared several original cost studies accepted by
7 this Commission in setting rates.

8

9 **Q. Have you prepared an exhibit describing your qualifications and experience?**

10 A. Yes. I have prepared Exhibit FS-1, which includes my Curriculum Vitae and a
11 summary of my expertise in water and wastewater regulation.

12

13 **Q. On whose behalf are you presenting this testimony?**

14 A. I am presenting this testimony and appearing on behalf of the applicant, Aqua
15 Utilities Florida, Inc. ("AUF").

16

17 **Q. What is the purpose of your rebuttal testimony?**

18 A. The purpose of my testimony is to respond to portions of the direct testimony
19 presented by Office of Public Counsel ("OPC") witness Andrew T. Woodcock
20 regarding used and useful issues.

21

22 **Q. Do you have experience in the area of used and useful determinations for
23 water and wastewater utilities before this Commission?**

24 A. Yes. I have prepared used and useful analyses for more than 50 cases considered

1 by this Commission in the past 30 years. Some have included presenting expert
2 testimony at hearings, others have been considered in the PAA process. I have also
3 participated in the development of the Commission's Rules on used and useful for
4 water and wastewater utilities. I have participated in all of the Commission's
5 rulemaking procedures and most of the workshops leading up to the passage of
6 those Rules. I am also familiar with the approaches taken by the Commission
7 regarding used and useful for other types of utilities that the Commission regulates,
8 as compared to the Commission's approach regarding used and useful for water and
9 wastewater utilities.

10

11 **Q. Have you reviewed the portions of AUF's MFRs in which AUF made its**
12 **determination of used and useful?**

13 A. Yes. I have.

14

15 **Q. Please summarize your opinion as to AUF's determination of used and**
16 **useful.**

17 A. It is my opinion that AUF's determination of used and useful for its various
18 systems is in compliance with both the methodology and the intent of the
19 Commission's Rules and governing statutes.

20

21 **Q. And have you reviewed the direct testimony and exhibits of OPC witness**
22 **Woodcock regarding the determination of used and useful?**

23 A. Yes, I have.

1 **Q. Please summarize your opinion regarding Mr. Woodcock's used and useful**
2 **testimony.**

3 A. Mr. Woodcock's testimony on used and useful consists of two parts. I would
4 describe the first part of Mr. Woodcock's testimony as setting out his general
5 philosophy and interpretation of the statutes and Rules which govern the
6 determination of used and useful. The second part of Mr. Woodcock's testimony
7 is a summary of the detailed calculations for each system and his conclusions
8 stemming therefrom. It is my opinion that Mr. Woodcock has generally followed
9 the mathematical parts of the applicable Rules correctly, but that his used and
10 useful conclusions are erroneous because they are the product of his
11 misinterpretation not only of the governing statutes and Rules, but also of the
12 intent behind those governing statutes and Rules.

13

14 **Q. What are the statutes and Rules which govern used and useful?**

15 A. Several statutes govern how the Commission is to determine used and useful in
16 the ratemaking process for water and wastewater utilities, including: Section
17 367.011(3), Florida Statutes; Section 367.081(2) & (3), Florida Statutes; Section
18 367.0817(3), Florida Statutes; Section 367.111(2), Florida Statutes; and Section
19 403.064(11), Florida Statutes. The specific Rules for implementing the statutory
20 requirements include Florida Administrative Code Rules 25-30.431, 25-30.432,
21 and 25-30.4325.

22

23 **Q. In his direct testimony, at page 5, AUF witness William Troy Rendell**
24 **described the "used and useful" concept as it applies to regulated utilities. Do**

1 **you agree with his description?**

2 A. Yes, and it bears repeating. The term “used and useful” is simply a regulatory rate
3 setting term that describes the cost of property that is included in a utility’s rate base
4 (net investment) upon which the utility is entitled to earn a rate of return. The
5 balance of the cost of property that is excluded from rate base is referred to as “non
6 used and useful” or “future use” plant.

7

8 **Q. Is there anything you would add to aid the Commission in its decision-making**
9 **process?**

10 A. Yes. It is helpful to have a historical perspective because, as simple as the
11 description of used and useful appears to be, the implementation of the used and
12 useful concept has been anything but simple. This Commission has been regulating
13 water and wastewater utilities since 1959. In 1971, the water and wastewater
14 statute, Chapter 367 of the Florida Statutes, took the form with which we are now
15 familiar. Throughout all these years, beginning in 1959, the basic reference in the
16 statutes regarding used and useful has remained virtually the same, “property used
17 and useful in the public service....” Since then, there has been only one major
18 change regarding used and useful made in 1999. In 1999, the Legislature added
19 language in what is now identified as Sections 367.081(2)(a)(1.) and (2)(a)(2.),
20 Florida Statutes. The language added as Section 367.081(2)(a)(1.) prohibits the
21 Commission from imputing future CIAC against property used and useful in the
22 public service. The language added as Section 367.081(2)(a)(2.) requires the
23 Commission to consider utility property “to be used and useful” if: 1) it is needed to
24 serve current customers, 2) it is needed to serve customers five years after the test

1 year, which may be two years later than the historic base year, or 3) it is needed to
2 serve customers longer than five years after the test year, if supported by the
3 evidence.

4
5 **Q. Do you know what the intent of these changes was?**

6 A. Yes, to once and for all put an end to the continuing costly battles between
7 Commission Staff, OPC and the utilities over what was known as the "margin
8 reserve component" of used and useful, and the continuing effort to impute CIAC
9 against it. The "margin reserve component" is now referred to as property needed to
10 serve customers after the end of the test year.

11
12 **Q. Did that legislation make any other changes to the statute with regard to used
13 and useful?**

14 A. Yes. The legislation also requires the Commission to allow full recovery of
15 environmental compliance costs.

16
17 **Q. In all the years that water and wastewater utilities have been regulated in
18 Florida, has there ever been a definition of used and useful included in the
19 statutes?**

20 A. No. The statutes have been devoid of any such definition.

21
22 **Q. With no statutory definition, how has the Commission determined what is
23 used and useful and what is not?**

24 A. The Commission has done so using its authority under Section 367.011, Florida

1 Statutes, which provides that the statutes are to be liberally construed to accomplish
2 their stated purpose.

3

4 **Q. Did the Commission ever try to standardize or codify the approach to**
5 **determining used and useful?**

6 A. Yes, many times, over many years. In 1977, in Order No. 7684, issued March,
7 1977, the Commission defined used and useful as an engineering concept. Therein,
8 the Commission generally defined the term as the assets really used and useful in
9 performing the utility's service obligation, including assets reasonably necessary to
10 furnish adequate service to the utility's customers during the course of prudent
11 operation of the utility's business. In addition, good engineering design will give a
12 growing utility sufficient capacity over and above actual demand to act as a cushion
13 for maximum daily flow requirements and normal growth over a reasonable period
14 of time.

15

16 In 1973, and again in 1975, the Commission's Staff made attempts through internal
17 memoranda to define the concept and set standard definitions, considerations and
18 approaches to determine used and useful. In 1982, Commissioners voiced their
19 concern over the lack of consistency in used and useful computations and expressed
20 a desire for a "formula." Staff responded with a memorandum intended to guide
21 each person making a used and useful determination in a professional and
22 consistent manner. In the early 1990s, Staff began holding workshops, in earnest,
23 to try to develop Rules to codify the Commission's policy regarding used and
24 useful. These attempts continued for more than fifteen years.

1

2 **Q. Did these efforts ever bear fruit?**

3 A. Yes. These efforts finally culminated in what we now know as Rule 25-30.431,
4 F.A.C., Used and Useful Considerations, effective December 14, 1999; Rule 25-
5 30.432, F.A.C., Wastewater Treatment Plant Used and Useful Calculations,
6 effective December 26, 2002; and Rule 25-30.4325, F.A.C., Water Treatment and
7 Storage Used and Useful Calculations, effective June 8, 2008.

8

9 **Q. Did OPC participate in the development of these rules?**

10 A. Yes. OPC was an active party throughout the process which led to adoption of
11 these rules, including Rules 25-30.431, 25-30.432, and 25-30.4325, F.A.C.

12

13 **Q. Is this historical process relevant to this proceeding?**

14 A. Yes. The primary basis for Mr. Woodcock's testimony on used and useful is his
15 disagreement with the Rules. Some of the Commissioners presiding over this case
16 were not present during the process which led to the current Rules. Understanding
17 this historical process is key to understanding that the Rules governing used and
18 useful are not a flash in the pan, or concocted in a hurried manner without sufficient
19 input from all parties involved. Instead, the Rules governing used and useful were
20 a long time coming. They were based on considerable thought and an integrated,
21 participatory effort of Commission Staff, utilities and other parties. They were
22 developed in consideration of past Commission policies, practices and orders.
23 These Rules have been well litigated. They should not be taken lightly by anyone.

24

1 **Q. Why do you believe Mr. Woodcock's testimony stems from his disagreement**
2 **with the Rules?**

3 A. At page 5 of his testimony, Mr. Woodcock states that his "primary concerns have to
4 do with reliance on buildout and prior Commission orders as a justification for
5 higher than calculated U&U percentages." However, Rule 25-30.4325(4)
6 specifically states:

7 A water system is considered 100% used and useful if the service
8 territory the system is designed to serve is built out and there is no
9 apparent potential for expansion of the service territory or the
10 system is served by a single well.
11

12 As explained in Commission Staff's Analysis and Conclusion submitted in Docket
13 No. 070183-WS and dated March 27, 2008, and which this Commission approved:

14 The Commission has consistently found that systems with one well
15 and systems that are built out with no apparent potential for
16 expansion are 100% used and useful unless it appears that the
17 system was not prudently designed. These systems, and there are
18 hundreds of them in Florida, are typically built by developers to
19 serve a relatively small area. Staff believes that it is not efficient to
20 require a sophisticated used and useful analysis to ascertain
21 whether these types of systems are oversized for the developments
22 they are designed to serve. (Rather a used and useful analysis
23 should only be performed as an alternative when there is evidence
24 indicating that the system may be oversized.)
25

26 Accordingly, Mr. Woodcock's "primary concerns" with "reliance on buildout and
27 prior Commission orders as a justification for higher than calculated U&U
28 percentages" is not testimony which takes issue with any determination of used
29 and useful that is specific or unique to this case. Instead, Mr. Woodcock offers
30 testimony which takes issue with the Rules that govern every Commission
31 determination of used and useful.
32

1 **Q. Is Mr. Woodcock aware of basis for the Commission rule?**

2 A. Yes. Mr. Woodcock testified in the rulemaking hearing in Docket No. 070183-WS.
3 He argued then against the same provisions that he is arguing against in this
4 proceeding--arguments which repeatedly have been rejected.

5
6 **Q. You say "repeatedly." Is this not the first time Mr. Woodcock has taken issue
7 with the used and useful Rules in a rate case proceeding?**

8 A. No, it is not. Mr. Woodcock testified in the prior rate case for this same utility in
9 Docket No. 080121-WS that went to hearing. In that case, Mr. Woodcock made the
10 same arguments he is making in case and, again, those arguments were rejected by
11 the Commission.

12
13 **Q. Have any of the Commission Rules governing the consideration of used and
14 useful changes since AUF's prior rate case?**

15 A. No, they have not. The last of the three governing Commission Rules took effect in
16 June 2008. The technical hearing for Docket No. 080121-WS took place in
17 December 2008. The final order, issued in May 2009, is based on the exact same
18 Rules applicable to the instant rate case.

19
20 **Q. How can you be sure Mr. Woodcock is making the same argument in this case
21 he made in AUF's prior rate case?**

22 A. Because OPC states that it is the same argument. In March 24, 2011, OPC issued a
23 memorandum listing its preliminary areas of concern in this case. Under the subject
24 of Used and Useful, OPC's memorandum stated that OPC believes that the used

1 and useful methodologies supported by the OPC witness in AUF's prior rate case
2 should be used in this rate case.
3

4 **Q. What is wrong with that?**

5 A. The systems in this case for which the Commission made determinations of used
6 and useful in AUF's prior rate case have remained unchanged in all areas applicable
7 to an appropriate determination of used and useful since that rate case. The
8 determinations of used and useful the Commission made for those systems in the
9 last case were based on the Commission's correct and consistent interpretation of
10 the Rules and statutes under which it operates. In this case, OPC is presenting the
11 same argument on used and useful methodologies for virtually all of the same
12 systems through the exact same witness. The Commission has already fully
13 considered OPC's position and Mr. Woodcock's disagreement with the governing
14 Rules in the context of virtually all of the same systems, and appropriately rejected
15 it. The position that used and useful for each system must be fully re-litigated in
16 every rate case goes against the very intent of the governing Rules. The
17 Commission, after years of consideration, formulated standard Rules and methods
18 for determining used and useful, the intent of which was to save the customers rate
19 case expense by reducing the need for experts to argue the same issues over and
20 over.
21

22 **Q. Mr. Woodcock defends his position by stating, at page 8, lines 23-24, of his**
23 **testimony, that Staff has "stretched the interpretation" of Rule 25-30.4325(4).**
24 **Is Mr. Woodcock's characterization accurate?**

1 A. No, it is not. Mr. Woodcock targets Commission Staff in order to defend his
2 position. However, it is the Commission's interpretation, memorialized in the
3 Order issued in AUF's prior rate case, that OPC and Mr. Woodcock actually
4 contest. If OPC believed the Commission misinterpreted the Rule in the last case,
5 then OPC should have appealed the decision. I believe it is likely that OPC did not
6 seek judicial relief from the Commission's consistent application of these
7 governing Rules at least in part because of the standard under which such
8 Commission decisions are reviewed. *See, e.g., Nassau Power Corp. v. Deason*,
9 641, So. 2d 396, 398 (Fla. 1984) ("The Commission is charged with interpreting
10 its own statutory provisions, and will not be overturned by a reviewing body
11 unless clearly erroneous."); *see also PW Ventures, Inc. v Nichols*, 533 So. 2d 281,
12 283 (Fla. 1988). It is inappropriate to use individual rate cases—and to increase
13 the rate case expense in those individual cases—as an alternative means to obtain
14 review of prior Commission orders.

15

16 **Q. As previously pointed out, it appears Mr. Woodcock is bothered by the PAA**
17 **Order's reliance on previous Commission orders. At page 6 of his testimony,**
18 **he recommends reevaluating every system in every case. On what prior**
19 **Commission order or orders did AUF rely?**

20 A. The final order issued in AUF's prior rate case pertains to virtually all of the same
21 systems, and those systems have not changed in any material way since that final
22 order issued. In AUF's prior rate case, 26 of AUF's water treatment plants were
23 found to be 100 percent U&U based on a stipulation. Of these 26, 15 have one
24 well and the remaining 11 have had no significant growth in the past five years.

1 What Mr. Woodcock is proposing—full re-litigation of all systems even if
2 unchanged since a prior order determined their used and useful percentages—
3 would needlessly increase rate case expense. It would also mean that a utility
4 cannot rely even on the approved used and useful methodology actually litigated
5 and adjudicated in a prior rate case. Such a policy leads to regulatory uncertainty
6 and defeats the purpose of minimizing rate case expense.

7
8 **Q. Rule 25-30.432, F.A.C., Wastewater Treatment Plant Used and Useful**
9 **Calculations, provides that the Commission, in determining the used and**
10 **useful amount, consider whether flows have decreased due to conservation or**
11 **a reduction in the number of customers. Rule 25-30.4325, F.A.C., Water**
12 **Treatment and Storage Used and Useful Calculations, contains a similar**
13 **provision. Mr. Woodcock takes issue with the interpretation of those**
14 **provisions. Would you please address this?**

15 **A.** Yes. There has been a recognition that water and wastewater utilities are subject to
16 the reduction in consumption by customers, and even a loss of customers, as a
17 result of conservation efforts, cost increase for purposes of environmental
18 protection, and events beyond the control of a utility. When this happens, the
19 demand on a system may decrease to something less than that for which it was
20 prudently designed and less than levels it had previously served. The Commission
21 recognizes that, when this happens, the plant is no less used and useful in the public
22 service than it was before the reduction in demand, even if mathematical
23 calculations show otherwise. The cited Rules codify the Commission's insight into
24 this situation.

1

2 Mr. Woodcock believes, however, that the numbers rule even when circumstances
3 do not support that conclusion. He recommends reducing used and useful even
4 where it prevents the utility from earning on its prudent investment. I disagree. I
5 think the Commission got it right. Ratemaking, including used and useful, is more
6 than just a numbers game. First, the Commission already recognizes the impact of
7 reduced consumption on revenue requirements by adjusting billed consumption
8 with a repression adjustment. Second, putting Mr. Woodcock's approach into
9 practice—a practice that could put a utility out of business—would be inconsistent
10 with the efforts made by this Commission and Florida's water management districts
11 to promote conservation. The Commission has a responsibility to the utility as well
12 as the customer. That is precisely why the Commission has consistently
13 recognized that a utility company should not be penalized for incurring prudent
14 investment to provide capacity to its customers, when the customers or
15 consumption is then reduced for factors beyond the utility's control. *See In re:*
16 *Application for increase in water and wastewater rates by Aqua Utilities Florida,*
17 *Inc.*, Docket No. 080121-WS, Order No. PSC-09-0385-FOF-WS (May 29, 2009);
18 *see also In re: Application for increase in water and wastewater rates by Utilities,*
19 *Inc. of Florida*, Docket No. 090462-WS, Order No. PSC-10-0585-PAA-WS
20 (Sept. 22, 2010); *In re: Application for increase in water and wastewater rates in*
21 *Marion, Orange, Pasco, Pinellas, and Seminole Counties by Utilities, Inc. of*
22 *Florida*, Docket No. 060253-WS, Order No. PSC-07-0505-SC-WS (June 13,
23 2007).

24

1 **Q. In his testimony, at page 9, Mr. Woodcock discusses his concern that used and**
2 **useful percentages are not being reduced when demand decreases for such**
3 **reasons as the downturn in the housing market or the overall state of the**
4 **economy. He appears to be of the opinion that an adjustment is necessary**
5 **because a portion of the facilities is not providing service to the customers. Do**
6 **you agree?**

7 A. No. Those facilities are still providing service to the customers. He is certainly
8 correct that going through the mathematical exercise of dividing demand by
9 capacity will result in a lower number. But, as I have previously stated,
10 determining used and useful is more than a numbers game. Recognition must be
11 given to providing service in a prudent manner. That means being ready to serve
12 when demand changes, up or down. Mr. Woodcock's approach would mean that a
13 utility could recover costs when demand goes up, but not recover costs when
14 demand goes down. Under those circumstances, the only way a utility could
15 reasonably expect to recover costs would be to construct portable facilities that
16 could be removed when demand decreases, and then add them back when demand
17 increases. We all know this is neither physically nor economically feasible. Water
18 and wastewater utilities are regulated for several reasons. One reason is that they
19 provide services that are necessary and essential to the health of the public.
20 Regulation protects the public by assuring them that a utility will provide services
21 in a safe, efficient and sufficient manner in accordance with good engineering
22 practice. But regulation is a two-way street. To ensure that a utility is in a position
23 to provide services in a safe, efficient and sufficient manner in accordance with
24 good engineering practice, that regulation cannot prohibit the opportunity to earn a

1 reasonable return on its investment in facilities built for that purpose. There must be
2 stability in a utility's financial position so that it can obtain funds at a reasonable
3 cost. Mr. Woodcock's approach, if implemented, would destabilize that situation.
4 A utility is not like a business in a competitive market that can decide to pull a
5 product when demand decreases, or ignore a portion of its customer base to
6 improve its bottom line. A utility must be ready to serve regardless of fluctuations
7 in market demand or its customer base. Good regulation allows this to happen. Mr.
8 Woodcock's approach does not make for good regulation.

9
10 **Q. Beginning at page 24, Mr. Woodcock addresses the determination of used and**
11 **useful for distribution and collection systems. He indicates that he uses the lot**
12 **count methodology for the most part, similar to what I have done, but objects**
13 **to rounding up, particularly to reflect buildout conditions. Do you agree with**
14 **his objection?**

15 A. No. I agree that the Commission has historically relied on the lot count method,
16 although that method has not been codified in Rule. The lot count method is a
17 starting point, but one cannot ignore system layout and the freedom of choice of
18 customers to build and receive service where they see fit. The design of a
19 distribution and collection system is different from that of treatment plants.
20 Treatment plants are sized based on the demand on the whole system, not on which
21 street a customer lives. Distribution and collection systems must be continuous on
22 the streets they serve regardless of whether all lots are occupied. It is, therefore,
23 perfectly reasonable to conclude that a system is 100% used and useful even when
24 every lot is not served, and maybe never will be. It takes judgment to make the

1 determination, but it should never be concluded that, simply because the calculated
2 percentage is less than 100%, the system is not 100% used and useful in the public
3 service.

4
5 **Q. The regulation of water and wastewater systems in Florida, as opposed to**
6 **other regulated utilities, is unique with regard to the requirement to do a lot**
7 **count calculation for distribution and collection systems. There is no such**
8 **requirement for electric, gas or telephone utilities. Do you know why?**

9 A. Yes. Many, if not all of the privately owned water and wastewater systems have
10 their origins in developments. As developments were constructed away from urban
11 areas, the only way to have central water and wastewater systems was for the
12 developer to construct them. No municipality would undertake this obligation.
13 Back in the 1950s and through much of the 1970s, there were many very large
14 undertakings. In order to sell property in these developments to prospects outside
15 of Florida, the developers were often required to "pipe up" the whole system, so
16 that lots could be sold with utilities available. Some of those developments had lots
17 with lines available numbering in the thousands and tens of thousands, while the
18 customer base numbered only in the hundreds. In the late 1960s, the lot count
19 method was proposed in a rate case for one such utility. It has since been the
20 standard practice of the Commission to start with lots served versus lots available
21 tabulation in assessing used and useful for distribution and collection systems.
22 However, because the systems in this case are relatively small systems, with most
23 built out to the extent practicable, this is not the appropriate end to the inquiry for
24 the systems in this case. Rather, the used and useful for these distribution and

1 collection systems should be assessed on the same basis as distribution systems for
2 electric gas and telephone. That assessment focuses on whether they are reasonably
3 necessary to provide service within the service area.

4

5 **Q. In the remainder of his testimony on used and useful, Mr. Woodcock focuses**
6 **on the characteristics of specific systems to support his conclusions. Are you**
7 **going to address those?**

8 A. No. Mr. Rendell, whose direct testimony touches on this area, will respond to Mr.
9 Woodcock in his rebuttal testimony. The purpose of my testimony has been to
10 address Mr. Woodcock's general philosophy and interpretation of the statutes and
11 Rules governing the determination of used and useful, and describe the
12 background and intent behind those statutes and Rules to assist the Commission in
13 its decision-making process.

14

15 **Q. Does this conclude your rebuttal testimony?**

16 A. Yes.

17

18

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1 **CHAIRMAN GRAHAM:** Okay. Mr. May, your next
2 witness.

3 **MR. MAY:** Mr. Chairman, with your permission,
4 Aqua would call its next rebuttal witness, Mr. Preston
5 Luitweiler.

6 **PRESTON LUITWEILER**

7 was called as a rebuttal witness on behalf of Aqua
8 Utilities Florida, and having been previously sworn,
9 testified as follows:

10 **DIRECT EXAMINATION**

11 **BY MR. MAY:**

12 **Q.** Good afternoon, Mr. Luitweiler. Have you
13 previously been sworn in this proceeding?

14 **A.** Yes, I have.

15 **Q.** Would you, again, state your name and business
16 address for the record.

17 **A.** My name is Preston Luitweiler and my address
18 is 762 West Lancaster Avenue, Bryn Mawr, Pennsylvania.

19 **MR. MAY:** Mr. Chairman, I just want to reflect
20 back. I think there was an agreement earlier that this
21 witness and the succeeding two other witnesses from Aqua
22 would present their rebuttal and their supplemental
23 rebuttal at the same time, and the parties have agreed
24 to that.

25 **CHAIRMAN GRAHAM:** Yes, sir.

1 BY MR. MAY:

2 Q. So, Mr. Luitweiler, did you prepare and cause
3 to be filed 24 pages of Rebuttal Testimony and 13 pages
4 of Supplemental Rebuttal Testimony in this proceeding?

5 A. Yes, I did.

6 Q. Do you have that Rebuttal and Supplemental
7 Rebuttal Testimony before you today?

8 A. Yes, I do.

9 Q. Do you have any corrections or revisions to
10 your rebuttal testimony?

11 A. Yes, I do. I have several minor corrections.
12 On Page 3, Line 21, the number \$177,976.97 should be
13 replaced with \$177,679.89. Further on that line,
14 195,363.69 should be replaced by 195,079.61. On the
15 next line, Line 32, the number 373,353.66 should be
16 replaced with 372,759.50. And on the next page, Page 4,
17 Line 24, the number 235,392.32 should be replaced with
18 204,680.89.

19 Q. Thank you, sir. Do you have any changes or
20 revisions to your Supplemental Rebuttal Testimony?

21 A. No, I do not.

22 Q. With the corrections noted in your Rebuttal
23 Testimony, if I were to ask you the questions that are
24 contained in your Rebuttal and your Supplemental
25 Rebuttal Testimony today, would your answers be the

1 same?

2 A. Yes, they would.

3 MR. MAY: Mr. Chairman, Aqua would ask that
4 the Rebuttal and the Supplemental Rebuttal Testimony of
5 Mr. Luitweiler be inserted into the record as though
6 read.

7 CHAIRMAN GRAHAM: We will insert into the
8 record the Rebuttal and Supplemental Rebuttal Testimony
9 into the record with those changes that were noted.

10 MR. MAY: Thank you.

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1 **AQUA UTILITIES FLORIDA, INC.**2 **REBUTTAL TESTIMONY OF PRESTON LUITWEILER**3 **DOCKET NO. 100330-WS**
45 **Q. What is your name and business address:**6 A. My name is Preston Luitweiler. My business address is 762 W. Lancaster Avenue, Bryn
7 Mawr, Pennsylvania, 19010.
89 **Q. Have you previously submitted testimony in this proceeding?**10 A. Yes. I filed direct testimony on August 10, 2011 in this rate case, and sponsored Exhibits
11 PL-1 through PL-8.
1213 **Q. What is the purpose of your rebuttal testimony?**14 A. The purpose of my rebuttal testimony is to respond to portions of the direct testimony of
15 Office of Public Counsel ("OPC") witnesses Andrew Woodcock, Earl Poucher, Kim
16 Dismukes, and Pasco County witness Jack Mariano. I also respond to portions of the
17 testimony of YES witnesses Kim Kurz and Michael Green, as well as portions of the
18 testimony filed by Florida Department of Environmental Protection ("FDEP") witnesses
19 Jeff Greenwell and Gary Miller.
2021 **Q. Are you sponsoring any exhibits to your rebuttal testimony?**22 A. Yes, I am sponsoring PL-9 through PL-15.
23
24

1 **Q. Are you sponsoring or co-sponsoring any portions of AUF's MFRs in this rate case?**

2 A. Yes. I am sponsoring or co-sponsoring the following MFR schedules: A-3 and B-3.

3

4 ***Pro Forma Capital Projects***

5 **Q. In response to Mr. Woodcock's testimony, can you provide additional information on**
6 **the status of the protested pro forma capital projects?**

7 A. Yes. Mr. Woodcock proposes a very stringent test for inclusion of pro forma capital
8 adjustments that I understand is more demanding than normally accepted Commission
9 practice. While AUF does not accept Mr. Woodcock's interpretation in this regard, I am
10 providing updates and accompanying documentation relative to the following pro forma
11 projects: the Lake Josephine/Sebring Lakes project; the Sunny Hills project; the Peace
12 River Project; and the Leisure Lakes project.

13

14 **Q. Please provide an update on the Lake Josephine and Sebring Lakes projects.**

15 A. Filtration equipment from AdEdge was delivered on October 12, 2011. A contractor has
16 been engaged to complete installation of AdEdge treatment at both facilities. AUF is
17 anticipating completion of both installations in November 2011. Exhibits PL-9 and PL-10
18 contain copies of the AC290 summary of costs incurred through October 19, 2011, and
19 supporting invoices and documents for costs incurred since July 31, 2011. This includes
20 labor charges and charges for engineering design and construction inspection. Those costs to
21 date total ~~\$177,976.97~~ ^{\$177,679.89} for Lake Josephine and ~~\$195,376.69~~ ^{\$195,079.61} for Sebring Lakes. There will be
22 additional costs for inspection and certification. AUF is requesting inclusion of ~~\$373,353.66~~ ^{\$372,759.50}
23 for these two projects in rate base as pro forma plant.

24

1 **Q. Please provide an update on the Sunny Hills project.**

2 A. A copy of the executed contract for installation of a storage tank, piping and related
3 improvements required by the FDEP is attached as Exhibit PL-11. The amount of the
4 contract is \$231,076. The contract's effective date is September 14, 2011, and the contract
5 expressly provides for completion of work in 90 days (i.e., December 14, 2011). That work is
6 underway, and the tank has been ordered. Also included in the exhibit is a copy of the
7 AC290 summary of costs incurred through October 19 and supporting invoices and
8 documents for costs incurred since July 31, 2011. This includes labor charges and charges
9 for engineering design and construction inspection and certification. Those costs to date total
10 \$36,809.29. There will be additional costs for inspection and certification. AUF is
11 requesting inclusion of \$267,885.29 for this project in rate base as pro forma plant.

12

13 **Q. Please provide an update on the Peace River project.**

14 A. AUF executed a contract, effective August 23, 2011, with the supplier of the treatment
15 system (WRT) in the amount of \$50,910. Aqua also bid the construction in September
16 2011. AUF is in discussions with the two lowest bidders (approximately \$139,000 and
17 \$144,000), and expects to make an award by the end of October. AUF expects to
18 complete construction before February 15, 2012 (180 days of issuance of the FDEP
19 permit as required by the FDEP consent order). Copies of supporting documents are
20 included in Exhibit PL-12. Also included is a copy of the AC290 summary of costs
21 incurred through October 19, 2011, and supporting invoices and documents for expenses
22 since July 31, 2011. Those costs to date total \$42,762.32. There will be additional costs
23 for AUF labor and for inspection and certification by the design engineer. AUF is
24 requesting inclusion of ~~\$235,392.32~~ ^{\$204,680.89} for this project in rate base as pro forma plant.

1 **Q. Please provide an update on the Leisure Lakes project.**

2 A. For Leisure Lakes, filtration equipment was ordered from AdEdge while the permit
3 application was pending at FDEP. A construction permit was finally issued by FDEP on
4 October 6, 2011. Work on installing treatment will begin as soon as the units at Lake
5 Josephine and Sebring Lakes have been completed, which is anticipated to be the end of
6 November 2011. Copies of supporting documents for the Leisure Lakes project are
7 included in Exhibit PL-13. Also included is a copy of the AC290 summary of costs
8 incurred through October 19, 2011, and supporting invoices and documents for expenses
9 since July 31, 2011. Those costs to date total \$105,799.04. There will be additional costs
10 for AUF labor and for inspection and certification by the design engineer. For this
11 project, AUF is requesting inclusion of \$105,799.04, plus additional costs for installation,
12 inspection and certification, for this project in rate base as pro forma plant.

13

14 ***Precautionary Boil Water Advisories***

15 **Q. Ms. Dismukes and Mr. Mariano both discuss in their testimony the need for issuing**
16 **precautionary boil water advisories. Can you please elaborate on the need for these**
17 **types of notifications?**

18 A. Yes. Most boil water notices are precautionary boil water advisories (“BWAs”) issued as
19 a result of main breaks. If the main breaks, or the resultant shut-down, results in a loss
20 of pressure to the system below 20 psi, Florida regulators require issuance of a
21 precautionary BWA to the affected customers because of a remote possibility that
22 depressurization of the system could result in contamination. Lifting the advisory usually
23 requires collection of two sets of bacteria samples on two consecutive days once system
24 pressure is restored. The laboratory test requires at least 24 hours to complete. Therefore,

1 these advisories are normally in effect for three days, and sometimes longer if the
2 laboratory is not open, for instance over a weekend or holiday.

3
4 **Q. Based on your experience, does a BWA sometimes cause customer confusion?**

5 A. Yes, sometimes. The verbiage in the mandatory notice is dictated by the regulations, and
6 the verbiage can give the impression that contamination of the water system has occurred.
7 However, in almost every case, tests come back clear demonstrating that there never was
8 any contamination of the system. The notices are required and are issued out of an
9 abundance of caution to protect susceptible persons from a remote possibility of
10 contamination. Recognizing that immediate notification to all affected customers is not a
11 realistic expectation, however, Florida regulators require notification within 24 hours of a
12 triggering event.

13
14 **Q. What method does AUF predominantly utilize for the issuance of BWA?**

15 A. AUF, and most water systems in Florida, predominantly use hand delivery of notices to
16 reach customers, particularly if the number of affected customers is fewer than a couple
17 hundred. This process can take time and it is labor intensive depending on the size and
18 make-up of the system. However, it is generally effective and it meets the requirements
19 of the regulations. AUF's notices generally also include the address for the Aqua web
20 site and a phone number to allow customers to call for more information.

21
22 **Q. Please explain the Company's internal process for notifying its customer service**
23 **representatives of a system experiencing an outage that may require precautionary**
24 **BWA.**

1 A. AUF posts information internally for its Customer Service Representatives (“CSRs”) in
2 the call centers. This enables CSRs to provide information to customers who might
3 experience a service outage, including when service is expected to be restored and
4 whether a BWA is or will be in effect. For large scale outages or advisories affecting
5 hundreds or thousands of customers, AUF posts a notice on the external Aqua web site.
6 Aqua also posts updates and notices when an advisory is lifted.

7
8 **Q. Please discuss AUF’s ability to utilize phone notification.**

9 A. AUF has available a system for launching a phone campaign to customers for whom the
10 Company has phone number records. Aqua utilizes this system in Pennsylvania, and
11 occasionally in other states, including in Florida when circumstances warrant. The
12 system can call thousands of numbers and deliver a short message in a matter of minutes.
13 The message will direct customers to the Aqua web site where more information and
14 updates are posted. The message will also typically provide a phone number which
15 customers can call for more information. However, neither this method, nor any other
16 method, is a perfect method for notifying customers.

17
18 **Q. You state that there is no one “perfect method” for notifying customers of a BWA.
19 Please explain.**

20 A. Based on my experience, there is no fail-safe process to ensure that every customer
21 receives timely notification of a triggering event. Wind and rain can cause hand
22 delivered notices to be lost or damaged. Notices might not be seen by residents until they
23 enter or exit their home by the door on which the notice is posted. Phone calls might not
24 reach every resident, might not be answered, or might go to a voice message and/or

1 answering machine and not played back immediately. If a radio or television advisory is
2 given, customers may not have radios or TVs tuned to the station carrying the notice at
3 the time it is broadcasted. Lastly, newspaper notices cannot be expected to provide
4 timely notification. That said, AUF is committed to ensuring, and works hard to ensure,
5 that its customers are properly notified of BWAs.

6
7 **Q. What type of notice does AUF give for a planned outage?**

8 A. AUF issues precautionary BWAs in advance of planned outages necessary to make
9 system improvements. For example, the clearwells at the Tomoka View and Twin Rivers
10 water systems had to be taken out of service to install liners to address a directive from
11 the Volusia County Department of Health. AUF provided advance BWAs to customers
12 and delivered bottled water to customers.

13
14 **Q. With the implementation of the federal Ground Water Rule in Florida in 2010, what**
15 **additional testing and notification has FDEP required?**

16 A. FDEP has required additional testing of raw water (prior to disinfection) for bacteria, and
17 has required Boil Water Notices to be issued in circumstances where bacteria are found in
18 the well even if simultaneous sampling of the disinfected water at the point of entry or in
19 the distribution system are clear of bacteria. This new Rule has resulted in AUF issuing
20 several Boil Water Notices in the past two years, including one in April 2010 in Jasmine
21 Lakes.

22
23 **Q. For what circumstances was the template language in the Tier 1 Boil Water Notice**
24 **developed, and has AUF experienced such circumstances?**

1 A. A Tier 1 Boil Water Notice has long been required when a combination of routine and
2 follow-up distribution system samples on consecutive days test positive for a
3 combination of total and fecal coliform bacteria. Such an event is generally considered to
4 be an indication of bacterial contamination of the distribution system warranting prompt
5 and aggressive notification of customers to avoid or minimize exposure. AUF has never
6 experienced a violation caused by this category of circumstances.

7
8 **Q. There has been some testimony from the Intervenors about customer notification of**
9 **outages and BWAs. Can you discuss some of the particular outages and BWAs**
10 **mentioned in the testimony?**

11 A. Yes. Please see below.

12 ***Jasmine Lakes -- April 16, 2010 -- Ground Water Rule triggered monitoring***

13 One raw water sample collected on April 13, 2010, from one of the four wells supplying
14 the Jasmine Lakes system tested positive for *E. coli* bacteria on Friday, April 16, 2010.
15 Samples from the other three wells were all negative for *E. coli*. The one positive sample
16 was not a treated water sample. The wells are equipped with disinfection, and AUF treats
17 all of our raw well water with chlorine disinfectant before it is distributed to customers.
18 At Jasmine Lakes, chlorine levels are monitored continuously at the well stations with
19 chlorine analyzers that will automatically shut off the wells if chlorination is interrupted.

20
21 On the same day that AUF collected the raw water samples, four samples of treated water
22 were collected from the distribution system. None of those samples showed the presence
23 of any bacteria--neither total coliform, nor *E. coli*. These samples demonstrated that the
24 existing treatment was working.

1 The results were all reported to FDEP on Friday, April 16, 2010. At the direction of
2 FDEP, AUF issued a precautionary BWA, notified customers using an outbound phone
3 campaign with a recorded message, posted the notice on Aqua's web site, and provided a
4 copy to the after-hours call service. Subsequently, to obtain authorization from FDEP to
5 lift the BWA, AUF collected three follow-up samples from the one well that triggered the
6 notice. No *E. coli* were found in those samples.

7
8 ***Palm Terrace – November 2010***

9 In 2010, AUF ordered valves and fittings to replace a leaking valve and to install several
10 additional isolation valves in the Palm Terrace system. Work to replace the valves was
11 scheduled for Thursday, November 18, 2010. The work necessitated shutting down the
12 entire system. A campaign was prepared to notify customers by phone and posting on the
13 web site at noon on Wednesday, November 17.

14
15 Less than half an hour after the phone notification campaign was launched on Wednesday
16 November 17, 2010, as work began to expose the leaking valve in preparation for the
17 planned shut-down and repair the next day, a 2-inch pipe broke. This resulted in an early,
18 unplanned shut-down. Because a contractor was on site, service was restored in less than
19 an hour. Because of this development, AUF initiated another automated phone campaign
20 and posted a revised web update to customers. Because of the loss of pressure, a
21 precautionary BWA was instituted in conformance with FDEP regulations.

22
23 Replacement of the other valves was accomplished as originally planned with several
24 brief shut-downs on Thursday, November 18, and Friday, November 19, 2011. After all

1 of the work was completed on Friday, November 19, 2011, the system was flushed and
2 water samples were collected on Friday, November 19, and Saturday, November 20,
3 2011. Test results received over the weekend from the lab were all clear. The BWA was
4 lifted by phone campaign and web site posting on Monday, November 22, 2011, at 10:00
5 a.m. Although the boil water notice had been in effect two days longer than anticipated
6 because of the unplanned shut-down and the weekend, water service was only interrupted
7 briefly on a few occasions. Test results on samples required by FDEP, which took two
8 days from first sample to final result, showed no contamination of the system.

9
10 ***Palm Terrace – May 2011***

11 A break on a 4-inch water main in the vicinity of Venice Drive and Nome Avenue on
12 Wednesday, May 18, 2011, necessitated shutting down the system late Wednesday
13 afternoon. Repairs were made and service was restored at 8:30 p.m. Precautionary
14 BWAs were distributed by hand by several AUF employees throughout the entire
15 community working late into the night. Hand delivery was used to try to ensure that every
16 customer received a full and complete notice. The effort took three employees almost six
17 hours to accomplish.

18
19 Six samples were collected from the distribution system on Thursday, May 19, and
20 Friday, May 20, 2011, and were delivered to the laboratory late Friday morning. The
21 laboratory reported all results were negative for total coliform bacteria on Sunday, May
22 22, 2011. The precautionary BWA was lifted by hand delivery of notices to customers on
23 Sunday, May 22, 2011. Delivery of notices was accomplished by four employees
24 working until 2:40 p.m. on Sunday, May 22, 2011.

