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December 18, 2012

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Ms. Ann Cole
Office of Commission Clerk
Florida Public Service Commission
2540 Shumard Oak Blvd.
Tallahassee, FL 32399-0850

RE: Docket No. 110200-WU; In re: Application for increase in water rates in Franklin County by Water Management Services, Inc.
Our File No. 46023.01

Dear Ms. Cole

Enclosed for filing in the above-referenced docket are the original and fifteen (15) copies of the following Prefiled Rebuttal Testimony filed on behalf of Water Management Services, Inc.:

1. Rebuttal Testimony of Gene Brown DN 08196-12
2. Rebuttal Testimony of Jeanne Clark Allen, CPA DN 08197-12
3. Rebuttal Testimony of John F. Guastella DN 08198-12

Should you have any questions concerning this filing, please do not hesitate to give me a call.

Very truly yours,

MARTIN S. FRIEDMAN
For the Firm

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MSF/mp
Enclosures

cc: Mr. Gene Brown (w/enclosures) (via e-mail)
Ms. Sandy Chase (w/enclosures) (via e-mail)
Martha Barrera, Esquire, Office of General Counsel (w/enclosures) (via U. S. Mail)
Erik Sayler, Esquire, Office of Public Counsel (w/enclosures) (via U.S. Mail)

08196 DEC 18 2012

REBUTTAL TESTIMONY OF GENE D. BROWN
BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION
IN DOCKET NO. 110200-WU
REGARDING THE APPLICATION OF
WATER MANAGEMENT SERVICES, INC.
FOR AN INCREASE IN RATES & CHARGES
AND A REVISION OF
SERVICE AVAILABILITY CHARGES

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

2 A. My name is Gene D. Brown. My Business address is 250 John Knox Road, No. 4,
3 Tallahassee, FL 32303.

4 **Q. By whom are you employed and what is your position?**

5 A. I am employed by Water Management Services, Inc., as its President.

6 **Q. What is the purpose of your testimony?**

7 A. The purpose of my testimony is to refute parts of the testimony of staff witness, Debra
8 Dobiac, and OPC witnesses, Helmuth Schultz, III and Denise N. Vandiver.

9 **Q. What is your response to the testimony of Debra Dobiac?**

10 A. Basically, I believe she did a good job with the raw numbers. In fact, after an
11 extensive 7-month audit, she confirmed the balance in account 123 as shown by our
12 books and annual reports right down to the last dollar, \$1,175,075. That just confirms
13 the accuracy of the accounting numbers that WMSI has presented to the Commission
14 over the years.

15 **Q. Can you briefly explain account 123?**

16 A. That is an account from the NARUC chart of accounts that shows all equity
17 investments by WMSI in companies associated with the utility company.

18 **Q. Over what period of time were these investments made?**

19 A. This account is an accumulation of all the advances or investments by WMSI since the
20 company was started many years ago. The PSC audit only covered the seven-year
21 period from 2004 through 2010. However, the account started by bringing forward all
22 of the inter-company loan accounts that had accumulated over the years prior to 2004,
23 which totaled approximately \$240,000. Account 123 did not start at -0- and build up
24 to \$1.2 million in a 7-year period.

25 **Q. How did these old loan accounts get merged into account 123, an equity**

1 **investment account?**

2 A. In 2004, my accountant and I noticed that NARUC has a mandatory requirement that
3 all loan balances not paid within 12 months must be transferred into account 123, an
4 investment equity account. Based on that, we transferred all the inter-company loan
5 balances to account 123, and we started using that account for all net cash advances to
6 associated companies.

7 **Q. Was there ever any attempt to cover up this account?**

8 A. No. There is nothing surreptitious about any of this. The various balances in this
9 account have been accurately reported year after year by our general ledgers and
10 annual reports filed with the Commission.

11 **Q. Well, if the staff audit agrees with the numbers you reported, what issue do you
12 have with the audit?**

13 A. As I stated earlier, the raw numbers are correct. However, anyone reading the PSC
14 audit report should understand what it is, and what it is not.

15 **Q. What do you mean?**

16 A. The PSC audit is a detailed confirmation of the balance in account 123, as shown by
17 our annual reports. But it is not an accurate analysis of the cash that I have put into
18 WMSI as compared with the cash that I have taken out of WMSI.