1 *Palm Terrace – August 2011*

2 A main break occurred on a 4-inch PVC main at the intersection of Venice Drive and
3 Nome Avenue. The AUF operator was notified of the break at 6:00 p.m. on Tuesday,
4 August 9, 2011. The AUF operator contacted the outside contractor while en route to the
5 site. When he arrived at 7:30 p.m., he reduced the system pressure to try to reduce
6 erosion from the leak while maintaining service to customers. He verified that the water
7 distribution system maintained pressure above 30 psi. The contractor arrived around 8:30
8 p.m. on August 9, 2011. To minimize customer inconvenience through the evening hours
9 and the potential inconvenience of a precautionary BWA, the contractor, at AUF's
10 direction, attempted to make a "live" repair under reduced pressure. Ultimately, this
11 effort was not successful, and AUF shut down the system after midnight. The portion of
12 the main where the break occurred was cut out and replaced. Full pressure and supply
13 were restored within one hour.

14
15 AUF implemented an emergency telephone notification to 1,660 phone numbers
16 beginning at 9:45 a.m. on Wednesday, August 10. It was raining and windy at the time.
17 When the weather cleared, four people also distributed notices by hand beginning at
18 10:30 a.m. and ending at around 6:00 p.m.

19
20 Four samples were collected from the distribution system on August 10 and August 11,
21 2011. Laboratory test results received on Friday, August 12, were clear for all four
22 samples. The precautionary BWA was lifted by phone campaign and posting on the AUF
23 web site at 11:45 a.m. on Friday, August 12. Four people also distributed door hangers
24 from morning until 5 p.m. on Friday.

1 ***Chuluota – Planned outage***

2 To accommodate a project by Seminole County to replace and re-align storm water
3 piping and replace sidewalks on East Second Street in Chuluota, AUF engaged the
4 County's contractor on the project to relocate several sections of water main on Second
5 Street. During construction, AUF had to interrupt water service in isolated sections along
6 Second Street. In June 2011, AUF prepared and distributed by hand delivery notices to
7 potentially affected customers of anticipated localized water service interruptions
8 necessitated by the proposed main relocation work. As required by FDEP, AUF advised
9 affected customers to use boiled tap water or bottled water for drinking and cooking
10 purposes as a precaution from the time service was shut down until follow-up samples
11 could be tested to clear the precautionary BWA. As a courtesy, AUF provided bottled
12 water to affected customers for essential uses during the period that the precautionary
13 advisory was in effect.

14
15 ***Water Quality***

16 **Q. Mr. Poucher seems to suggest that AUF does not monitor water quality issues raised**
17 **by customers as part of the Company's quality control program. Is he correct in his**
18 **assessment?**

19 A. No, Mr. Poucher is misinformed. Under AUF's protocol, a service order is generated for
20 any customer inquiry related to water quality. These service orders are called LAB
21 service orders, and are closely tracked and monitored by AUF. The reports are analyzed
22 for trends over time and to identify clusters of service orders in particular systems or
23 during a particular period in the month. Management uses these reports to assess
24 progress overall in addressing water quality inquiries, and to investigate the root causes

1 of clusters of inquiries.

2 **Q. What conclusions has AUF been able to draw from assessing water quality inquiry**
3 **information?**

4 A. In my direct testimony, I stated that a downward trend in the number of water quality
5 inquiries from customers in these systems shows that our customers are seeing the
6 benefits of these improvements. In response to OPC Interrogatory No. 297, AUF
7 supplied the number of water quality inquiries for the 12-month period from August 2009
8 through July 2010 (609 service orders), and from August 2010 through July 2011 (303
9 service orders). This represents a drop of over 50% from year to year.

10

11 The decrease in water quality inquiries from Chuluota has been particularly dramatic
12 since July 2010, when treatment became fully operational to address hydrogen sulfide
13 and disinfection by-product precursors. Prior to this time, the Chuluota system had
14 required significant flushing and close monitoring to maintain water quality. The low
15 number of water quality inquiries with a concurrent dramatic reduction in volume of
16 water used for flushing belies the testimony from the handful of mostly former customers
17 and non-customers at the Chuluota hearing on September 1, 2011.

18

19 **Q. Mr. Poucher attempts to dismiss the lower attendance at customer hearings and the**
20 **drop in complaints to the Commission as evidence that AUF customers are “tired of**
21 **complaining without getting results.” Do you agree?**

22 A. No, I do not. The lower attendance at customer hearings, the fewer complaints to the
23 Commission, and the reduced number of LAB service orders are all indicative of the
24 efforts AUF has made to address water quality issues in its systems.

1

2 **Q. Do you have other concerns regarding Mr. Poucher's testimony?**

3 A. On page 23, Mr. Poucher listed, without comment or critical evaluation, several customer
4 complaints about affordability from Chuluota customers. I note that his testimony did not
5 cite any complaints from Chuluota customers about water quality. It is ironic that Mr.
6 Poucher uncritically adopted so much unsubstantiated customer testimony about
7 affordability for a system that is not in this rate case, and has not seen a rate increase in
8 over 15 years. Had there been substantive complaints or hard data about water quality
9 problems in Chuluota, surely Mr. Poucher would have put it in his testimony. AUF has
10 invested millions of dollars in upgrades to the water and wastewater systems in Chuluota.
11 The conspicuous absence of Chuluota water quality testimony from Mr. Poucher's
12 testimony is yet another indicator that AUF's improvements have been effective.

13 **Q. Can you comment on what else Mr. Poucher leaves out of his testimony?**

14 A. Yes. It is disheartening that Mr. Poucher fails to even mention the hard work that has gone
15 into, and the positive results that have come out of, AUF's aesthetic water quality
16 improvement initiative, which OPC agreed to as part of the Commission-approved Phase II
17 Monitoring Plan. The Company has spent a great deal of time and resources on this process.
18 On page 31 of his testimony, Mr. Poucher states, with no documentation or support, that
19 "Based on my observation and those of Aqua's customers in the most recent service hearing,
20 Aqua has failed" to address water quality issues in the eight systems that were targeted for
21 secondary water quality improvement projects. Mr. Poucher and Mr. Woodcock are both
22 well aware that proposed treatment at three of those projects was only recently permitted by
23 FDEP, is under construction at two systems, and is the subject of testimony in support of pro
24 forma capital adjustments.

1

2 **Q. What other concerns do you have with Mr. Poucher's alleged review of AUF's water**
3 **quality?**

4 A. Mr. Poucher's testimony relative to water quality focuses on twelve complaints (6% of total
5 Commission complaints reviewed by Mr. Poucher in this case) over a period of 18 months.
6 Included among those twelve complaints are complaints like #930186, summarized as "low
7 pressure when flushing," for which he subjectively ascribes "fault" to AUF. This particular
8 complaint was from a customer in Sebring Lakes where, as Mr. Poucher knows, a secondary
9 water quality project (more fully described below) is underway that will reduce the duration
10 and frequency of flushing. For another five of the twelve complaints, even Mr. Poucher does
11 not attribute "fault" to AUF. All of the rest of the complaints are noted by Commission
12 Staff as having been satisfactorily resolved. All twelve "complaints" listed by Mr. Poucher
13 are now closed, and none of those complaints have been designated as an "apparent rule
14 violation."

15

16 **Q. What is the current status of AUF's first phase of secondary water quality projects?**

17 A. On pages 11-13 of my direct testimony, I described these projects and their status. At that
18 time, work was completed on improvements at four systems:

19 **Rosalie Oaks** – Flushing hydrants were installed and a regular flushing program was
20 implemented to address issues specific to this system, where a high proportion of
21 customers were in residence only during weekends and water would age in the
22 distribution system during the week.

23

24 **Zephyr Shores** – Flushing hydrants and blowoffs were installed, and sequestration
25 treatment was installed and implemented.

26

27 **Tangerine** – Targeted distribution system piping was replaced, dead ends were looped,
28 and sequestration treatment was installed and implemented.

29

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Tomoka View – Chloramination treatment was installed and implemented, and automatic flushing valves were installed at strategic locations. An improved program of distribution system monitoring and flushing was also implemented.

At the time I filed my direct testimony, for three other systems (Lake Josephine, Sebring Lakes, and Leisure Lakes), permits were pending for installation of AdEdge treatment to remove hydrogen sulfide which contributed to occasional taste and odor issues and to high and erratic chlorine demand. The AdEdge treatment proposed by AUF had been previously piloted at Chuluota. At Chuluota, the Tonka ion exchange treatment was ultimately selected because it was superior for dealing with the special combination of water quality issues at Chuluota involving both very high levels of hydrogen sulfide and elevated levels of disinfection by-product precursors. For Leisure Lakes, Lake Josephine and Sebring Lakes, the AdEdge treatment system that had been piloted at Chuluota was less expensive than the Tonka treatment and would adequately address hydrogen sulfide. The AdEdge treatment had been shown to be more effective than existing aerators, aerators enhanced with carbon dioxide injection, or forced draft packed column aeration, which were all evaluated by Dr. Taylor in assessing options for Chuluota. AUF's parent company has several AdEdge treatment units installed and operating in Pennsylvania and North Carolina.

Permitting of the AdEdge treatment systems for Leisure Lakes, Lake Josephine and Sebring Lakes was slowed because the FDEP personnel reviewing the applications for the AdEdge treatment had not been involved in the Chuluota pilot, design, and permitting. It took some time and dialog for AUF's consulting engineers, Kimley Horn, to convey what was learned from that process so that the FDEP staff felt comfortable

1 issuing the construction permits. Leisure Lakes in particular took several rounds of
2 communications before the permit was finally issued on October 6, 2011.

3
4 **Q. What is the current status of the three secondary water quality projects in Florida?**

5 A. For Lake Josephine and Sebring Lakes, these two systems were connected in 2010 to
6 improve supply, pressure and flushing. Improved distribution system monitoring and
7 flushing also was implemented. Filtration equipment was ordered from AdEdge while
8 the permit applications were pending. Construction permits were finally issued by FDEP
9 on August 19, 2011. A contractor was engaged to perform the site work, which began
10 early in October. The fabricated treatment units were delivered to the site on October 10,
11 2011. AUF is anticipating completion of both installations in November 2011. *See*
12 Exhibits PL-9 and PL-10.

13
14 For Leisure Lakes improved distribution system monitoring and flushing were
15 implemented as interim measures. Filtration equipment was ordered from AdEdge while
16 the permit applications were pending. A construction permit was finally issued by FDEP
17 on October 6, 2011. Work on installing treatment will begin as soon as the units at Lake
18 Josephine and Sebring Lakes have been completed. Meanwhile, the interim measures
19 have been quite successful in reducing water quality complaints in this system. Between
20 January and July 2011, there were no LAB service orders logged from Leisure Lakes.

21
22 **Q. Have customers commented on the results of AUF's aesthetic water quality
23 improvement initiative?**

24 A. Yes, our Company has been told by customers that the aesthetic quality of their water has

1 improved since the last rate case. Particularly telling is the testimony of Mr. Dave Bussey
2 given at the customer service hearing in New Port Richey on October 11, 2011. Mr. Bussey
3 is a vocal critic of AUF and has testified at every customer service hearing in this case.
4 When asked about the results of the secondary water quality improvement initiative, Mr.
5 Bussey stated under oath that AUF's initiative had improved the quality of water at Zephyr
6 Shores.

7
8 **Q. Can you address the hard water issues raised by YES witnesses Kim Kurz and Michael
9 Green, and customers in Arredondo Farms?**

10 A. Yes. On pages 13-17 of my direct testimony, I address in detail the question of hardness of
11 the water in Arredondo Farms. Specific options under consideration currently include
12 softening processes other than lime softening (which would be very expensive for this small
13 system), adding a sequestering agent tailored to address the effects of calcium and
14 magnesium hardness, or purchasing water from Gainesville Regional Utilities. AUF's goal
15 is to find a solution that will maximize benefits to customers and minimize upward pressure
16 on rates.

17 ***Environmental Compliance***

18 **Q. For the systems that are part of this rate case, what is the current status of AUF's
19 compliance with relevant environmental standards.**

20 A. Mr. Poucher begrudgingly acknowledges on page 32 of his testimony that "Aqua appears to
21 have resolved its existing formal violations that have been identified by DEP." AUF has no
22 outstanding *Notices of Violation*, and has not had any for some time. AUF continues to
23 work diligently on resolving three outstanding consent orders. Progress on each is described
24 below:

1 **Village Water Wastewater** - A combination of FDEP regulations, policies and actions
2 has created an intractable situation for this small, predominantly industrial wastewater
3 system. AUF continues to pursue two solutions: 1) leasing land and constructing a spray
4 field and associated piping, and 2) entering into an agreement with the City of Lakeland
5 and building infrastructure to convey treated effluent to an effluent disposal pipeline to an
6 electric generating station. Both solutions are prohibitively expensive. The WWTP has
7 operated for 30 months with only one exceedance of a permit limit reported on monthly
8 Discharge Monitoring Reports. AUF has continued a dialog with FDEP about the impact
9 (or lack thereof) from the status quo, regulatory obstacles to potential alternatives, and
10 the potential impact on rates (which is substantial). As shown in my Exhibit PL-14, AUF
11 projects that just the capital cost of the spray field "solution" is approximately \$354,915,
12 and just the capital cost of the Lakeland interconnect "solution" is approximately
13 \$527,555.

14
15 **Sunny Hills** - FDEP issued a construction permit for installation of the storage tank,
16 piping and related improvements required by the consent order. AUF executed a contract
17 for construction of the tank and improvements in the amount of \$231,076, effective
18 September 14, 2011. A copy of the contract is attached as Exhibit PL-11. Work is
19 underway, and the project is expected to be complete and in service in December 2011.
20 AUF is requesting inclusion of the new storage tank in rate base as pro forma plant.

21
22 **Peace River** - The system remains in compliance with the MCLs for Gross Alpha
23 Particle Activity and for Combined Radium. Results of special testing under the consent
24 order triggered a requirement design radium removal treatment. Design was completed
25 and a permit application was submitted to FDEP in June 2011. FDEP issued a
26 construction permit on August 18, 2011. AUF executed a contract effective August 23,
27 2011, with the supplier of the treatment system (WRT) in the amount of \$50,910. Aqua
28 also bid the construction in September 2011. AUF is in discussions with the two lowest
29 bidders (approximately \$139,000 and \$144,000) about qualifications and interpretation of
30 the bids, and expects to make an award by the end of October. AUF expects to complete
31 construction before February 15, 2012 (180 days of issuance of the FDEP permit as
32 required under the consent order). AUF is requesting that the costs of this project be
33 included in rate base as a pro forma project. *See* Exhibit PL-12.

34
35
36 **Q. Can you address compliance for the Peace River Heights system?**

37 **A.** Yes. The water system is in full compliance. There is a reference in FDEP Witness
38 Greenwell's testimony that the wastewater treatment system is "out of compliance" for
39 undefined maintenance issues. A warning letter has not been issued for this matter. It
40 should be noted that a construction permit was issued for installation of a surge tank,
41 digester tank and other improvements at this facility on February 21, 2011, which we

1 believe addresses the maintenance issues mentioned by Mr. Greenwell. Construction
2 drawings for the project are complete and AUF is reviewing a proposal from a contractor.
3

4 **Q. Can you please provide an update on South Seas compliance?**

5 A. FDEP issued a Short Form Consent Order (SFCO) for the South Seas wastewater system
6 for issues that were the subject of a warning letter and a draft consent order that was
7 subsequently withdrawn in lieu of a series of conditions that were appended to a permit
8 renewal for the facility. AUF completed all the requirements under the permit conditions.
9 FDEP inspected the facility in September 2011, and issued a SFCO to close out all
10 outstanding issues at this facility. The SFCO was executed and recorded on October 11,
11 2011, and FDEP issued a close-out letter on October 18, 2011. Copies of the documents
12 are attached as Exhibit PL-15.
13

14 **Q. Can you address compliance for the Chuluota wastewater treatment facility?**

15 A. Yes. AUF believes that the system is now in compliance. There is a reference in FDEP
16 witness Gary Miller's testimony that AUF had not implemented "public access reuse."
17 However, subsequent to Mr. Miller's testimony, AUF has worked diligently and
18 cooperatively with the City of Oviedo to bring into operation the reuse connection
19 between the Chuluota effluent disposal system and the City's irrigation system. Since
20 mid-October, AUF has been providing substantial volumes of reuse water to the City
21 irrigation system on a daily basis.
22

23 **Q. What is AUF doing to resolve the TTHM issue at the River Grove system?**

24 A. We have evaluated a number of options to cost-effectively address this issue. Based on that

1 evaluation, AUF is currently negotiating an agreement with Putnam County to purchase
2 water. Available water quality information reviewed from Putnam County currently
3 indicates that its water is in compliance with the standards for TTHMs. AUF currently
4 anticipates entering into the agreement with the County before the end of the year, obtaining
5 permits for the interconnect, and installing the interconnect in the first quarter of 2012.

6
7 **Q. What is the current status of the matters addressed in the warning letter from FDEP**
8 **dated June 23, 2011, regarding the Jasmine Lakes wastewater treatment plant?**

9 A. All of the issues identified in that letter have been addressed. AUF provided a response
10 letter, dated July 25, 2011. FDEP staff conducted an inspection of the facility on September
11 8, 2011, and indicated that all items had been satisfactorily addressed and that a closure
12 letter would be forthcoming.

13
14 **Q. What is the current status of the matters addressed in the warning letter from FDEP**
15 **dated June 23, 2011, regarding the Palm Terrace wastewater treatment plant?**

16 A. All of the issues identified in that letter have been addressed. AUF provided several
17 response letters, and FDEP staff conducted several follow-up inspections as work was done
18 by AUF to relocate a force main under a concrete apron at a Pasco County storm water
19 management pond, install valves on the treated effluent force main suggested by the FDEP
20 inspector, clear vegetation from the percolation pond, and repair alarms and a chart recorder.
21 FDEP conducted a final inspection on October 5, 2011, and indicated at that time that all
22 items had been satisfactorily addressed and that a closure letter would be forthcoming.

1 **Q. Can you generally describe the easement issue with Pasco County at Palm Terrace?**

2 A. Yes. Pasco County witness Commissioner Mariano attempted to raise this issue at the
3 customer service hearing in New Port Richey on October 11, 2011. I would note at the
4 outset that this is a real property legal dispute between AUF and Pasco County, and it
5 appears that Pasco County is seeking to litigate that property law dispute in this rate case.
6 I fail to see how that real property legal issue is relevant to this rate case. In my opinion,
7 litigating this irrelevant issue in this rate case serves no purpose other than to drive up
8 rate case expense.

9
10 Nevertheless, for informational purposes, I will explain the dispute. Prior to AUF's
11 acquisition of the Palm Terrace wastewater system, and in accordance with normal utility
12 practice and current practice, an overflow pipe was installed in the berm between the
13 percolation pond and an adjacent Pasco County storm water management pond. The
14 purpose of the pipe was to prevent water in the pond from ever flowing over the top of
15 the berm in an uncontrolled manner that could erode and eventually induce failure of the
16 berm. There is no evidence that water has ever actually exited the pipe during AUF's
17 ownership of the system. Although AUF believes that the current location of the pipe is
18 legally permissible, in an attempt to resolve the matter without resort to litigation, the
19 Company has engaged a consulting engineer and a lawyer to secure an easement from the
20 County for this pipe. Meanwhile, AUF has placed a cap on the pipe which can be
21 removed in an emergency, but that otherwise provides assurance to the County that the
22 pipe is not discharging into the storm water basin.

23

1 **Q. Can you provide any clarification to the customer testimony at the New Port Richey**
2 **customer service hearing regarding the storm water pond?**

3 A. Yes. The storm water pond referenced by the customers at that hearing is owned and
4 operated by Pasco County. It is located adjacent to the AUF's Palm Terrace wastewater
5 plant. It receives storm water runoff that is piped to the pond through storm water drain
6 pipes owned and maintained by Pasco County. It does not belong to AUF. Maintenance
7 of the pond is the responsibility of Pasco County. On July 1, 2011, as a result of heavy
8 rainfall, the water level in the County's pond came up over the top of the County's pond
9 and overflowed onto neighboring streets and onto AUF property, but did not breach the
10 berm at the AUF percolation pond. The water level in AUF's percolation pond was a foot
11 or more below the high water level in the storm water pond, and no water from AUF's
12 percolation pond ever flowed into the storm water pond.

13
14 **Q. Does this conclude your testimony?**

15 A. Yes.

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AQUA UTILITIES FLORIDA, INC.
SUPPLEMENTAL REBUTTAL TESTIMONY OF
PRESTON LUITWEILER
DOCKET No. 100330-WS

Q. What is the purpose of your supplemental rebuttal testimony?

A. The Company has been given the opportunity to file supplemental testimony in order to give the Commission and parties a report on AUF's efforts to address environmental and operational issues raised at the customer service hearings. I will be addressing issues by AUF's customers at the customer hearings held in 10 locations throughout the State.

Q. How has AUF reviewed and responded to issues raised at the customer service hearings?

A. AUF's customer service and operations teams have investigated the issues raised by customers at the customer service hearings held in this case. Many customers were contacted immediately after the hearings to finally resolve their issues. Upon review, some customers spoke about issues that had already been resolved prior to the service hearing or from the meetings held during the PAA process.

Greenacres Service Hearing

Q. A customer expressed concern about unaccounted for water in Lake Osborne system. Can you comment?

1 A. Yes. Mr. Adamski inquired into the unaccounted for water in this system. AUF's
2 MFRs filed in this case, specifically Schedule F-1, show that the unaccounted
3 water for Lake Osborne during the test year was 8.2 percent, which is below the
4 Commission's allowable unaccounted for water threshold.

5

6 **Q. Several customers expressed concern about a lack of pressure in Lake**
7 **Osborne. Please describe what the Company did after the hearings to check**
8 **on this issue.**

9 A. The Company visited several residents and locations within the community to
10 address customer concerns regarding water pressure. Water pressure was tested
11 in this community on October 4, 2011, and the results were 56 to 57 psi. This is
12 in compliance with the applicable Florida Department of Environmental
13 Protection ("FDEP") regulations.

14

15 **Q. Several customers, including Shirley May and Susan Parbhoo, asked**
16 **questions about boil water notices in Lake Osbourne and questioned the**
17 **process for alerting customers.**

18 A. On November 15, 2010, the Company issued a precautionary boil water advisory
19 ("BWA") for Lake Osborne Estates following a water main break. The Company
20 used an automated outbound calling system to notify customers, posted a notice
21 on the web site, and informed the call centers of the outage and the precautionary
22 BWA. The campaign was delivered telephonically to 361 phone numbers in the
23 community.

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Follow-up bacteriological samples were collected on November 17 and November 18. Test results received on November 19 showed no presence of bacteria, and the precautionary BWA was lifted by phone campaign and posting on the web site on November 19.

The Company has contacted Ms. Parbhoo and Ms. May to explain its standard operating procedures for BWAs in the event one is required in the future. My rebuttal testimony (pages 5-13) provides detailed information on precautionary BWAs.

Q. Several customers, including Sal Santor, asked questions about infrastructure improvements, valves and contractor qualifications when repairs are made in this system. Can you generally describe these improvements and discuss the qualifications of AUF contract operators?

A. Yes. From 2008 through 2010, AUF has made improvements of approximately \$128,000 in Lake Osborne. These improvements included water distribution line replacements, meter replacements, and a system interconnect to improve pressure and fire flow service to the subdivision. The Company confirmed that it has up-to-date maps for the area and the assigned contract operator who worked on the repairs was appropriately equipped and properly qualified.

1 **Q. Please discuss Mr. Coakley's concerns.**

2 A. Mr. Coakley discussed a main break that occurred on November 14, 2010. I note
3 that Mr. Coakley also filed a letter with the Commission regarding this matter. On
4 February 8, 2011, Regulatory Analyst Curt Mouring responded via letter to Mr.
5 Coakley summarizing the events. To summarize, on November 14, 2010 there
6 was a line break during the middle of the night. AUF contacted its local contractor
7 at 10:30 p.m. and the contractor was on site by 11:00 p.m. and remained on site
8 until 2:00 a.m. Due to the magnitude of the break on a 6-inch line, the entire
9 system had to be shut down to perform the necessary repair. Also due to the
10 nature of the main break, a precautionary BWA was issued via SwiftReach and
11 local media was alerted. The SwiftReach message about the precautionary BWA
12 was delivered to 361 phone numbers. Company records show that a call was made
13 to the Coakley residence at 5934 Lake Osborne Drive at 2:00 p.m. on November
14 15, 2010. AUF's records show that the phone rang, was answered, but was hung
15 up before the full message played.

16

17 A Company representative contacted Mr. Coakley to discuss his concerns raised
18 at the customer meeting and assure him that the Company was proactively
19 working on the City of Lake Worth purchased water issue.

20

21 **Sebring Service Hearing**

22 **Q. Several customer expressed questions and concerns about water quality.**
23 **Please comment.**

1 A. Company representatives followed up with several customers including Kathy
2 Madden (Lake Josephine), William Sills (Lake Josephine), and Beryll Hansen
3 (Leisure Lakes). The Company reviewed plant operations, explained the new
4 processes being put in place including the AdEdge system, which is in the process
5 of being installed. I have addressed the status of this project in my rebuttal
6 testimony on pages 3, 5, and 17-18.

7

8 **Daryle Cook**

9 AUF representatives visited with Daryle Cook whose property is adjacent to the
10 ponds in Peace River. Ms. Cook expressed concerns about the vegetation in this
11 area and about water quality concerns. An AUF employee visited with Ms. Cook
12 and briefed her on the status of the ion exchange process for this system. I filed
13 rebuttal testimony addressing the status of the treatment project for Peace River
14 Heights on pages 4 and 18. Since the customer meeting, AUF confirmed that the
15 vegetation issues Ms. Cook discussed have been addressed.

16

17 **Q. Please elaborate on other customer issues raised at the customer service**
18 **hearing.**

19 A. Please see below.

20 **Peter Maceri**

21 Mr. Maceri expressed a concern about fire hydrant protection in the community at
22 the customer service hearing. The Company followed up to explain to Mr. Maceri
23 that the original developer installed mains in the system that were too small to

1 accommodate the flow requirements needed for fire hydrants. In addition, AUF
2 has previously provided a response on December 1, 2010, to Mr. Maceri concerns
3 brought up at the customer meeting held on October 27, 2010. This is attached to
4 the direct testimony of Susan Chambers as Exhibit SC-1.

5
6 **Tamra Mathy**

7 Company representatives contacted Ms. Mathy to discuss her water quality
8 concerns raised at the customer service hearings and explained what the Company
9 is proactively doing to address those concerns. In addition, AUF has previously
10 provided a response on December 1, 2010, to Ms. Mathy concerns brought up at
11 the customer meeting held on October 27, 2010. Ms. Mathy lives near the water
12 plant and provided comments concerning chlorine levels in the water, possible
13 sewer, and road damage due to construction traffic at the water treatment plant
14 near to her residence. The Company responded at that time that, on several
15 occasions, the technician has discussed the chlorine levels with the customer
16 regarding and has tested the chlorine levels several times. Each time, the chlorine
17 levels were within limits established by FDEP. I note that as part of AUF's
18 secondary aesthetic water quality project, AUF has proposed pro-forma plant to
19 install an AdEdge filtering system that will remove the sulfur. AUF is currently
20 working on installing this filtering system. I have addressed the status of this
21 project in my rebuttal testimony on pages 3, and 17-18.

22

23

1 Oviedo Service Hearing

2 **Q. Can you please address customer concerns raised at this meeting?**

3 A. Yes. Please see below.

4 **Carolyn Bennett**

5 The Company contacted Ms. Bennett and, in addition to discussing the grinder
6 pump in her front yard, discussed the procedures for the BWAs, explained that
7 this is an FDEP requirement, and also explained that BWAs are typically
8 precautionary and issued only to affected homes. Regarding Ms. Bennett's
9 specific concerns relating to BWAs issued in her area, the Company only issued
10 precautionary BWAs to homes that were affected by the county storm water
11 reconstruction project. Water service to Ms. Bennett's home was not affected by
12 this project.

13

14 **Theodore Mello**

15 Mr. Mello expressed concern about letters he has received from AUF regarding
16 annual chlorine conversion notices. When a system uses chloramines for
17 disinfection, the system frequently performs an annual or semi-annual chlorine
18 conversion. With the new ion exchange unit in operation, the Company is not
19 currently using chloramines for disinfection and there is not a need for additional
20 public notices regarding this issue. The Company has tried several times to reach
21 Mr. Mello and will continue to do so to explain this.

22

23

1 **Christen Castro**

2 Currently, Ms. Castro is not an active customer of AUF and her outstanding
3 balance of \$1,477.31 has been sent to collections. The Company has reviewed
4 this account in detail over the past several years and personally met with Ms.
5 Castro to address her billing and water quality concerns. Ms. Chambers will
6 address Ms. Castro's billing issues.

7

8 In March 2011, at the customer's request, an AUF representative visited the
9 property. His on-site water inspection analysis indicated that the free chlorine
10 level was 1.5 parts per million and that the pH was 7.8 both of which are in full
11 compliance with the standards that AUF must meet. The customer also contacted
12 the FDEP concerning her water quality in March, and FDEP visited the property
13 on March 23, 2011, and took water samples and samples of a black substance on
14 the aerators of faucets. FDEP responded to the customer on Friday, March 25,
15 that the water met all required standards. FDEP indicated that the black substance
16 noted was a result of internal plumbing (beyond the water meter) problems. (*See*
17 Docket No. 100330-WS, Oveido Serv. Hr'g Tr., at Ex. 11 (Sept. 1, 2011).)

18

19 **Gainesville Service Hearing**

20 **Q. What has the Company done to follow up on pressure issues relayed by**
21 **customers in Arredondo Farms?**

22 A. A few customers expressed concern about the water pressure in Arredondo Farms.
23 As a follow up to these concerns, the Company investigated and tested pressure at

1 a number of locations after the customer hearings. The Company tested pressure
2 at all four corners of the park in order to get a representative sampling of the
3 water press. Company representatives tested at the following locations: Lot 2629
4 – 52psi; Lot 2205 – 48 psi; Lot 2848 – 48 psi; Lot 3 – 52 psi, Lot 45 – 56 psi; Lot
5 2514 – 50 psi. The testing indicated that the system does have adequate water
6 pressure.

7

8 **Q. Has the Company discussed the hardness water quality concerns for**
9 **Arredondo Farms?**

10 A. Yes. I have addressed water quality concerns raised by YES communities and
11 customers who reside in this system on pages 14 – 18 of my direct testimony, and
12 then again on page 19 of my rebuttal testimony.

13

14 **Q. Can you please address other customer concerns regarding water quality?**

15 A. Yes, Michelle Einmo expressed a concern about fluoride and a billing issue that
16 Ms. Chambers will address. The Company does not add fluoride unless required
17 by state regulation or local authority with jurisdiction. AUF does not add fluoride
18 to the water in any of its systems in Florida.

19

20 **Chipley Service Hearing**

21 **Q. Can you address the concerns raised by Luzia Mikutis?**

22 A. Yes. Company representatives contacted Ms. Mikutis regarding her water quality
23 complaint of brown water. The Company attempted to explain possible causes of

1 discolored water and the sequestration treatment and flushing that AUF uses to
2 address those issues. The Company informed Ms. Mikutis that, if she had any
3 future issues, to please contact the Company immediately.

4
5 **New Port Richey Service Hearing**

6 **Q. Can you address the concerns raised by James Foster?**

7 A. This customer expressed concerns about water quality in Jasmine Lakes. The
8 Company followed up with a service order to test the water. No odor or water
9 quality issues were found. This information was relayed to the customer during
10 the time of the testing.

11
12 **Lakeland Service Hearing**

13 **Q. Can you address the concerns raised by customers at this meeting?**

14 A. Yes, please see below.

15 **Phyllis Johnson**

16 Ms. Johnson testified regarding an outage experienced at AUF's Lake Gibson
17 water system on September 12, 2011. AUF staff was called out on Monday,
18 September 12, 2011, at approximately 3:00 a.m. for a water line break at the
19 intersection of Doe Circle and Lake Breeze Drive. Realizing the break was a main
20 line issue, Company representatives immediately notified a contractor to mobilize
21 and head to the area. AUF staff attempted to isolate the break to minimize the
22 number of customers affected but was unsuccessful in doing so. The break was
23 located at the base of a concrete power pole and could not be excavated until the

1 power company braced the pole. Lakeland Power was contacted and arrived on
2 site at approximately 8:00 a.m. The procedure delayed the repair but is consistent
3 with a repair of this type. Precautionary BWAs were distributed via door tags by
4 10:00 a.m. The repair was completed and service restored by approximately
5 11:00 a.m. The system was flushed and the first bacteriological sample was
6 collected at approximately 5:00 p.m. The second required bacteriological sample
7 was collected on Tuesday, September 13, 2011. Bacteriological test results for
8 both of the samples received on Wednesday September 14, 2011 at approximately
9 11:00 a.m. were negative (reflecting absence of bacteria). Boil water lifting
10 notices were distributed by approximately 4:00 p.m. with a letter stapled to the
11 door tag to explain the reason for the disruption in service.

12
13 **Brad Fox**

14 Company representatives have worked with Commission Staff on addressing Mr.
15 Fox's concerns about fire hydrants and sent a letter to Mr. Tom Walden on April
16 27, 2010, regarding this issue. The Company noted that AUF strives to provide
17 consistent and continued quality of service in water quality and fire protection
18 wherever the system design allows and in accordance with the local fire
19 protection agencies within the areas that AUF services. Two hydrants in this
20 community were out of service. AUF ordered two new hydrants on January 19,
21 2010. AUF received the hydrants on March 31, 2010, and those hydrants were
22 installed on April 20 and 21, 2010.

23

1 The Company further clarified that all hydrants are tested on an annual basis for
2 flow and operability in accordance with AWWA standards. A hydrant found to
3 be inoperable or difficult to operate is marked "out of service" and has been
4 reported to the area coordinator.

5
6 **Norman Duncan**

7 On Friday, October 7, 2011, Mr. Duncan had a minor back up in a bathroom in a
8 back addition that sits about a foot below the elevation of the floor of his home.
9 The Company promptly responded on the same day by dispatching a contractor.
10 The contractor who noted the manhole in front of 3662 Breeze Hill Way was full
11 but the manhole downstream was dry. The contractor jetted the line and cleared
12 the blockage. Prior to that clearing, Mr. Duncan had removed the cap of the
13 cleanout in front of his property and the toilet in the back bathroom, which efforts
14 succeeded in preventing sewage from backing up in the trailer. AUF staff then
15 put lime around the cleanout in front of the house and replaced the cleanout cap.
16 An extraordinary rainfall event occurred from Friday night, October 7, 2011,
17 through the weekend. Mr. Duncan called AUF on Sunday, October 9, 2011, at
18 approximately 1:00 p.m. to report another instance of back up and flooding. The
19 Company promptly responded to address the cause of the flooding, which was a
20 back up due to high flows caused by the extraordinary storm. On Monday,
21 October 10, 2011, ServPro, the contractor dispatched by AUF to ensure the
22 necessary clean up took place, cleaned up the floor in the back bathroom at Mr.
23 Duncan's property.

1 **Wayne Miles**

2 Mr. Miles expressed concerns about a lift station failure that occurred on August
3 30, 2009. He asserted that he submitted a claim to AUF, which was denied.
4 Upon review, AUF has confirmed that Mr. Miles did receive a claim check. (*See*
5 *Lakeland Serv. Hr'g Tr., Exhibit Composite Miles, No. 44.*) The Company has
6 further discussed with Mr. Miles the feasibility of putting an automated dialer on
7 the lift station.

8

9 **Palatka Service Hearing**

10 **Q. Mr. John Poitevent commented on a TTHM issue in the River Grove system.**

11 **Can you please respond?**

12 A. Yes. The Company contacted Mr. Poitevent and informed him about the
13 Company's attempts to connect to Putnam County. The customer appeared
14 appreciative of the phone call. I have addressed the TTHM issue in my rebuttal
15 testimony on pages 21 – 22.

16

17 **Q. Does this conclude your testimony?**

18 A. Yes it does.

19

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23

1 BY MR. MAY:

2 Q. Mr. Luitweiler, have you attached any exhibits
3 to your Rebuttal Testimony?

4 A. Yes, I have, and they are Exhibits PL-1
5 through PL-15.

6 Q. Do you mean PL-9?

7 A. PL-9. Sorry, PL-9 through PL-15.

8 Q. Do you have any exhibits to your supplemental
9 testimony?

10 A. No.

11 Q. Do you have any revisions or changes to the
12 exhibits to your rebuttal testimony?

13 A. No, I do not.

14 Q. Have you prepared a summary of your rebuttal
15 and supplemental testimony?

16 A. Yes, I have.

17 Q. Could you please provide that brief summary at
18 this time?

19 A. Good afternoon, Chairman and Commissioners.
20 My name is Preston Luitweiler. I'm Vice-president and
21 Chief Environmental Officer of Aqua Services, Inc., and
22 I am responsible for water quality environmental
23 compliance for Aqua's water and wastewater systems.

24 My Rebuttal Testimony responds to portions of
25 the Direct Testimony of OPC Witness Andrew Woodcock,

1 Earl Poucher, Kim Dismukes, Pasco County Witness Jack
2 Mariano, and testimony of YES witnesses. I also respond
3 to portions of the testimony filed by several DEP
4 witnesses.

5 My testimony and exhibits document the status
6 of protested pro forma capital projects at Lake
7 Josephine and Sebring Lakes, Leisure Lakes, Peace River
8 Heights, and Sunny Hills. AUF is requesting the
9 documented costs of these projects be included in rate
10 base as pro forma plant. In accordance with Commission
11 precedent, all of these pro forma projects will be
12 completed within 24 months of the end of the test year
13 in this case.

14 Several intervenor witnesses provided
15 testimony about issuance of precautionary boil-water
16 advisories by AUF. I emphasized in my testimony last
17 week, as did several Florida DEP and Department of
18 Health witnesses, that these notices are precautionary.
19 In every case cited in testimony, testing demonstrated
20 that the quality of the water supply was not
21 compromised. Despite the impression created by
22 testimony by Commissioner Mariano and the surveys that
23 were attached to an exhibit -- as an exhibit, AUF has
24 gone to extraordinary lengths to notify customers of
25 these advisories.

1 AUF operates 60 water and 27 wastewater
2 systems that included in this case. Occasionally
3 problems arise, and when they do AUF responds
4 conscientiously and prudently to address them. Contrary
5 to Mr. Poucher's testimony, AUF monitors water quality
6 inquiries and complaints from customers. The trends in
7 these complaints have been downward, demonstrating that
8 AUF's efforts to address water quality issues are having
9 measurable positive results. This is particularly true
10 in Chuluota.

11 In Arredondo Farms, AUF has committed to
12 explore with YES and representatives from their
13 community several options to address hardness. Hardness
14 is not a regulated water quality parameter, and there is
15 not even a secondary standard for hardness.

16 Finally, in accordance with past Commission
17 practice, AUF has followed up on several of the issues
18 raised by customers during the customer service
19 hearings, and my Supplemental Rebuttal Testimony
20 addresses and explains AUF's water quality and
21 infrastructure investment relative to issues raised by
22 customers at the service hearings.

23 That concludes my summary. Thank you.

24 **MR. MAY:** Mr. Chairman, at this time I thought
25 it would be only fair for all parties that we provide

1 the supplemental pages to Exhibit 332, the water quality
2 exhibit that we discussed and Commissioner Brown asked
3 for the additional pages. I would ask for permission to
4 distribute those supplemental pages to you now in case
5 any of the parties would want to cross-examine Mr.
6 Luitweiler, who is a water quality expert, and you may
7 have some questions, so I thought it would be
8 appropriate to go ahead and provide you with that
9 information now.

10 **CHAIRMAN GRAHAM:** Sure. If you have it, we'll
11 take it.

12 **MR. MAY:** This would be supplemental pages to
13 Exhibit 332.

14 **CHAIRMAN GRAHAM:** Okay. Mr. May.

15 **MR. MAY:** Aqua tenders the witness for
16 cross-examination.

17 **MR. CURTIN:** Mr. Chairman, just for a second,
18 so I can make a contemporaneous objection. I renew my
19 objection to any of the HomeFacts web pages coming into
20 evidence, and I renew that right now. I know the
21 Chairman's ruling on that, I just want to make my
22 objection contemporaneous with it coming in.

23 **CHAIRMAN GRAHAM:** Okay. OPC.

24 **MS. CHRISTENSEN:** Yes. We have a document
25 that we would like to pass out.

1 **MR. JAEGER:** Mr. May, while they are passing
2 out that exhibit, Exhibit 332, was that complete in and
3 to itself? You don't have to mix it in with what we got
4 before, right?

5 **MR. MAY:** No. The only missing pages are
6 advertisements. I didn't think y'all would want to take
7 a look at those.

8 **CHAIRMAN GRAHAM:** Ms. Christensen, we will
9 give this exhibit --

10 **MS. CHRISTENSEN:** Yes, if we can mark that for
11 identification as 343, Sanitary Survey Reports.

12 **CHAIRMAN GRAHAM:** Okay.

13 (Exhibit 343 marked for identification.)

14 **MS. CHRISTENSEN:** And I think if y'all recall
15 from the last time Mr. Luitweiler was on the stand,
16 staff had requested that the Utility's Response to
17 Interrogatories 76 and 77 be admitted into the record,
18 and at that point we reserved our right to ask them some
19 questions regarding that exhibit in rebuttal.

20 **CROSS EXAMINATION**

21 **BY MS. CHRISTENSEN:**

22 **Q.** And do you recall the production of documents,
23 Mr. Luitweiler, regarding the capacity of Rosalie Oaks
24 and the Twin River systems that were provided by your
25 company?

1 A. I believe I have previously indicated that I
2 am not the appropriate witness to testify about used and
3 useful percentages, but I will attempt to answer
4 questions about capacity to the best I can.

5 Q. And that's fine. I think that's probably
6 along the lines of questions that we are talking about,
7 and they may touch on your expertise in environmental,
8 since these look like sanitary survey reports, which I
9 think probably fall within your purview.

10 Would you agree that the design capacity for
11 the Rosalie Oaks well was 500,000 gallons per day before
12 2008?

13 A. No.

14 Q. Okay. Well, let me ask you this. Is it the
15 position or the utility's position that the chlorine
16 contact time has limited the design capacity to
17 500,000 gallons -- from 500,000 gallons per day to
18 100,000 gallons per day?

19 A. 500,000 gallons per day is a half a million
20 gallons per day. That's a whole lot of water. Which
21 system are we talking about?

22 Q. Well, let me -- we're talking about Rosalie
23 Oaks. And the Rosalie Oaks system, if I'm understanding
24 correctly, was permitted for 500,000 gallons per day.
25 Is that correct?

1 **MR. MAY:** Mr. Chairman, just for sake of
2 clarity, could I ask counsel to point the witness to the
3 portion of the Rebuttal Testimony that she is
4 questioning him on?

5 **MS. CHRISTENSEN:** I think that's why we had
6 the discussion about the fact that staff had asked to
7 have certain production of documents entered in last
8 week regarding Rosalie Oaks and Twin Rivers and the
9 design capacities, and we reserved our right to ask
10 questions about those to his Rebuttal Testimony, I think
11 if counsel will recall, which is why we are doing it
12 now.

13 **MR. MAY:** I guess, Ms. Christensen, are you
14 questioning using Exhibit 343 for the basis of your
15 questions?

16 **MS. CHRISTENSEN:** Not for Rosalie Oaks. We
17 will get to that when we get to the Twin Rivers portion.
18 If he knows the answers. If he doesn't know the
19 answers, that's fine, we will move along.

20 **BY MS. CHRISTENSEN:**

21 **Q.** Do you know what the gallons per day capacity
22 for Rosalie Oaks' system is?

23 **A.** I do not.

24 **Q.** Okay. Let me take you then to the Twin
25 Rivers. That's in Exhibit 343. Now, looking at that

1 sanitary survey, it indicates that the maximum design
2 capacity for Twin Rivers on the June '09 date was
3 180,000 gallons per day, is that correct?

4 A. That's what's listed on the sanitary survey
5 report, that's correct.

6 Q. Okay. And you indicated in the response or
7 Aqua indicated in its response to Interrogatory Number
8 77 that the capacity was also 180,000 gallons per day,
9 is that correct, subject to check?

10 A. Subject to check.

11 Q. Okay. Looking at the sanitary survey dated
12 January 22nd, 2003, Page 1. It's in that.

13 A. In the same packet.

14 Q. The same packet.

15 A. Okay.

16 Q. You would agree that the max day design
17 capacity listed in that sanitary survey was
18 385,000 gallons per day, correct?

19 A. I would agree that that is what is on the
20 sanitary survey report. I would also point out that the
21 max day from the MORs on that report is 28,250 gallons
22 per day. A capacity of about 25 to 30,000 gallons a day
23 would be consistent with the demand for that system.

24 Q. Right, but the max day designed capacity, you
25 would agree, is 385,000-gallons per day, correct?

1 A. Well, that's the amount that's listed.

2 Q. Okay. And that's all I'm asking.

3 MR. MAY: I would ask for the permission of
4 the witness to finish his sentence, if possible.

5 MS. CHRISTENSEN: I apologize. If you need to
6 finish, please do.

7 THE WITNESS: It's not uncommon, especially in
8 Florida, where it's possible to drill a limestone well
9 and test it out at a capacity of 100,000, or 200,000, or
10 300,000 gallons a day, for that to supply a system that
11 has a demand in the order of 50,000 gallons a day or
12 40,000 gallons a day.

13 When the original system is constructed, when
14 the original pumping test was done, it's likely that the
15 original developer or owner of the system used the
16 pumping test data to establish a maximum capacity of the
17 system.

18 MS. CHRISTENSEN: Okay.

19 THE WITNESS: But in subsequent -- the
20 incremental cost associated with providing that level
21 of --

22 CHAIRMAN GRAHAM: Sir, I think you answered
23 the question. Anything more we can do on redirect.

24 MS. CHRISTENSEN: All right. Well, let me
25 change topics a little bit.

1 BY MS. CHRISTENSEN:

2 Q. In your supplemental rebuttal testimony on
3 Page 3 --

4 A. Yes.

5 Q. -- Lines 12 through 21, you discuss your
6 concerns, or you discussed the concerns raised by
7 Mr. Santor, and you state that the company confirmed
8 that it has up-to-date maps and it has an assigned
9 operator that was equipped and qualified, is that
10 correct?

11 A. Let me get to the right page here. I was
12 looking in my Rebuttal. This is the Supplemental
13 Rebuttal?

14 Q. I believe that's correct.

15 A. Page 3. Okay.

16 Q. Can you tell us who is the closest technician
17 that responds to emergencies for Lake Osborne?

18 A. I cannot tell you that.

19 Q. Do you know how far away the nearest emergency
20 maintenance responder is?

21 A. No, I can't tell you that, either.

22 MS. CHRISTENSEN: Okay. I have no further
23 questions.

24 CHAIRMAN GRAHAM: Mr. Richards.

25 MR. RICHARDS: Yes. I have some documents to

1 pass out.

2 Would it be possible to take a break at this
3 point?

4 **CHAIRMAN GRAHAM:** You are probably pretty
5 close to break time, so, yes. We will take a break
6 until 4:00 o'clock.

7 **MR. RICHARDS:** Thank you.

8 (Recess.)

9 **MR. RICHARDS:** Mr. Chairman, I have two new
10 documents I'd like to have marked. The first would be
11 Aqua's response to Pasco's request for production, I
12 believe that would be Number 344.

13 **CHAIRMAN GRAHAM:** Is that the one that says
14 Aqua Utilities Florida, Inc. Response for Pasco County's
15 First Set of Interrogatories 1 through 3?

16 **MR. RICHARDS:** No, it would be the other one.

17 **CHAIRMAN GRAHAM:** Okay. And that would be
18 344?

19 **MR. RICHARDS:** Yes, sir. Thank you.

20 **CHAIRMAN GRAHAM:** And the one I just read will
21 be 345?

22 (Exhibits 344 and 345 marked for
23 identification.)

24 **MR. RICHARDS:** Yes. I also had staff pass out
25 two exhibits that were previously introduced and marked.

1 One was Exhibit JM-3, which is Comprehensive Exhibit
2 Number 143, and the other is Exhibit JM-5, which is
3 Comprehensive Exhibit Number 145.

4 CHAIRMAN GRAHAM: Okay.

5 MR. RICHARDS: Thank you.

6 CROSS EXAMINATION

7 BY MR. RICHARDS:

8 Q. Mr. Luitweiler, on Page 23 of your Rebuttal
9 Testimony you discuss an easement issue with Pasco
10 County.

11 A. Yes.

12 Q. In your testimony you state that Pasco is
13 attempting to litigate a real property issue in this
14 rate case. Did you hear Commission Mariano's testimony
15 on last Wednesday? He actually made a correction to his
16 Direct Testimony. Did you hear that?

17 A. Yes, I did.

18 Q. Where he stated that Pasco had finally heard
19 from Aqua, and they were going to work with Aqua on this
20 issue?

21 A. I think Aqua had engaged an engineer and an
22 attorney to work with the county some time ago and I was
23 very glad to hear that Commissioner Mariano said that it
24 was his perception that we were working cooperatively to
25 resolve this.

1 Q. Right. Commissioner Mariano didn't say
2 anything about litigating the issue, correct?

3 A. He didn't in his testimony, no.

4 Q. Now, when did Aqua become aware that this
5 overflow pipe was located on someone else's property, do
6 you know?

7 A. Well, I'm still not sure that it isn't in some
8 kind of an easement, or what the legal status is, but
9 when the issue was raised, I guess, in May or June of
10 this year was when we researched the property records,
11 and that is where -- and looked for either an easement
12 or a property showing where the pipe was relative to
13 property lines.

14 Q. Now, in Exhibit 344, if you could look at
15 that, please, on Page 3?

16 A. Exhibit 344. You'll have to help me here.

17 Q. It was Aqua's response to Pasco's request for
18 production. You should have just received it at the
19 break.

20 A. Because these aren't numbered -- I have a pack
21 of documents here that appear to be YES exhibits.

22 CHAIRMAN GRAHAM: It is about five pages
23 thick. The description is Aqua Utilities Florida, Inc.
24 Response to Pasco County's First Request for Production
25 of Documents 1 through 3.

1 **MR. CURTIN:** You should have two packages
2 there. I had them hand out my exhibits, too, so there
3 should be two separate packages, one for Pasco County.

4 **THE WITNESS:** I only have one package of
5 documents here, and it appears to be the YES documents.

6 **CHAIRMAN GRAHAM:** You've got a set coming to
7 you.

8 **THE WITNESS:** Okay.

9 **BY MR. RICHARDS:**

10 **Q.** On Page 3 at the very bottom of the page is
11 Aqua's response. If you could just read that to
12 yourself. It's true that Aqua was not able to produce
13 any documents in response to Pasco's request for any
14 documents concerning any easements or agreements between
15 Aqua and Pasco County regarding the overflow pipe?

16 **A.** That was my understanding at the time. It is
17 still my understanding.

18 **Q.** Thank you. And you do agree that this
19 overflow pipe is required by DEP regulations?

20 **A.** Yes.

21 **Q.** And do you think that a regulatory requirement
22 such as this, you should have legal authority to
23 maintain it on somebody else's property, an easement or
24 some agreement?

25 **A.** It would certainly be expected and preferable

1 that any required pertinence to a facility be on the
2 utility's property or on an easement.

3 Q. Do you know whether Aqua did a property survey
4 at the time of purchase of this system?

5 A. I am quite sure that there was no property
6 survey done at the time of purchase of the system.

7 Q. Okay. Now, you also testified that this pipe
8 is now capped, is that true?

9 A. Yes.

10 Q. Do you know whether Aqua has done any legal
11 analysis as to whether it meets DEP requirements to have
12 that pipe capped?

13 A. We have had discussions with DEP staff, and
14 they have indicated that a removable cap is appropriate
15 under these circumstances. The purpose for installing
16 the cap was to, I guess, address allegations and
17 suppositions that were being made that the pipe was
18 active. And we were quite sure the pipe had never been
19 active in the entire time that Aqua had owned the Palm
20 Terrace facility. So by capping the pipe and requiring
21 somebody to take a positive action to uncap the pipe if
22 it ever had to become active, it would put us in the
23 position where we would be able to notify Pasco County,
24 and Pasco County could be assured they would know if, in
25 fact, there was ever any flow going through that pipe.

1 Q. So the pipe has to be manually removed for the
2 overflow pipe to function?

3 A. That's correct.

4 Q. Do you know if Aqua has any written protocol
5 as to how and when that cap should be removed?

6 A. We do not, to my knowledge. And as I said, in
7 the entire time that Aqua has owned this facility that
8 pipe has never been active.

9 Q. But it's purpose is for an emergency, such as
10 a hurricane or something to allow flow through that pipe
11 so that the berms aren't compromised.

12 A. We have owned that facility through the
13 hurricanes of 2004, and that pipe has never had water
14 flowing through it.

15 Q. Okay. Let me take you to Page 24 of your
16 Rebuttal Testimony, Lines 11 and 12. Before you do
17 that, I just want to confirm that if you could -- did
18 you get a copy of the Exhibit 145 photographs?

19 **CHAIRMAN GRAHAM:** There was no cover sheet on
20 the photographs. It should just be the photographs on
21 top of a package.

22 **THE WITNESS:** I do not have a copy of that.

23 (Pause.) Okay.

24 **BY MR. RICHARDS:**

25 Q. 145, do you know whether this is the overflow

1 pipe we were just discussing? Can you confirm that?

2 A. I can't confirm that from this photo, no.

3 Q. Have you ever been on site?

4 A. Yes, I have.

5 Q. Can you take a look at the last page, Page 4.

6 In the middle there's two large ponds, rectangular
7 ponds. Can you confirm that those are your ponds?

8 A. Are we looking at the record drawing,
9 9-4-9-something?

10 Q. Yes.

11 A. Okay. Yes.

12 Q. And on the lower pond there is a diagonal line
13 generally showing the location of the overflow pipe?

14 A. That is the general location of the overflow
15 pipe, correct.

16 Q. Thank you. All right. Now, if we could go
17 back to Page 24, Lines 11 and 12. You said that no
18 water from AUF's percolation pond has ever flowed into
19 the stormwater pond?

20 A. Yes.

21 Q. Now, can I refer you to Exhibit 345, which is
22 Aqua's Response to Pasco County's First Set of
23 Interrogatories?

24 A. Okay.

25 Q. On the bottom of Page 4 and the top of Page 5

1 it discusses two instances where an effluent pipe broke?

2 A. Yes.

3 Q. Now, could you take a look at Exhibit 143,
4 which is another set of photographs, the other set of
5 photographs?

6 A. Yes.

7 Q. Can you confirm that that is the effluent pipe
8 that -- you testified under direct that that has now
9 been buried, but it was previously above ground across
10 the county's stormwater culvert?

11 A. Yes.

12 Q. Can you confirm that's the pipe?

13 A. I have seen pictures of the pipe, and I was
14 out there Friday and saw the concrete pads on which the
15 pipe had been mounted. So I could confirm from this
16 photo that that is probably the pipe as it existed
17 before we relocated it.

18 Q. Okay. And in your Interrogatory Answer Number
19 3, this is the pipe that broke on two occasions while it
20 was above ground?

21 A. That's correct.

22 Q. Okay. And would you agree that the discharge
23 from that break flowed into Pasco County's stormwater
24 pond?

25 A. Yes.

1 Q. Do you know how close that is to a public
2 road, that pipe, before it was buried, when it was above
3 ground?

4 A. Close to a public road. Well, --

5 Q. Well, if you look on Page 5 of Exhibit 143 --

6 A. The public road is right on the other side of
7 the stormwater pond from this pipe. And actually
8 there's a public road, Gnome Avenue, (phonetic) that
9 actually forms the stormwater management conveyance I
10 understand in this part of Pasco County that discharges
11 over this concrete slab.

12 Q. So that pipe was -- when it was above ground
13 was probably 10 or 15 feet from that Gnome Avenue?

14 A. That would be about right.

15 Q. Do you think it was good engineering practice
16 to maintain that pipe above ground?

17 A. No, I don't. And that is why when it broke
18 and came to my attention, I insisted that we work with
19 the county to get the required permits to install it
20 underground under the concrete apron.

21 Q. You worked with the county to get it installed
22 underground after the second time it broke, is that
23 correct?

24 A. That's correct.

25 Q. So it broke in 2009, and Aqua just merely

1 repaired it that time, they didn't look to bury it?

2 A. I wasn't aware of that break at that time, but
3 subsequently found out about it when questions were
4 raised about whether it had broken in the past.

5 Q. Now, was it the fact that the pipe broke that
6 you put it underground, or was it the fact that it was
7 mentioned in a DEP warning letter that you decided to
8 put it underground?

9 A. We would have put that pipe underground when
10 it came to my attention, regardless of whether there was
11 a warning letter or whether it had broken previously.

12 Q. Do you know how much money Aqua spent to bury
13 that pipe?

14 A. I do not.

15 Q. Do you know how much they spent to repair it
16 in those two instances that it broke?

17 A. No, I do not.

18 Q. Let me take you to Page 10 of your
19 Supplemental Rebuttal Testimony. Do you see the
20 reference to the New Port Richey Service Hearing where
21 you addressed the concerns raised by one individual, a
22 Mr. Foster, about water quality in Jasmine Lakes?

23 A. Yes.

24 Q. Are you aware that there was approximately 25
25 water quality complaints made at that service hearing?

1 A. I was aware that there were multiple
2 complaints about water quality at that hearing, correct.

3 Q. I was just curious as to why in your
4 Supplemental Rebuttal Testimony you only addressed that
5 one complaint, when there was approximately 25
6 complaints made about water quality?

7 A. In reviewing the record with the folks that
8 were from Aqua who were at the hearing, this is the one
9 that they felt that we should address and was
10 representative of the other complaints.

11 Q. Were you aware of the numerous complaints
12 about stains on appliances, and toilets, and other
13 complaints about people that don't drink the water, but
14 you chose just to respond to that one complaint?

15 A. This was the only complaint that I was asked
16 to address in this rebuttal testimony.

17 Q. Who asked you to address that?

18 A. Well, it was a discussion with the rates staff
19 and counsel after the public service hearings.

20 Q. Do you know whether you have any plans, Aqua
21 has any plans to address the water quality concerns in
22 Palm Terrace or Jasmine Lakes?

23 A. Well, first, let me say that in Palm Terrace
24 the water comes from Pasco County, and to the extent
25 that there are water quality complaints, and we do get

1 water quality complaints from Palm Terrace, I would
2 consider that kind of a baseline if there is an
3 assumption that the quality of water from Pasco County
4 is acceptable if not above acceptable. So to the extent
5 that we may have more complaints in Jasmine Lakes than
6 Palm Terrace, which we do from time to time, month to
7 month, that does cause us to take a look at the cause of
8 those complaints. And in the cases where we have
9 investigated those they have been attributed to valve
10 operation or main breaks. We have a flushing program
11 there to address discolored water calls, and that's the
12 majority of the complaints that we receive in both of
13 those communities.

14 Q. Could water age be a problem in these systems?

15 A. Well, it could be if we didn't flush and
16 maintain them. And we do that to maintain chlorine
17 residual, and that's part of the maintenance of the
18 distribution system.

19 MR. RICHARDS: Okay. I have no further
20 questions.

21 CHAIRMAN GRAHAM: Okay. YES.

22 MR. CURTIN: Thank you, Mr. Chairman. I would
23 like to -- Mr. Luitweiler, I want to ask you about 332,
24 which Mr. May just put in. And just for the record, I
25 want to renew my objection to any of these HomeFact web

1 pages. I'm going to ask some questions on them because
2 I know the Chairman's position on it, and he allowed it
3 in. I just don't want to waive that right to it by
4 asking questions, but I think I am compelled to ask
5 questions since it is now in.

6 **MR. MAY:** Mr. Chair, could I just make sure
7 that the witness has the supplemental pages to Exhibit
8 332.

9 **THE WITNESS:** I believe I do have, it looks
10 like about ten pages of a HomeFacts website printout.

11 **MR. RICHARDS:** Yes.

12 **BY MR. CURTIN:**

13 **Q.** Sir, do you see under the first page here it
14 says location, Gainesville, and then underneath there it
15 says Arredondo Farms. Do you see that?

16 **A.** Yes.

17 **Q.** And it says tests available for 2004 through
18 2008. Do you see that, right next to the 9.8 out of 10.
19 Right to the right of it.

20 **A.** Yes.

21 **Q.** Now, has Aqua done any testing of the water
22 for contaminants in 2009, 2010, and 2011?

23 **A.** Yes.

24 **Q.** But they are not on this web page at least?

25 **A.** That's correct.

1 Q. And go down there under home facts qualifying
2 rating national comparison. Do you see where it says
3 Arredondo Farms Water Company ranks 98 percent
4 percentile in the national average? Arredondo Farms
5 Water Company is not Aqua Florida, is it?

6 A. That's correct.

7 Q. Do you have any idea what Arredondo Farms
8 Water Company is?

9 A. No, I don't.

10 Q. Substance to check, I checked on the Florida
11 Secretary of State, both corporation filings and
12 fictitious filing, no such company exists in Florida.
13 Do you know if HomeFacts does these type of ratings
14 based upon zip code, do you have any idea?

15 A. I have no idea where they get their data from.

16 Q. Do you know the surrounding zip code of
17 Arredondo Farms and the surrounding community -- every
18 surrounding community would have the same zip code as
19 GRU water, Gainesville Regional Utilities?

20 A. I believe that's true.

21 Q. Do you have any idea or any knowledge whether
22 this home fact testing is for the zip code which could
23 be Gainesville Regional Utilities testing or for testing
24 of the actual two wells at Arredondo Farms?

25 A. Well, I'm actually quite sure that this

1 actually reflects actual results for Arredondo Farms
2 because the results for the few chemicals that were
3 found, it says chemicals tested and found three, total
4 haloacids, nitrate, and total trihalomethanes are
5 consistent with the results that we have received and
6 have reported in compliance monitoring for the Arredondo
7 Farms system.

8 Q. From 2004 to 2008?

9 A. Yes.

10 Q. When did you purchase this, Arredondo Farms?

11 A. Arredondo Farms, I believe, was part of the
12 AquaSource acquisition, so it would have been 2003.

13 Q. And you have those by memory in your head,
14 these three chemicals?

15 A. As a matter of fact, yes. I mean, I am
16 telling you they are consistent. I can't tell you that
17 nitrate was 2.02 in which particular year, but I can
18 tell you that the numbers for the haloacids and total
19 trihalomethanes are in single digits, and that is
20 consistent with Arredondo Farms.

21 Q. What is the average or maximum for nitrate and
22 total haloexotite acids (phonetic) and total
23 trihalomethanes for the Pasco County parks from 2004 to
24 2008?

25 A. If you showed me a HomeFacts thing, I could

1 probably tell you whether the results on there were
2 consistent with my recollection of those results.

3 Q. But you can't tell me your recollection of --

4 A. I can't tell you off the top of my head.

5 Q. Okay. Fair enough.

6 MR. CURTIN: Mr. Chairman, I would like to
7 mark some of my exhibits.

8 CHAIRMAN GRAHAM: Okay.

9 MR. CURTIN: I think the big one, which is
10 probably in the bottom of your package, it's the thick
11 one. It's the Gainesville hearing transcript of July 2,
12 2008.

13 CHAIRMAN GRAHAM: I have it.

14 MR. CURTIN: I want to do that 346, I think we
15 are on.

16 CHAIRMAN GRAHAM: That is correct.

17 MR. CURTIN: Then I think they go in order
18 after that. The next one, 347, I would like to do --
19 it's a description of YES POD Numbers 7 and 8 to Aqua.
20 It's a laboratory report dated April 28th, 2009, as 347.

21 CHAIRMAN GRAHAM: Gotcha.

22 MR. CURTIN: The next one, 348, is United
23 States Geological Survey Hardness Index, 348.

24 CHAIRMAN GRAHAM: Okay.

25 MR. CURTIN: The next one, 349, is the

1 American Waterworks Association's statement of policy on
2 water quality control and distribution systems.

3 CHAIRMAN GRAHAM: Okay.

4 MR. CURTIN: And the next two are -- I don't
5 think we need to mark them. They are parts of Exhibit
6 Number 14, which is already in evidence in Exhibit
7 Number 135, which are already in evidence. Part of the
8 pictures of those.

9 CHAIRMAN GRAHAM: Okay.

10 (Exhibits 346 through 349 marked for
11 identification.)

12 MR. JAEGER: (Inaudible; microphone not on.)

13 MR. CURTIN: Yes, I will read them right back.

14 MR. JAEGER: I've got Gainesville Hearing
15 Transcript, 346.

16 MR. CURTIN: 346. 347 is YES POD Numbers 7
17 and 8 to Aqua, the laboratory report.

18 MR. JAEGER: Number 7 and 8 to Aqua is 347.

19 MR. CURTIN: Okay. 348 is the United States
20 Geological Survey Hardness Index.

21 MR. JAEGER: Okay.

22 MR. CURTIN: 349 is the AWA statement of
23 policy.

24 MR. JAEGER: Okay. Thank you very much.

25 MR. CURTIN: You're welcome.

1 **CHAIRMAN GRAHAM:** Come on, Staff, keep up.

2 (Laughter.)

3 **MR. JAEGER:** Just overwhelmed me.

4 **CHAIRMAN GRAHAM:** Okay, sir.

5 **MR. CURTIN:** I think the trees need a rate
6 case expense. We burnt too many of them.

7 **BY MR. CURTIN:**

8 **Q.** Sir, there was some testimony before in this
9 rate case when you have been here, and I think some
10 testimony in your deposition that you were -- Aqua was
11 aware of hardness going back to 1996 in another rate
12 action. You were not aware of whether there was any
13 actual complaints about hardness until this case. I
14 want to refer you to 346, which is the hearing
15 transcript from the Gainesville hearing in the 2008 rate
16 case. And if you look on there, I believe it is
17 starting on Page 11, Mr. Franklin, which I believe was
18 your president at the time, was present.

19 **A.** Mr. Franklin was a regional vice-president in
20 charge of the southern states.

21 **Q.** Okay. And then on Page 11 it lists
22 Mr. Franklin when he is talking. It lists about six or
23 seven other people who were present from Aqua at that
24 hearing. Mr. Jack L-I-H-V-A-R-I-C-K (sic), Lihvarcik.

25 **A.** Jack Lihvarcik.

1 Q. Trish Williams, Paul Thompson, and you had
2 live customer reps on the phone. Do you agree with me
3 that many people from Aqua were present in that 2008
4 hearing?

5 A. Yes.

6 Q. Okay. And if you look on there, turn to Page
7 22. The first person who spoke, Mr. Charles Thomas,
8 Line 20, he said the water quality is just crappy and we
9 have given up on that. We buy bottled water for
10 drinking and eating. And then if you go on to page -- I
11 won't bore you with all of them, but if you go on to
12 Page, I think, 49, that is Ms. Maria Hurley talking on
13 the bottom of the page, Line 2, I think it is. That is
14 actually Page 49. "So we don't drink the water, me and
15 my husband, and my six cats don't drink the water
16 because of the staining, the calcification." And she
17 goes on to Page 50 on Line 7 on the top there, "We had
18 to replace the cat drinking fountain, showerheads," she
19 talks about staining of her clothes. And if you go
20 on -- and that is Ms. Hurley.

21 And if you go on, Mr. McGill on Page 54 and
22 55, on the bottom of Page 54 continuing all on 55, he
23 talks about how he went through four coffeemakers in
24 nine months, the buildup of calcium on showerheads, his
25 clothes are stained even though he has a home water

1 softener.

2 When I calculated up the people -- of the nine
3 people who testified, I calculated at least six
4 mentioned the hard water and calcification. Did that
5 refresh your memory that Aqua knew about hard water and
6 calcification problems in the first rate case, at least?

7 A. Well, I would say that this testimony
8 certainly can be considered to have brought the issue up
9 at that time.

10 Q. Fair enough. Let me go on to Exhibit 347.
11 This is the laboratory report. Do you have that, sir?

12 A. Yes.

13 Q. Now, it appears, if I am reading this
14 correctly, on April 28th, 2009, a sample was collected.
15 That's after the first rate case right before you file
16 the second rate case, and as a hardness total, CaCO_3 ,
17 that is calcium carbonate?

18 A. That's right.

19 Q. I haven't had chemistry since high school, but
20 I learned that one. And then it has a total result of
21 320?

22 A. That's right.

23 Q. Why did Aqua do a hardness report right before
24 they filed the second rate case?

25 A. This was -- it was taken -- you will notice

1 that there was lead, copper, and alkalinity all reported
2 in this report. This would be what would be part of
3 what would be considered to be a standard suite of water
4 quality parameters looking at corrosivity for lead and
5 copper. It's one of the things that you test for to
6 look for corrosivity.

7 Q. When I did a request to produce for any
8 reports or any testing for hardness done at Arredondo
9 Farms, the only issue and only report produced was this
10 one. Was any other hardness test ever done at Arredondo
11 Farms?

12 A. Up until recently, no. And I really don't
13 know whether we have any more recent results.

14 Q. Okay. You're familiar with the United States
15 Geological Survey, correct?

16 A. Yes, I am.

17 Q. And they have a hardness index, correct?

18 A. Many people have hardness categorizations and
19 indexes and nomenclature to put hardness levels in
20 different categories.

21 Q. But you are familiar with the United States
22 Geological Survey Hardness Index, correct?

23 A. I'm familiar with the USGS, I'm not
24 particularly familiar with what is called in this
25 exhibit the water hardness scale.

1 Q. So are you familiar that the US Geological
2 Survey classifies hardness soft, slightly hard,
3 moderately hard, hard, and very hard, and anything over
4 180 is considered very hard?

5 A. I think I have said that there are many
6 organizations that attempt to categorize levels of
7 hardness and this is only one of them. I have seen
8 others that have different numbers and different ranges
9 and different names for the different ranges.

10 Q. Does Aqua as an organization categorize
11 hardness?

12 A. No, we refer to the actual lab result itself.

13 Q. But you have no scale of hardness, whether it
14 is hard, very hard, soft, internally?

15 A. Not in a table or a particular hard and fast
16 categorization, no.

17 Q. Now, you are familiar with the American
18 Waterworks Association, correct?

19 A. Yes.

20 Q. And Aqua America, at least, is a lifetime
21 member?

22 A. I'm a lifetime member.

23 Q. You're a lifetime member. And Aqua America is
24 a lifetime corporate member?

25 A. I'm not sure whether they have lifetime

1 corporate members, but if they do Aqua America is
2 probably one.

3 Q. Okay. But they are a member, I think you said
4 that in your deposition?

5 A. Yes.

6 Q. Okay. But you have been a life member,
7 correct?

8 A. Yes.

9 Q. And you have actually given seminars in AWA --
10 seminars?

11 A. I wouldn't say I have given seminars, but I
12 have presented at conferences, yes.

13 Q. That is one of my bad questions which you
14 cleared up. I want you to look at Exhibit Number 349.
15 You are aware that the American Waterworks has what they
16 call statement of policies on public water supply
17 matters?

18 A. Yes. I haven't seen this particular document
19 before, but it would be consistent with documents like
20 this that AWWA would produce, yes.

21 Q. I highlighted parts of it, the statement on
22 policy on public water supply matters for water quality
23 control and distribution systems, and it says, "To this
24 end, AWWA supports the following water quality
25 maintenance practices. Production of high water quality

1 for introduction into the distribution system that is
2 biologically and chemically stable, does not precipitate
3 mineral constituents, does not corrode the conveyance
4 and storage system, and does not cause excessive
5 incrustations. Does Aqua have any maintenance practices
6 for the production of high quality water into the
7 introduction of the distribution system as biologically
8 and chemically stable and does not cause excessive
9 encrustations?

10 A. We have and follow a whole host of regulatory
11 requirements and operational practices that deal
12 particularly with biological stability, with corrosivity
13 through the lead and copper rule, but we do not have a
14 particular SOP or operating requirement dealing with
15 precipitation of mineral constituents.

16 Q. I want you to look at some of the pictures I
17 have starting with Exhibit Number 14 there, the
18 composite of pictures there. And the first picture
19 there, which is Hearing Exhibit 614 labeled, that's a
20 picture of a toilet boil plunger with calcium inside of
21 it. Do you see that?

22 A. Yes. I don't believe it's a plunger. I
23 believe it's the bottom of a Fluidmaster fill valve.

24 Q. I think that is what it is. You have more
25 plumbing knowledge than I do. Now, would you call that

1 excessive incrustations?

2 A. It's a little bit hard for me to tell, but it
3 appears that under the plastic retainer at the bottom of
4 this there are depositions of minerals which could be
5 calcium carbonate.

6 Q. Now, could that cause the toilet to leak and
7 cause a higher water bill for a customer?

8 A. Not where those minerals are in this photo,
9 but if some of those pieces of minerals got into the
10 pilot valve or the rubber diaphragm assembly on that
11 valve it could.

12 Q. Thank you. And the next page, 619 hearing
13 exhibit, there is a conglomeration of various plumbing
14 fixtures and hot water heating elements with
15 incrustations on it. Do you believe that those -- just
16 taking the water heater elements, do you believe that is
17 excessive incrustations?

18 A. Well, it's really hard to tell what I'm
19 looking at here. I see like, maybe, 12 Fluidmaster
20 toilet valves, and, again, about maybe 12 water heater
21 elements.

22 Q. I'll move on. The Commissioners can read the
23 testimony which is in the record of YES's witnesses.
24 You also talked about, in your Rebuttal Testimony, you
25 you did some -- there were some issues over, some people

1 brought up over pressure in the pipes.

2 MR. MAY: Mr. Chairman, again, I would ask
3 counsel to refer the witness to the page in the
4 testimony.

5 MR. CURTIN: I will do that. You're
6 absolutely right, I should do that. Your Supplemental
7 Rebuttal. Your supplemental supplemental, excuse me.

8 THE WITNESS: I think it is just the
9 supplemental.

10 MR. CURTIN: Your Supplemental Rebuttal,
11 excuse me.

12 BY MR. CURTIN:

13 Q. Page 8, on the bottom there, starting on Line
14 22 to 23.

15 A. Yes.

16 Q. You tested some of the pressure and you found
17 the pressure was fine from those units?

18 A. I didn't personally test it, but Aqua tested
19 it and reported those results for pressure.

20 Q. I want you to look at the next picture on
21 Exhibit Number 14. And I'm assuming Aqua just tested
22 their pipes, correct? Did they go into the mobile homes
23 and test those pipes?

24 A. I don't know where they put the pressure
25 recorder, but the normal practice would be to put it on

1 an outside hose bib.

2 Q. Okay. Now, Exhibit Number 618, which is part
3 of Exhibit Number 14, Bates-stamped 618, do you see
4 those pipes with all the calcification inside the pipes?

5 MR. MAY: Objection. I think that assumes
6 facts not in evidence.

7 MR. CURTIN: Well, these pictures are in
8 evidence.

9 MR. MAY: I don't think he has testified that
10 it is calcification.

11 BY MR. CURTIN:

12 Q. Do you see the particles inside the pipe?

13 A. I see a photo of what appears to be a brass
14 fitting with some particles in it, yes.

15 Q. Okay. And could those particles inside that
16 pipe cause low pressure, in your opinion?

17 A. Well, I'm really not sure what this fitting
18 is, so, you know, I can't tell you what effect that
19 would have on the pressure in the house.

20 Q. I want you to turn to Exhibit 135, the other
21 parts of the photographs. There should be another
22 stapled part there. I'm done with that one you're
23 looking at. There should be another exhibit stapled,
24 which has another set of photographs. Have you got it?

25 A. I think so.

1 Q. Okay. I want you to turn to the last -- the
2 second to the last page. It appears to be a closeup of
3 that plumbing fixture.

4 A. Well, the second to last page, if it's the
5 same thing you're looking at, looks just like the second
6 page of the previous exhibit. It's the same kind --
7 it's is the same --

8 Q. Closer up?

9 A. Yes. I mean, it's not the same particular
10 one, I don't think. Well, it might even be, but it's a
11 slightly closer picture, yes.

12 Q. I want you to turn to the last page.

13 A. And, again, as I said, that is probably a
14 Fluidmaster toilet fill valve.

15 Q. Okay. I want you to turn to the next page in
16 the picture, the last page where there is a pen next to
17 a particle.

18 A. Okay.

19 Q. If that is a calcium particle which was taken
20 out of that Fluidmaster, do you believe, in your
21 opinion, that that is an excessive incrustation to have
22 in a plumbing master like that?

23 A. Is it excessive, is that one piece excessive?

24 Q. The size, let's go to the size.

25 A. It is a large particle for a calcium carbonate

1 deposit.

2 MR. CURTIN: I have no further questions for
3 this witness.

4 CHAIRMAN GRAHAM: Okay. Staff.

5 MR. JAEGER: Staff has no questions.

6 MS. BRADLEY: Mr. Chairman, can I ask a couple
7 of quick questions, since I missed my time?

8 CHAIRMAN GRAHAM: Nope. Go ahead.

9 MS. BRADLEY: Thank you, sir.

10 CROSS EXAMINATION

11 BY MS. BRADLEY:

12 Q. Sir, can I ask you to look at -- I hate to
13 beat a dead horse, but can you look at the HomeFacts
14 exhibit one more time.

15 A. Okay.

16 Q. All right. Looking at the last -- well, next
17 to the last page, about midway down doesn't it indicate
18 that the data was obtained from the Environmental Water
19 Group, or EMG -- I mean, ewg.org?

20 A. You want to direct me to the next to the last
21 page?

22 Q. Yes, sir.

23 A. Okay.

24 Q. Down towards the bottom, it's the bottom of
25 the list of the pollutants, possible pollutants.

1 A. Okay. Yes, about the middle of the page.

2 Yep.

3 Q. All right. And isn't it true that the
4 Environmental Water Group gets its data from the
5 utility?

6 A. No, not directly. It is the Environmental
7 Working Group, and they extract data from the public
8 database of data reported for compliance to the state,
9 which then reports it to USEPA in something called
10 SDWIS, yes, the Safe Drinking Water Information System.

11 Q. And you looked at their website?

12 A. EWG's website?

13 Q. Yes, sir.

14 A. I have seen their website.

15 Q. Okay. And are you sure it doesn't say it gets
16 the data from the utility --

17 A. Well, I just explained --

18 Q. The testing is done by the utility?

19 A. Well, the testing is done in compliance with
20 the regulations. The samples are collected generally by
21 the utility, but not always, submitted to a certified
22 laboratory and reported directly by the laboratory to
23 the state regulatory agency who puts it in a database,
24 who then reports it to EPA, who puts it into a database,
25 and the Environmental Working Group calls that database

1 for that public information.

2 Q. And isn't it true if you go into their website
3 and you type in the zip code for Arredondo Farms and
4 that Aqua is the utility, it doesn't register or bring
5 up any results?

6 A. That could be. I don't know that for sure.

7 MS. BRADLEY: No further questions.

8 CHAIRMAN GRAHAM: Okay. Staff, you said no
9 questions?

10 MR. JAEGER: That's correct.

11 CHAIRMAN GRAHAM: Commissioners? I see no
12 lights.

13 Redirect.

14 **REDIRECT EXAMINATION**

15 BY MR. MAY:

16 Q. Have you ever dranken the water at Arredondo
17 Farms?

18 A. Yes, I have.

19 MR. CURTIN: That's beyond -- I will just make
20 an objection that that is beyond the cross and the
21 direct.

22 CHAIRMAN GRAHAM: I will allow it.

23 MR. MAY: I think he asked, Mr. Chairman --

24 CHAIRMAN GRAHAM: I allowed it.

25 MR. MAY: Let me restate the question.

1 **CHAIRMAN GRAHAM:** You don't have to. I
2 allowed the question. You can restate it, if you want.

3 **MR. MAY:** God bless her, I think my mother
4 would have -- I used the wrong grammar there.

5 **MR. CURTIN:** I just think for clarification we
6 would want to know when he drank it. If we can have
7 when he drank it.

8 **MR. MAY:** I just wanted to correct my grammar.
9 I don't think I said something correctly.

10 **BY MR. MAY:**

11 **Q.** Have you ever tasted the water at Arredondo
12 Farms?

13 **A.** Yes, I have. After the hearing last week, I
14 was asked questions about whether I had visited
15 Arredondo Farms, whether I had tasted the water. And
16 there was, I think, maybe an implication that my not
17 having visited it or not having tasted the water in some
18 way interfered with my ability to opine on the quality
19 of the water. And so after the hearing, I took a
20 vacation day and toured a number of facilities in the
21 area, including Arredondo Farms, and Arredondo Estates,
22 and several others. And in the course of doing that,
23 stopped by the YES office and drank the water.

24 **Q.** In your opinion, what did the water taste
25 like?