19 **Q. Can you be more specific?**

20 A. Yes. For example, in Table-1, the audit separates the numbers into "utility activity"
21 and "non-utility activity," showing \$13,675,198 in cash receipts from utility activities
22 and \$2,560,617 in cash receipts from non-utility activities. Then, at pages 4 and 5 of
23 her testimony, Ms. Dobiac states that cash receipts from utility activities exceeded
24 utility activity cash disbursements by \$442,475, but that non-utility cash
25 disbursements exceeded cash receipts by \$883,264, resulting in an overall negative

1 cash flow of \$440,789. In the same section, Ms. Dobiac states that the utility received
2 its cash from the ratepayers in a timely manner, but that many of the utility's bills
3 were not paid on time. All of this could lead someone to believe that WMSI had
4 adequate revenue from its rates, but that the company had a \$440,789 cash flow
5 problem because I took a net of \$883,264 for "non-utility" purposes.

6 **Q. Is that true?**

7 A. No, that would be a misreading of the report. The report shows, in Table-1, that the
8 total cash receipts of Water Management Services during the 7-year audit period were
9 \$16,235,815 (\$13,675,198 + \$2,560,617). However, only \$10,255,048 of that money
10 came from rates or ratepayers, including CIAC, as shown by our annual reports for the
11 7-year audit period. (**Exhibit "GB-1"**). I had to go to our annual reports for these
12 revenue numbers because I could not find anything in the cash flow audit reports or
13 Ms. Dobiac's testimony that lays out the actual WMSI revenue from rates and
14 ratepayers. That leaves \$5,980,767 of cash that came from me, my affiliates or third
15 parties, including direct loans that were possible only because of my personal
16 guarantee and pledge of personal assets. Therefore, if we take out the \$883,264 for
17 "non-utility activity" which was ultimately invested in BMG, that still leaves over
18 \$5,000,000 ($\$5,980,767 - \$883,264 = \$5,097,503$) during the audit period that came
19 from me, my affiliates and third parties. That is consistent with the cash flow analysis
20 performed by WMSI as referenced on page 2 of the staff audit report dated July 29,
21 2011, attached to Ms. Dobiac's testimony.

22 **Q. Do you agree with Ms. Dobiac's separation of the cash receipts and**
23 **disbursements into utility and non-utility categories?**

24 A. No, not entirely. Aside from the fact that her "utility activity" includes \$3,420,150
25 that did not come from rates or ratepayers, it also includes transactions that had

1 nothing to do with actual utility business or operations.

2 **Q. Can you give me an example of something that was included in the staff audit as**
3 **revenue from “utility activity” which was not actually revenue that you would**
4 **consider “utility activity”?**

5 A. Yes, for example, in 2006, I bought two investment lots in Tallahassee in the name of
6 WMSI for \$236,000, but they had nothing to do with utility operations or utility rate
7 base. When WMSI needed cash, I then sold them in 2007 to my company, Brown
8 Management Group, for \$480,000, \$244,000 more than the original purchase price
9 approximately one year earlier. The net check to WMSI at closing was \$229,000,
10 which was all used to cover utility cash requirements.

11 **Q. Is all this included in account 123?**

12 A. No, none of this is in account 123, but this is an example of why account 123 is only a
13 small part of the overall financial relationship between WMSI and me.

14 **Q. Are these the same Tallahassee investment lots that are included in the gain on**
15 **sale issue in this case?**

16 A. Yes, to make bad matters worse from my point of view, well over \$200,000 was
17 charged to the WMSI shareholders in the last case as the result of this transaction,
18 despite the fact that the lots were never in rate base, and despite the fact that the lots
19 were sold to my company at a net profit of approximately \$210,000 to WMSI. The
20 Commission’s decision was erroneous and largely as a result of that error, the WMSI
21 customers have benefitted by \$48,000 per year, to the detriment of WMSI, which
22 could have used that money for improvements. These lots are shown in the audit
23 attached to Ms. Dobiac’s testimony as “sale of UPIS,” which I assume is utility plant
24 in service, but they were never UPIS or in rate base. Further, the sale of those lots
25 took place in 2007, so even if they had been in rate base, the amortization period has

1 expired. I could have sold them to BMG for WMSI's basis if I was not trying to raise
2 cash from BMG for the benefit of the utility, and there would have been no gain on
3 sale issue or charge to the WMSI shareholders.