1 A. In my opinion it tasted very good.

2 Q. You said you took a vacation day to make this
3 visit?

4 A. This is my idea of a vacation. I love my
5 work.

6 Q. I just want the record to reflect, you are not
7 charging that trip to this rate case expense, are you?

8 A. That trip is not being charged to this rate
9 case.

10 **MR. MAY:** Okay. No further questions.

11 **CHAIRMAN GRAHAM:** Okay. Let's look at
12 exhibits. Mr. May?

13 **MS. BRADLEY:** Mr. Chairman, could we ask this
14 witness whose water he drank when he visited Arredondo
15 Estates?

16 **CHAIRMAN GRAHAM:** He said he stopped by the
17 YES office.

18 **MS. BRADLEY:** Okay. I missed that. I'm
19 sorry. Thank you.

20 **CHAIRMAN GRAHAM:** That's all right.

21 **MR. RICHARDS:** Mr. Chairman, I think we would
22 like to enter 346, 347, 348, and 349.

23 **CHAIRMAN GRAHAM:** 346, 347, 348, and 349
24 entered into the record.

25 (Exhibit Numbers 346 through 349 admitted into

1 the record.)

2 **MR. CURTIN:** Pasco County would like to move
3 Exhibits 344 and 345 into the record.

4 **CHAIRMAN GRAHAM:** 344 and 345.

5 (Exhibit Numbers 344 and 345 admitted into the
6 record.)

7 **MR. MAY:** Mr. Chair, with respect to Pasco
8 County's exhibits, we have no issue with respect to the
9 admissibility of those exhibits, but I think Mr.
10 Richards and I had an agreement that we would not object
11 to the introduction of those discovery responses in
12 return for him not objecting to Pasco County's responses
13 to our discovery, is that correct?

14 **MR. RICHARDS:** That's correct, yes.

15 **MR. MAY:** And so we would ask for, I guess, a
16 placeholder to make copies and provide that information
17 as an exhibit. It's coming out right now. I guess it
18 would be the next numbered exhibit.

19 **CHAIRMAN GRAHAM:** Hold that thought for a
20 second.

21 OPC.

22 **MS. CHRISTENSEN:** Well, OPC would move Exhibit
23 343 into the record. And I'm not sure if I reviewed
24 Aqua's responses or your responses to Aqua. I don't
25 think we would have an objection to them, but we have

1 not reviewed them as of yet.

2 **CHAIRMAN GRAHAM:** What about the exhibits, the
3 witness' exhibits?

4 **MS. CHRISTENSEN:** That's 343. We would move
5 that into the record.

6 **MR. JAEGER:** Bruce, yours were 216 through --

7 **CHAIRMAN GRAHAM:** 216 through 226.

8 **MR. MAY:** Excuse me, 216 through 222.

9 **CHAIRMAN GRAHAM:** We will move those into the
10 record.

11 (Exhibit Numbers 216 through 222 and Exhibit
12 Number 343 admitted into the record.)

13 **MR. CURTIN:** And, Mr. Chairman, just for the
14 record, as we decided with the HomeFacts, tonight I will
15 take a look on the HomeFacts webpage to see if I want to
16 add anything tomorrow, and I will come here tomorrow
17 morning with that.

18 **CHAIRMAN GRAHAM:** You still have that option.

19 **MR. CURTIN:** Thank you.

20 **CHAIRMAN GRAHAM:** Okay. Now, Mr. May, let's
21 go back to the conversation you and Mr. Richards were
22 just having.

23 **MR. MAY:** Yes, sir. We had agreed not to
24 object to Pasco County's introduction of AUF's responses
25 to Pasco's discovery in return for Pasco not objecting

1 to our introduction of Pasco's responses to our First
2 Request for Production of Documents Numbers 1 and 2, and
3 that's what we would propose to introduce. We are
4 making copies and having that brought out.

5 **CHAIRMAN GRAHAM:** You are making copies of
6 that now?

7 **MR. MAY:** Yes, sir.

8 **CHAIRMAN GRAHAM:** Okay. And that we were
9 going to place hold at 350?

10 (Exhibit 350 marked for identification.)

11 **MR. MAY:** Yes, sir.

12 **CHAIRMAN GRAHAM:** I won't enter that in yet,
13 but let's just go ahead and hold that place until we get
14 those documents in front of us.

15 **MR. MAY:** And we would also, I think, move
16 Exhibit 332 as supplemented with the additional pages.
17 It's the HomeFacts website concerning Arredondo Farms.

18 **MR. CURTIN:** Mr. Chairman, if I could just
19 interject. On 344, I didn't provide the actual
20 documents that Aqua provided to Pasco County, I just
21 provide the response. If I could supplement Exhibit 344
22 with the actual documents.

23 **MR. MAY:** That was our understanding that that
24 would come in, yes.

25 **MR. RICHARDS:** Thank you.

1 **CHAIRMAN GRAHAM:** So that's not part of the
2 package that you passed out already?

3 **MR. RICHARDS:** Right. I just provided the
4 response, which I needed for the questioning of the
5 witness, but I didn't include the documents. It's not
6 that much. It's a few pages of documents that I would
7 like to provide.

8 **CHAIRMAN GRAHAM:** Do you have those copies or
9 are you going to bring those back?

10 **MR. RICHARDS:** I'm going to have to bring
11 those back. I don't have them with me.

12 **CHAIRMAN GRAHAM:** Okay. Staff, if you would
13 note that.

14 **MR. JAEGER:** Yes, Chairman. That's Pasco
15 County's PODs 1 through 3 for Exhibit 344.

16 **CHAIRMAN GRAHAM:** Okay.

17 **MR. MAY:** And, again, we would move Exhibit
18 332 as supplemented with the additional pages requested
19 by Commissioner --

20 **CHAIRMAN GRAHAM:** We will move those into the
21 record pending the response from YES.

22 **MR. CURTIN:** And, once again, I make my
23 objection to all of 322, just for the record.

24 **CHAIRMAN GRAHAM:** If you say that one more
25 time I'm not going to hear you.

1 **MS. BRADLEY:** We would object to that, as
2 well.

3 (Laughter.)

4 **MR. CURTIN:** Well taken and noted.

5 **CHAIRMAN GRAHAM:** I didn't get that, Attorney
6 General.

7 **MS. BRADLEY:** I'm sorry, Mr. Chairman. We
8 would object to that, as well. I don't believe there
9 has been a proper foundation, and there is a question
10 about the reliability and where the information came
11 from.

12 **CHAIRMAN GRAHAM:** Okay.

13 **MS. CHRISTENSEN:** And we would concur in that
14 objection for the same basis.

15 **CHAIRMAN GRAHAM:** Okay. Mr. May, your next
16 witness.

17 **MS. CHRISTENSEN:** Chairman, before we get to
18 the next witness, I think I had told you I would get
19 back to you on Mr. Szczygiel's late-filed deposition
20 exhibits. And we pulled up the e-mail and our response,
21 and we did not have any objection to the majority of
22 them except for Late-filed Deposition Exhibit Numbers 6,
23 7, and 8, which were the prefiled testimony that were
24 filed in the North Carolina docket. Since on their face
25 prefiled testimony of witnesses that are not produced

1 here basically are not relevant to Florida issues and
2 aren't here to be cross-examined, it seems inappropriate
3 to allow that testimony to come into the record in the
4 Florida docket through a late-filed exhibit. I have no
5 objection to the order that was issued, but I would
6 object to those late-filed exhibits on that prefiled
7 testimony.

8 **CHAIRMAN GRAHAM:** You need to back up. Which
9 exhibit are we talking about?

10 **MS. CHRISTENSEN:** I believe that was Mr.
11 Szczygiel's deposition was entered into the record along
12 with late-filed exhibits. They were included as part of
13 his deposition, and I would ask staff if they can help
14 me out, because I'm not exactly sure which number it
15 came in on.

16 **MR. MAY:** Mr. Chair, Aqua would not oppose,
17 you know, removing those three late-filed exhibits that
18 she objected to.

19 **CHAIRMAN GRAHAM:** I just want to make sure
20 that I understand which exhibits we are removing.

21 **MS. BENNETT:** Hearing Exhibit 197 is part of
22 staff's hearing exhibits. It is on Page 18 of the
23 Comprehensive Exhibit List, and the deposition of Stan
24 Szczygiel was entered into the record, including
25 Exhibits 5 and 11. And I believe --

1 **MS. CHRISTENSEN:** And I guess for the record,
2 we have no objection to the inclusion of the additional
3 Late-filed Exhibits 2, 4, and 10, which I think came in
4 through other discovery responses, and Late-filed 12,
5 which was corrected for the two pages, and Late-filed
6 Exhibit Number 5, which is the North Carolina order,
7 Number 9, which is the AA proxy statement, and Number
8 11, which was the article on compensation expense.

9 Now, some of these may have already come in
10 through exhibits that were used previously to
11 cross-examine other witnesses. I think it was just
12 Late-filed 12 that had not been admitted into the record
13 yet. But it was 6, 7, and 8 that we continue to have an
14 objection to, and that Mr. May agreed to withdraw from
15 the deposition. So it may be just easier to say
16 excluding Late-filed Exhibits 6, 7, and 8.

17 **MS. BENNETT:** I'm thinking that we have
18 entered all of these exhibits into the record previously
19 except for 6, 7, and 8. If you will maybe go ahead with
20 Ms. Chambers, and then I can double-check, but I think
21 almost all of those late-filed exhibits came in with Mr.
22 Szczygiel except for Number 12.

23 **CHAIRMAN GRAHAM:** We'll put that on hold until
24 after the next witness, and then during break we will
25 make sure that we are dotting the i's and crossing the

1 t's.

2 Mr. May.

3 **MR. MAY:** Mr. Chair and Commissioners, what is
4 being handed out now is some additional information that
5 staff has requested from Ms. Chambers. It's the call
6 center monitoring statistics from May 2010 through
7 October 2011, as well as the Management Quality
8 Performance Reports from May 2010 to October 2011.

9 **CHAIRMAN GRAHAM:** Have these already been
10 identified as 303 and 04, is that correct?

11 **MR. JAEGER:** That's correct, Chairman.

12 **CHAIRMAN GRAHAM:** Okay. Mr. May.

13 **MR. MAY:** Mr. Chambers (sic), Aqua would call
14 its next rebuttal and supplemental rebuttal witness, Ms.
15 Susan Chambers.

16 **SUSAN CHAMBERS**

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

20 **DIRECT EXAMINATION**

21 **BY MR. MAY:**

22 Q. Good afternoon, Ms. Chambers.

23 A. Good afternoon.

24 Q. Have you previously been sworn in this case?

25 A. Yes, I have.

1 Q. You may want to pull your microphone down just
2 a tad. Thank you.

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

5 A. Susan Chambers, 762 West Lancaster Avenue,
6 Bryn Mawr, Pennsylvania 19010.

7 Q. Ms. Chambers, did you prepare and cause to be
8 filed 27 pages of Rebuttal Testimony and 15 pages of
9 Supplemental Rebuttal Testimony in this case?

10 A. Yes, I did.

11 Q. Do you have that Supplemental Rebuttal and
12 Rebuttal Testimony before you today?

13 A. Yes, I do.

14 Q. Do you have any corrections or revisions to
15 your Rebuttal Testimony?

16 A. No, I do not.

17 Q. Do you have any corrections or revisions to
18 your Supplemental Rebuttal Testimony?

19 A. No, I do not.

20 Q. If I were to ask you the questions that are
21 contained in your Rebuttal Testimony and Supplemental
22 Rebuttal Testimony today, would your answers be the
23 same?

24 A. Yes, they would.

25 MR. MAY: Mr. Chairman, Aqua would ask that

1 the Rebuttal and Supplemental Rebuttal Testimony of
2 Ms. Chambers be entered into the record as though read.

3 **CHAIRMAN GRAHAM:** We will enter Ms. Chambers'
4 Rebuttal and Supplemental Rebuttal into the record.

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AQUA UTILITIES FLORIDA, INC.

REBUTTAL TESTIMONY OF SUSAN CHAMBERS

DOCKET NO. 100330-WS

1 **Q. What is your name and business address?**

2 A. My name is Susan Chambers. My business address is 762 W. Lancaster Avenue,
3 Bryn Mawr, Pennsylvania, 19010.

4

5 **Q. On whose behalf are you submitting rebuttal testimony in this proceeding?**

6 A. I am submitting testimony on behalf of Aqua Utilities Florida ("AUF" or the
7 "Company").

8

9 **Q. Have you previously submitted testimony in this proceeding?**

10 A. Yes. I filed direct testimony as part of AUF's initial filing in this rate case, and
11 sponsored Exhibits SC-1 through SC-5.

12

13 **Q. What is the purpose of your rebuttal testimony?**

14 A. I have submitted my testimony to rebut the customer service testimony of the
15 Office of Public Counsel ("OPC") witnesses, Kimberly H. Dismukes, Earl
16 Poucher and Denise Vandiver, and YES witness, Kim Kurz.

17

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

19 A. Yes, I am sponsoring Exhibit SC-6.

20

21

THE RESULTS OF THE COMMISSION-APPROVED
PHASE II MONITORING PLAN

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Q. Mr. Poucher claims that the quality of service monitoring reports that AUF filed in accordance the Commission-approved Phase II Monitoring Plan are “irrelevant to the issue of satisfactory customer service.” Do you agree?

A. Absolutely not. This is perhaps the most perplexing and disheartening part of Mr. Poucher’s testimony. Mr. Poucher seems to have forgotten that he and OPC expressly agreed to using the reports to monitor AUF’s quality of service, and that OPC and AUF jointly submitted a monitoring plan (which included those specific reports) to the Commission for approval. In my opinion, it is beyond belief that Mr. Poucher would now testify that those quality of service reports (and the metrics contained therein) are “irrelevant.”

The duplicity in Mr. Poucher’s testimony is clearly shown by a quick review of how the Phase II Quality of Service Monitoring Plan came about. As specifically set forth on page 2 of Order No. PSC-10-0297-PAA-WS, issued May 10, 2010, the Phase II Quality of Service Monitoring Plan was expressly designed for OPC and AUF to work collaboratively “to develop a cost-effective, efficient, and meaningful” plan for monitoring AUF’s quality of service. Pursuant to the Commission’s directives, AUF met with Mr. Poucher, OPC counsel, counsel for the Florida Attorney General’s Office, and Commission Staff on March 25 and April 5, 2010, to discuss the reports, metrics and benchmarks that were appropriate to evaluate AUF’s quality of service. Following those publicly noticed meetings, AUF met again with Mr. Poucher and OPC counsel to further discuss the appropriate reports, metrics and benchmarks to evaluate quality of

1 service. AUF and OPC ultimately agreed on a Phase II Monitoring Plan that
2 eliminated the previously imposed monitoring obligations that required AUF to
3 produce sound recordings, meter reading information, and complaint logs.
4 Instead, OPC and AUF agreed to (and the Commission approved) a more limited
5 monitoring of customer service and certain aesthetic water quality issues, which is
6 attached as Exhibit "A" to Commission Order No. PSC-10-0297-PAA-WS.

7
8 OPC was intimately involved in deciding which reports, metrics and benchmarks
9 were to be included in the Phase II Monitoring Plan. Recognizing that the
10 Commission has not adopted formal quality of service metrics for water and
11 wastewater utilities, OPC agreed that the monitoring of customer service during
12 the Phase II period was to be based on the following seven monthly reports used
13 by AUF management to achieve and maintain excellence in customer service: 1)
14 the Management Quality Performance Report; 2) the Florida Complaint Support
15 Information Report; 3) a Florida Score Card Report; 4) a Call Center Monitoring
16 Statistics Report; 5) a Customer Service Representative Call Quality Scores
17 Report; 6) a Service Order Report; and 7) an Estimated Read Report. When it
18 approved OPC's and AUF's Phase II Monitoring Plan, the Commission expressly
19 noted that using these already existing reports "is an efficient and cost-effective
20 means" of monitoring AUF's customer service. See Order No. PSC-10-0297-
21 PAA-WS, at 3.

22
23 It is outrageous for Mr. Poucher to now say that those reports and the data
24 contained therein are "irrelevant" to the issue of customer service.

1 **Q. Are there portions of Mr. Poucher's testimony that you agree with?**

2 A. Yes. I agree with Mr. Poucher's testimony which states that he sees
3 "improvement" based upon the results of the Quality of Service Monitoring
4 Reports. For example, Mr. Poucher acknowledges that, since the last rate case,
5 AUF has dramatically reduced the volume of "estimated bills" and, as a result,
6 "meter reading complaints because of estimated bills has declined significantly."
7 Mr. Poucher also acknowledges that the Quality of Service Monitoring Reports
8 submitted by AUF "show improvements in call center performance." OPC
9 witness Kimberly Dismukes also concedes that there have been improvements in
10 call center performance "since the first quarter of 2008."

11

12 While I agree with these specific assessments of Mr. Poucher and Ms. Dismukes,
13 I strongly disagree with the innuendo in their testimony which seeks to disparage
14 the progress and positive results shown in the monitoring reports. For example,
15 Mr. Poucher recognizes that less than five percent of incoming callers to AUF's
16 call centers drop off the line while holding to speak with a CSR, and that this is a
17 "good number." But he then warns against making an assumption that this
18 equates to good service because AUF "makes no mention of customers who are
19 blocked from entering the call center queue due to insufficient number of
20 incoming lines." Mr. Poucher's suggestion that AUF has an insufficient number
21 of lines coming into its call centers is patently false. Our call centers currently
22 have 116 lines of capacity, which is more than an adequate number of incoming
23 lines. Over the past three years, AUF's call centers have received over 5.8 million

1 calls. During that same period, AUF's rate of calls blocked has averaged 0.55
2 percent. In my opinion, that is an excellent record.

3
4 Equally egregious is Mr. Poucher's statement that there is "ample evidence to
5 suggest that Aqua is juggling the call center results" in order to show
6 improvement. Mr. Poucher points to nothing that would even remotely
7 substantiate his claim. Mr. Poucher's allegation is particularly offensive given the
8 fact that he did not visit and inspect the call center, as was contemplated in the
9 Commission-approved Quality of Service Monitoring Plan.

10
11 **Q. Mr. Poucher claims that AUF's Quality of Service Monitoring Reports**
12 **provided "no historical tracking" which OPC requested. Do you agree?**

13 A. No. Mr. Poucher's suggestion that AUF provided no historical tracking
14 mechanism to OPC is absolutely false. In addition to providing all of the
15 information contemplated in the reports to which OPC had agreed, AUF
16 specifically provided additional historical information concerning the reports and
17 the metrics contained therein on July 12, 2010. *See* Exhibit SC-6. Mr. Poucher
18 appears to have forgotten this fact as well.

19
20 **Q. OPC witness Denise Vandiver criticizes AUF for failing to meet certain**
21 **metrics in its call center benchmarks. Do you believe that Ms. Vandiver's**
22 **criticisms are fair?**

23 A. No, I do not. I believe that it is wrong for Ms. Vandiver to criticize AUF for
24 isolated incidents in which the Company failed to meet certain "call center

1 benchmarks.” AUF has repeatedly explained this issue to OPC in prior pleadings
2 filed with the Commission. OPC knows very well that the “call center
3 benchmarks” are self-imposed metrics included in the Florida Scorecard Report
4 that AUF management uses to drive excellence in service quality. AUF does not
5 establish these self-imposed metrics at easily attained levels. That would simply
6 justify the status quo. Rather, these metrics are designed to challenge company
7 employees to stretch their performance toward excellence. Indeed, AUF’s
8 operations are guided by self-imposed, challenging targets that take into account
9 that, while 100 percent perfection is not always achievable or cost effective,
10 AUF’s customers expect 100 percent reliability. To be clear, AUF strives to
11 provide 100 percent reliable customer service in all service categories. However,
12 as with any water, gas, electric or telecommunications utility, 100 percent
13 perfection is not always attainable. To penalize AUF, as Ms. Vandiver suggests,
14 for falling just short of self-imposed, stretch goals would send a very negative
15 message. Indeed, water and wastewater utilities would be discouraged from
16 proactively adopting performance metrics that go beyond the minimum required
17 in the rules.

18
19 Ms. Vandiver’s criticism of AUF’s target for Percentage of Active Accounts Not
20 Billed is especially unfounded. As explained on pages 12 and 13 of AUF’s
21 Quality of Service Report (Exhibit SC-3), the fact that AUF was slightly outside
22 its target for Percentage of Active Accounts Not Billed for July, September,
23 October, and November of 2010 is not indicative of a problem. Instead, this is an
24 expected result for these months when there are higher volumes of “move ins” by

1 seasonal customers. When a seasonal customer moves back in, the report will
2 reflect that the last time the account was billed was when the customer moved out
3 several months prior. The extended period of time between bills is to be expected
4 under this scenario. Ms. Vandiver overlooks this fact and distorts the data in the
5 Florida Score Card.

6 COMMISSION COMPLAINTS

7 **Q. Mr. Poucher and Ms. Vandiver discuss customer complaints filed with the**
8 **Commission regarding AUF. Do you have any concerns with respect to that**
9 **portion of their testimony?**

10 A. Yes, their testimony is incomplete and one-sided. For example, Mr. Poucher
11 completely ignores the fact that the volume of the complaints filed against AUF
12 has fallen dramatically since the last rate case. In 2007, 186 complaints were
13 filed with the Commission regarding AUF. In 2010, that number dropped to 142,
14 a reduction of approximately 24 percent. In my opinion, that is a significant
15 reduction. Mr. Poucher's complete failure to even mention that a reduction
16 occurred reveals a fundamental bias in his analysis. I would also note that in the
17 midst of this rate case—from 2009 to 2010—there was a 19 percent decrease in
18 the number of complaints. Mr. Poucher ignores this undisputed fact as well.

19
20 **Q. Ms. Vandiver testified that she would have expected that the volume of**
21 **complaints from 2009 to 2010 would have decreased by more than 19**
22 **percent. Do you agree?**

23 A. No. Based on my experience, customer complaint volumes typically increase
24 during the course of a contested rate case proceeding. As Mr. Stan Szczygiel has

1 explained in his rebuttal testimony, there has been a well-orchestrated effort by
2 OPC, YES, Pasco County, and other non-party special interest groups to
3 encourage customers to complain against AUF in hopes that the sheer volume of
4 complaints would persuade the Commission to deny the requested rate increase.
5 However, despite those organized efforts to inflate the number complaints in this
6 case, the actual number of complaints has dropped in the midst of the rate case by
7 more than 19 percent. I believe that OPC's failure to acknowledge such a
8 significant drop in complaints underscores the bias of its analysis.

9
10 I also want to point out that Mr. Poucher and Ms. Vandiver fail to acknowledge
11 that complaints filed with the Commission have been processed by AUF in a
12 professional and timely manner in accordance with the Commission's rules.

13
14 **Q. Do you have other observations with respect to OPC's complaint-related**
15 **arguments?**

16 A. Yes. I believe it is revealing that OPC has abandoned many of the complaint-
17 related arguments that it raised in the last rate case. For example, in the last case,
18 Ms. Dismukes claimed that approximately 44 percent of AUF complaints filed in
19 2007 involved apparent violations of Commission rules. However, in this case,
20 Ms. Dismukes drops this argument altogether. The reason for this radical change
21 in tactics becomes clear when one reads the testimony filed in this case by
22 Commission witness Rhonda Hicks. Ms. Hicks testifies that from January 1,
23 2009 through September 30, 2011, only 11 percent of the AUF complaints
24 involved apparent violations of rules. When asked whether AUF received a

1 significant number of apparent rule violations, Ms. Hicks unequivocally answered
2 “no.”

3

4 **Q. Do you agree with Mr. Poucher’s analysis of complaints filed with the**
5 **Commission against AUF?**

6 A. No, I do not. Faced with the fact that AUF’s complaint volumes have dropped
7 dramatically since the last rate case, Mr. Poucher engages in a novel exercise of
8 “second guessing” the Commission’s and Staff’s handling of complaints filed
9 against AUF. Mr. Poucher essentially takes it upon himself to “re-evaluate” the
10 Commission Staff’s handling of the complaints, and then subjectively pronounces
11 who he thinks is to blame for the complaint. Mr. Poucher’s so-called “analysis” is
12 one-sided and fundamentally biased.

13

14 **Q. Mr. Poucher seems to suggest that AUF does not have a process in place to**
15 **monitor Commission complaints. Is that correct?**

16 A. No. The Company has a process in place to enable it to (i) promptly and
17 effectively respond to customer concerns, and (ii) identify customer issue trends
18 so that the Company can implement proactive measures to ensure quality of
19 service.

20

21 **Q. Has the Company identified any trends from the Commission complaint file?**

22 A. Yes. First, as I mentioned, the number of complaints has fallen significantly since
23 AUF’s last rate case. Second, many of the complaints that have been filed
24 involved customer concerns about the level of water and wastewater rates, which

1 is to be expected in a rate case where interim rate increases have already been
2 placed into effect. Third, as shown in Exhibits SC-4 and SC-5 to my direct
3 testimony, the number of high bill complaints has been trending downward since
4 2009. I would also point out that where the Company has identified apparent rule
5 violations or areas of improvement, it has moved promptly to correct those issues
6 through its Complaint Analysis and Remediation Team (“CART”).
7

8 **Q. Do you have any other concerns with respect to Mr. Poucher’s testimony**
9 **concerning customer complaints?**

10 A. Yes. Mr. Poucher’s testimony is seriously flawed because he erroneously
11 assumes that any call coming into AUF’s call center is a customer complaint.
12 Sound recordings of calls into the call centers during May 2009 through October
13 2009, and data provided in the monthly Management Quality Performance
14 Reports filed from May 2010 through December 2010, clearly show that the vast
15 majority of calls into the AUF call centers are not complaints. Instead, those calls
16 involve routine, day-to-day issues such as move-in/move-out requests, payment
17 questions, requests to pay over the phone, and requests to verify account balances.
18

19 I am also perplexed by Mr. Poucher’s refusal to acknowledge the data in the
20 Management Quality Performance Report. OPC expressly agreed that the Phase
21 II Monitoring Plan should include that specific report. Moreover, Mr. Poucher
22 seems to have forgotten that the Management Quality Performance Report “tracks
23 on a monthly basis the reasons for customer calls” to the call centers. *See Order*

1 No. PSC-10-0297-PAA-WS (Order Approving the Phase II Monitoring Plan)
2 (emphasis added).

3

4 **Q. Has Mr. Poucher ever visited AUF's call center to witness first hand the**
5 **types of calls coming into the call center?**

6 A. No. It is my understanding that, despite several invitations from AUF, Mr.
7 Poucher has never visited an AUF call center.

8

9 **Q. Didn't the Phase II Monitoring Plan, which the Commission approved,**
10 **expressly provide for an OPC representative to visit an AUF call center and**
11 **witness first hand the call center operations?**

12 A. Yes, it did. As reflected in Order No. PSC-10-0297-PAA-WS, Paragraph 5 of the
13 Quality of Service Monitoring Plan provided as follows:

14 In order to better appraise the OPC of Aqua's commitment to
15 quality of service, during the Phase II Monitoring, Aqua will
16 provide for an OPC representative to visit one of its call centers
17 and tour the facility.
18

19

BILLING AND COLLECTION PRACTICES

20 **Q. Mr. Poucher and Ms. Dismukes argue that "backbilling" is a problem for**
21 **AUF. Do you agree?**

22 A. No. First, Mr. Poucher and Ms. Dismukes would have the Commission believe
23 that "backbilling" is improper, or is somehow only limited to AUF. That simply
24 is not the case. The Commission and Florida's courts have expressly recognized
25 that all utilities have a right and an obligation to "backbill" customers for services
26 that were rendered but were undercharged or not billed. Although I am not an

1 attorney, I believe that the rationale for backbilling was captured by the court in
2 *Corporation de Gestion Ste-Foy, Inc. v. Fla. Power & Light*, 385 So. 2d 124 (Fla.
3 3d DCA 1980). There, the court found that a public utility “is not only permitted
4 but is required to collect undercharges from established rates, whether they result
5 from its own negligence, or even from a specific contractual undertaking to
6 charge a lower amount.” *Id.* at 126 (emphasis added). The court explained that it
7 would be improper for a utility to give preferential treatment or to charge one
8 customer less than another customer for the same service. *Id.* The Florida
9 Supreme Court later endorsed this principle when it expressly upheld the right of
10 a water utility to backbill for water undercharges. *Jacksonville Elec. Auth. v.*
11 *Draper’s Egg & Poultry Co.*, 557 So. 2d 1357 (Fla. 1990).

12
13 In similar fashion, the Commission has expressly recognized the right of a water
14 and wastewater utility to backbill customers pursuant to Florida Administrative
15 Code Rule 25-30.350. *See, e.g., In Re: Complaint and Petition of Cynwyd Invs.*
16 *Against Tamiami Vill. Util., Inc.*, Docket No. 920649-WS, Order No. PSC-94-
17 0210-FOF-WS (Feb. 21, 1994); *In Re: Request for Exemption from Fla. Pub.*
18 *Serv. Comm’n Reg. for Provision of Water Serv. in Putnam County by Paradise*
19 *View Estates*, Docket No. 940194-WU, Order No. PSC-94-0501-FOF-WU (Apr.
20 27, 1994). Furthermore, the Commission has explained the reason why a utility is
21 entitled to backbill: “regardless of whether the utility was aware of the connection
22 or not, the customer has received service for which it has not paid.” *In Re:*
23 *Complaint and Petition of Cynwyd Invs.*, Order No. PSC-94-0210-FOF-WS. More
24 recently, the Commission has expressly acknowledged that Verizon Florida and

1 Bright House Networks agreed that “back-billing is a fact of life in the
2 telecommunications industry.” *In re: Petition for arbitration of certain terms and*
3 *conditions of an interconnection agreement with Verizon Florida, LLC by Bright*
4 *House Networks Information Services (Florida), LLC*, Docket No. 090501-TP,
5 Order No. PSC-10-0711-FOF-TP, at 6 (Dec. 3, 2010).

6
7 The Commission’s rules also expressly recognize that water, wastewater, electric
8 and gas utilities can, and do, “backbill” their customers. For example, Rule 25-
9 30.350, which authorizes a water and wastewater utility to “backbill” customers,
10 is virtually identical to the Commission’s rules that authorize “backbilling” by
11 electric utilities (Rule 25-6.106) and natural gas utilities (Rule 25-7.0851).

12
13 **Q. Is there a specific statutory or regulatory definition of “backbilling” in**
14 **Florida?**

15 A. No.

16
17 **Q. Do Mr. Poucher and Ms. Dismukes attempt to define “backbilling” for**
18 **purposes of their testimony?**

19 A. No, they do not, which puts me in a challenging position of having to respond to
20 an alleged “problem” that is not defined. Nevertheless, to address their testimony,
21 I will use the term “backbilling” in the context of compliance with the
22 Commission “backbilling” rule, which provides:

23 A utility may not backbill customers for any period greater
24 than 12 months for any undercharge in billing which is the
25 result of the utility’s mistake. The utility shall allow the
26 customer to pay for the unbilled service over the same time

1 period as the time period during which the underbilling
2 occurred or some other mutually agreeable time period.
3 The utility shall not recover in a ratemaking proceeding,
4 any lost revenues which inure to the utility's detriment on
5 account of this provision.
6

7 Rule 25-30.350, F.A.C. (Emphasis added.) In other words, I use the term
8 "backbilling" to refer to those instances where a customer is billed for services
9 that were previously received but not fully paid for due to a mistake by AUF.

10 **Q. Mr. Poucher claims that "backbilling" by AUF has risen to some**
11 **unacceptable level. Do you agree?**

12 A. Absolutely not. To be clear at the outset, there is no numerical threshold for
13 "backbilling" in Florida, or in any other state where Aqua subsidiaries operate.
14 Furthermore, there is absolutely no factual support for Mr. Poucher's suggestion
15 that the volume of "backbilling" on AUF's system is unacceptable. In fact, for
16 the period January 2009 through March 2011 (which includes the test year),
17 AUF's records show that the Company issued approximately 625,000 bills, of
18 which approximately 0.07% could be considered a "backbill" as contemplated by
19 the Commission's rules. Clearly, "backbilling" on AUF's system is minimal
20 compared to the total bills issued by AUF.

21
22 **Q. What would cause a utility to bill a customer for an undercharge?**

23 A. An undercharge can result from a variety of different factors outside of the
24 utility's control, such as where meter equipment is vandalized or damaged by
25 weather events or construction activities by third-parties, or where there are
26 repeated move-ins/move-outs at a particular location. An undercharge can also
27 occur due to mistakes by the utility.

1 **Q. Please explain how damaged meter equipment can result in an undercharge.**

2 A. When the electronic radio transmitter (“ERT”) component of a radio frequency
3 (“RF”) meter is damaged (*e.g.*, by a weather event or vandalism), the meter reads
4 are still captured by the meter but are not transmitted to the Company’s billing
5 system. Consequently, the customer will be billed only for the relevant base
6 facility charge. When the information transmitted reflects that there is no usage or
7 consumption at the property, this “zero consumption” issue is detected and the
8 ERT is repaired. Then, AUF’s billing system will retrieve the actual read for the
9 consumption and charge the customer for the appropriate usage charges in
10 accordance with the Commission’s requirements. As I will discuss later, AUF has
11 taken proactive steps to address this “zero consumption” issue.

12

13 **Q. Please explain how repeated move-ins/move-outs can result in an**
14 **undercharge.**

15 A. When customers repeatedly move-in and move-out of a premises, it makes it
16 increasingly difficult for a utility’s billing system to formally recognize that a
17 person is a customer of record. In many cases this can result in a person actually
18 receiving utility services prior to becoming a customer of record, which will delay
19 the issuance of bills. Once the utility determines that the person is a customer of
20 record, the utility is then obligated to bill for services rendered to, but not paid for,
21 by the customer.

22

23 In AUF’s billing system, there is an automated process in place to identify
24 accounts where service is being used but there is no current customer of record. If

1 AUF detects that there is consumption on a meter at a property where there is no
2 active customer of record, a letter is sent to the property notifying the occupant at
3 that location of the need to apply for AUF service. When the occupant contacts
4 AUF and confirms the move-in date at the property, a bill will be issued for the
5 service used but not previously billed.

6
7 **Q. What is AUF's protocol for "backbilling" a customer?**

8 A. AUF's protocols for "backbilling" customers are expressly set forth in Sections
9 23, 24 and 30 of its Tariff, which the Commission has approved. If an
10 undercharge is detected, AUF's policy is to bill the customer for the services
11 provided over the period that the customer was undercharged, but not longer than
12 12 months of service. The new bill should spread the total usage over the period
13 of months that the customer was undercharged based on the appropriate rate tier.
14 Furthermore, AUF's policy is to allow the customer to pay the bill over the same
15 time period in which the underbilling occurred or over some other mutually
16 agreeable time.

17
18 **Q. Does the Commission's "backbilling" rule allow AUF to "backbill" a**
19 **customer for more than 12 months?**

20 A. Yes. The Commission's rule only restricts backbilling to a retrospective 12
21 month period in those instances where the undercharge "is the result of the
22 utility's mistake." In instances where the undercharge is not due to the utility's
23 mistake, a utility in Florida can backbill for more than 12 months of service.
24 However, I want to make AUF's policy clear: regardless of whether the

1 undercharge was the result of AUF's mistake or was caused by some other factor
2 not attributable to AUF, AUF's policy is to backbill for no longer than 12 months
3 of service.

4

5 **Q. What steps has AUF taken to minimize the need to "backbill"?**

6 A. As I have stated, "backbilling" is an expected occurrence in the utility industry.

7 That being said, the Company has implemented a number of proactive measures

8 specifically designed to minimize "backbilling." As I mentioned, a "zero

9 consumption" reading on a meter is often symptomatic of an undercharge which

10 could result in a "backbill". However, in Florida, a utility cannot assume that a

11 "zero consumption" meter read necessarily means that a customer has been

12 undercharged. That is because many of the residents in Florida are seasonal and,

13 for those types of customers, a "zero consumption" read for consecutive months is

14 correct. The prevalence of seasonal customers has presented challenges in

15 monitoring "zero consumption" in Florida. To address these challenges, AUF has

16 implemented procedures to better distinguish "seasonal" zero consumption reads

17 from zero consumption reads resulting from damaged ERT or meter issues.

18

19 **Q. What system is in place to ensure that bills are issued in accordance with the**
20 **Company's normal billing cycles?**

21 A. AUF's policy is to render bills at regular intervals for service provided over a

22 typical monthly billing period, which the Company defines as 26 to 35 days. AUF

23 has a set number of meter reading cycles per month. After the meters are read,

24 the readings are uploaded into the Company's billing system and the Company

1 checks the days of service for that cycle. If a material number of accounts in that
2 cycle exceed 35 days of service, those accounts are investigated and, if necessary,
3 are estimated. There will, however, be isolated incidents where a bill will have
4 days of service in excess of 35 days. For example, there is the potential for a
5 long-period bill to issue when a customer moves into to a premise and begins to
6 use water and wastewater services without immediately notifying the Company.

7

8 **Q. In those isolated incidents, what procedures are in place to ensure that a**
9 **customer is not “backbilled” for more than 12 months of service as required**
10 **by Commission rule?**

11 A. In those isolated incidents, the employee who creates the long-period bill is
12 trained not to release the bill until he or she has calculated and applied the
13 appropriate adjustment, so that the customer is not billed for more than 12 months
14 of service. It is important to note that, when a customer is undercharged, the
15 Company must first compute the bill from the last actual meter reading to the
16 current actual meter reading. In some cases, the last actual meter reading
17 occurred more than 12 months prior. As a result, the bill first must be calculated
18 to show the consumption between the two meter readings. If the meter readings
19 are more than 12 months apart, the amount of consumption beyond 12 months is
20 computed and a credit for that amount appears on the bill. Therefore, the days of
21 service that appear on the revised bill may show the billing period as longer than
22 12 months, but a corresponding credit also appears on the bill to account for any
23 days over 12 months.

24

1 Under AUF's policy, only three groups within the Company can issue a
2 "backbill" to a customer who was undercharged for service: (i) the MIOT group,
3 which is responsible for processing move-in and move-out requests, (ii)
4 designated "specialists" in the billing department, and (iii) a limited number of
5 designated Florida customer service representatives. The employees in each
6 group are trained to review and issue bills only after applying the appropriate
7 adjustment for any consumption outside the 12 month "backbilling" limitation.
8

9 **Q. Are you suggesting that AUF never makes errors when it bills a customer for**
10 **an undercharge?**

11 A. Of course not. It would be disingenuous for anyone to suggest that when a
12 company "backbills" there will not be human error. As Mr. Poucher's testimony
13 suggests, there are rare instances where human errors occur when "backbills" are
14 created. In those isolated instances, AUF has moved promptly to correct the error
15 and address the customer's concerns.
16

17 Mr. Poucher's testimony lists twenty-five customers who he claims were
18 backbilled improperly. I respectfully disagree and take issue with Mr. Poucher's
19 assumption that a company's efforts to bill a customer for an undercharge is
20 improper. As I have explained, that assumption is simply incorrect. Mr. Poucher's
21 testimony also ignores the root causes of the undercharge. Twenty-one of the
22 instances cited by Mr. Poucher were due to a malfunctioning ERT or broken
23 meter. In addition, not every bill Mr. Poucher lists was cited by Commission
24 Staff as an "apparent violation" of the "backbilling" rule. In fact, only six of the

1 twenty-five instances cited by Mr. Poucher were noted by Staff as a potential rule
2 violation.

3

4 **Q. Does Mr. Poucher's testimony show that AUF has difficulty in complying**
5 **with the Commission's backbilling rule?**

6 A. Absolutely not. From January 2010 through July 2011, AUF has issued
7 approximately 313,445 bills to customers in its Commission-regulated systems.
8 During that same period, Mr. Poucher lists twenty-five of those customer bills and
9 attempts to argue that those bills show a systemic problem. As I have previously
10 stated, I respectfully disagree with Mr. Poucher's claim that AUF has violated the
11 Commission's backbill rule twenty-five times. But assuming for sake of argument
12 that Mr. Poucher is correct, that does not reflect a pattern of non-compliance,
13 particularly in comparison to the number of bills AUF has issued.

14

15 **Q. Do you have other concerns with respect to Mr. Poucher's testimony on**
16 **"backbilling"?**

17 A. I disagree with Mr. Poucher's claim that AUF only makes an adjustment to a
18 "backbill" after it receives a customer complaint concerning backbilling. That
19 allegation is absolutely false and wholly unsupported. As I stated earlier, AUF
20 has specific measures to ensure continued compliance with the Commission's rule
21 on backbilling. As I mentioned, there will be occasions where, due to human
22 error, a bill may need further adjustment. On those rare occasions, AUF is
23 dedicated to resolving the customer's concerns as promptly as possible.

24

1 **Q. Mr. Poucher claims that AUF's responses to OPC's discovery regarding**
2 **"backbilling" are inadequate. Do you agree?**

3 A. No. AUF made a concerted and good faith effort to respond to OPC's discovery.
4 To respond to OPC's discovery, AUF used the term "backbilling" the same way
5 that I have used the term in my rebuttal testimony. In other words, AUF
6 attempted in good faith to identify those instances where a customer was billed
7 for services that were rendered but not fully paid for due to a mistake by AUF.

8

9 **Q. YES witness Kimberly Kurz criticizes AUF's billing practices in her**
10 **testimony. Are her criticisms fair?**

11 A. No. Ms. Kurz engages in the same "cherry picking" approach adopted by Mr.
12 Poucher. Since its last rate case, AUF has issued over 12,300 bills to customers in
13 Arredondo Farms. Ms. Kurz lists thirteen of those customer bills and attempts to
14 argue that those bills show systemic billing problems. As I have previously
15 stated, in the utility business, billing issues sometimes occur where there is
16 damage to an ERT or a meter, where customers repeatedly move in and out of the
17 billing system, or where the customer repeatedly changes his or her billing
18 address. Of those thirteen customer bills listed by Ms. Kurz, four involved
19 backbills due to a damaged ERT or a replaced meter; two involved bills for
20 undercharges for wastewater service; and one involved a backbill due to repeated
21 changes in the customer's billing address. The remaining six involved billing and
22 collection questions. Each of these thirteen customer billing scenarios is
23 explained in Exhibit SC-2 to my direct testimony. That exhibit also demonstrates

1 that AUF has made a prompt and concerted effort to address each of these
2 customer's concerns.

3

4 I would also note that AUF continues to work proactively with Ms. Kurz to
5 address her concerns.

6

7 **Q. Have you analyzed the allegations of "high bills" in the Arredondo Farms**
8 **area?**

9 A. Yes. Based on our analysis, including evaluations performed by field technicians,
10 the high bills at Arredondo Farms appear to stem from high usage. Our
11 conclusions with respect to the cause of the high bills were confirmed during the
12 Gainesville Customer Service Hearing, when the maintenance supervisor for YES
13 stated that many of the residents at the Arredondo Farms trailer park had
14 significant leaks within their homes.

15

16 **Q. Mr. Poucher claims that one of the reasons that AUF customers have high**
17 **bills is what he deems to be the "steep inclining rate structure that puts a**
18 **customer in severe jeopardy when there is an event that actually causes**
19 **increased usage." Do you agree with Mr. Poucher's assessment?**

20 A. In part. The incline conservation block rate structure that the Commission
21 established in the last rate case does cause usage rates to increase substantially if
22 usage exceeds thresholds of 6,000 and 12,000 gallons per month.

23

1 **Q. Did AUF advocate this three-tiered inclined block rate structure in the last**
2 **rate case?**

3 A. No. It is my understanding that this rate structure was imposed by the
4 Commission pursuant to direction from the relevant Florida water management
5 districts.

6
7 **Q. Did OPC oppose the inclined block rate structure in the last rate case?**

8 A. No, it did not. OPC expressly took no position on that issue.

9
10 **Q. Mr. Poucher claims that AUF has no meaningful plan or procedure in place**
11 **to address high bill issues. Do you agree with that assessment?**

12 A. No. AUF has implemented a number of initiatives to address high bill issues.

13
14 First, every residential bill contains a bar graph which provides customers with an
15 easily-understood picture that compares usage from month-to-month.

16
17 Second, if a customer's monthly usage exceeds 2.5 times the average usage, the
18 customer will receive a narrative "high bill alert" on the face of bill, which directs
19 the customer to visit Aqua's website for information on identifying possible leaks
20 or other anomalies that could be causing a bill that is higher than normal. The bill
21 also provides the customer with a phone number to reach the Company. If a
22 customer contacts the call center, AUF's customer service representatives are
23 trained to proceed with a thorough diagnostic telephone interview designed to
24 determine the root cause of the high bill.

1

2

Third, if it is determined that the customer has a leak which is causing the high

3

bill, AUF's policy is to offer the customer a leak adjustment credit. As noted by

4

Commission Staff:

5

This is a positive result for customers. It has been a long standing practice in the water and wastewater industry that maintenance problems occurring on the customer's side of the meter, such as leaks are the customer's responsibility to repair and that the customer is responsible for all water used, even that resulting from a leak. However, AUF has implemented a leak adjustment policy to assist customers that experience high bills due to leaks on their property.

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See Order No. PSC-11-0256-PAA-WS, Attachment 2, at 19 (June 13, 2011)

14

("PAA Order").

15

16

Fourth, in May 2009, AUF implemented a pool credit policy to ensure that

17

customers with pools do not experience unnecessarily high wastewater bills. The

18

Commission recognized the benefits of this pool credit policy on page 21 of the

19

PAA Order:

20

Several customers with pools expressed concern that their bills for wastewater service were based on water usage during those months on a significant portion of their water usage was due to filling their pools. While residential wastewater bills are based on water usage, there is a 6,000-gallon cap on the amount of water used to calculate the wastewater bills for all rate bands. However, for customers whose typical monthly water usage is below the cap, their water usage exceeds the cap in those months when their pools are filled. AUF implemented a pool credit policy in May 2009, which allows the Utility's customers to receive a credit on their wastewater bill for the water used to fill the customers' pools. The credit is based on the difference in their typical monthly water usage and the cap used to calculate the wastewater bill.

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1 **Q. Mr. Poucher suggests that the Commission should use a report by the City of**
2 **Atlanta as a model for AUF to evaluate billing and meter issues. Would you**
3 **like to respond to that suggestion?**

4 A. Yes. AUF is well aware of the report. Although the report addresses issues that
5 are specific to the City of Atlanta, it should be noted that AUF has already
6 proactively implemented a significant number of measures and processes that the
7 report recommends to the City of Atlanta. For example, AUF already has lap top
8 computers in all of its field service vehicles, which allow service orders to be
9 automatically dispatched and completed in priority order. AUF also has fully
10 implemented an automatic meter reading system. Furthermore, AUF already uses
11 operational reports to identify and reduce estimated bills.

12 **CUSTOMER SERVICE ISSUES IN OTHER AQUA STATES**

13 **Q. Mr. Poucher and Ms. Dismukes both suggest that there has been a pattern of**
14 **customer service problems in other states where Aqua affiliates operate. Do**
15 **you agree?**

16 A. No, I do not. Ms. Dismukes cites to other dockets in an attempt to support her
17 argument that the Company has a pattern of customer service problems. With all
18 due respect, Ms. Dismukes is wrong. Simply cutting and pasting customer
19 complaint summaries from other jurisdictions does not show a pattern of customer
20 service problems. Moreover, in all of the dockets cited by Ms. Dismukes, the
21 respective Commissions awarded the Company a rate increase without any need
22 for a customer service monitoring program.

23

24

1 Q. Does this conclude your rebuttal testimony?

2 A. Yes.

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AQUA UTILITIES FLORIDA, INC.
SUPPLEMENTAL REBUTTAL TESTIMONY OF
SUSAN CHAMBERS
DOCKET No. 100330-WS

Q. What is the purpose of your supplemental rebuttal testimony?

A. The Company has been given the opportunity to file supplemental testimony in order to give the Commission and parties a report on AUF's efforts to address customer comments raised at the customer service hearings that were held in 10 locations throughout the State.

Q. Can you summarize AUF's approach to issues raised by customers at the various service hearings?

A. Yes. AUF's billing, customer service and operations teams thoroughly investigated each customer issue. The vast majority of the customers who spoke expressed concerns over the level of the rates that AUF is requesting in this proceeding and did not speak on quality of service. Many customers spoke about issues that have already been resolved prior to the service hearing, and other customer issues were resolved on site at the hearings. Other customers were contacted following the hearing in an attempt bring a final resolution to their issues.

1 **Q. Is your supplemental rebuttal testimony focused on any particular area?**

2 A. Yes. I will be addressing and explaining billing-related issues raised by AUF's
3 customers at the customer service hearings. It is my understanding that Preston
4 Luitweiler will be providing supplemental testimony to address and explain
5 environmental and operational issues, and Troy Rendell will address and explain
6 rate making issues that were raised by customers.

7

8 **Greenacres Service Hearing**

9 **Q. At the service hearing in Greenacres Ms. Eleanor Cummings stated that she**
10 **did not receive a refund check related to a leak adjustment. Did AUF follow**
11 **up with Ms. Cummings on this issue?**

12 A. Yes. After the customer service meeting, the Company confirmed that Ms.
13 Cummings did receive a refund check. The Company contacted Ms. Cummings
14 and also had a field technician deliver a hard copy of the endorsed check to
15 eliminate any confusion on the matter.

16

17 **Sebring Service Hearing**

18 **Q. Were there any billing related issues raised during the Sebring customer**
19 **service hearing which AUF investigated?**

20 A. Yes. AUF's investigation shows that Ms. Mary Phillis Koloze experienced a
21 billing issue that was resolved over three years ago. More recently, Ms. Koloze
22 has contacted the Company about water usage levels. On March 31, 2011 AUF
23 tested her meter and it tested accurately. Our review also shows that the usage

1 and bill amounts appear normal based on the customer's historical consumption.
2 This customer specifically indicated that the Company's customer service
3 representative with whom she worked was very nice and very gracious. Ms.
4 Koloze also spoke at the Lakeland customer meeting.

5
6 Ms. Mattie Daniels questioned her water usage levels. After the hearing, AUF
7 representatives offered to visit with Ms. Daniels but she did not express a desire
8 for further follow up. It appears that Ms. Daniels was under the mistaken belief
9 that if there was a leak on an AUF main, her bill would go up. The Company has
10 reviewed her usage over the 12 months and her usage appears to be normal.

11
12 **Oviedo Service Hearing**

13 **Q. Were there any billing related issues raised at the Oviedo service hearing**
14 **which AUF subsequently investigated?**

15 A. Yes. Ms. Carol Lawrence discussed a number of issues, including a leak
16 adjustment. The Company's records indicate that Ms. Lawrence was provided
17 information on its leak adjustment policy. However, there are no records or
18 information which suggest that Ms. Lawrence has requested a leak adjustment, or
19 provided the necessary documentation. I have explained AUF's leak adjustment
20 policy in greater detail on page 25 of my rebuttal testimony.

21
22 Ms. Christen Castro discussed a bill that remains outstanding. Currently, Ms.
23 Castro is not an active customer of AUF and her outstanding balance has been

1 sent to collections. The Company has reviewed this account in detail over the past
2 several years and AUF representatives have personally met with Ms. Castro
3 several times to address her billing and water quality concerns. Ms. Castro filed a
4 formal complaint with the Commission on August 3, 2010 regarding a high bill
5 which she disputed. In response to the complaint, AUF reviewed the account and
6 determined that billing statements were issued on actual readings. A meter test
7 was also performed and the meter tested accurate. Total consumption was 29,200
8 gallons for the billing period in question -- July 19, 2010 to August 19, 2010. A
9 Company representative attempted to reach Ms. Castro on August 20, 2010 and
10 left a message. Ms. Castro returned the call on August 24, 2010 and she stated
11 that her pool is filled by a pump but did not elaborate if the pool had been filled or
12 refilled during the period in question. Ms. Castro stated that she has not used her
13 irrigations system; however she stated she was going to check with her husband.
14 The Commission closed the complaint on November 12, 2010.

15
16 In the fall of 2010, at the customer's request, an AUF representative again
17 reviewed this customer's usage and visited the property. The AUF representative
18 confirmed that the amount of water usage on her bill was correct. He did note,
19 and informed the customer, that one of the heads on her irrigation system was
20 leaking.

21
22 Company representatives again met with Ms. Castro to discuss her bill on May 4,
23 2011. The Company informed her that, as of the end of March 2011, the

1 customer had an outstanding water bill of \$1,259.33, since the customer had not
2 made a payment since last September 2010. The Company sent a letter to Ms.
3 Castro dated April 13, 2011 offering a leak adjustment that resulted in a reduction
4 of the customer's bill to \$1,050.80. The amount of the adjustment was calculated
5 by adjusting her usage to an average for the period of July through August 2010.

6
7 Mr. Jason Ream spoke about a billing issue that has been resolved well over two
8 years ago. The Company explained to both Mr. Ream and to Staff that his house
9 was built by Morrison Homes and the builder had applied for water service when
10 it built the homes. When the house was sold to the owner, the billing system was
11 only set up to bill for water service and not wastewater. The Company worked
12 with the customer and, as of April 2009, both water and wastewater charges were
13 corrected. Since that time, Mr. Reams' account has received actual reads and his
14 last bill for water and wastewater services was \$58.92

15
16 **Gainesville Service Hearing**

17 **Q. Did AUF look into any billing-related comments raised by customers at the**
18 **Gainesville service hearing?**

19 **A.** Yes. The Company reviewed the account of Mr. Clifton Pridgen in detail. Mr.
20 Pridgen's service had been disconnected after proper notice in July 2011 due to
21 his inability to maintain his payment arrangement. Although the customer
22 ultimately made a payment, it was made late and was not received in time to stop
23 the disconnect. Based on our review of the customer account, Mr. Pridgen had

1 been delayed in responding due to an unexpected issue with his car and was not
2 able to make the payment prior to the service being terminated. After service
3 was terminated, the customer made a payment and his service was restored but an
4 outstanding balance still remained on his account. AUF has further reviewed the
5 account and based on these specific circumstances, the Company has applied a
6 courtesy credit to his account. The Company posted a \$426.22 abatement on
7 September 26, 2011. The Company called the customer on September 13, 2011
8 to explain the issue but the call was not answered so the Company representative
9 left a message. AUF has subsequently called the customer and left messages on
10 two other occasions.

11

12 The Company has reviewed the account of Ms. Laura Denmark in detail. Ms.
13 Denmark moved to her present location from another trailer lot within the Park.
14 At the time of the move, she had a previous outstanding balance with AUF that
15 was transferred to her new account. Ms. Denmark moved into the new property
16 and called for service effective June 24, 2011. She is currently an active customer
17 with an outstanding balance. Her average usage ranges from 1,100 to 4,400
18 gallons per month. The Company has contacted Ms. Denmark to set her up on
19 payment arrangement, and has provided the customer with additional contact
20 information and phone numbers if she has further questions.

21

22 The Company has also reviewed the account of Ms. Nerilyn Evans. The customer
23 was not being charged wastewater service and thus was billed for the undercharge

1 for 12 months of service. The customers was given a payment arrangement and
2 subsequently defaulted on that payment arrangement in December 2010. In lieu of
3 disconnection, her payment arrangement was reset. The customer defaulted on
4 this second payment arrangement in March 2011. Again, in lieu of disconnection,
5 her payment arrangement was reset. The customer defaulted on this third payment
6 arrangement in July, 2011, at which time after proper notice the Company
7 disconnected service due to the default. Based on its review, the Company
8 believes the customer may not have clearly understood how to comply with the
9 payment arrangement. Following the customer service hearing, Company
10 representatives contacted Ms. Evans to re-establish a payment arrangement of
11 \$50.00 going forward and provide additional explanations.

12
13 The Company previously explained in detail Ms. Eugene Davis' account in
14 Exhibit A to AUF's Response to YES Companies, LLC D/B/A Arredondo Farms'
15 Memorandum in Opposition to Rate Increase Application. The Company's
16 actions with respect to this customer are also described in my affidavit filed
17 October 4, 2011.

18
19 The Company has reviewed Ms. Regina Lewis' account in detail and has
20 previously addressed Ms. Lewis' billing history in my affidavit filed on October
21 4, 2011.

22

1 The Company has reviewed the account of Ms. Joyce Helm in detail and has
2 previously addressed Ms. Helm's billing history in Exhibit A to Aqua Utilities
3 Florida, Inc.'s Response to YES Companies, LLC D/B/A Arredondo Farms'
4 Memorandum in Opposition to Rate Increase Application.

5
6 Mr. Earl McKeever expressed concern about water quality and about
7 consumption that took place at his property while he was away. A Company field
8 technician visited the property on September 15, 2011 and found no leaks or other
9 problems. The Company also provided a high consumption kit to the customer.
10 Upon review of this account, the customer averages approximately 5,000 gallons
11 a month with a range of approximately 3,700 gallons per month to approximately
12 5,200 per month. Mr. McKeever's July 2011 bill showed consumption at 4,700
13 gallons, his August 2011 bill showed consumption at 4,500 gallons, and his
14 September 2011 bill showed consumption at 4,000 gallons.

15
16 The Company has reviewed the account of Michelle Einmo in detail. This
17 customer had a billing issue that arose in 2007 and was already addressed in
18 AUF's last rate case in Docket No. 080121-WS. Since that time, the customer's
19 bills are correct. Ms. Einmo also expressed a concern about fluoride which is
20 addressed in Mr. Luitweiler's supplemental rebuttal testimony.

21
22
23

1 **Charles Milton**

2 The customer filed a complaint on July 7, 2011 [1017444W] concerning water
3 service that had been disconnected after proper notice on September 16, 2010, due
4 to his failure to pay. The account then was designated as "inactive." From
5 September 16, 2010 through July, 2011 there was consumption registering on the
6 meter but there was no active customer of record. Consequently, AUF turned off
7 and blocked the service with a lock. As Mr. Milton acknowledged during his
8 testimony, that the lock was taken off by an employee of YES. On July 11, 2011
9 a Company representative spoke with Mr. Milton and confirmed that the service
10 had been restored. At that time, Mr. Milton also confirmed that he was using the
11 service since the water was shut off on September 16, 2010. Therefore, AUF
12 issued Mr. Milton a bill for 298 days of service and he entered into a payment
13 arrangement for the service used during that time. A Company representative
14 spoke to Mr. Milton on October 19, 2011, and a new payment agreement was
15 established which lowered the monthly installment amount and extended the
16 agreement from 13 months to 25 months.

17

18 The Company has reviewed the account of Judy Donavin (William Wright)
19 in detail and has previously addressed Ms. Wright's billing history Exhibit A to
20 Aqua Utilities Florida, Inc.'s Response to YES Companies, LLC d/b/a Arredondo
21 Farms' Memorandum in Opposition to Rate Increase Application.

22

23

1 **Eustis Service Hearing**

2 **Q. Were there billing-related issues raised by customers at the Eustis service**
3 **hearing which AUF subsequently followed up on?**

4 A. Yes. Ms. June Longnecker, who is a resident of Scottish Highlands, testified at
5 the meeting and provided AUF with bills from four customers. The Company
6 contacted Ms. Longnecker after the service hearing and assured her that the
7 Company would review the accounts that she mentioned at the customer service
8 meetings. I've summarized the Company's review of the four accounts:

9 **1) Joseph Solien**

10 As promised, the Company contacted this customer to discuss his payment
11 arrangement and he appeared to understand the basis for and the term of the
12 payment arrangement.

13 **2) Joyce Watkins**

14 Review of Ms. Watkins' account shows that she uses a high volume of water
15 services. This customer's usage averages approximately 25,000 gallons per
16 month. After the customer meeting, the Company tested Ms. Watkins' meter and
17 it was found to be accurate. The field technician noted that this customer has
18 high usage due to heavy irrigation. The Company contacted Ms. Watkins to
19 address her concerns and discuss the results of the service order. To date, the
20 Company has left several messages for the customer which have not been
21 returned.

22

23

1 **3) Carol Clendinen**

2 Ms. Clendinen had previously complained about a high bill in June 2011. The
3 Company made a field visit to check for leaks and to verify the read on June 30,
4 2011. The Company's field notes from that visit indicate that the customer had
5 installed new sod at the property during the month in question, i.e., June 2011.
6 The Company made a subsequent field visit on July 20, 2011 to test the meter.
7 The meter tested as accurate. The customer's usage in June of 2011 was 72,000
8 gallons. Subsequent bills show consumption in July at 7,300 gallons, in August at
9 8,700 gallons, in September at 8300 gallons, and in October at 5,700 gallons.
10 Following the customer service hearing, the Company spoke with Mr. Clendinen
11 who advised that there are no further issues at this time.

12 **4) Esther Pierce**

13 The customer called about a high bill on July 26, 2011. The Company made a
14 field visit on July 29, 2011 to check for leaks and to verify the read. No problems
15 were detected. Field notes made at that time indicated that this could be possibly
16 an irrigation issue. The Company made a subsequent field visit on September 28,
17 2011 to test the meter, which tested accurate. Ms. Pierce's last three bills show
18 consumption in August at 3,000 gallons, September at 2,700 gallons and October
19 at 2,500 gallons.

20
21 The Company also investigated the comments made by David Storch. As a result
22 of the zero consumption read, Mr. Storch received but did not pay for water
23 through his irrigation meter for approximately twenty months. As Mr. Storch

1 stated at the hearing, he uses large volumes of water for irrigation
2 (20,000/month). Mr. Dortch was billed for 12 months of service even though he
3 received approximately 20 months of water at no charge. Mr. Storch is current on
4 his account and has made no calls to the Company since November of 2009.

5
6 **Lakeland Service Hearing**

7 **Q. Where there any billing-related issues raised at the Lakeland service hearing**
8 **that AUF followed up on?**

9 A. Yes. The Company reviewed the account of Clint Going who expressed concern
10 about a bill that covered 34 days of service. The Company confirmed that Mr.
11 Going did receive a bill which had 34 days of service included in the monthly
12 charge. However, upon review of this bill, it shows the volumetric charges were
13 all included in the Tier 1 consumption block. A review of the bill confirmed that
14 the customer was not charged at a higher tiered rate due to the 34 days of service
15 bill.

16
17 The Company has also reviewed the account of Ms. Linda Gadd. This customer
18 has filed three complaints with the Commission in the last 6 months. In July, 2011
19 she complained about being disconnected for non-payment. The July
20 Commission complaint has been closed without any finding of apparent violation.
21 On September 13, 2011, she complained she was entitled to a credit due to a
22 water outage that lasted from 3:00 a.m. to 11:00 a.m. on September 12, 2011. On
23 October 17, 2011, she complained about a high bill. The Company has made a

1 series of field visits to check Ms. Gadd's meter and check for leaks. In each
2 instance the meter has tested as accurate, and no leaks have been detected. To
3 further address Ms. Gadd's concerns, the Company has coordinated with
4 Commission Staff to have a Staff member present when the meter was tested on
5 November 2, 2011.

6
7 The Company has reviewed the account of Mr. Dennis Leonis who expressed
8 concern about customer service representative demeanor. The Company reviewed
9 the calls coming in to the call center regarding this account. Based on our review
10 of the calls, the Company believes the customer service representative handled the
11 call in a professional and courteous manner. On September 14, 2011, Mr. Leonis
12 sent an email to the Company stating the particular customer service
13 representative that contacted him on September 13, 2001 was very nice on the
14 phone.

15
16 Our investigation of Mr. Gordon Mehrman's account shows that he was billed for
17 an undercharge due to a zero consumption read. The bill for the undercharge
18 was properly issued for 12 months of service.

19
20 Ms. Peggy Mounts questioned the fact that she received two bills for the same
21 amount. Our investigation shows that her usage was actually the same for both
22 May and June 2011. Since then, her usage has differed, but only slightly.

23

1 Our records show that Ms. Theresa Robinson has had a 1 inch meter since she
2 moved into her home in 2004. In April of 2011, Ms. Robinson requested that her
3 meter be downsized from a 1 inch meter to a 5/8 inch meter. The Company
4 complied with her request and, consistent with its policy, did not charge her for
5 the downsize. Company representatives spoke with Ms. Robinson at the service
6 hearing and confirmed that her meter measured 5/8 x 3/4 inches, which is the
7 smallest size available for customers.

8

9 **Q. Does this conclude your testimony?**

10 A. Yes.

11

12

13

14

15

16

17

18

19

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21

22

1 BY MR. MAY:

2 Q. Ms. Chambers, have you attached Exhibit
3 SC-6 to your ratemaking?

4 A. Yes, I have.

5 Q. Do you have any exhibits to your Supplemental
6 Rebuttal Testimony?

7 A. No, I do not.

8 Q. Do you have any corrections or revisions to
9 the exhibit to your rebuttal testimony?

10 A. No, I do not.

11 Q. Have you prepared a very brief summary of your
12 Rebuttal and Supplemental Testimony?

13 A. Yes, I have.

14 Q. Would you please provide that summary now?

15 A. Yes, I will.

16 Good afternoon, Chairman and Commissioners. I
17 appreciate the opportunity to be here again today. I am
18 Susan Chambers, and I am Aqua America's national
19 customer service manager. As I have stated previously,
20 I have been with the company for 24 years, and this is
21 the second time I have testified.

22 My Rebuttal testimony addresses Mr. Poucher's
23 claim that AUF's Phase II Monitoring Plan is irrelevant.
24 The seven reports supplied through the monitoring -- the
25 Phase II Monitoring Plan are AUF's key performance

1 indicators for our call center meter and billing
2 operations. These reports were agreed to by the OPC and
3 AUF, were specifically approved by the Commission, and
4 are very relevant in this proceeding. My testimony also
5 shows that AUF has proactively adopted these performance
6 measures to improve quality, even though it is not
7 required to do so by the Commission.

8 My rebuttal testimony demonstrates that OPC's
9 witnesses have virtually ignored the fact that the
10 volume of complaints filed against AUF has fallen
11 dramatically since the last rate case. Furthermore, my
12 testimony demonstrates that Mr. Poucher wrongly assumes
13 that any calls coming into AUF's call center is a
14 customer complaint. The sound recordings of the calls,
15 which staff closely monitors, demonstrates that this is
16 not the case. The Commission has already recognized
17 that the vast majority of the calls coming into AUF's
18 call centers are not complaints. Instead, those calls
19 involve routine day-to-day issues such as move in and
20 move outs, payment questions, and requests to verify
21 account balances.

22 My testimony also demonstrates that there is
23 no epidemic of back-billing in AUF's systems, and
24 back-billing has not risen to some unacceptable level.
25 My testimony shows that for the period January 2009

1 through March 2011 only 0.07 percent of the bills issued
2 by AUF could be considered a back-bill. That is less
3 than one-tenth of one percent.

4 My testimony shows that back-billing is not
5 rampant. It also shows that the company has implemented
6 a number of proactive measures designed specifically to
7 minimize the occurrence of back-billing. My testimony
8 also demonstrates that the company continues to work
9 with its customers, particularly with YES Communities
10 and customers in Arredondo Farms to address billing
11 issues associated with the high volume of move-in and
12 move-outs in that neighborhood.

13 Finally, in accordance with the past
14 Commission practice, the company has followed up on
15 several of the issues raised by customers during the
16 customer service hearing. My supplemental rebuttal
17 testimony addresses and explains billing-related issues
18 raised at the service hearings.

19 That concludes my summary. Thank you.

20 **MR. MAY:** We would tender Ms. Chambers for
21 cross-examination.

22 **CHAIRMAN GRAHAM:** Ms. Chambers, welcome back.

23 OPC.

24 **MS. CHRISTENSEN:** Yes. We have one exhibit to
25 pass out.

CROSS EXAMINATION

1
2 **BY MS. CHRISTENSEN:**

3 Q. Okay. Let me direct you to Page 26 of your
4 testimony, Lines 16 through 22.

5 A. My rebuttal?

6 Q. Rebuttal Testimony.

7 A. Okay. Line 22?

8 Q. No, Lines 16 through 22.

9 A. Okay.

10 Q. And isn't it correct in that portion of your
11 testimony you contend that Ms. Dismukes was wrong in her
12 citations to other states essentially saying that you
13 were not required or did not have any customer service
14 problems in other states. Am I stating that correctly?

15 A. That is correct.

16 Q. Okay. Let me change -- put your attention to
17 the exhibit that we handed out.

18 **MS. CHRISTENSEN:** And I would ask to have that
19 marked for identification as 351.

20 **CHAIRMAN GRAHAM:** So marked.

21 **MS. CHRISTENSEN:** Quality of service orders.

22 (Exhibit Number 351 marked for
23 identification.)

24 **BY MS. CHRISTENSEN:**

25 Q. Let's turn to the first page of that. That is

1 Page 22 of the New York rate case order issued in 2010,
2 is that correct?

3 A. That is correct.

4 Q. And if you read down to the yellow highlighted
5 portion of that order, isn't it also correct that that
6 portion states that New York was adopting the first
7 customer service incentive mechanism for a regulated
8 water utilities in New York, is that not correct?

9 A. That is correct.

10 Q. Okay. And then on the second page of that
11 order, is it also correct that the order states the
12 terms of the mechanism that help ensure the company will
13 have an incentive to pay close attention to its service
14 quality, correct?

15 A. Right. This was adopted as a result of a
16 settlement of a rate case, I believe.

17 Q. Okay. Well, let's turn to the next page which
18 is an Indiana order dated 2011. Do you see that?

19 A. Yes.

20 Q. Okay. And isn't it correct that the
21 highlighted portion in this order states that in light
22 of the numerous water quality complaints expressed by
23 customers, the petitioner should continue to file
24 quarterly reports on those complaints?

25 A. I don't see that. What page is it?

1 Q. It's Page 30, and it is three pages in the
2 exhibit including the cover sheet. It's in Paragraph
3 Number 13.

4 A. Yes, I see that.

5 Q. Okay. And would you agree it says that Aqua
6 should continue to file quarterly reports because of the
7 complaints it receives from its customers?

8 A. Yes, I see that.

9 Q. Okay. Now, let's take a look at the following
10 page. Skip over another page where we go to a page that
11 has at the bottom of it Number 5, and I'm looking
12 specifically at Paragraph Number 21. And this is --

13 **MR. MAY:** Mr. Chairman, I want to ask for some
14 clarification. The previous two cases that Ms.
15 Christensen was referring to are provided along with a
16 citation that we could reference those cases. I see no
17 citation to this, and I see no indication of which order
18 number or when it was issued. So if we could have some
19 clarification on that, it would be helpful.

20 **MS. CHRISTENSEN:** Well, I am certainly happy
21 to provide that. I think these are the orders that are
22 referred to in Ms. Dismuke's testimony, but I can
23 provide the citation. Just give me an opportunity to go
24 back and look for it later. But if I could just finish
25 up my questioning on these few pages, I'd be happy to do

1 that.

2 CHAIRMAN GRAHAM: Continue.

3 MS. CHRISTENSEN: Okay.

4 BY MS. CHRISTENSEN:

5 Q. Looking at the yellow highlighted portion of
6 this order, it talks about the company will initiate a
7 task force to address timely meter reading within a 26
8 to 35-day window per Missouri regulations, is that
9 correct?

10 A. That's what this states, yes.

11 Q. And that the company will provide quarterly
12 reports on the number of reads outside the 26 to 35-day
13 window for the next 18 months with a goal of reducing
14 its estimated reads and its prorationing of bills, is
15 that correct?

16 A. That is correct.

17 Q. Okay. Now, let's move to the final pages of
18 this exhibit. This also is a Virginia Public Commission
19 order from 2010, correct?

20 A. I don't see the date on here.

21 Q. On the top it says 2010.

22 A. Okay.

23 Q. Okay. Now, looking at Paragraph Number 10,
24 the highlighted paragraph, would you agree it says Aqua
25 Virginia within 60 days of the date of this order shall

1 file a detailed report of actions taken with regard to
2 customer complaints with the Division of Energy
3 Regulation?

4 A. I would agree that is what it states.

5 Q. And let me just go back to clarify on the
6 Missouri case. That was Case Number WR-2008-0266,
7 Missouri, order issued 8/28/08.

8 CHAIRMAN GRAHAM: I'm sorry, WR-208-66 --and
9 what came after that?

10 MS. CHRISTENSEN: WR-2008-0266, and it is
11 Missouri, and the order was issued on August 28th, 2008.

12 CHAIRMAN GRAHAM: Thank you.

13 BY MS. CHRISTENSEN:

14 Q. And I just have a few more questions. Let's
15 go to your Supplemental Rebuttal Testimony.

16 A. Okay.

17 Q. Pages 6 through 10. You are discussing the
18 Gainesville customer testimony, is that correct?

19 A. That is correct.

20 Q. And the second customer you address is Ms.
21 Denmark, is that correct?

22 A. That is correct.

23 Q. And you recall her testimony that the customer
24 service was very rude and nasty, correct?

25 A. That is correct.

1 Q. Did you follow up on these comments? Did you
2 take a listen to any tapes of any calls from her?

3 A. Yes, I did.

4 Q. Okay. And when was that?

5 A. Well, originally I listened to the calls right
6 after the hearing, and I want to say last week -- no,
7 I'm sorry, I believe it was this weekend I followed up
8 and listened to the calls, as well. In fact, I even
9 have my notes regarding the calls.

10 Q. Is this from Ms. Denmark or is this
11 generically?

12 A. No, I listened to 15 of the calls, in fact, in
13 Gainesville that -- of all the customers that reported
14 that the CSRs were rude.

15 Q. Did that include Ms. Denmark? I just wanted
16 to make sure.

17 A. I'm looking at my notes right now.

18 Q. Okay.

19 A. I did not listen to her call. I don't have
20 her noted as being rude. Wait, let me look one other
21 place. Yes, I did not listen to her call. I don't know
22 what the date of it was.

23 Q. Okay. And I think Ms. Evans also on Page 7 of
24 your testimony, Line 22, complained about rude customer
25 service. Did you listen to her call?

1 A. Yes, I did.

2 Q. Okay.

3 A. In fact, I listened to several of her calls.
4 I listened to six of her calls.

5 Q. Okay. Now, you did listen --

6 A. So I can speak on those particular calls. I
7 believe that there was one call that I would say that
8 the CSR was not as helpful as they could have been, but
9 all of the other calls, they were not rude in any way.
10 And actually not only did I listen to the calls, but I
11 had two supervisors and one other manager listen to each
12 one of these 15 calls that I listened to.

13 Q. Well, let me make sure I understand. From
14 Ms. Evans you had said that you listened to all of her
15 calls, and at least one of the calls you said that the
16 CSR was not as helpful?

17 A. I would deem it as being not as helpful, but I
18 would not deem it as being rude. And certainly not any
19 of the others calls were in any way rude, either.

20 Q. Okay. Let me turn your attention to the New
21 Port Richey service hearing. It appears that you did
22 not address any of those customers' complaints in your
23 testimony, is that correct?

24 A. No, I did not.

25 **MS. CHRISTENSEN:** Okay. All right. I have no

1 further questions.

2 **CHAIRMAN GRAHAM:** Ms. Bradley.

3 **MS. BRADLEY:** Thank you.

4 **CROSS EXAMINATION**

5 **BY MS. BRADLEY:**

6 Q. Ms. Chambers, let me ask you to look at Page 9
7 of your rebuttal testimony, Line 1. You make reference
8 there to a well-orchestrated effort by OPC, YES, Pasco
9 County, and other nonparty special interest groups to
10 encourage customers to complain against AUF, correct?

11 A. Page 9 of my --

12 Q. Rebuttal.

13 A. I'm sorry, I was on my supplement. Yes, I see
14 that.

15 Q. You indicated you were at least at some of the
16 customer service hearings, were you not?

17 A. No, I was not.

18 **MR. MAY:** Can you point --

19 **THE WITNESS:** And I believe that --

20 **MR. MAY:** Excuse me, Ms. Chambers.

21 **CHAIRMAN GRAHAM:** Hold on, hold on, hold on.

22 **MR. MAY:** I would like to ask counsel to point
23 to the testimony, where in Page 9 in her testimony she
24 said that.

25 **MS. BRADLEY:** Line 1.

1 **MR. MAY:** Very good. Thank you.

2 **THE WITNESS:** I don't believe that was me. It
3 is Mr. Stan Szczygiel.

4 **MS. BRADLEY:** I'm sorry.

5 **BY MS. BRADLEY:**

6 **Q.** Did you review the transcripts?

7 **A.** I reviewed the transcripts.

8 **Q.** Isn't it not true that your Public Counsel,
9 Mr. Kelly, at all the service hearings asked people to
10 tell them their experience even if it was a good
11 experience with Aqua?

12 **A.** Yes.

13 **Q.** That's not -- that doesn't sound like an
14 encouragement to complain, does it?

15 **A.** No, I wouldn't say that was an encouragement
16 to complain.

17 **Q.** Thank you. Let's look at the -- you talked
18 about the complaints and you did not think the
19 complaints were rude, the customer service
20 representatives were rude.

21 **A.** No, I listened to the calls and I did not --
22 not only did I not think that they were rude, but many
23 of the calls the customers were thanking the CSRs at the
24 end of the conversation. So I don't know how that could
25 have been deemed rude when a customer said to a CSR

1 thank you and have a nice day.

2 Q. Do you think some people routinely say that
3 when they're talking to people?

4 A. No, I generally don't think that, no. I think
5 that if somebody is rude, you normally don't hang up the
6 phone and wish them a happy day.

7 Q. You are not aware of that being done in the
8 south?

9 A. I'm not, no. I'm not, I'm sorry.

10 Q. Okay. Let me ask you to --

11 (Laughter.)

12 **BY MS. BRADLEY:**

13 Q. Do you think it's possible that -- would you
14 agree that it is harder for people that work with
15 someone to be objective about how they come across more
16 so than a third party that is not familiar with that
17 person?

18 A. Well, that is why I had four people review the
19 calls. I didn't want to -- I didn't want to just go by
20 my judgment. That's why I had a group of people to get
21 different inputs from different people.

22 Q. And who did those persons work for?

23 A. Two of them were supervisors that were not
24 directly related to the CSR, and another manager, and
25 also not only did the ACO group listen to these calls,

1 but these also were listened to by the local office.

2 Q. So those were all employees of Aqua?

3 A. They are all employees of Aqua, yes.

4 Q. Have of you ever -- I mean, you have had
5 complaints during both of the rate cases about customer
6 service, have you not?

7 A. Yes.

8 Q. Have you tried to have third-party verifiers
9 to come in unannounced and listen to some of the calls
10 to see how a third person that is not employed by Aqua
11 would respond to that?

12 MR. MAY: Excuse me, I think the record is
13 already clear that the company has provided countless
14 tapes to the Commission, and to Ms. Bradley, and access
15 to the OPC. I think that has already been established.

16 MS. BRADLEY: That wasn't my question.

17 CHAIRMAN GRAHAM: Go ahead and repeat your
18 question.

19 MS. BRADLEY: Thank you.

20 BY MS. BRADLEY:

21 Q. Have you ever had third-party verifiers, used
22 third-party verifiers that are unannounced and not
23 affiliated with the company to listen to the calls to
24 see what they thought?

25 A. No, we haven't, but we did give our calls over

1 to the OPC as well as the staff to be reviewed during
2 the Phase I monitoring.

3 Q. But you haven't used third-party verifiers?

4 A. We have not used a third-party vendor to
5 listen to our calls regarding -- no, we have not used a
6 third-party vendor to listen in on our calls.

7 Q. Would you agree that that is sometimes a good
8 idea just to get an objective opinion and try to address
9 a problem before it gets out of control?

10 A. I guess that is a concept.

11 MS. BRADLEY: Thank you. I don't think I have
12 anything further.

13 CHAIRMAN GRAHAM: Thank you. Mr. Richards.

14 MR. RICHARDS: No questions.

15 CHAIRMAN GRAHAM: YES.

16 CROSS EXAMINATION

17 BY MR. McBRIDE:

18 Q. Good evening, Ms. Chambers.

19 You testified last week that you had no reason
20 to doubt that the customer testimony at the customer
21 service hearings was sincere. Do you recall testifying?

22 A. I do recall testifying to that, yes.

23 Q. So do you or do you not believe that customer
24 testimony about rude customer service experiences is
25 sincere?

1 A. Can you repeat the question?

2 Q. Do you or do you not believe that the
3 customers, for example, in Gainesville who testified
4 that the customer service representatives were rude to
5 them, do you or do you not believe that that testimony
6 was sincere?

7 A. Well, I listened to the calls that I had
8 available regarding some of the customers that said they
9 were rude, and when I listened to the calls I did not
10 feel that they were rude.

11 Q. You used the term cherry-picking in your
12 testimony.

13 A. Yes.

14 Q. Could you give a definition of cherry-picking?

15 A. I would say looking for the one that you want
16 to look at, I guess. I don't know. Or it's picking a
17 cherry off a tree, I don't know.

18 (Laughter.)

19 Q. That's right.

20 You state on Page 8 of your Rebuttal Testimony
21 that there was a 19 percent decrease in the number of
22 Commission complaints over the last couple of years,
23 isn't that correct?