4 **Q. Back to the \$440,789 number referenced on page 4 of Debra Dobiac's testimony,**
5 **do you agree with that as the amount that cash disbursements exceeded cash**
6 **receipts because of non-utility activity?**

7 A. I do not disagree with her calculation of the raw numbers, but it depends on what you
8 call "utility activity." If you are trying to compare the cash I put into the utility with
9 the cash I took out of the utility, I would define utility activity as all funds from rates
10 or ratepayers, not to include cash that came from me, my affiliates or third parties, or
11 loans to the utility that I had to personally guarantee. In my August 1 memo to the
12 Commission, I included a copy of my response to the staff audit regarding account
13 123, which pointed out that the actual funds advanced to associated companies was
14 \$461,100, and the net funds to associated companies was \$264,498 after deducting
15 personal interest paid on personal loans to secure cash that was advanced to WMSI.

16 **Exhibit "GB-2."**

17 **Q. Why do your numbers include interest on personal loans?**

18 A. As pointed out on page 12, Table-3 of the PSC audit, I have had to personally borrow
19 at least \$935,301 to secure funds to advance to WMSI, so I thought interest was
20 appropriate. But whether the bottom-line number is \$883,244, \$440,789, \$461,000, or
21 \$264,000, it is still a lot less than the value of the Brown Management stock that was
22 transferred to WMSI to settle these investments. And that still does not account for
23 the other millions of dollars that have been provided to WMSI by me, my affiliates
24 and third parties outside of account 123.

25 **Q. Has this 123 issue as discussed in the testimony of Debra Dobiac caused you to**

1 **conduct any further investigation into the cash flow relationship between you and**
2 **WMSI?**

3 A. Yes, after OPC basically accused me of stealing \$1,200,000 from my customers in the
4 last case, I asked my accountants to conduct a cash flow analysis to see how much of
5 the cash required to operate WMSI came from ratepayers and how much came from
6 me, my affiliates and third parties other than ratepayers.

7 **Q. Was that cash flow analysis conducted under your direct supervision and**
8 **control?**

9 A. Yes, I met with my CPA, Barbara Withers, who helped me establish a format for the
10 analysis. This was then explained to my controller, Bob Mitchell, who carried out the
11 analysis under my day-to-day supervision.

12 **Q. What does it show?**

13 A. As shown by the exhibit attached to my August 1, 2012, memo to the Commissioners,
14 this cash flow analysis shows that between January 1, 2000, and December 31, 2010, I
15 had to come up with \$16,237,529 in cash over and above the funds received from
16 ratepayers during that 11 year period. **Exhibit "GB-2."**

17 **Q. Where did all that money come from?**

18 A. It came from me, my affiliates, and third parties, including lenders who made loans to
19 WMSI only because of my personal guarantees and pledge of other personal assets.
20 All that money from lenders has to be repaid by me personally if the rates are not
21 adequate to cover the debt service, which they are not and never have been. The
22 ratepayers are not liable for any of this debt, and the rates do not even cover the
23 interest, let alone the principal, on this debt. Exhibit "B-2" to my August 1 memo
24 shows how this debt has grown over the years. **Exhibit "GB-2."**

25 **Q. Does your cash flow analysis include an accounting of account 123?**

1 A. Yes, but even if you net out the funds invested under account 123, the amount of extra
2 cash that I had to come up with is still in excess of \$15,000,000.

3 **Q. Has the WMSI cash flow analysis been updated?**

4 A. Yes, it has been brought up to date through September 30, 2012, the first three
5 quarters of this year.

6 **Q. What does that show?**

7 A. It shows that I had to come up with an additional \$112,233 in 2011 and an additional
8 \$95,824 through the first 3 quarters of this year just to keep WMSI in operation. I
9 recently borrowed \$100,000 for the utility using non-utility assets, and last year I had
10 to borrow \$30,000 from my 401k for the utility.

11 **Q. Does the update include activity in account 123?**

12 A. No, we stopped using that account as of December 31, 2010.

13 **Q. I notice a \$40,000 entry in account 123 in 2011. What is that about?**

14 A. I transferred \$40,000 in cash to WMSI in 2010, which was entered as a cash
15 investment under account 123. However, this should have been booked as a loan, so a
16 correcting entry was made to account 123 in 2011, but it related to activity which
17 occurred prior to December 31, 2010.