24 A. That's correct.

25 Q. You did not mention that between the 2008 rate

1 increase and the 2011 rate increase there was an
2 increase from nine customers in Gainesville to 40
3 customers who testified at the Gainesville customer
4 service hearing, which is over a 400 percent increase,
5 is that correct?

6 A. That's correct.

7 Q. Is that cherry-picking?

8 A. It's just a statement.

9 Q. You also used the term cherry-picking against
10 YES Communities' Witness Kim Kurz on Page 22 of your
11 rebuttal testimony, isn't that correct? Line 11,
12 beginning on Line 11?

13 A. Yes, I did.

14 Q. Is it not true that you go on to state that
15 Ms. Kurz lists only 13 customer bills out of a purported
16 12,300 bills, is that correct?

17 A. That is correct.

18 Q. Did you review Ms. Kurz' testimony before
19 filing this Rebuttal Testimony?

20 A. Yes, I did.

21 Q. Subject to check, would you agree that Ms.
22 Kurz actually listed the experiences of over 40
23 customers of AUF who resided at Arredondo Farms?

24 A. I guess, subject to check.

25 Q. In the Direct Testimony of Kim Kurz that was

1 filed in this action. Okay.

2 One of those customers, Will Conrad, who
3 resides at Lot 151 in Arredondo Farms, testified that he
4 sometimes doesn't get his monthly bill each month, and
5 then a double bill will come the next month. Did you
6 happen to review Mr. Conrad's testimony as reflected in
7 Ms. Kurz' Direct testimony?

8 A. No, I did not.

9 Q. Subject to check, you didn't respond or rebut
10 Mr. Conrad's testimony, did you?

11 A. No, I did not.

12 Q. Are you in a position now to dispute
13 Mr. Conrad's testimony?

14 A. No, I'm not.

15 Q. Also reflected in Ms. Kurz' testimony and
16 reflected in the Gainesville hearing is the testimony of
17 James Bowers at Lot 23 in Arredondo Farms, who testified
18 that his water was shut off when he got behind on his
19 bill. He was not offered a payment plan by AUF, and
20 that he actually had to go two months filling up buckets
21 of water from a neighbor's home just to provide his
22 daily water needs. Did you happen to review his
23 testimony from the Gainesville transcript?

24 A. I did not. But our practice would be not to
25 offer payment arrangements if the water is already off

1 unless a portion -- oh, you said no payment was -- no
2 payment arrangement was offered at all, I'm sorry?

3 Q. That is what he testified to at the
4 Gainesville hearing.

5 A. Okay. And I did not investigate that, so I
6 can't respond.

7 Q. He even stated that this shouldn't a rate
8 increase hearing, this should be a rate reduction
9 hearing. As the manager of customer service for Aqua
10 Utilities, do you think that is relevant to your
11 testimony in this proceeding? Do you believe you should
12 have responded to his testimony?

13 A. Well, I believe that I did review a lot of the
14 customers' complaints and did investigate and did
15 respond in my subrebuttal (sic) testimony.

16 Q. Why were some cherries picked and some
17 cherries were left on the tree? Why were only some
18 customers responded to?

19 A. I think that I did respond to quite a few
20 accounts. I think that I responded to the -- I didn't
21 respond to every single customer account, but I did look
22 at a large sample of those accounts, and I did
23 investigate them, and I did respond to them.

24 Q. Customer Khanh-Hung Chu residing at Arredondo
25 Farms testified that he had a billing issue and he

1 contacted AUF by certified mail twice and by e-mail and
2 was ignored. He testified at the Gainesville hearing.
3 Do you believe that that is a customer service issue
4 that should be addressed in this case?

5 A. Can you repeat the question?

6 Q. Yes. Testimony of Mr. Chu residing at
7 Arredondo Farms, and a citation to that is Page 103 of
8 the Gainesville hearing transcript, that he had bill
9 disputes with AUF, and he contacted Aqua by e-mail as
10 well as certified mail and he was ignored. Is that
11 something -- is that the sort of customer service that
12 AUF customarily provides to its customers?

13 A. No, it's not.

14 Q. But you didn't respond to Mr. Chu?

15 A. No, I did not.

16 Q. So you are in no position to dispute it?

17 A. No, I'm not.

18 Q. I'm not going to go through all the other
19 examples of testimony from the Gainesville hearing and
20 from Ms. Kurz' testimony that wasn't responded to; there
21 were many, many more. I asked you last week why you
22 didn't attend the Gainesville hearing or the customer
23 service hearings. The Commissioners attended; your
24 counsel attended. Do you believe you will attend these
25 hearings in the future?

1 **A.** I believe I testified last week that I did not
2 attend the hearings because the management staff in
3 Florida attended those hearings, and our customer
4 service representative, which would be Stacy Barnes,
5 attended those hearings.

6 **MR. McBRIDE:** I have no further questions.

7 **CHAIRMAN GRAHAM:** Staff.

8 **MR. JAEGER:** Yes, Chairman, I have just a few.

9 We passed out an affidavit of Susan Chambers
10 dated October 4th, 2011. I would like to have that
11 marked as Exhibit 352, and that would be affidavit of
12 Susan Chambers, October 4th, 2011.

13 (Exhibit Number 352 marked for
14 identification.)

15 **CROSS EXAMINATION**

16 **BY MR. JAEGER:**

17 **Q.** Ms. Chambers, do you have your Supplemental
18 Rebuttal Testimony handy?

19 **A.** Yes, I do.

20 **Q.** Could you turn to Page 8?

21 **A.** Okay.

22 **Q.** Down around Lines 15 through about 21 you are
23 responding to Eugene Davis' account and Regina Lewis'
24 account.

25 **A.** Yes.

1 Q. And you refer to an affidavit filed on
2 October 4th, 2011, is that correct?

3 A. That is correct.

4 Q. And would you look at that exhibit that I just
5 gave you. It's 352. And I put the cover sheet, it's
6 the Aqua Utilities and Verified Response to Motion for
7 Investigation, but what I'm wanting to do is for you to
8 go back to the actual affidavit. Could you look that
9 over real quick?

10 A. I have the affidavit.

11 Q. Does that appear to be your response? Is that
12 the affidavit that you referred to in your testimony on
13 Page 8?

14 A. Yes, it is.

15 Q. And is that affidavit still correct?

16 A. That is correct.

17 Q. I think you were listening in for Earl
18 Poucher's deposition? Do you remember his deposition?

19 A. Yes.

20 Q. And I think he said that being 90 seconds on a
21 -- waiting on a telephone can be like an eternity. Do
22 you remember that testimony?

23 A. Yes, I do.

24 Q. And I believe your goal is to have 80 percent
25 of all calls answered in 90 seconds, is that correct?

1 A. That is correct.

2 Q. And I think Mr. Poucher was wanting you to go
3 to something more stringent or a lot quicker, like 60
4 seconds and 80 percent of your calls. And he didn't say
5 this, but if the goal was to have all -- 80 percent of
6 calls answered in 60 seconds, do you know how many more
7 CSRs you would have to hire?

8 A. I do not, no, but we would definitely have to
9 hire more CSRs.

10 Q. But you don't know how many?

11 A. I don't know how many.

12 Q. How about lines, dedicated lines, would you
13 need more lines, also?

14 A. We most likely would have to increase our
15 dedicated lines, as well. And we would have to staff
16 for, you know, our peak times, which would be Mondays
17 and Tuesdays.

18 **MR. JAEGER:** Staff has no further questions.

19 **CHAIRMAN GRAHAM:** Commissioners?

20 Commissioner Brown.

21 **COMMISSIONER BROWN:** Thank you, Mr. Chairman.

22 I have just one question regarding Aqua's payment
23 arrangement policy. Do you have a formal policy in
24 place?

25 **THE WITNESS:** Yes, we do.

1 **COMMISSIONER BROWN:** Can you elaborate on what
2 that is?

3 **THE WITNESS:** Well, if it is -- of course, if
4 it's a back-bill, we offer payment arrangements. We
5 notify the customers on their bill that they can call in
6 for a payment arrangement. And then if it is -- either
7 a back-bill or a long bill, and then the customer can
8 pay that bill over the entire time it took us to correct
9 the situation. For a customer who is about to get shut
10 off and they want to call up and make payment
11 arrangements, because we put on all our notices, our
12 collection notices that the customers have an
13 opportunity to call up and set up a payment arrangement.
14 And in that case normally we ask for between 25 and
15 50 percent up front, and then the balance is paid back
16 through normally three months, but sometimes it gets
17 extended. You know, it's really, you know, on a
18 case-by-case basis.

19 **COMMISSIONER BROWN:** And I noticed in your
20 rebuttal testimony that Aqua extended it a few times for
21 several customers. Is there a limit on how many times
22 it could be extended for a customer?

23 **THE WITNESS:** We will allow a customer who has
24 never defaulted on a payment arrangement to continue
25 constantly and get new payment arrangements, but the

1 company's policy is that once you default on two payment
2 arrangements we don't extend it unless there is
3 extenuating circumstances, something changes, and then
4 we may.

5 **COMMISSIONER BROWN:** Does the customer have to
6 prove that there are other hardships?

7 **THE WITNESS:** I think they just have to
8 communicate those hardships.

9 **COMMISSIONER BROWN:** And is it to a collection
10 agency or is it to Aqua directly?

11 **THE WITNESS:** No, it is to Aqua. They would
12 call up through the call center and set up another
13 payment arrangement.

14 **COMMISSIONER BROWN:** Okay. Thank you.

15 **CHAIRMAN GRAHAM:** Ms. Chambers, how long have
16 you worked for Aqua?

17 **THE WITNESS:** 24 years.

18 **CHAIRMAN GRAHAM:** 24 years?

19 **THE WITNESS:** 24 years. In January it will be
20 25.

21 **CHAIRMAN GRAHAM:** Do they give you a pen or a
22 gold watch or --

23 **THE WITNESS:** They make you work harder.

24 **CHAIRMAN GRAHAM:** In your 25 years, you have
25 worked on and off with the Florida Public Service

1 Commission, I take it?

2 **THE WITNESS:** Yes.

3 **CHAIRMAN GRAHAM:** Talking directly to staff?

4 **THE WITNESS:** I have talked to staff a few
5 times, but not a lot, no.

6 **CHAIRMAN GRAHAM:** What is your interaction
7 with the Public Service Commission?

8 **THE WITNESS:** I found them to be very helpful,
9 and I really think that they are very, very knowledgable
10 and they are a good resource.

11 **CHAIRMAN GRAHAM:** Did you find them as being
12 objective and unbiased?

13 **THE WITNESS:** Yes.

14 **CHAIRMAN GRAHAM:** So if you needed to find an
15 objective unbiased third party, would that not be the
16 Public Service Commission?

17 **THE WITNESS:** I would think it would be.

18 **CHAIRMAN GRAHAM:** Another question I had. You
19 were asked a question about customers that came and
20 complained at the service hearings. Were you familiar,
21 or did you hear, or did you read the testimony of what
22 your president said at the beginning of those meetings?

23 **THE WITNESS:** I did read the testimony, yes,
24 and what they said at the beginning.

25 **CHAIRMAN GRAHAM:** My understanding, subject to

1 verification, was that he said that he had managers
2 there and he had customer service people there. That he
3 would be there after the meeting to address any specific
4 questions that anybody had and to address specific
5 concerns.

6 **THE WITNESS:** That's correct.

7 **CHAIRMAN GRAHAM:** Okay. I just wanted to make
8 sure that that was clear.

9 Commissioner Balbis.

10 **COMMISSIONER BALBIS:** Thank you, Mr. Chairman.
11 I just have one question concerning back-billing.

12 How does the company deal with the tiered rate
13 block structures when you have a back-bill? Does that
14 kick them into the higher rate or do you take that into
15 account or how do you deal with that?

16 **THE WITNESS:** No, we don't. What happens is
17 if we don't -- if we are back-billing a customer, say,
18 for three months, then when we issue that bill we
19 calculate a daily average. So the tiered rates actually
20 really represent the entire -- I don't know how to say
21 this correctly, but you calculate the bill based on a
22 daily average. So that monthly tiered rate, if you are
23 back-billing somebody for 90 days, it's a 90-day rate
24 period. So a customer just because they use a lot of
25 water, it is still spread over the entire period of time

1 that the back-bill is for.

2 **COMMISSIONER BALBIS:** Okay. And I guess I
3 have another question, then. You mentioned that
4 Ms. Stacy Barnes attended the customer service --

5 **THE WITNESS:** Mr. Stacy Barnes, yes.

6 **COMMISSIONER BALBIS:** Mister, I'm sorry. I
7 assumed it was a Ms., so that is my mistake. And you
8 mentioned that Mr. Barnes was at the meeting, and so the
9 decision to formally respond or follow up to a customer
10 that complained at the customer service meeting, was
11 that made by Mr. Barnes, or does he just then report to
12 you we have received these complaints for you to follow
13 up?

14 **THE WITNESS:** Well, it was a whole group of
15 individuals that attended the hearings, and it was a
16 whole group, like a task force that reviewed all of the
17 complaints at the hearings and did all the follow up.
18 And I was involved. And just like I listened to all of
19 those calls, if any customer had called or had stated,
20 I'm sorry, that they were rude, the CSR was rude at the
21 meetings, not only did I listen to the calls, but Stacy
22 did, too. All the calls were pulled and listened to.
23 So it was a group effort.

24 **COMMISSIONER BALBIS:** Then I'm confused.

25 **THE WITNESS:** Okay. Maybe I didn't answer the

1 question. I'm sorry.

2 **COMMISSIONER BALBIS:** No, I think you did, but
3 you just stated that the customers that complained that
4 the CSRs were rude, you did listen to those calls to
5 confirm or deny that they were?

6 **THE WITNESS:** Yes. Yes. And if you look at
7 the transcripts, the customers that complained that the
8 CSRs were rude only happened in two areas, and it was
9 Gainesville and the other one was one customer in
10 Lakeland, and we went back and we listened to those
11 calls.

12 **COMMISSIONER BALBIS:** And your assessment or
13 analysis of those calls, is that included anywhere in
14 your testimony or in this docket?

15 **THE WITNESS:** No, it's not.

16 **COMMISSIONER BALBIS:** Okay. So you are
17 testifying here today that you listened to those calls
18 and in your opinion the CSRs were not rude.

19 **THE WITNESS:** Yes. There was one CSR I would
20 state that wasn't as helpful as they should have been or
21 could have been, but we pulled every call that we had
22 recently for those customers. There was one customer
23 who stated that the CSRs were rude, and he hadn't called
24 into our call center since I believe it was 2009, and he
25 did call -- it was either 2008 or 2009, and he actually

1 called about an address change.

2 **COMMISSIONER BALBIS:** Okay. Well, thank you
3 for stating that. I think that is an important fact
4 that we need to consider. So thank you.

5 **CHAIRMAN GRAHAM:** Ms. Chambers, I think maybe
6 I missed something. It was my understanding that you
7 listened to a -- you didn't listen to everybody that
8 complained that somebody was rude, that you just did a
9 selection or a random pick of the people. You listened
10 to every --

11 **THE WITNESS:** No, I listened to -- all of the
12 customers that said a CSR was rude, we went and pulled
13 those calls. And as long as the call -- we had the
14 calls from the last three months, so if they called into
15 the call center recently we were able to pull the calls
16 and we were able to listen to those calls. There were
17 customers that stated in the transcript that they were
18 rude, but they hadn't called into the call center for
19 years.

20 **CHAIRMAN GRAHAM:** Now, was that done just
21 recently?

22 **THE WITNESS:** That was the -- the pulling of
23 the calls to listen to anybody who said a CSR was rude
24 happened immediately as the hearings were going on. And
25 I originally listened to Gainesville because that was

1 the area that there were customers that said they were
2 rude. And I wrote my notes, and I didn't find, other
3 than as I stated before I thought that there was one CSR
4 that wasn't helpful. But Stacy was also -- Mr. Barnes
5 was also told to listen to any call where a CSR -- a
6 customer had complained that a CSR was rude.

7 **CHAIRMAN GRAHAM:** But there was one, I
8 believe, OPC, Ms. Christensen asked you about two. The
9 first one, you did not pull that one or you could not
10 find it?

11 **THE WITNESS:** I could not find it. So I am
12 assuming one of two things, either they had called a
13 long time ago and we didn't have the call, because I
14 listened to anyone that we were able to retrieve the
15 actual call for.

16 **CHAIRMAN GRAHAM:** Okay. Commissioner Brisé.

17 **COMMISSIONER BRISÉ:** Thank you, Mr. Chairman.
18 I have a couple of questions. How does Florida compare
19 to other states with respect to customer complaints
20 through your various customer service centers?

21 **THE WITNESS:** I think we have -- in Florida
22 there is a higher volume of complaints than our other
23 states.

24 **COMMISSIONER BRISÉ:** What would you attribute
25 that to?

1 **THE WITNESS:** That's a good question. Well, I
2 think there's more water quality challenges in Florida
3 than in our other states, so I think that that probably
4 plays a factor.

5 **COMMISSIONER BRISÉ:** Okay. With the notion of
6 the interaction between the customer service
7 representative and the customer, on the calls that you
8 listened to, considering that there may be a water
9 quality issue, may or may not be a water quality issue
10 that exists, do you think that there is a sense of
11 frustration both on the customer side and on the
12 customer service representative that creates a situation
13 that the dialogue may not be as it would be in the other
14 areas that you cover?

15 **THE WITNESS:** Well, if you listened to these
16 particular calls, a lot of them were around collection
17 calls, so they were actually customers that were getting
18 shut off, or were about to be shut off, or they were
19 calling up because their payment changes defaulted. So,
20 you know, I'm sure that played a factor into the type of
21 call it was, as well.

22 **COMMISSIONER BRISÉ:** Okay. I'm just trying
23 to, I guess, paint a picture in my head. So if I'm in
24 New York or Virginia and I may not have the same
25 quality -- water quality issues, and I have a

1 collections issue, I guess my internal water temperature
2 may not be as high as someone who may be in Florida who
3 arguably, as we read and saw at the various hearings,
4 may feel that they have to purchase water to drink
5 versus using the water in the system. So, therefore, I
6 may project that onto the customer service
7 representative. I want to know did you perceive that
8 that was reciprocated to a certain degree?

9 **THE WITNESS:** Yes.

10 **COMMISSIONER BRISÉ:** Okay. And that's all I
11 wanted to know. Thank you.

12 **CHAIRMAN GRAHAM:** Redirect.

13 **MR. MAY:** Mr. Chairman and Commissioners,
14 there was series of questions posed by Mr. McBride
15 regarding some testimony in the Gainesville Service
16 Hearing, and with permission I would like to provide
17 Ms. Chambers with a transcript, a portion of the
18 transcript of that testimony, because I don't think she
19 had it at the time of the questioning. I wanted to
20 follow up on a couple of issues that Mr. McBride raised.

21 The other thing, I would ask permission to
22 provide Ms. Chambers when she is talking about the
23 quality of the call centers and the efforts to improve
24 quality, I would like to provide her with a copy of the
25 exhibit offered by OPC this morning. It's Exhibit

1 Number 329. It is the call center metrics for
2 Connecticut Power and Light, and I would like to ask her
3 a couple of questions about that.

4 **CHAIRMAN GRAHAM:** I'm about ready to take a
5 break. I have it being about five minutes to 6:00.
6 Let's take about a ten minute break until five after
7 6:00. That will give you time for the witness to read
8 that stuff over so she will be ready to answer the
9 questions. Let's take a recess.

10 (Recess.)

11 **CHAIRMAN GRAHAM:** Okay. My ten-minute clock
12 says ten minutes.

13 Mr. May, you are on redirect of Ms. Chambers.

14 **MR. MAY:** Thank you, Mr. Chairman.

15 **BY MR. MAY:**

16 Q. Ms. Chambers, during the break have you had a
17 chance to review the testimony of Mr. Chu and the
18 testimony of Mr. Conrad that Mr. McBride made reference
19 to in his cross-examination?

20 A. Yes, I have.

21 Q. And Mr. Conrad's testimony at the Gainesville
22 Service Hearing is set forth on Pages 125 and 126 of the
23 transcript, correct?

24 A. Yes.

25 Q. After reviewing the transcript, what was the

1 nature of Mr. Conrad's concern?

2 A. It was a water quality issue, and he also
3 stated that he sometimes gets two bills in one month.

4 Q. Is it foreseeable for a customer to get two
5 bills in one month?

6 A. Yes, it is possible for a customer to get two
7 bills in one month, so I wouldn't have questioned it.

8 Q. Can you please explain to the Commission how
9 it is foreseeable that a customer could get two bills in
10 one month?

11 **MR. McBRIDE:** I would only object to the
12 extent that we are saying two bills in one month, when
13 the transcript reads a two-month bill, which appears to
14 have a different meaning.

15 **CHAIRMAN GRAHAM:** Duly noted.

16 Mr. May, would you repeat the question.

17 **MR. MAY:** Sure. I gave her my copy of the
18 transcript, so it take me one second to pull it up.

19 **BY MR. MAY:**

20 Q. Mr. Conrad said, "Sometimes we don't get a
21 bill at the end of the month, then we will get a
22 two-month bill." So I guess my question to you is can
23 you explain how a customer could get two bills in one
24 month?

25 **MR. McBRIDE:** Again, I would object to the

1 extent that it's not clear that that is what Mr. Conrad
2 was testifying to. Rather, a bill that would expand for
3 more than one month, but would actually cover two months
4 at a time. That's what it appears to read to me.

5 **THE WITNESS:** Well, I guess this is how I
6 would answer that question. It's possible to get two
7 normal bills in the same month, if that is what he is
8 referring to, or it is possible to get a 60-day bill, a
9 two-month bill, which would be incorporated in my number
10 of customers that were back-billed, so it would be in
11 that .07 population.

12 **BY MR. MAY:**

13 Q. If Mr. McBride is correct and this is what
14 Mr. Conrad intended to say, that he got a bill for two
15 months, would that be considered a long bill under AUF's
16 billing system?

17 A. That would be considered a long bill, and it
18 would incorporate a long bill message, and it would also
19 allow the customer to call up and enter into payment
20 arrangements because it is longer than a normal monthly
21 bill.

22 Q. Thank you, ma'am.

23 On Page 120 -- I think it's 121 of the
24 testimony, of the transcript, have you had a chance to
25 review the transcript for Mr. Chu's testimony?

1 A. Yes, I have.

2 Q. Was Mr. Chu's concern about an estimated bill
3 in 2007?

4 A. Yes, it was.

5 Q. Was that concern prior to the last rate case
6 of AUF?

7 A. Yes, it was.

8 Q. What were some of the concerns that Mr. Chu
9 raised at the Gainesville hearing reflecting back to the
10 2007 incident?

11 A. It was regarding estimated bills.

12 Q. And subsequent to 2007, what has the company
13 done to address estimated bill issues?

14 A. They installed new meters and new ERTs and we
15 drastically reduced our estimation rate, and we do not
16 believe we have an estimation problem currently.

17 Q. Thank you, Ms. Chambers.

18 I would now like to refer you to OPC's Exhibit
19 329. It's the call center statistics for the
20 Connecticut Power and Light company. Do you have that
21 before you?

22 A. Yes, I do.

23 **MS. CHRISTENSEN:** I am going to object to
24 questioning on the Connecticut Electric call center
25 metrics. It is beyond the scope of anybody's

1 cross-examination.

2 **MR. MAY:** I think the questions during
3 cross-examination addressed the ability of the company
4 to properly handle calls coming into the call center.
5 There were a series of questions from the Commissioners
6 on this, and I'm following up on an exhibit that was
7 offered into evidence by the Office of Public Counsel
8 which had call center statistics for an electric utility
9 in Connecticut.

10 **MS. CHRISTENSEN:** All right. For
11 clarification, the Office of Public Counsel did not
12 offer it into evidence. Staff offered it in; it was
13 part of a late-filed deposition exhibit that was
14 requested by staff in Ms. Dismukes' deposition. And she
15 also testified that she did not recommend that as a
16 metrics to be used for a standardized -- to be judged
17 against AUF. But I don't recall -- I mean, I do recall
18 questions about how AUF responds to calls, but I think
19 questioning her on Connecticut Electric's metrics is
20 beyond the scope of any cross that was conducted.

21 **CHAIRMAN GRAHAM:** I do recall questioning on
22 other commission's ruling on how they treated and other
23 states treated Aqua Utility.

24 **MS. CHRISTENSEN:** That was regarding
25 monitoring plans, not call center matrixes. Just for

1 clarity, we did ask -- that had to do with whether or
2 not there were similar type monitoring plans in other
3 states regarding customer service, but not specifically
4 relating to call center metrics data.

5 **MR. MAY:** Mr. Chairman, just to follow-up, I
6 think Mr. Jaeger asked specifically about call waiting
7 time and whether 90 seconds was a long time to wait.

8 **CHAIRMAN GRAHAM:** That's correct. Continue.

9 **BY MR. MAY:**

10 Q. Ms. Chambers, do you have what has been marked
11 as Exhibit 329 before you?

12 A. Yes, I do.

13 Q. According to this statistic, what was the
14 Connecticut Power and Light average speed of answer in
15 2008?

16 A. 100 seconds.

17 Q. What is Aqua's average speed of answer?

18 A. For 2011, it's 41 seconds.

19 Q. What was Connecticut Power and Light's average
20 speed of answer for 2009?

21 A. 180.9 seconds.

22 Q. And what is Aqua's --

23 A. I'm not sure if that is 180 or 160.

24 Q. Okay. Again, what is Aqua's average speed of
25 answer?

1 A. 41 seconds.

2 Q. According to this statistic, has the average
3 speed of answer increased for Connecticut Power and
4 Light between 2008 and 2009?

5 A. Yes, it has.

6 Q. For 2008, what is the call-abandonment rate
7 for Connecticut Power and Light?

8 A. I think it's 19.1.

9 Q. What is the call abandonment rate for Aqua's
10 call centers?

11 A. For 2011, it is 3.6.

12 Q. For 2009, what was the call-abandonment rate
13 for Connecticut Power and Light?

14 A. 26.2.

15 Q. And, again, what is the call-abandonment rate
16 for 2011 for Aqua?

17 A. 3.6.

18 **MR. MAY:** No further questions.

19 **CHAIRMAN GRAHAM:** What exhibits do we have to
20 put in the record?

21 **MR. JAEGER:** Chairman, staff would move 352.
22 Also, we had 303 and 304 presented by Aqua, and we would
23 move those two exhibits. That was at our request. And
24 I think Ms. Chambers' was -- 351 was her exhibit, it was
25 SC-6, is that right? I'm sorry, SC-6 is 223.

1 **MR. McBRIDE:** If I may, Chairman. YES has no
2 objection to those exhibits, except the exhibit
3 referring to the affidavit of Susan Chambers. We will
4 agree to allow that in so long as the verified rebuttal
5 that was filed by YES Communities was also allowed in.

6 **CHAIRMAN GRAHAM:** Which exhibit is that?

7 **MR. McBRIDE:** The verified rebuttal is not an
8 exhibit in this case, but it has been filed in this
9 docket.

10 **CHAIRMAN GRAHAM:** So you are now objecting to
11 one of the exhibits?

12 **MR. McBRIDE:** We are only objecting for the
13 affidavit of Ms. Chambers to come in without the
14 verified rebuttal that is directly related to the
15 affidavit.

16 **MR. JAEGER:** We only offered the affidavit
17 because it was referred to in her testimony, and that
18 was all. We wanted -- you know, it was nowhere else
19 admitted. Now, there was a motion, and then I think
20 this was -- let me get the exhibit. This started out
21 with YES's motion for investigation and entry of cease
22 and desist order and entry of order to show cause filed
23 by YES. And then Aqua responded to that motion, and
24 then YES did a verified rebuttal of that. We were not
25 putting in either their motion, Aqua's response, or

1 their rebuttal. We just wanted a complete record
2 because she referred to the affidavit. So there is
3 actually three documents in this whole series involving
4 the motion for investigation entry of cease and desist
5 order. And staff, we didn't think they were needed, and
6 all we were wanting was the affidavit. But we will not
7 object to that if all the others parties -- and you're
8 just wanting the --

9 **MR. McBRIDE:** That's correct, Mr. Jaeger. We
10 are not asking for the motion, we are only asking for
11 the verified rebuttal because it responds to it, and it
12 is also under oath filed in this case, and it's directly
13 on point to the affidavit of Ms. Chambers. And we think
14 that for competition purposes, it should also be
15 allowed.

16 **MR. JAEGER:** Staff does not object to that.

17 **MS. CHRISTENSEN:** No objection.

18 **MS. BRADLEY:** No objection.

19 **MR. RICHARDS:** No objection.

20 **MR. MAY:** I'm a little unclear as to this.
21 Apparently the verified rebuttal was filed in this
22 docket. I thought that there was a motion to strike
23 that.

24 **MR. JAEGER:** It was deemed moot because we
25 denied the motion without having to review the order.

1 It came out on the same day the verified rebuttal was
2 filed, and so your motion to strike was deemed moot
3 since we denied the motion for investigation.

4 **MR. MAY:** We don't have any problem with
5 putting it in.

6 **CHAIRMAN GRAHAM:** Okay. So was that all three
7 documents that Mr. Jaeger spoke of?

8 **MR. JAEGER:** I think all we are putting in is
9 the verified rebuttal, unless Mr. May wants anything
10 more.

11 **MR. MAY:** That's all that I thought we were
12 talking about.

13 **MR. JAEGER:** So that would just be the third
14 document. It would be the affidavit that we have here
15 and the third document which is their verified rebuttal.

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

17 **CHAIRMAN GRAHAM:** Okay.

18 (Exhibit Numbers 303 and 304 admitted into the
19 record.)

20 **MR. MAY:** Aqua would like to move Exhibit
21 SC-6, which is designated as Hearing Exhibit 223, which
22 is Ms. Chambers' exhibit to her Rebuttal Testimony.

23 **CHAIRMAN GRAHAM:** Okay.

24 (Exhibit Number 223 admitted into the record.)

25 **MS. CHRISTENSEN:** And the Office of Public

1 Counsel would move 351, which is the quality of service
2 order.

3 **CHAIRMAN GRAHAM:** Okay.

4 (Exhibit Number 351 admitted into the record.)

5 **CHAIRMAN GRAHAM:** Is that all the exhibits for
6 this witness?

7 Thank you, Ms. Chambers.

8 **MR. MAY:** Mr. Chairman, as a housekeeping
9 item, I think that -- are we still going to try to
10 address 303 and 304?

11 **CHAIRMAN GRAHAM:** We put 303 and 304 into the
12 record.

13 **MR. MAY:** I think they were just passed out.

14 **MR. JAEGER:** I moved them. I said move 303
15 and 304.

16 **MR. MAY:** Okay. I stand corrected. I
17 apologize.

18 **MR. JAEGER:** And so I heard that they were
19 moved.

20 **CHAIRMAN GRAHAM:** Mr. May.

21 **MR. MAY:** One other housekeeping item. I
22 think Mr. Richards and I talked about an agreement to
23 you let ours in, we'll let yours in. I guess that's the
24 way I would describe it. But we have those documents
25 copied now, and we would ask that they be identified.

1 **CHAIRMAN GRAHAM:** Okay.

2 **MR. MAY:** I think there was a placeholder for
3 this exhibit.

4 **CHAIRMAN GRAHAM:** 350.

5 **MR. MAY:** 350, yes, sir.

6 **CHAIRMAN GRAHAM:** Pasco's Responses to AUF's
7 First Request?

8 **MR. MAY:** That is correct.

9 **CHAIRMAN GRAHAM:** Mr. Richards, you're fine
10 with this?

11 **MR. RICHARDS:** Yes, that is pursuant to our
12 agreement.

13 **CHAIRMAN GRAHAM:** Seeing no other objection,
14 we will move 350 into the record.

15 (Exhibit Number 350 admitted into the record.)

16 **MR. MAY:** Chairman, if I could take two
17 minutes and grab my notebooks, and we will have our last
18 witness.

19 **CHAIRMAN GRAHAM:** Sure.

20 **MS. BENNETT:** Mr. Chairman, as a housekeeping
21 matter, Mr. Jaeger just reminded me we haven't moved the
22 Comprehensive Exhibit List into the record, that would
23 be Exhibit Number 1. We would ask that that be moved
24 into the record at this point.

25 **CHAIRMAN GRAHAM:** I thought we moved that in

1 the first day.

2 **MR. JAEGER:** We identified it, but I don't
3 think we moved it.

4 **CHAIRMAN GRAHAM:** Let's show it moved into the
5 record. We'll move it.

6 **MR. MAY:** Aqua Utilities would call its next
7 rebuttal witness, last rebuttal witness, Mr. Troy
8 Rendell to the stand.

9 **WILLIAM TROY RENDELL**

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

13 **DIRECT EXAMINATION**

14 **BY MR. MAY:**

15 **Q.** Good afternoon, Mr. Rendell.

16 **A.** Good evening, Mr. May.

17 **Q.** Have you previously been sworn in this
18 proceeding?

19 **A.** I have.

20 **Q.** Would you please state, again, your name and
21 business address, just for the record?

22 **A.** My name is Troy Rendell. My business address
23 is 222A Capital Circle Northeast, Tallahassee, Florida
24 32308.

25 **Q.** Did you prepare and cause to be filed 17 pages

1 of Rebuttal Testimony and 19 pages of Supplemental
2 Rebuttal Testimony in this proceeding?

3 A. I have.

4 Q. Do you have that Rebuttal Testimony and
5 Supplemental Rebuttal Testimony before you today?

6 A. I do.

7 Q. Do you have any revisions to your Rebuttal or
8 Supplemental Testimony?

9 A. I do not.

10 Q. If I were to ask you the questions that are
11 contained in your Rebuttal and your Supplemental
12 Rebuttal Testimony today, would your answers be the
13 same?

14 A. Yes, they would.

15 MR. MAY: Mr. Chairman, Aqua would ask that
16 the Rebuttal and Supplemental Rebuttal Testimony of Mr.
17 Rendell be entered into the record as though read.

18 CHAIRMAN GRAHAM: We will enter the Rebuttal
19 and the Supplemental Rebuttal into the record.
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AQUA UTILITIES FLORIDA, INC.

REBUTTAL TESTIMONY OF WILLIAM TROY RENDELL

DOCKET NO. 100330-WS

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Q. What is your name and business address:

A. My name is Troy Rendell. My business address is 2228 Capital Circle NE, Suite 2A, Tallahassee, Florida, 32308.

Q. Have you previously submitted testimony in this proceeding?

A. Yes. I filed direct testimony on August 10, 2011 in this rate case and sponsored Exhibits TR-1, TR-2, and TR-3.

Q. What is the purpose of your rebuttal testimony?

A. The purpose of my rebuttal testimony is to respond to portions of the direct testimony of Office of Public Counsel ("OPC") witnesses Andrew Woodcock, Denise Vandiver, Earl Poucher.

Q. Are you sponsoring or co-sponsoring any portions of AUF's MFRs in this rate case?

A. Yes. I am sponsoring or co-sponsoring the following MFR schedules: A-5; A-6; A-9; A-10; B-1; B-2; B-3; B-13; B-14; D-1; E-1w; E-1s; and F-1 through F-10.

Testimony of OPC Witness Woodcock

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

A. Yes. I am sponsoring Exhibits TR-4 through TR-6.

1 **Q. Have you reviewed OPC Witness Woodcock's direct testimony and exhibits**
2 **regarding Used and Useful ("U&U") issues in this rate case?**

3 A. Yes.

4

5 **Q. Have you prepared an exhibit to compare Mr. Woodcock's recommended U&U**
6 **percentages to the U&U percentages you provide in your direct testimony?**

7 A. Yes. I have prepared Exhibit TR-4, which is attached to my rebuttal testimony.

8

9 **Q. Please describe your Exhibit TR-4.**

10 A. Exhibit TR-4 essentially replicates my Exhibit TR-3, but adds a new column—Column
11 "H"—which identifies the U&U percentages with what OPC now proposes through Mr.
12 Woodcock's testimony. For those systems where Mr. Woodcock and I differ on U&U, my
13 exhibit sets forth both Mr. Woodcock's and my U&U percentages. Although AUF
14 calculated and presented U&U percentages in its MFRs which differ from the U&U
15 percentages ultimately approved by the Commission in its PAA Order, I am in agreement
16 with the U&U percentages set forth in the PAA Order.

17

18 **Q. Please summarize your positions with respect to Mr. Woodcock's testimony.**

19 A. The primary purpose of Mr. Woodcock's testimony is to address the percentages of
20 AUF's water and wastewater utility plant that are used and useful in providing services to
21 existing customers, with the statutory growth allowance. Mr. Woodcock disagrees with a
22 number of the U&U percentages set forth in the Commission's PAA Order. However,
23 parts of Mr. Woodcock's testimony show that, now that he has analyzed the systems, he
24 actually agrees with certain U&U percentages in the PAA Order, even though OPC

1 protested those issues. Those systems with which Mr. Woodcock now agrees are:
2 Fairways water treatment system (100%); Arredondo Farms water distribution system
3 (88%); Fairways water distribution system (100%); Lake Josephine / Sebring Lakes
4 water distribution system (55%); Tomoka water distribution system (100%); Valencia
5 Terrace water distributions system (100%); Zephyr Shores water distribution system
6 (100%); Florida Central Commerce Park wastewater collection system (100%); and
7 Zephyr Shores wastewater collection system (100%).
8

9 I have no qualms with those portions of Mr. Woodcock's testimony where he now agrees
10 to the U&U calculations in PAA Order. However, I have serious problems with Mr.
11 Woodcock's efforts to have the Commission cast aside the well-reasoned U&U
12 percentages set forth in the PAA Order. The U&U percentages in the PAA Order are
13 based upon the Commission's existing rules and long-standing precedent. My rebuttal
14 shows that Mr. Woodcock is attempting, as he did in the Company's prior rate case, to
15 circumvent the Commission's U&U rules and have the Commission ignore long-standing
16 precedent.
17

18 **Q. Why is it important for the Commission to honor precedent in rate cases?**

19 A. Electric, gas, water and wastewater utilities all have capital intensive operations that
20 require substantial investment in plant infrastructure. How that investment will be treated
21 by the regulators is an important issue for all regulated utilities. Prudent utility
22 management requires that this regulatory risk be thoroughly reviewed and assessed prior
23 to any investment being made. The only real tools that a utility has to assess regulatory
24 risks are (i) the applicable utility laws and rules and (ii) court cases and published

1 regulatory decisions that interpret and implement those laws and rules. In assessing
2 regulatory risks prior to making investments, utilities expect “regulatory certainty”, and
3 will look closely at whether the regulatory body will consistently implement and enforce
4 its regulations and honor past regulatory precedent.

5
6 **Q. Have the courts in Florida acknowledged the importance of regulatory certainty?**

7 A. Yes. Florida courts have consistently recognized the importance of regulatory certainty,
8 particularly in the area of U&U determinations. The Florida First District Court of
9 Appeal has been quick to reverse Commission decisions which attempted to alter
10 established methodologies for calculating U&U percentages without bona fide
11 evidentiary justification. *See S. States Utils. v. Fla. Pub. Serv. Comm'n*, 714 So. 2d 1046,
12 1051 (Fla. 1st DCA 1998). In that case, the court specifically noted that the Commission
13 had not adhered “to its prior practices in calculating used and useful percentages” and
14 overturned the Commission’s decision because it “relied on a new method to determine
15 the used and useful percentages of wastewater treatment plants, without adequate
16 evidentiary support.”¹ *See also Fla. Cities Water Co. v. State, Pub. Serv. Comm'n*, 705
17 So. 2d 620 (Fla. 1st DCA 1998) (reversing a Commission decision which attempted to
18 alter its prior published regulatory philosophy on U&U calculations).

19
20 **Q. Mr. Frank Seidman has presented rebuttal testimony regarding Mr. Woodcock’s**
21 **disagreement with the Commission’s U&U Rules. Have you reviewed that**

¹ Because of the Commission’s erroneous decision, the court (and later the Commission) recognized that SSU had been deprived of its right to recover its appropriate revenue requirement and, thus, should be made whole through the collection of a surcharge to recover the revenue deficiency. After the court overturned the Commission, SSU agreed to a settlement that allowed it to recover the revenue deficiency through a regulatory asset, in lieu of implementing a surcharge. This regulatory asset still exists today, and is part of AUF’s revenue requirement.

1 **testimony?**

2 A. Yes.

3

4 **Q. Do you agree with Mr. Seidman's testimony?**

5 A. Yes, I do. Mr. Seidman correctly points out that Mr. Woodcock offers opposition to,
6 rather than application of, the Commission's U&U Rules. Mr. Seidman addresses many
7 of those areas where Mr. Woodcock advocates a radical departure from past precedent.

8

9 **Q. Does Mr. Woodcock offer any justification for setting aside the Commission's U&U
10 determinations in the PAA Order?**

11 A. No, not in my opinion. The U&U percentages in the PAA Order are appropriately based
12 on Commission Staff's thorough review of the utility's water and wastewater plant in
13 service, and the application of long-standing Commission precedent and methodologies
14 for determining U&U. Mr. Woodcock has offered no legitimate basis for setting aside the
15 U&U determinations in the PAA Order, or past Commission precedent. Instead, he
16 simply repeats and reargues regulatory philosophies that he has urged the Commission to
17 adopt in the past, and which the Commission has rejected. Many of those failed
18 arguments are discussed and rebutted in Mr. Seidman's testimony, and I will not reiterate
19 Mr. Seidman's concerns except to say that I agree with Mr. Seidman. I do however want
20 to discuss Mr. Woodcock's attempts to have the Commission abandon its long-standing
21 policy and practice of (i) recognizing fire flow to calculate U&U, (ii) calculating U&U
22 percentages for built-out systems, and (iii) calculating U&U percentages for "one-well"
23 systems.

24 **Q. Please address Mr. Woodcock's recommendation concerning fire flow?**

1 A. On page 18 of his testimony, Mr. Woodcock argues that the Commission should not
2 include fire flow in making U&U calculations. This is the same argument that Mr.
3 Woodcock presented in the last rate case and was expressly rejected in Order No. PSC-
4 09-0385-FOF-WS as follows:

5 Rule 25-30.4325(1)(c), F.A.C., provides that where fire flow is provided, a
6 minimum of either the fire flow required by the local governmental
7 authority or two hours at 500 gallons per minute should be included in the
8 U&U calculation. In addition, we have consistently included fire flow in
9 the U&U calculation over OPC's objections in prior cases, even when
10 there are few hydrants in the service area. (See Order No. PSC-96-1320-
11 FOF-WS[], issued October 30, 1996, in which we found that, while we do
12 not test fire hydrants or require proof that hydrants are functional or
13 capable of the flows requested, an investment in plant should be allowed;
14 and Order No. PSC-03-1440-FOF-WS, issued December 22, 2003, which
15 also supports the position that fire flow should be included)[.] We believe
16 that Rule 25-30.4325(1)(c), F.A.C., and our policy are clear that fire flow
17 shall be included in the U&U calculation when fire protection is available
18 in the service territory.

19 Mr. Woodcock's refusal to even acknowledge the Commission's Rules, as well as the
20 prior Order for this utility, and honor this precedent is not only wrong, but also it requires
21 the parties to re-litigate settled issues which ultimately drives up rate case expense.

22
23 **Q. Did Mr. Woodcock make this same argument concerning fire flow during the**
24 **Commission's proceeding where the U&U rule was adopted?**

25 A. Yes. Mr. Woodcock's testimony simply recites the same arguments concerning fire flow
26 that he made in Docket No. 070183-WS--the rulemaking proceeding for water system
27 U&U. In its recommendation dated March 27, 2008, Commission Staff reviewed Mr.
28 Woodcock's testimony filed in that docket and on page 11 rejected his arguments
29 concerning fire flow—the same arguments he makes in this case. The Commission
30 approved Staff's recommendation in that docket and ultimately the water system U&U

1 rule—Rule 25-30.4325. I have attached Staff’s recommendation to my testimony as
2 Exhibit TR-5.

3
4 Notably, OPC did not and has not challenged the Commission’s decision in Docket No.
5 070183-WS to adopt the U&U rule. Thus, it is disconcerting to have OPC now sponsor
6 an expert witness to make the same arguments about fire flow that it made and was
7 rejected by the Commission in the rulemaking proceeding. OPC’s and Mr. Woodcock’s
8 insistence on re-litigating settled issues has unnecessarily driven up rate case expense.

9
10 **Q. Do you agree with Mr. Woodcock concerning built out older systems?**

11 A. No. The arguments Mr. Woodcock makes in this case regarding built-out older
12 systems are the same arguments he made in AUF’s last case and in the Commission’s
13 U&U rulemaking proceeding in Docket No. 070183-WS. In both instances, his
14 arguments were rejected.

15
16 Staff’s recommendation in the U&U rulemaking proceeding specifically analyzed Mr.
17 Woodcock’s “built-system” argument, which he regurgitates in this case. That
18 recommendation, which the Commission approved, stated:

19 The Commission has consistently found that systems with one well and
20 systems that are built out with no apparent potential for expansion are
21 100% used and useful unless it appears that the system was not
22 prudently designed.^[2] These systems, and there are hundreds of them in

²See, e.g., *In re: Application for rate increase and increase in service availability charges by Southern States Utilities, Inc. for Orange-Osceola Utilities, Inc. in Osceola County, and in Bradford, Brevard, Charlotte, Citrus, Clay, Collier, Duval, Highlands, Lake, Lee, Marion, Martin, Nassau, Orange, Osceola, Pasco, Putnam, Seminole, St. Johns, St. Lucie, Volusia, and Washington Counties*, Docket No. 950495-WS, Order No. PSC-96-1320-FOF-WS, at 57-58 (Oct. 30, 1996) (finding that in systems with only one component (such as a single well), that component is considered 100 percent used and useful), *rev'd on other grounds, S. States Utils. v. Fla. Pub. Serv. Comm'n*, 714 So. 2d 1046 (Fla. 1st DCA 1998); see also, e.g., *In Re: Application for rate increase in Marion, Orange, Pasco, Pinellas, and Seminole Counties by Utilities, Inc. of Florida*, Docket No. 020071-WS, Order No. PSC-03-1440-

1 Florida, are typically built by developers to serve a relatively small area.
2 Staff believes that it is not efficient to require a sophisticated used and
3 useful analysis to ascertain whether these types of systems are oversized
4 for the developments they are designed to serve. Rather, a used and useful
5 analysis should only be performed as an alternative when there is evidence
6 indicating that the system may be oversized.
7

8 Mr. Woodcock makes no showing that the AUF systems were imprudently designed or
9 oversized. He actually acknowledges that the vintage of these systems are quite old and
10 were designed and built numerous years ago. Indeed, the majority of these systems were
11 built in the 1960s, 1970s, and 1980s. Thus, the original plants have been mostly
12 depreciated using the Commission's depreciation rule. Therefore, the new plant
13 investments made by AUF were made to replace or improve and upgrade existing plant
14 used to provide service to existing customers. I believe that any new investment made
15 for the improvement of service to existing customers should all be considered 100
16 percent used and useful.
17

18 **Q. Do you have system-specific concerns regarding Mr. Woodcock's U&U**
19 **recommendations?**

20 **A.** Yes. My specific concerns relate to Mr. Woodcock's recommendations for: the East Lake
21 Harris/Friendly Center water system; the Zephyr Shores water system; the Hobby Hills
22 water system; the Lake Josephine/Sebring Lakes water systems; and, the Breeze Hill
23 water and wastewater system.
24

FOF-WS, at 44 (Dec. 22, 2003) (finding that it "is not unreasonable or unusual for th[e] Commission to consider distribution and collection systems that are 80% or more built out to be 100% used and useful in instances where there is virtually no growth potential and the existing lines are the minimum size needed to serve the existing customers").

1 **Q. What are your specific concerns regarding Mr. Woodcock's U&U recommendations**
2 **for the East Lake Harris/Friendly Center?**

3 A. Mr. Woodcock argues that in addressing whether a system is built out the Commission
4 must distinguish between the "design service area" and the "certificated" service area.
5 His argument ignores the Commission's long-standing policy on U&U calculations for
6 older built-out systems.

7
8 East Lake Harris is a system formerly owned by Southern States Utilities ("SSU"). I
9 reviewed Order No. PSC-96-1320-FOF-WS, issued on October 30, 1996, in SSU's last
10 rate case before the Commission. In that Order, the Commission found the East Lake
11 Harris system to be 100 percent U&U. In Attachment B (p. 1,122) of that same Order,
12 the Commission found that the maximum day in 1994 was 53,200 gallons. The average
13 number of ERCs for 1997 was 198 with a projected number of ERCs for 1997 would be
14 200 connections. For the test year ending April 30, 2010 in this rate case, the number of
15 connections is still at 200 connections. Thus, 14 years after the Commission reviewed the
16 number of connections on the system, the number of connections on this system has
17 remained the same. In AUF's last rate case, the Commission again found the system to
18 be 100 percent U&U, stating that "older systems that have had growth of one percent or
19 less per year over the past five years shall be considered built out, pursuant to Rule 25-
20 30.4325(4), F.A.C." Order No. PSC-09-0385-FOF-WS (May 29, 2009). There is no
21 reason to depart from that established precedent.

22
23 **. Q. What are your concerns regarding Mr. Woodcock's U&U recommendations for the**
24 **Zephyr Shores water treatment system?**

1 A. Zephyr Shores is another system formerly owned by SSU. I reviewed Order No. PSC-
2 96-1320-FOF-WS, issued on October 30, 1996, in SSU's last rate case before the
3 Commission. In Attachment B (p. 1,130) of the Order, the Commission found that the
4 maximum day in 1994 was 121,000 gallons. The average number of ERCs for 1997 was
5 508 with a projected number of ERCs for 1997 would be 517 connections. For the test
6 year ending April 30, 2010 in this rate case, the number of connections is 501. Thus, 14
7 years after the Commission reviewed the number of connections in the system, the
8 number of connections has declined. Mr. Woodcock ignores the fact that this system is
9 built out and there is no reasonable expectation of expansion.

10

11 **Q. What are your concerns regarding Mr. Woodcock's U&U recommendations for the**
12 **Hobby Hills water system?**

13 A. Hobby Hills is another system formerly owned by SSU. I reviewed Order No. PSC-96-
14 1320-FOF-WS, issued on October 30, 1996, in SSU's last rate case before the
15 Commission. In Attachment B (p. 1,123) of the Order, the Commission found that the
16 maximum day in 1994 was 49,350 gallons. The average number of ERCs for 1997 was
17 96 with a projected number of ERCs for 1997 would be 97 connections. For the test year
18 ending April 30, 2010 in this rate case, the number of connections is still at 97
19 connections. Again, some 14 years later, the number of connections has remained the
20 same. There is no question that this system is built out, and there is no reasonable
21 expectation of expansion.

22

23 **Q. What are your concerns regarding Mr. Woodcock's U&U recommendations for the**
24 **Lake Josephine/Sebring Lakes water system?**

1 A. Mr. Woodcock claims that that AUF's project to interconnect the Lake Josephine and
2 Sebring Lakes systems represents a significant change to the systems that warrants a new
3 U&U calculation. Mr. Woodcock's argument is not credible. At the outset, it should be
4 noted, that in Order No. PSC-95-1044-FOF-WU, issued August 22, 1995, the
5 Commission found that the Lake Josephine water treatment system was 87.66 percent
6 U&U. That finding was made over 16 years ago. In the last AUF rate case, in Order No.
7 PSC-09-0385-FOF-WS, the Commission found that the Lake Josephine water treatment
8 system was 92 percent U&U. In that same Order, Sebring Lakes was found to be 45
9 percent U&U. In AUF's last rate case, it was brought to the Commission's attention that
10 the Lake Josephine and the Sebring Lakes systems were interconnected. However, the
11 interconnection valve was not opened. Subsequent to the last rate case, the
12 interconnection valve has been opened and became permanent in order to address
13 pressure concerns in one small section of the Lake Josephine system and improve the
14 reliability of service of both systems. The opening of this valve did not add any
15 additional capacity to the treatment systems. These two systems are still necessary to
16 continue to provide service to the respective service areas. Because of capacity
17 limitations, one water system cannot provide service to the entire service areas of both
18 systems. Moreover, the interconnect did not add any additional capacity to the respective
19 plants. The interconnect is not a material change in circumstances.

20
21 In the current rate case, the Commission used a weighted average calculation for the
22 appropriate U&U percentage. AUF agrees with this approach since the only change in
23 system characteristics is that the interconnect to improve service to existing customers is
24 now operational and permanent. As I have stated, this interconnect did not add any

1 additional capacity to the plants, but rather improved the reliability of service of the
2 systems. The utility should not be penalized for improving the service to its customers.
3

4 **Q. What are your concerns regarding Mr. Woodcock's U&U recommendations for the**
5 **Breeze Hill water and wastewater systems?**

6 A. Mr. Woodcock recommends a U&U percentage of 26 percent for the Breeze Hill water
7 treatment system, which is a one-well system. For the Breeze Hill water distribution
8 system, Mr. Woodcock recommends a U&U of 92 percent, for a system which is built
9 out. For the wastewater treatment plant, Mr. Woodcock is recommends a U&U of 56
10 percent, and a U&U of 100 percent for the wastewater collection system. In making
11 these U&U recommendations for Breeze Hill, Mr. Woodcock ignores several important
12 U&U findings which the Commission made for this system in Docket No. 011481-WS.
13

14 For example, in reference to the Breeze Hill water treatment system, the Commission
15 found,

16 The design criteria method of analysis represents the highest potential
17 need that may be required of a system during any given peak day. Since
18 this system has only one well, no less than the actual capacity of 200 gpm
19 could serve the existing customers.... We find it unlikely that Breeze Hill
20 Mobile Home Park . . . will ever contain 350 persons to meet the
21 requirement of Rule 62-555.315, Florida Administrative Code, for a
22 second well.
23

24 Order No. PSC-02-1114-PAA-WS.
25

26 With respect to the Breeze Hill water distribution system, the Commission found the
27 system to be 100 percent U&U noting that the existing lines were necessary to serve
28 existing customers. The Commission expressly found that the "number of customers

1 served during the test year [2001] was 117 customers A few vacant lots available for
2 growth are scattered throughout the service area rendering the water distribution system
3 fully functional just to serve the existing customers.” *Id.* It should be noted, as shown on
4 MFR Schedule F-7, that the lots fronting mains is 132, with existing test year connections
5 of 128; thus, the calculated U&U was 97 percent.

6
7 With respect to the wastewater treatment system, the Commission found that:

8 [i]n 1981, when the developer applied to the DEP with plans for Phase III
9 containing an additional 56 lots, the DEP required the developer to add
10 additional capacity to the plant. The developer added a second 20,000
11 gallon plant to operate in unison with the original plant.

12
13 Today, the block of land to the north that once served as potential
14 development has reverted back to agricultural status and the probability of
15 expanding utility plant beyond its current capacity is unlikely. This yields
16 the wastewater treatment plant valuable only to the existing subdivision
17 which is 131 lots. . . .

18 Any and all wastewater plant additions/upgrades since the last rate
19 case has been either for maintenance or compliance with regulatory
20 standards. The plant capacity remains the same. What has changed is the
21 usage patterns of the same customer base due to metered rates as opposed
22 to flat rates. The capacity of the plant is sized according to mandated
23 design criteria by the DEP which is necessary to obtain a
24 construction/operation permit for the existing development. Since the
25 purpose of the used and useful is to establish an economic association
26 between the fair share cost of plant between existing customers and future
27 customers, we find that the 56.63% used and useful determined in the last
28 rate case is reasonable and prudent, and the 56.63% used and useful
29 established in the last rate case shall be carried forward in this rate case.

30 *Id.* Mr. Woodcock offers no legitimate reason for the Commission to abandon its well-
31 reasoned U&U determinations for Breeze Hill.

32 *Testimony of OPC Witness Vandiver*

33 **Q. Do you agree with Ms. Vandiver recommendation that the Commission reject**
34 **AUF’s request to increase salaries and wages?**

1 A. No, I do not. A review of recent Commission orders reveals that the Commission has
2 routinely granted salary increases in order to enable a utility to attract and retain well
3 qualified personnel. *See In re: Application for increase in water and wastewater rates in*
4 *Marion County by Tradewinds Utilities, Inc.*, Docket No. 100127-WS, Order No. PSC-
5 11-0385-PAA-WS, at 9 (Sept. 13, 2011) (approving increase in salaries for Tradewinds
6 Utilities and stating, “in light of the economic climate in Florida and throughout the U.S.,
7 a 3-percent increase in salaries is more reasonable”); *In re: Application for increase in*
8 *water rates in Marion County by C.F.A.T. H2O, Inc.*, Docket No. 100126-WU, Order No.
9 PSC-11-0366-PAA-WU, at 7 (Aug. 31, 2011) (approving an increase in salaries for
10 C.F.A.T. H2O, Inc., and stating that, “in light of the economic climate in Florida and
11 throughout the U.S., a 3-percent increase in salaries is more reasonable”); *In re:*
12 *Application for increase in water rates in Franklin County by Water Management*
13 *Services, Inc.*, Docket No. 100104-WU, Order No. PSC-11-0010-SC-WU (Jan. 3, 2011)
14 (approving OPC’s recommendation of a 3 percent increase in salaries for Water
15 Management Services, Inc.); *In re: Application for increase in water rates in Polk*
16 *County by Park Water Company*, Docket No. 050563-WU, Order No. PSC-06-1027-
17 PAA-WU (Dec. 11, 2006) (approving a salary increase for Park Water Company based
18 on “inflation of 3% and customer growth of 2.22%. Compounding the inflation factor at
19 3% yearly since 1999, totals 19.41%. The compounded factor for the period, including
20 the customer growth factor, results in a factor of 21.63%.”). In addition, in Order No.
21 PSC-09-0385-FOF-WS, issued May 29, 2009, the Commission granted AUF a salary
22 increase based upon the increase in cost of living. Furthermore, in a recent electric utility
23 rate case the Commission also recognized the propriety of a salary increase of 2 percent
24 for management employees and 3 percent for non-management employees. *See In re:*

1 *Petition for increase in rates by Progress Energy Florida, Inc.*, Docket No. 090079-EI,
2 Order No. PSC-10-0131-FOF-EI (Mar. 5, 2010).³

3
4 Since the last case, AUF has made incremental salary increases in order to retain
5 qualified personnel, many of which have opportunities to work at local municipalities or
6 counties which have pension benefits. While the Company understands the sensitivity of
7 salary increases, I note that this is only the second base rate request the Company has
8 made since acquiring the systems in 2003 and 2004, and I do not believe it is fair for
9 AUF to be treated differently from other utilities.

10
11 *The Testimony of OPC Witness Poucher and YES Witness Shawn Harpin*

12 **Q. Have your reviewed the prefiled direct testimony of OPC witness, Earl Poucher and**
13 **YES Witness Shawn Harpin?**

14 A. Yes.

15
16 **Q. Do you agree with their claims that the deterioration of real estate and home values**
17 **is caused by AUF's water rates?**

18 A. No. Neither Mr. Poucher nor Mr. Harpin is an expert in real estate foreclosures or
19 economic forecasting, and their anecdotal claims have no merit.

20
21 **Q. Please explain.**

³ Most recently, on October 18, 2011, in Docket No. 110254-WS, the Commission approved Staff's recommendation that cited a July 2008 study by the National Regulatory Research Institute, which concluded that "competitive salary and benefits packages" are needed in order to attract and retain well-qualified utility personnel. Docket No. 110254, Oct. 7, 2011 Staff Recommendation, at 65.

1 A. In a recent meeting of the Florida Senate Judiciary Committee on October 4, 2011, there
2 was a presentation made by the Florida Legislature Office of Economic and Demographic
3 Research, which I've attached to my testimony as Exhibit TR-6. This presentation
4 demonstrates that the entire state of Florida is currently experiencing a decline in
5 property value and a very high level of home foreclosures. The presentation clearly
6 shows that the decline in the housing market is a statewide phenomenon which has
7 nothing to do with AUF's rates. The presentation actually shows that the counties in
8 Florida with the highest number of loans in foreclosure occur in Dade, Osceola and St.
9 Lucie Counties where AUF does not own or operate any water or wastewater systems.
10 There is no causal relationship with the real estate crash and AUF's rates.

11
12 Furthermore, OPC knows very well that AUF's customers are not the only individuals in
13 Florida that are experiencing declining real estate values. Commission Staff recently
14 conducted a water and wastewater workshop in Orlando, Florida, on September 29, 2011.
15 OPC and numerous other stakeholders in the water and wastewater industries attended.
16 The entire workshop was recorded and that recording can be accessed and reviewed
17 through the Commission's web site. The recording shows that at the workshop, Mr. Tim
18 Thompson, President of Marion Utilities, stated that his water system had recently lost
19 approximately 625 customers related to home foreclosures. OPC should be well aware
20 that the decline in real estate values and the associated home foreclosures are being
21 driven by issues other than AUF's rates.

22
23 **Q. Does this conclude your testimony?**

24 A. Yes.

1 AQUA UTILITIES FLORIDA, INC.

2 SUPPLEMENTAL REBUTTAL TESTIMONY OF

3 WILLIAM TROY RENDELL

4 DOCKET NO. 100330-WS

5

6 **Q. What is your name and business address:**7 A. My name is William T. ("Troy") Rendell. My business address is 2228 Capital Circle
8 NE, Suite 2A, Tallahassee, Florida, 32308.

9

10 **Q. Have you previously submitted testimony in this proceeding?**11 A. Yes. I filed direct testimony on August 10, 2011 in this rate case and sponsored Exhibits
12 TR-1, TR-2, and TR-3. I have also filed rebuttal testimony on October 27, 2011 and
13 sponsored Exhibits TR-4, TR-5, and TR-6.

14

15 **Q. What is the purpose of your supplemental rebuttal testimony?**16 A. My supplemental rebuttal testimony responds to customer comments raised at the
17 customer service hearings, and apprises the Commission and the parties of AUF's efforts
18 to address those comments where such action was appropriate.

19

20 **Q. Is your supplemental rebuttal testimony focused on any particular area?**21 A. Yes. I will be addressing issues relative to bulk water purchases, rate comparisons, base
22 facility charges and rate making that were raised at the various customer service hearings.

23

24

1 **Q. Are you submitting any exhibits to your supplemental rebuttal testimony?**

2 A. Yes. I am submitting Exhibits TR-7 through TR-11.

3

4 **Q. Did you attend the customer meetings and the service hearings held around the state**
5 **in this rate case?**

6 A. Yes. I attended every customer meeting and service hearing.

7

8 **Greenacres Service Hearing**

9 **Q. Following the Greenacres service hearing, Commissioner Balbis inquired into cost**
10 **of purchasing water from the City of Lake Worth and asked for an update on**
11 **negotiations between AUF and City. Can you please provide an update?**

12 A. Yes. On August 17, 2010, the City of Lake Worth ("City") issued Resolution No. 26-
13 2010. As a result of the City's Resolution, and without any prior notification to AUF, the
14 water charges to AUF were increased significantly, and AUF was charged under the
15 "Multi-Family" inclined consumption blocks. AUF believes that the increase in water
16 charges is inappropriate, unsupported and places an undue burden on AUF and its
17 ratepayers. AUF has met with the City officials on several occasions in a good-faith
18 attempt to address this issue.

19

20 At the first meeting, the City representative indicated that he was willing to work with
21 AUF on pursuing a revised Bulk Water Rate Agreement, but cautioned that any revised
22 agreement may subject AUF to capacity fees, which could amount to over \$1.5 million.
23 The City later delivered a sample Bulk Water Agreement which had recently been
24 approved for a nearby town and requested that AUF provide its revisions thereto in

1 writing.

2
3 AUF delivered its revised Bulk Water Agreement to the City on or around July 13, 2011.
4 As I mentioned, AUF believes that the additional capacity fees are unwarranted, and that
5 the change to the "Multi-Family" consumption blocks was in error. On September 21,
6 2011, AUF again met with the City to discuss the proposed revised Bulk Water
7 Agreement. The City reiterated its position that AUF would be responsible for capacity
8 fees to the City for any new homes or any refurbished homes since 1981. AUF stated
9 that it did not believe this burden should be placed on the existing ratepayers, and
10 explained that because Lake Osborne is a single family residential subdivision it was
11 inappropriate charge AUF under the "Multi-Family" consumption blocks. The City
12 initially indicated that AUF's position with respect to the consumption blocks may be
13 correct and requested a formal e-mail requesting to be charged under either the General
14 Service or the Residential consumption blocks. AUF immediately sent the City an e-mail
15 requesting that it be billed under the General Service or the Residential consumption
16 blocks.

17
18 **Q. What happened after AUF's second meeting with the City?**

19 **A.** Unfortunately, the City sent a subsequent e-mail on October 3, 2011, indicating that AUF
20 would not be switched to either the General Service or the Residential consumption
21 blocks. Instead, the City advised that AUF would continue to be billed at the lower
22 "Multi-Family" consumption blocks. Despite this setback, AUF continues to work on a
23 revised Bulk Water Agreement with a reduction of the capacity fees, and is seeking
24 further review from the City on the erroneous application of the "Multi-Family"

1 consumption blocks. AUF will report back to the Commission upon a final resolution, if
2 one is reached.

3
4 **New Port Richey Customer Service Hearing**

5 **Q. At the service hearing and earlier customer meeting in New Port Richey some**
6 **customers expressed their desire for AUF to sell its systems to Pasco County or the**
7 **Florida Governmental Utility Authority (“FGUA”) so that they receive the same**
8 **rates being charged by Pasco County. How do you respond to those customers?**

9 A. Unfortunately, I believe those customers are misinformed.

10
11 **Q. Please explain why you believe that the customers are misinformed regarding their**
12 **ability to receive Pasco County rates?**

13 A. First, it is important to understand that Pasco County has not offered to purchase, nor do I
14 believe that it is in a position to purchase, AUF’s systems. I note that in Mr. Jack
15 Mariano’s testimony, he only states that in 2009 he asked the FGUA to “investigate” the
16 possibility of purchasing AUF’s Pasco systems. Nowhere in Mr. Mariano’s carefully
17 crafted testimony does he state that Pasco County would be in a position to purchase
18 AUF’s systems. Second, I do not believe Pasco County is capable of acquiring water and
19 wastewater utilities itself. Instead, it has joined the FGUA for the purposes of the FGUA
20 acquiring the utilities. Third, even if FGUA were to purchase AUF’s systems, the
21 customers of that system would not be charged the Pasco County rates. Instead, those
22 customers would be subject to and charged FGUA’s rates, which are designed to cover
23 FGUA’s operating costs and bond coverage requirements.

1 **Q. What is the basis for your statement that FGUA does not charge the rates of Pasco**
2 **County?**

3 A. I have reviewed a number of instances where the FGUA has purchased previously-
4 regulated utilities operating in Pasco County and in each instance FGUA has not charged
5 the rates of Pasco County, but instead began charging the rates of the acquired utilities,
6 which in many cases are then increased to cover FGUA's operating costs and bond
7 coverage requirements.

8
9 **Q. Can you provide examples of the rates charged by FGUA after acquiring a**
10 **previously regulated utility in Pasco County?**

11 A. Yes. Through the public records process under Chapter 119, Florida Statutes, I have
12 reviewed the credit analysis of FGUA prepared by Standard & Poor's ("S&P")
13 specifically as it relates to the FGUA's purchase of the previously-regulated Lindrick
14 Service Corporation utility system.¹ I have also reviewed documents prepared by
15 FGUA's rate consultant from March 2011 to August 2011. All of that information is
16 attached to my testimony as Composite Exhibit TR-7.

17
18 The information in the exhibit shows that the Lindrick Service Corporation utility system
19 which FGUA recently purchased does not charge Pasco County rates. The S&P report
20 states that Lindrick has high water and sewer combined monthly rates due to "the rapid
21 annual rate increases needed to fund FGUA's system acquisitions and capital
22 improvements." The S&P report also indicates that the FGUA has already raised the
23 Lindrick customers' rates by 25 percent in 2010 and another 5 percent in 2011.

¹ FGUA acquired this system in 2010 as reflected in Commission Order No. PSC-10-0356-FOF-WS.

1 Furthermore, based upon reports prepared by FGUA's rate consultant, Lindrick
2 customers can expect even more rate increases in the coming years. Documents prepared
3 by the FGUA's rate consultant reflect that Lindrick customers may be facing an increase
4 ranging from 11 percent to 14 percent in 2012.

5

6 **Q. Have you reviewed other instances where FGUA acquired a previously regulated**
7 **water or wastewater utility system in Pasco County and did not charge the rates of**
8 **Pasco County?**

9 A. Yes. FGUA acquired Colonial Manor Utility Company in December 2009.² FGUA did
10 not charge Pasco County rates to customers of this utility and instead began charging the
11 rates of the acquired utility. Based upon documents prepared by FGUA's rate consultant,
12 customers in Colonial Manor are projected to face a 15 percent increase in rates in 2012.

13

14 FGUA acquired Holiday Utility Company in December 2009.³ FGUA did not charge
15 Pasco County rates to customers of this utility and instead began charging the rates of the
16 acquired utility. FGUA's rate consultant projects that customers of Holiday will be facing
17 a 15 percent increase in the year 2012.

18

19 The FGUA also acquired Dixie Grove Utility Company in 2009.⁴ Following that
20 acquisition, the FGUA did not charge the rates of Pasco County but instead began
21 charging the rates of the acquired utility. FGUA's rate consultant projects that the

² FGUA acquired this system in 2010 as reflected in Commission Order No. PSC-10-0159-FOF-WS.
³ FGUA acquired this system in 2009 as reflected in Commission Order No. PSC-10-0129-FOF-WS.
⁴ FGUA acquired this system in 2009 as reflected in Commission Order No. PSC-10-0160-FOF-WS.

1 customers in Dixie Grove will also be facing a 15 percent increase in water rates in the
2 year 2012.

3
4 In 2009, the FGUA acquired Virginia City Utility Company.⁵ The customers in Virginia
5 City also face a 15 percent increase in rates in the year 2012.

6
7 **Q. Have any of the rate increases projected by the FGUA rate consultant come to**
8 **fruition?**

9 A. Yes. As a result of a resolution passed on October 20, 2011, FGUA has increased the
10 rates of previously regulated systems in Pasco County. The new FGUA rates and charges
11 became effective on October 20, 2011 and the resulting rate increases are substantial. For
12 example, the base facility charge for Colonial Manor customers increased to \$18.17 and
13 their gallonage charges increased to \$6.62 for 0 – 10,000 gallons, and \$13.23 for over
14 10,000 gallons. The base facility charge for Holiday customers increased to \$17.78, and
15 their gallonage charges increased to \$8.94 for 0 – 8,000 gallons, \$11.17 for 8,001 --
16 15,000 gallons, and to \$13.42 for over 15,000 gallons. I have attached this resolution to
17 my testimony as TR-8.

18
19 **Q. Have the rates of the Lindrick system also increased?**

20 A. Yes they have. In addition, the FGUA has recently approved another rate increase that
21 will take effect in October 1, 2012. Specifically, in 2012, Lindrick's water base facility
22 charge will be increased to \$9.04 and the gallonage charge will be increased to \$6 per

⁵ FGUA acquired this system in 2009 as reflected in Commission Order No. PSC-10-0162-FOF-WS.

1 thousand gallons. For wastewater, the base facility charge will be increased to \$29.83 and
2 a gallonage charge of \$12.50, with a 10,000 gallon cap.

3
4 **Q. Have you prepared a chart that compares AUF's rates under the PAA Order to the**
5 **newly adopted FGUA rates for the Lindrick, Colonial Manner and Holiday**
6 **systems?**

7 A. Yes. That chart is attached as Exhibit TR-9 and shows the respective water and
8 wastewater bills at 7000 gallons of usage. Furthermore, the chart shows that the rates for
9 several of the FGUA's systems in Pasco County exceed AUF's rates under the PAA
10 Order. While I do not believe it is appropriate to use rate comparisons to set a utility's
11 rates, it is important for the customers and Commission to understand that FGUA does
12 not charge its customers in Pasco County Pasco County rates, and that in fact FGUA's
13 rates can exceed AUF's rates.

14
15 **Q. Who makes the ultimate decision as to which rates FGUA will charge?**

16 A. The FGUA rates are set by the FGUA Board.

17
18 **Q. If an FGUA customer has a complaint regarding a rate or a quality of service issue,**
19 **can the customer complain to the Commission?**

20 A. No. The FGUA is not regulated by the Commission. Any complaint regarding a rate or a
21 quality of service issue would have to be brought to the FGUA Board.

22
23 **Q. Do FGUA customers elect the FGUA Board?**

24 A. No. The FGUA board is an appointed Board.

1 **Q. Is there other information in the FGUA documents in Exhibits TR-7 and TR-8 that**
2 **is pertinent to the customer comments made at the service hearings?**

3 A. Yes. The FGUA documents indicate that FGUA is confronting many of the same
4 challenges faced by AUF and other water and wastewater utilities due to general
5 economic conditions. For example, the FGUA Revenue Sufficiency Update indicates
6 that there has been a significant decline (14.6 percent) in water consumption. This report
7 also indicates that FGUA's bad debt expense is higher than forecasted. Moreover, the
8 FGUA Strategic Plan for 2010, dated March 18, 2010, indicates that FGUA faces
9 challenges related to: "housing, credit market and general economic conditions leading to
10 foreclosures, customer losses and lower flows."

11
12 **Q. Some seasonal customers expressed concerns over paying a monthly base facility**
13 **charge when they leave Florida and return to their primary residence in other states**
14 **or countries. Can you please address those concerns?**

15
16 A. Yes. First, I would like to explain that this is the exact way that other regulated utilities,
17 the FGUA and other governmental agencies operate. All utilities have fixed costs to
18 maintain water and wastewater treatment plants and lines to ensure service is available
19 whenever you turn on a faucet. The water treatment plant and lines that bring water to a
20 customer's home must be continually maintained to ensure they function properly
21 everyday. The same is true concerning the wastewater treatment plant and lines that carry
22 sewage from customer homes. While a customer may not require service every day of the
23 year, service must be made available at the customer's demand. Most utilities, whether
24 water, electric, or natural gas, operate the same way. A bill will be issued to the

1 customer for a base charge that represents the costs necessary to maintain the system and
2 meet the obligation to provide service whenever the customer requires. This base facility
3 charge rate structure is by far the predominate rate structure approved by the Commission
4 for water and wastewater utilities. See Rule 25-30.437(6), Florida Administrative Code.

5
6 The base facility rate structure is preferred for a number of reasons. First, as I mentioned,
7 the base facility charge is founded on the concept of readiness to serve all customers
8 connected to the system. This type of structure allows each customer to pay his/her fair
9 share of the costs, regardless of whether the customer receives residential, commercial, or
10 other type of service. Second, by using the base facility charge rate structure, a utility
11 recovers its fixed costs through the base charge and its variable costs through the
12 gallonage charge. The base facility charge is applicable to all customers each month, the
13 gallonage charge is based on each customer's actual consumption during the month.
14 Consequently, customers with high consumption levels will have higher bills than
15 customers that have lower consumption levels. Finally, it is important to understand that
16 if the seasonal customers were not charged a base facility charge when they reside at their
17 primary out-of-state residence, the resulting monthly charges would have to be higher
18 when they are in Florida due to the necessity to recover the fixed charges of maintaining
19 the systems.

20
21 **Q. You mentioned that the FGUA also collects a base charge from its customers**
22 **regardless of customer usage. How did you come to this conclusion?**

23 **A.** I have reviewed a customer complaint that was filed with Pasco County, the FGUA, and
24 the Governor's Office. In this complaint, the customer disagreed with the FGUA's

1 practice of collecting an “inactive” charge from customers of the recently acquired
2 Lindrick utility system. Pasco County responded that pursuant to the County’s Rate
3 Resolution No. 2010-10, that FGUA could not waive an “activity utility account fee (a
4 base fee),” regardless of whether there is any consumption to the existing account holder
5 or property owner. The County’s letter states that the water meter must remain in the
6 ground and base charges will continue to accrue until a new tenant occupies the
7 residence. The County indicated that this “base fee” is intended to reserve water capacity
8 for the home and pays for the resident’s share of infrastructure costs. The letter also
9 stated that this policy is consistent in the utility industry and is part of the County’s bond
10 covenants. I have attached this customer complaint and response to my testimony as a
11 composite Exhibit TR-10.

12
13 **Lakeland Service Hearing**

14 **Q. Several customers at the Lakeland customer service hearing expressed concerns**
15 **regarding the rate increases for AUF’s systems in Polk County. Can you respond to**
16 **those concerns?**

17 A. Yes. First, I want to make it clear that AUF is very sensitive to rate increases and
18 continuously strives to minimize the need for rate increases by carefully controlling costs.
19 Many of the customers who spoke at the Lakeland service hearing made reference to the
20 increase in rates that resulted from AUF’s last rate case in 2008. Prior to AUF’s last rate
21 case in 2008, the Company’s systems in Polk County (Gibsonia Estates, Lake Gibson,
22 Orange Hill/Sugar Creek, Rosalie Oaks, and the Village Water) had not had a base rate
23 increase in almost 20 years. In other words, it had been several decades since true cost of
24 service rates had been established for those systems.

1

2 **Q. Does the Commission encourage water and wastewater utilities to file for increases**
3 **to cover inflationary increases in operating costs?**

4 A. Yes. Each year the Commission is required to establish a price index increase or
5 decrease for major categories of operating costs, pursuant to Section 367.081(4)(a),
6 Florida Statutes (F.S.), and Rule 25-30.420, Florida Administrative Code (F.A.C.). After
7 the establishment of the index, the Commission issues letters to all regulated water and
8 wastewater utilities explaining "The intent of this rule is to insure that inflationary
9 pressures are not detrimental to utility owners, and that any possible deflationary
10 pressures are not adverse to rate payers. By keeping up with index and pass-through
11 adjustments, utility operations can be maintained at a level sufficient to insure quality of
12 service for the rate payers." In its letter, the Commission also states, "If for no other
13 reason than to keep up with escalating costs, utilities throughout Florida should file for
14 this rate relief on an annual basis While this increase for any given year may be
15 minor. . . the long-run effect of keeping current with rising costs can be substantial."
16 (Emphasis added.)

17

18 **Q. A customer of the Lake Gibson system expressed concern regarding increased**
19 **wastewater rates. Can you address that concern?**

20 A. Yes. There are several factors relating to the increase in wastewater rates at Lake
21 Gibson. First, effective December 1, 2007, Polk County increased its wastewater rates to
22 AUF for bulk service by 76%. The purchased wastewater that AUF paid to Polk County
23 increased from \$2.62 per thousand gallons to \$4.61. This was a significant increase in
24 Operation and Maintenance expenses that was ultimately passed onto its customers.

1 Second, prior to the 2008 rate case, residential wastewater customers were previously
2 paying a flat wastewater rate of \$26.81 a month. As part of its decision in the 2008 rate
3 case, the Commission required that customers be charged a base facility/gallorage rate
4 structure beginning April 1, 2009. Under this structure Lake Gibson customers are no
5 longer charged a flat rate for wastewater service, rather they are charged based on actual
6 usage.

7
8 **Acquisitions**

9 **Q. Did customers offer comments regarding AUF's efforts to acquire other utility**
10 **systems?**

11 A. Yes. At the Lakeland service hearing, Ms. Crystal Barrett expressed concern that AUF's
12 acquisitions may cause the rates of existing customers to increase. Unfortunately, I
13 believe that she is misinformed on this issue. In two recent filings concerning AUF's
14 acquisition of Jumper Creek (Horizon Homes) in Docket No. 100114-WS and a potential
15 acquisition of Harbor Hills in Docket No. 110019-WS, AUF demonstrated that
16 acquisitions would actually lower AUF's overall cost-of-service thereby benefiting
17 existing customers by reducing their rates, not increasing them. This is logical because
18 the addition of customers allows AUF to spread its revenue requirement, including its
19 operating costs, over a larger number of customers throughout the state. The analyses
20 provided by AUF in the referenced dockets confirm that economies of scale benefits
21 multi-system utilities, such as AUF. These benefits have been previously recognized in
22 the following publications published on the Commission website: "Abandonments and
23 Receiverships in the Florida Water & Wastewater Industry" dated October 2001;
24 "Viability: Impact of the Department of Environmental Protection's Capacity

1 Development Program on the Public Service Commission and the Florida Water &
2 Wastewater Industry” also dated October 2001; and “Refocusing on the Commission’s
3 Acquisition Policy Regarding Water and Wastewater Utilities,” dated February 2001.
4

5 **Q. At the customer service hearings in Lakeland, Mr. Frank Reams raised a question**
6 **about a payment arrangement that was signed by Marge Schloegel on behalf of the**
7 **Summit Chase Homeowners Association (“HOA”). Do you know if Mr. Reams is**
8 **authorized to speak on behalf of the HOA?**

9 A. No. However, I would note that Mr. Reams is not an attorney and is not a customer of
10 AUF. I would also note that Mr. Reams made similar comments at the customer service
11 hearing in Eustis.
12

13 **Q. Who are the acting board members of the HOA?**

14 A. Marge Schloegel, Cynthia Hamlin Freeman, Alma Kandel, Pat Allcorn and Wayne
15 Hamilton.
16

17 **Q. Can you describe the circumstances surrounding AUF’s water service to this**
18 **community?**

19 A. The Summit Chase HOA is served by a bulk 6” meter that provides both residential and
20 irrigation service for the condominium common areas. Residences are individually
21 metered through meters located at the customer’s property. To obtain the appropriate
22 irrigation usage, the combined usage for the individually metered customers is deducted
23 from the total consumption registered through the bulk meter. This requires AUF to
24 manually calculate the bill for this system.

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Q. What was the reason for the original billing issue?

A. In December 2009, the Company replaced a defective bulk water meter in this system. This replacement meter was a “like for like” replacement which involved replacing the existing 6 inch meter with a new 6 inch meter. AUF did not replace a smaller meter with a larger one as suggested by Mr. Reams. The meter has always been a 6 inch meter, but had been inadvertently billed as a 2 inch meter on the HOA’s bill until the meter change-out occurred in December 2009. The original meter was buried in a meter vault, and the new meter was installed above ground to provide easier access for the meter reader and maintenance.

Q. Was there a period of time when the HOA was not charged for water consumption?

A. Yes. Except for the base facility charge, the HOA did not pay for water consumption when the old meter was stuck. The period where consumption was not billed was from November 2006 thru February 2009.

Q. What were the HOA’s initial concerns?

A. The HOA initially had concerns as to the accuracy of the calculation of the irrigation water consumption for the year 2009 and 2010, as well as concerns related to line breaks, and flushing of distribution system which occurred within the community. AUF management met extensively with the HOA representatives to address those concerns. During these meetings, AUF discussed the billing issues with the HOA and provided detailed consumption information for the years 2007 through 2010. In order to address the HOA’s concerns and to avoid protracted contention with the customer, AUF sent a letter dated September 8, 2010, which offered substantial credits to the HOA and

1 proposed a payment plan to amicably resolve the issue. The letter, which is attached as
2 Exhibit TR-11, provided in pertinent part:

3 During these meetings the Association board brought up several concerns
4 for credits due to water main breaks and three customers we were not
5 being billed and the Association was being charged for their consumption.
6 This has been corrected and the Association has been credited for main
7 breaks (399,300 gallons) and the 3 customer credits (63,504 gallons).

8 The current outstanding bill is \$44,465.44, which Aqua is willing to allow
9 the Association to pay back over a 15 month period (see attached payment
10 plan) at \$2,964.36/month. Agreeing to the payment plan the Association
11 must continue to pay the current bill.
12

13 **Q. Did the authorized HOA representative ultimately sign a payment plan?**

14 A. Yes. Ms. Schloegel, as President, signed a payment plan on behalf of the HOA. This
15 plan was entered into on October 19, 2010 after the HOA was satisfied that the
16 adjustments in consumption were made and understood AUF's explanations of the
17 consumption history. This payment arrangement covered the period of service from June
18 2009 through May 2010, and was designed to accommodate and address the HOA's
19 concerns. Since the payment plan was signed, AUF has continued to meet and
20 correspond with HOA representatives regarding consumption history, account history,
21 and implementation of the agreed upon payment arrangement.
22

23 **Q. When was the last time AUF met with the HOA?**

24 A. Specifically, on October 21, 2011, Company representatives met again with the HOA
25 board members. An AUF representative met with Marge Schloegel (Acting Association
26 President), Rick Horner (book keeper) and Wayne Hamilton (Responsible for
27 management the irrigation). Mr. Reams was not present. It was explained that Rick
28 Horner was going to now be responsible for paying the HOA water bill and he had a

1 question about the payment. Mr. Horner was the new book keeper and had a question
2 regarding the July bill. The AUF representative explained the July bill. He further
3 explained that every month the bill is manually calculated. A reading is taken from the
4 residential meters and the 6 inch meter coming into the system. The difference is the
5 irrigation bill. The group also clarified that the bill should now be sent to Mr. Horner.
6 Prior to that, the HOA instructed AUF to send the bill to Mr. Hamilton. At this meeting,
7 there was no indication the HOA was protesting the payment going forward.
8

9 **Q. Has the Summit Chase HOA been making consistent payments on its account?**

10 A. Yes it has. As of October 20, 2011, the outstanding balance is \$23,773.96. This includes
11 the outstanding balance of the payment arrangement plus the current due amount.
12

13 **Q. At the service hearing in Lakeland, Mr. Reams suggested that the Summit Chase**
14 **HOA was entitled to AUF's "private fire protection tariff rates" because 6 inch**
15 **meters serviced public fire hydrants. Do you agree?**

16 A. No. Mr. Reams is confused. Under AUF's tariff, private fire protection rates are
17 generally available for General Service customers, such as restaurants and hotels which
18 have a separate dedicated fire line connection to their business, generally for ceiling
19 sprinkler systems. This is a "stand by" charge to provide fire protection for this separate
20 dedicated line. Although there may be fire hydrants in Summit Chase, this is for public
21 fire protection – and not private. There is not a dedicated private fire protection line in
22 Summit Chase. AUF has no special rate for the public fire protection hydrants located in
23 Summit Chase.
24

1 Q. Does this conclude your testimony?

2 A. Yes.

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1 BY MR. MAY:

2 Q. Mr. Rendell, have you attached any exhibits to
3 your Rebuttal Testimony?

4 A. I have. I have Exhibits 5 and 6 to my
5 Rebuttal, and Exhibits 7 through 11 to my Supplemental
6 Rebuttal.

7 Q. Just to bring your attention, you have
8 Exhibits 4 through 6, correct?

9 A. You're correct. I wrote down wrong, 4 through
10 6.

11 Q. Okay. So you have Exhibits 4 through 6 to
12 your Rebuttal Testimony and Exhibits TR-7 through TR-11
13 to your Supplemental Rebuttal Testimony, correct?

14 A. That is correct.

15 Q. And do you have any changes or corrections to
16 those exhibits?

17 A. No, I do not.

18 Q. Have you prepared a brief summary of your
19 Rebuttal and Supplemental Rebuttal Testimony?

20 A. Yes, I have.

21 Q. Would you please provide that summary at this
22 time?

23 A. Good evening, Chairman and Commissioners.
24 Again, my for Troy Rendell and I'm the manager of rates
25 for Aqua Utilities Florida. My rebuttal testimony was

1 filed for the purpose of responding to portions of the
2 Direct Testimony of the Office of Public Counsel
3 Witnesses Andrew Woodcock, Denise Vandiver, and Earl
4 Poucher.

5 The primary purpose of Mr. Woodcock's
6 testimony is to address the percentages of AUF's water
7 and wastewater plant that are used and useful in
8 providing services to existing customers with the
9 statutory growth allowance. Mr. Woodcock disagrees with
10 a number of the U&U percentages set forth in the
11 Commission's PAA order. However, parts of Mr.
12 Woodcock's testimony show that now that he has analyzed
13 the systems, he actually agrees with certain used and
14 useful percentages in the PAA order, even though OPC
15 protested those issues.

16 Mr. Woodcock attempts to have the Commission
17 cast aside well-reasoned used and useful percentages set
18 forth in the PAA order. The used and useful percentages
19 in the PAA order are based upon the Commission's
20 existing rules and longstanding precedent. My Rebuttal
21 Testimony shows that Mr. Woodcock is attempting, as he
22 did in the company's prior rate case, to circumvent
23 these Commission used and useful rules and have the
24 Commission ignore longstanding precedent.

25 AUF Witness Mr. Seidman correctly points out

1 in his Rebuttal Testimony, Mr. Woodcock offers
2 opposition to rather than application of the Commission
3 used and useful rules. Mr. Seidman addresses many of
4 these areas where Mr. Woodcock advocates a radical
5 departure from past precedent.

6 Second, I offer testimony in response to OPC
7 Witness Denise Vandiver. In her testimony, Ms. Vandiver
8 is again attempting to persuade the Commission to ignore
9 past Commission precedent related to salary increases.
10 A review of recent Commission orders reveals that the
11 Commission has routinely granted salary increases in
12 order to enable the utilities to attract and retain well
13 qualified personnel. Since the last rate case, AUF has
14 made incremental salary increases related to employee
15 performance in the form of merit increases in order to
16 retain qualified personnel.

17 Finally, I offer testimony related to both
18 OPC's Witness Earl Poucher and YES Witness Shawn Harpin
19 related to real estate values and foreclosures. While
20 not a real estate or forecast expert, I offer additional
21 information for the Commission's considerations on these
22 items.

23 My Supplemental Testimony was filed for the
24 purpose of responding to customer testimony received at
25 the customer meetings held throughout the state as

1 requested by the Commission staff. I also apprised the
2 Commission and the parties of AUF's efforts to address
3 these concerns where such action was appropriate. I
4 addressed the issue raised at the Greenacres service
5 hearing related to the bulk water purchase in Lake
6 Osborne. I also addressed the issue raised at the New
7 Port Richey service hearing by the Pasco County
8 customers related to their specific systems and provide
9 information to these customers concerning expectations
10 related to Pasco County rates.

11 I also address the customers concerns raised
12 at service hearings related to the application of the
13 base facility charge when they are not in residence. In
14 addition, I address the concerns raised at the Lakeland
15 service hearing related to both the Polk County systems
16 and the acquisition effect on existing customer rates.

17 **MR. MAY:** Thank you.

18 We tender Mr. Rendell for cross-examination.

19 **CHAIRMAN GRAHAM:** OPC.

20 **MS. CHRISTENSEN:** No questions.

21 **CHAIRMAN GRAHAM:** Ms. Bradley.

22 **MS. BRADLEY:** Thank you.

23 **CROSS EXAMINATION**

24 **BY MS. BRADLEY:**

25 Q. Mr. Rendell, you say that you are the manager

1 of rates. Does that mean that you are the main point
2 person for Aqua with the PSC?

3 A. For Aqua Utilities Florida, correct.

4 MS. BRADLEY: No further questions.

5 CHAIRMAN GRAHAM: Mr. Richards.

6 MR. RICHARDS: Thank you.

7 CROSS EXAMINATION

8 BY MR. RICHARDS:

9 Q. Good evening. In your Supplemental Rebuttal
10 testimony, starting on Page 5, you spent a lot of time
11 talking about FGUA's rates. On Page 7, Line 4, you say
12 that FGUA customers are going to get a rate increase of
13 11 to 14 percent. On Line 12 you say somebody is
14 getting a 15 percent increase. On Line 17, another
15 15 percent increase. What's the size of the increase
16 that Aqua is asking for in this rate case?

17 A. I don't recall off the top of my head.

18 Q. Ms. Dismukes had in her Direct Testimony that
19 Aqua requested a rate increase of 32 percent for water
20 and 31 percent for sewer. Does that sound right?

21 A. That sounds about right.

22 Q. Also, if you look at TR Exhibit 9, you do a
23 comparison of FGUA's rates. You actually have three
24 FGUA systems listed there; Colonial Manor, Holiday, and
25 Lindrick. How do those rates compare to Aqua's rates?

1 A. They're higher.

2 Q. All of them? You have in your -- on that
3 exhibit there it says Colonial Manor's rates,
4 7,000 gallons, \$64.51.

5 A. Correct.

6 Q. Holiday is and \$80.36, and Lindrick is \$45.00.

7 A. But if you look at Lindrick combined, their
8 combined bill is higher than AUF's combined bill.

9 Q. Okay. Are you familiar with the term
10 cherry-picking?

11 A. Yes, I am.

12 Q. Now, do you know how many systems FGUA
13 operates in Pasco County?

14 A. I know there are numerous. I looked at their
15 website. There is Aloha, there is these three, and
16 there are several others.

17 Q. I think there is about eight. So did you
18 cherry-pick the highest bills of FGUA to do this
19 comparison?

20 A. I picked three to show that there are rates
21 that are higher than AUF. There was numerous testimony
22 at the customer meetings where the customers wanted
23 Pasco County rates, and they wanted FGUA to purchase
24 AUF. And I was only pointing out to the customers that
25 that probably is not possible. If FGUA purchases AUF,

1 they would not get Pasco County rates.

2 Q. Are you sending this information to the
3 customers?

4 A. I am. There were three customers who
5 testified to that. At least three customers.

6 Q. And you sent that to them?

7 A. Those customers are very active in this rate
8 case. They read everything that's on the PSC's website.

9 Q. So that exercise was just to educate the
10 customers?

11 A. Correct.

12 Q. Is that an issue in this case? Is this
13 something the PSC has to consider?

14 A. It is. Affordability and rate structure and
15 rates were raised, and we were asked by the staff and
16 the Commission to respond to customer comments made at
17 the customer meetings. So I was responding to customers
18 who showed up indicating they want Pasco County rates.
19 So, yes, it was to respond to those customers to give
20 them all the information possible to make educated
21 remarks.

22 Q. But it's not something the PSC can consider,
23 whether your rates -- how your rates compare to FGUA or
24 Pasco County?

25 A. I believe that OPC Witness Dismukes brought

1 that up in her testimony, as well as provided a schedule
2 that did a rate comparison, and we rebutted that through
3 Mr. Szczygiel's rebuttal. So, yes, it was raised by
4 OPC.

5 Q. You also have on Exhibit 9 that Pasco County
6 rates -- how does Aqua's rates compare to Pasco County
7 rates?

8 A. At 7,000 gallons they are higher on water and
9 higher on wastewater, which is well to be expected.

10 Q. Whose are higher?

11 A. AUF's.

12 Q. AUF's are higher than Pasco County?

13 A. Correct.

14 MR. RICHARDS: I have no further questions.

15 CHAIRMAN GRAHAM: YES.

16 CROSS EXAMINATION

17 BY MR. McBRIDE:

18 Q. Good evening, Mr. Rendell.

19 A. Good evening.

20 Q. On Page 16 of your rebuttal testimony you
21 discuss the testimony of -- my copy says Mr. Gray. Did
22 you intend to say Mr. Harpin?

23 A. That was revised. We submitted revised pages.

24 Q. I do recall seeing that. Thank you.

25 You state that Mr. Harpin, then, is not an

1 expert in real estate foreclosures or economic
2 forecasting, is that correct?

3 A. On further consideration, I believe Mr. Harpin
4 is in the real estate business. I originally had the
5 wrong name, so in retrospect he probably is aware of
6 real estate, but I do not believe he is an economic
7 forecaster.

8 Q. Do you stand behind your testimony that his
9 claims are anecdotal in nature?

10 A. Correct.

11 Q. Mr. Harpin testified this morning, and his
12 testimony concerns the impact that AUF rates are having
13 on the ability of residents of Arredondo Farms to remain
14 in Arredondo Farms. Do you recall that testimony?

15 A. I do.

16 Q. I believe last week when you spoke you
17 testified that you have no basis to dispute Mr. Harpin's
18 testimony that the average cost of water and wastewater
19 service at Arredondo Farms is \$76 higher per month than
20 what an average or another water and wastewater utility
21 provider in the Gainesville market charges. Do you
22 recall that testimony?

23 A. I believe the way I answered was without
24 knowing who he is comparing it to I cannot confirm or
25 rebut it.

1 Q. Have you reviewed Exhibit SH-4 and Page 6 of
2 Mr. Harpin's testimony wherein YES surveyed the 59
3 residents of Arredondo Farms who have left Arredondo
4 Farms between January of this year and September of this
5 year, and found that 35 of those, or 59 percent of the
6 total, explicitly cited high water bills and AUF billing
7 concerns as the reason they left the community? Have
8 you read that testimony?

9 A. I remember looking at that, correct.

10 Q. Let me ask you, is it anecdotal in nature when
11 residents are specifically asked why they leave and they
12 give a reason related to cost of water service?

13 A. I believe what I was referring to is that the
14 rates for water has any effect whatsoever on foreclosure
15 levels, and the economy, as well as house prices.

16 Q. Do you have to be an expert in real estate
17 forecasting to understand that people leave when they
18 can't afford their water bills?

19 A. I can't confirm that, no.

20 Q. And you attended the Gainesville hearing, is
21 that correct?

22 A. I attended every hearing.

23 Q. Do you recall that YES employee Mallory
24 Starling presented photographs and testimony at that
25 hearing?

1 A. I do.

2 **MR. McBRIDE:** With permission, I would like to
3 pass out a brief exhibit that includes a couple of those
4 photographs.

5 **CHAIRMAN GRAHAM:** Sure.

6 **MR. McBRIDE:** I do apologize. We were making
7 photographs at the last minute before leaving our office
8 yesterday morning, and I believe a couple of photographs
9 might be in black and white, although I think there is
10 enough sets that everyone will have a color, but I can't
11 be sure.

12 And for the record, these are part of Exhibit
13 14 that was introduced at the service hearing in
14 Gainesville, specifically Bates number 25 through 27.

15 **BY MR. McBRIDE:**

16 Q. Do you have the first photographs in front of
17 you?

18 A. I do.

19 Q. If you would turn the first photograph,
20 please. And the second photograph, also. If you would
21 look at both of those. Do you recall Ms. Starling's
22 testimony that these are photographs of homes that were
23 removed from the community where the residents cited
24 that they could not afford the cost of Aqua's service?

25 A. I vaguely remember, but I don't know if these

1 are the specific lots that she testified to.

2 Q. Could you please look at the third photograph?
3 What is that structure in the photograph?

4 A. It's a garbage bin.

5 Q. Do you recall Ms. Starling's testimony that
6 this is a home that was torn down and literally thrown
7 into a dumpster because a resident could not afford to
8 pay the cost of AUF's service?

9 A. I do not.

10 Q. Do you believe there is a problem when your
11 customers are literally tearing down their homes and
12 throwing them in a dumpster to escape your service?

13 A. Without knowing the reason why that house was
14 torn down, I can't respond. I do know that we have been
15 active in the YES task force, and there have been some
16 issues that YES is having with their tenants paying
17 their rent, and they are having the same type problems
18 with the turnover. I believe Ms. Chambers testified
19 that this turnover has been going on well before Aqua
20 purchased this, or YES purchased this.

21 Q. I just have one last question for you.
22 Mr. Rendell, subject to check, would you agree that in
23 Request for Production Number 28 that was contained in
24 YES's Third Request to Produce to Aqua, YES requested
25 all documents exchanged between Aqua and the residents

1 of Arredondo Farms who testified at the Gainesville
2 hearing, which included audio transcriptions,
3 videotapes, and sound recordings based on the
4 definitions, and Aqua objected to the request, refused
5 to turn over the customer documents, and moved for a
6 protective order?

7 A. I don't recall.

8 MR. McBRIDE: No further questions.

9 CHAIRMAN GRAHAM: Staff.

10 MS. BENNETT: I just have one question and it
11 is based upon a response to YES's Third Set of
12 Interrogatories.

13 CROSS EXAMINATION

14 BY MS. BENNETT:

15 Q. Staff is concerned and wants to know if you
16 are aware of any actions taken by AUF that resulted in
17 service disconnections or back-billing of any customers
18 who spoke at the Gainesville service hearing?

19 A. Absolutely not.

20 MS. BENNETT: That's all the questions I have.

21 CHAIRMAN GRAHAM: Commissioners?

22 Redirect.

23 REDIRECT EXAMINATION

24 BY MR. MAY:

25 Q. Mr. Rendell, Mr. McBride asked you a series of

1 questions concerning tenants of YES Communities moving
2 out of the neighborhood. Do you recall those questions?

3 A. I do.

4 Q. Has Aqua analyzed the move in and move outs
5 for Arredondo Farms community?

6 A. Yes. I believe that Ms. Chambers has looked
7 at that as well as others within the company.

8 MR. MAY: Mr. Chairman, could I distribute an
9 exhibit, a redirect exhibit that addresses some of these
10 issues that Mr. McBride raised?

11 CHAIRMAN GRAHAM: Please.

12 MR. MAY: I think this would be Exhibit Number
13 354.

14 CHAIRMAN GRAHAM: 353.

15 (Exhibit Number 353 marked for
16 identification.)

17 CHAIRMAN GRAHAM: Do you have a description
18 for this, Mr. May?

19 MR. MAY: Yes. This is the move-out data for
20 Arredondo Farms from October 2008 through September
21 2011.

22 CHAIRMAN GRAHAM: Please continue.

23 BY MR. MAY:

24 Q. Mr. Rendell, the document that was just
25 provided to you, is this the study that AUF has

1 conducted regarding the move-outs for Arredondo Farms?

2 A. Yes, it is.

3 Q. On the top line there, there are some
4 highlighted terms designating rate changes. Do you see
5 that?

6 A. I do.

7 Q. In the far right corner there is a designation
8 of August 11 rate change, do you see that?

9 A. I do.

10 Q. And what was that August 11 rate change
11 referencing?

12 A. That is when AUF implemented the PAA rates.

13 Q. In the prior two months of 2011, what was the
14 number of move-outs at Arredondo Farms?

15 A. In June '11 there were 23, and in July '11
16 there were 22.

17 Q. And then once the rates were increased, what
18 was the number of move outs?

19 A. In August '11 there were 16, and in September
20 '11 there were 18.

21 MR. MAY: Mr. Chairman, we have no further
22 questions.

23 CHAIRMAN GRAHAM: Exhibits.

24 MR. MAY: Aqua would move Exhibits 224 through
25 226, as well as Exhibit 354. Excuse me, 353. I'm

1 sorry.

2 **CHAIRMAN GRAHAM:** 224, 225, and 226. 353?

3 **MR. MAY:** Yes, sir.

4 (Exhibit Numbers 224, 225, 226, and 353
5 admitted into the record.)

6 **CHAIRMAN GRAHAM:** Any other exhibits to move?

7 **MS. BENNETT:** Staff would move the Service
8 Hearing Exhibit Number 2 into the record at this time.

9 **CHAIRMAN GRAHAM:** Number 2.

10 (Exhibit Number 2 admitted into the record.)

11 **CHAIRMAN GRAHAM:** My understanding is we are
12 not moving 140. We struck that one, which is
13 Ms. Starling.

14 **MR. JAEGER:** Yes, 140 was redundant.

15 **CHAIRMAN GRAHAM:** And I don't have that we
16 have moved 169 or 170.

17 **MR. JAEGER:** 169 was withdrawn, and staff has
18 determined that we no longer need 170, so it will be
19 withdrawn also.

20 **CHAIRMAN GRAHAM:** And 184 is withdrawn?

21 **MR. JAEGER:** That is correct.

22 **CHAIRMAN GRAHAM:** And 193 is withdrawn?

23 **MR. JAEGER:** That is correct.

24 **CHAIRMAN GRAHAM:** And what about 203?

25 **MR. JAEGER:** Was that the deposition exhibit?

1 **MS. BENNETT:** That one was withdrawn, the
2 deposition of Ms. Dismukes.

3 **CHAIRMAN GRAHAM:** Okay.

4 (Exhibits 140, 169, 170, 184, 193, and 203
5 withdrawn.)

6 **MS. BENNETT:** I believe that at the last break
7 we were talking about late-filed exhibits for Mr.
8 Szczygiel's deposition, and Aqua wanted to move some
9 late-filed exhibits into the record. We were clarifying
10 what was already in and what wasn't.

11 **CHAIRMAN GRAHAM:** Hold on a second. Let me
12 finish going through this.

13 **MS. BENNETT:** Okay.

14 **CHAIRMAN GRAHAM:** I have 311, there was an
15 objection from OPC. This was the master demonstrative,
16 and I believe the argument was that we didn't use all of
17 those tabs at the time.

18 **MS. CHRISTENSEN:** Commissioner, looking at the
19 master document and reviewing the listed tabbed items,
20 it appears that only Andrew Woodcock's contract with OPC
21 was the only one that was not testified to or addressed
22 by any witness or is otherwise an order of the
23 Commission. So I have no objection to the master
24 document, with the exception of Tab Number 15.

25 **CHAIRMAN GRAHAM:** Mr. May.

1 **MR. MAY:** Yes. This document was supplied by
2 OPC in response to discovery submitted by AUF. It was
3 relied on in the market studies by Witness Szczygiel. I
4 think it is already in the record, per se, and I just
5 thought it would be helpful to have it as part of the
6 package. But if you don't want it as part of this
7 demonstrative exhibit, then we are okay with that. But
8 I think it is already in the record.

9 **CHAIRMAN GRAHAM:** OPC.

10 **MS. CHRISTENSEN:** I don't recollect off the
11 top of my head what portion of, if any, of the rates Mr.
12 Szczygiel relies on for his market study update, but as
13 far as the actual contract with the exhibit, I don't
14 think anybody talked about or testified to that. So I
15 just would, again, state that it was not testified to in
16 the hearing, and, you know, with the exception of Tab
17 15, I have no objection to the remainder of the exhibit.

18 **CHAIRMAN GRAHAM:** I don't recall us talking
19 about Tab 15, so if there are no other objections or,
20 staff, any comments?

21 **MR. JAEGER:** Staff has -- I don't think we
22 have a dog in the hunt as for this, I don't think.

23 **CHAIRMAN GRAHAM:** Then I will let Exhibit 311
24 into the record with the everything except for Tab 15.

25 (Exhibit Number 311, excluding Tab 15,

1 admitted into the record.)

2 **CHAIRMAN GRAHAM:** Okay. Ms. Bennett, I didn't
3 mean to cut you off earlier, but according to my sheet I
4 think we have everything entered into the record. Now,
5 please.

6 **MS. BENNETT:** I believe Aqua was wanting to
7 put some late-filed exhibits into the record for Mr. --
8 not late-filed exhibits, but deposition exhibits for Mr.
9 Szczygiel. They would have been Exhibits 3 and 13
10 through 18 of Stan Szczygiel's deposition.

11 **MS. CHRISTENSEN:** I'm sorry, what, 3 and 13?

12 **MS. BENNETT:** 3 and 13 through 18. And if
13 they don't want it in, staff is not moving them in. I
14 was just reminding that it was a discussion that we had
15 earlier.

16 **MS. CHRISTENSEN:** I can't speak to 3 through
17 18. If it wasn't discussed at the hearing, then I would
18 object to trying to move them in at this point. There
19 is no foundation for letting in late-filed exhibits at
20 this point.

21 **MS. BENNETT:** I'm not trying to move them in.
22 I was just reminding the parties of a conversation in
23 which Stan Szczygiel's deposition exhibits, Exhibit
24 Number 3 and Exhibit Numbers 13 through 18 were
25 discussed by you and AUF as being put into the record.

1 But if --

2 MS. CHRISTENSEN: I'm sorry, I just don't
3 recall that conversation.

4 MS. BENNETT: Okay.

5 MR. MAY: Just so I'm clear, what is OPC
6 willing to put into the record from Mr. Szczygiel's
7 deposition?

8 MS. CHRISTENSEN: I think in reviewing the
9 e-mail that we responded dated November 28th, we were in
10 agreement with Late-filed Exhibit Number 5, which is the
11 North Carolina order, Number 9, which was the AA proxy
12 statement, Number 11, which was the article on
13 compensation expense, which I think -- and AAI's 2010
14 Annual Report. I think all of those have been
15 previously marked and used as exhibits in this hearing.

16 We also didn't -- while we objected to
17 Late-filed 2, 4, and 10, those were also used at the
18 hearing as part of the cross-examination of Mr.
19 Szczygiel, so they are already part of the record. And
20 the last one we had stated an objection to where we had
21 not had time to review was Late-filed Exhibit Number 12,
22 and I think that has come into the record with the
23 exception of the two pages we objected to. And so that
24 has already been marked and moved in for identification.

25 Any remaining exhibits that were attached to

1 Mr. Szczygiel's deposition were not either used as part
2 of cross-examination in this hearing or were not
3 requested to be moved into the record. So we would say
4 that there is no foundation to put them into the record
5 at this point.

6 **MR. MAY:** I guess I'm just a little confused.
7 I'm looking at my notes. When we last talked about this
8 you had indicated, Ms. Christensen, that OPC objects to
9 Exhibits 6, 7, and 8, the North Carolina testimony, but
10 that you were okay with the rest.

11 **MS. CHRISTENSEN:** Yes. When we went in there,
12 and I had not considered 3 or 13 through 18, but we did
13 specifically object to 6, 7, and 8, which was prefiled
14 testimony in North Carolina because -- and I had
15 forgotten that there were additional exhibits,
16 late-filed exhibits that were attached to Mr.
17 Szczygiel's deposition that had not been discussed or
18 made part of the record. And to the extent that they
19 have not been discussed or used in cross-examination, I
20 would object to the rest of them coming in as part of
21 the deposition.

22 **MR. MAY:** I guess the -- you know, not to
23 belabor the point, but to continue with the analogy of
24 cherry-picking, this was your deposition. You called
25 Mr. Szczygiel. You sat him down for deposition.

1 **MS. CHRISTENSEN:** As a discovery method, yes.
2 And actually staff did it, and we cross-noticed. But
3 that is wholly irrelevant to whether or not those
4 exhibits should be allowed into the record at the
5 hearing.

6 **CHAIRMAN GRAHAM:** All right. If we are going
7 to talk here, we are going to have to let each person
8 finish their thought.

9 OPC.

10 **MS. CHRISTENSEN:** I don't -- when we agreed to
11 Mr. Szczygiel's deposition, there were only two exhibits
12 that we agreed to, which was Exhibit 5 and Exhibit 11.
13 That is what we agreed to at the beginning of the
14 hearing. And subsequent to that, subsequent exhibits
15 that were late-filed as part of the deposition have come
16 in through cross-examination of this witness.

17 My recollection was that staff moved to have
18 the remainder of the late-filed exhibits come in, and at
19 that time I could not recall what we had addressed, and
20 I had gone to get the e-mail that we responded to the
21 other parties. And in that e-mail we only specifically
22 addressed 6, 7, and 8. And we had talked about 12.

23 I had forgotten, and I apologize to the
24 Commission, I had forgotten about the additional
25 late-filed exhibits that they had produced in response

1 to the deposition request. But, again, depositions are
2 discovery, and just because we conduct a deposition for
3 discovery purposes doesn't mean that the late-filed
4 exhibits that were part of that deposition should
5 automatically come into the hearing. And at this point
6 I'm stating an objection to the remainder of the
7 exhibits because they were not produced or used in
8 cross-examination at the hearing. So that's OPC's
9 position.

10 **CHAIRMAN GRAHAM:** So which specific ones are
11 we referring to that are still in question?

12 **MS. CHRISTENSEN:** Other than the exhibits that
13 we have already agreed to, which were 5 and 11, and the
14 other exhibits that have already come in as
15 cross-examination exhibits, which were 9, the AAI annual
16 report, 2, 4, and 10, and Exhibit 12, with the exception
17 of the two pages, any other exhibits that were
18 late-fileds with the deposition I would object to being
19 moved in with the deposition at this time.

20 **CHAIRMAN GRAHAM:** Do you know the ones that
21 you are objecting to?

22 **MS. CHRISTENSEN:** I am thinking that they went
23 up through the 20s, but off the top of my head I don't
24 have Mr. Szczygiel's deposition in front of me. I think
25 it was like 20 or 21. So there were a few. There were

1 13 through 21 or 22 that were late-fileds, but they were
2 not used at this hearing.

3 **MR. JAEGER:** Chairman.

4 **MR. MAY:** May I respond? I'm sorry.

5 **CHAIRMAN GRAHAM:** Does staff have a scorecard?

6 **MR. JAEGER:** I think Ms. Bennett said it,
7 6 and 8 were objected to specifically, and then what is
8 left are 3 and 13 through 18. 20 and 21 are his Exhibit
9 296 which has been admitted; 10 is 295, which has been
10 admitted; 4 is 294, admitted; and 2 is 293, and 1 is
11 292. So we have got everything except the 3, 13, and
12 18, and with the 6 and 8 being objected to, and she is
13 now objecting to 3 and 13 through 18, also.

14 **MR. MAY:** And 2 and 3 are the same. So 3 is
15 in. I'm just scratching my head.

16 **CHAIRMAN GRAHAM:** Is 2 and 3 the same to OPC?

17 **MS. CHRISTENSEN:** I think 2 and 3 are the
18 same, so to the extent that they are the same exhibit
19 and it has already been admitted into the record, I have
20 obviously no objection if it has already been admitted.
21 I think mainly what we are talking about here is 13
22 through 18, which were not used as exhibits at the
23 hearing, and at this point we would object. They
24 haven't been used as part of the hearing.

25 **CHAIRMAN GRAHAM:** Ms. Bennett, 13 through 18,

1 I take it staff doesn't have an objection or an opinion
2 one way or the other for these?

3 **MS. BENNETT:** To use Mr. Jaeger's term, I
4 don't have a dog in that hunt.

5 **CHAIRMAN GRAHAM:** Mr. May, 13 through 18.

6 **MR. MAY:** Could I take one minute to look at
7 my notes? I think we might be able to work right
8 through this.

9 **CHAIRMAN GRAHAM:** Sure. Ms. Bennett, is there
10 anything else while he is going through this?

11 **MS. BENNETT:** We have nothing.

12 **CHAIRMAN GRAHAM:** Okay.

13 **MS. BENNETT:** No remaining exhibits to be
14 entered into the record. (Pause.)

15 I did recall a discussion earlier with
16 Mr. Curtin about filing a document from the HouseFacts
17 that he had asked to bring back tomorrow, and we had a
18 conversation about possibly making that a late-filed
19 exhibit, subject to objections if he were to find
20 something.

21 **MR. CURTIN:** What I would suggest that we do
22 instead of making a separate late-filed exhibit is we
23 just make it part of 332. If I have any, what I will do
24 I think -- what was the date that you wanted to use, a
25 week from now, which would be --

1 **MS. BENNETT:** Having him file it a week from
2 today, which would be December 14th. Objections would
3 be filed by January 6th, and a response would be -- his
4 response would be due a week later, which would be
5 January 13th.

6 **MR. CURTIN:** And YES has no problem with that.
7 If I understand the procedure, by December 14th I will
8 file anything else I want to file from the HomeFacts on
9 and add it to Exhibit 332, subject to any objection Mr.
10 May may have or may not have. And I'm assuming I'll
11 just file that with the PSC, and Mr. May will get it,
12 and if he has any objections to it he will make his
13 objections and we will figure it out. Subject to -- and
14 I don't want to beat a dead horse, but subject to my
15 objection to any of the HomeFacts coming in.

16 **MR. MAY:** For the record, it's really not
17 worth fighting over, but I just want the record to be
18 clear here. I received an e-mail from Ms. Christensen
19 on November 28th saying, "After reviewing your list of
20 late-filed exhibits to Szczygiel's deposition, we have
21 no objection to the inclusion of the following in the
22 Comprehensive Exhibit List: 5, the NC order; 9, AAI
23 proxy statement; 11, the article on compensation
24 expense; and AAI's 2010. We object to the inclusion in
25 the Comprehensive Exhibit List of 6, 7, and 8 for the

1 prefiled testimony filed in the North Carolina docket,
2 which we agreed to. Besides relevancy, most of the
3 testimony to issues in Florida we don't have the
4 witnesses here to cross-examine."

5 "Second, we object to the inclusion of the
6 comprehensive list of Late-filed Exhibits Number 2, 4,
7 and 10." All of those are now in. "None of these
8 exhibits are clear on their face as to what they are
9 supposed to represent, thus without further
10 clarification we can't agree to them. We will review
11 Late-filed Exhibit 12 on rate case expense, but as you
12 know, the exhibit is extensive and we will not get
13 through it before the start of the hearing. We will
14 endeavor to complete it before Szczygiel's rebuttal
15 testimony."

16 We thought we had an agreement, but for these
17 specified exhibits. Now, if they want to make a stink
18 of it, I mean, it's getting late and it really doesn't
19 matter, but I just want the record to be clear we tried
20 to confirm and clarify this up front, and we thought we
21 had an agreement.

22 **CHAIRMAN GRAHAM:** Well, first of all, nice
23 pretty pink phone (phonetic) you have. (Laughter.)

24 Second, from the things that you have read, it
25 seemed like the e-mail was silent to 13 through 18,

1 because I was listening for those. She spoke specifics
2 about some of the other ones, but I never heard 13
3 through 18 addressed in any way, shape, or form.

4 With her objection that is on the record right
5 now, and nobody to tell me to the contrary that any one
6 of those exhibits were referred to during this, then I
7 have to agree with the objection, and we are going to
8 leave those out.

9 **MR. MAY:** Fine. Thank you.

10 **CHAIRMAN GRAHAM:** Okay. Anything else?

11 Ms. Bennett, would you go over the dates, and
12 would you restate also the --

13 **MR. JAEGER:** Ms. Bennett was going to bow to
14 me, Chairman, if you don't mind.

15 **CHAIRMAN GRAHAM:** Well, now that Mr. May is
16 back at his spot, reconfirm what you said about
17 HomeFacts and then go over the date that everything else
18 is due.

19 **MS. BENNETT:** For the late-filed exhibit that
20 YES was going to produce, they were actually going to
21 bring in tomorrow. We would ask that it be filed with
22 the Clerk with copies to all of the parties no later
23 than December 14th, which is next Wednesday. Then
24 parties, including AUF, would have an opportunity to
25 object to the document or any portion of it being

1 admitted by January 6th. AUF -- I mean, YES would have
2 an opportunity to respond to those objections by
3 January 13th. That is similar to the agreement we had
4 with OPC's objection to our late-filed exhibit.

5 **CHAIRMAN GRAHAM:** Mr. May, you are okay with
6 that stipulation?

7 **MR. MAY:** My batting average is going way down
8 today; I think I can agree with that one.

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

10 **MR. JAEGER:** Yes. The transcripts for the
11 first three days of the hearing are due on December 9th,
12 and we had one day on December 7th, and that transcript
13 will be due on December 12th. Briefs will be due on
14 December 29th. The staff recommendation will be due on
15 February 3rd for the February 15th, 2012, Special
16 Commission Conference.

17 **MS. CHRISTENSEN:** I have the brief
18 post-hearing dates due on the 30th, not the 29th.

19 **CHAIRMAN GRAHAM:** I have on my script on the
20 29th, but the guy that just read those dates is the guy
21 that gave me my script. (Laughter.)

22 **MR. JAEGER:** I think the CASR does say the
23 30th. Let me see what day is that.

24 **MS. CHRISTENSEN:** I think it is in the OAP as
25 the 30th. I don't want to be short-changed any dates on

1 my post-hearing brief.

2 **CHAIRMAN GRAHAM:** Staff.

3 **MR. JAEGER:** Okay. We will agree with the
4 30th.

5 **CHAIRMAN GRAHAM:** Okay. Let's first deal with
6 the dates. Any other concerns about the dates, or
7 questions, clarifications?

8 Anything else to come before us in this case
9 before we adjourn it? Ms. Bradley.

10 **MS. BRADLEY:** Mr. Chairman, at this point can
11 we say thank you to staff for all the help that they
12 have given us during the hearing, and to get it through
13 a day early is very nice.

14 **CHAIRMAN GRAHAM:** You guys can feel free to
15 share your love with staff. They don't hear it often
16 enough.

17 **MR. MAY:** I would like to address the
18 Commission just in closing. I want to thank you for
19 your patience. I have said a lot, probably too much,
20 and I want to thank opposing counsel for their
21 professionalism on working through a very tough four or
22 five days of hearing. Thank you all.

23 **MR. CURTIN:** I want to echo those same
24 comments of Mr. May. Thank you.

25 **CHAIRMAN GRAHAM:** I want to thank all the

1 attorneys for playing nicely. I have been in hearings
2 before where every other question and every other answer
3 was objected to, and that doesn't get us anywhere. And
4 my position is usually if we're trying to get facts into
5 the record, let's just get the facts into the record and
6 see where staff and the Commission board lands as far as
7 digesting those facts and coming up with a
8 recommendation. I do appreciate the mannerism and the
9 way everybody here presented themselves.

10 Staff, I want to thank you very much for all
11 the hard work that has gone into all of this thus far.
12 Of course, it's just getting started, but I do thank you
13 for that.

14 Fellow Commissioners, I want to thank you for
15 your patience and for bearing with us with this crazy
16 schedule that we had last week and this week.

17 That all being said, I wish you all happy
18 holidays and Merry Christmas. Please travel safe as you
19 leave here. And if you haven't been outside, the
20 temperature has dropped significantly. That all being
21 said, we are adjourned.

22 (The hearing concluded at 7:39 p.m.)
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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 12th day of December, 2011.



JANE FAUROT, RPR
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