18 **Q. Has the cash flow analysis been updated to include 2011 and the first 3 quarters
19 of 2012?**

20 A. Yes, a copy of the updated cash flow analysis to include 2011 and the first 3 quarters
21 of 2012 is attached as **Exhibit "GB-3."**

22 **Q. What does all this show?**

23 A. It shows that I had to come up with an extra \$16,445,590 during that period of 12
24 years, 9 months, to keep WMSI in operation, including account 123. That was over
25 and above the funds that came from rates and ratepayers during that same period of

1 time.

2 **Q. In the summary of Debra Dobiac's testimony on pages 7 and 8, she confirms your**
3 **balance in account 123 of \$1,215,075. She then concludes by stating that this**
4 **"demonstrates that over an eight-year period ending December 31, 2011, more**
5 **cash flowed out of the utility to the utility's president or one of his associated**
6 **companies than flowed in." Do you agree with that conclusion?**

7 A. No. If you take Ms. Dobiac's numbers from Table 1, you have \$13,675,198 in cash
8 receipts from "utility activity" and \$2,560,617 from "non-utility activity." That is a
9 total of \$16,235,815 in cash receipts for the 7 year period, but only \$10,255,048 of
10 that came from rates or ratepayers, and the remainder of \$5,980,767 came from me,
11 my affiliates and third parties. So even if you back out the \$1,215,075 balance in
12 account 123 (even though it purchased a valuable asset, and even though a large part
13 of it came from funds advanced prior to 2004), you still have \$4,765,692 of the deficit
14 that had to be made up with funds from me, my affiliates and third parties, and this is
15 based on the numbers in the cash flow audit attached to Ms. Dobiac's testimony. It is
16 simply not accurate to conclude that I have taken more money out of the utility than I
17 have put in. The real, up-to-date numbers are shown in the comprehensive cash flow
18 analysis attached as **Exhibits "GB-2" and "GB-3"** to my testimony.

19 **Q. How did you come up with all that extra cash?**

20 A. Most of it came from loans to WMSI that were possible only because of my personal
21 guarantee and pledge of personal assets. However, through the end of 2010,
22 approximately \$1,670,000 of it came from my personal resources. **Exhibit "GB-4."**
23 This exhibit does not include the extra money I put into WMSI in 2011 and 2013 as I
24 mentioned earlier.

25 **Q. Does that conclude your rebuttal testimony in response to the testimony of Debra**

1 **Dobiac?**

2 A. Yes, it does.

3 **Q. Turning next to the testimony of Denise Vandiver, what is your response to her**
4 **testimony regarding the prior rate case expense?**

5 A. First, I would like to summarize WMSI's financial experience to date regarding this
6 overall rate case effort. In 2009, WMSI commenced a good faith effort to obtain
7 increased rates to help pay for some critically needed improvements to prevent a
8 catastrophic failure of the St. George Island water system. Starting in March, 2011,
9 we got a 1% rate increase which has produced a grand total of approximately \$21,000
10 in increased revenue. However, we have incurred approximately \$570,000 in
11 expenses directly related to this effort, \$243,000 of which has been paid and \$327,000
12 of which remains unpaid, as shown by **Exhibit "GB-5."**

13 In her testimony, Ms. Vandiver expresses great concern over the balance still due to
14 the Radey Thomas Law Firm. After the last case, I received a letter from Radey
15 Thomas pressing for payment and requesting \$5,000 per month. In negotiating for a
16 lower monthly payment, I sent a letter to Radey Thomas implying that there would be
17 a problem if the law firm filed suit for a judgment against WMSI and me personally.
18 To settle this matter, I then met personally with the primary partner handling this
19 matter and we agreed that WMSI would pay \$2,000 per month until the bill is paid, or
20 until the water system was sold, at which time the balance would be paid in full. This
21 \$2,000 per month is exactly the amount set in the representation agreement between
22 WMSI and Radey Thomas as quoted on page 8 of Ms. Vandiver's testimony. This
23 was acceptable to Radey Thomas and WMSI, and I do not understand why it is not
24 acceptable to OPC.

25 **Q. But Ms. Vandiver states in her testimony that you got \$229,000 in rate case**

1 **expense recovery in the order in the prior case, is that true?**

2 A. Only in the abstract. In fact, we received a total rate increase of approximately
3 \$13,000 per year which has amounted to a little over \$20,000 to date. But even if you
4 accept the \$229,000 as a real number, it is still spread over 4 years, or 48 months. If
5 there was a rule that all rate case expenses have to be paid within 48 months (which
6 there is not), that would require payment of \$4,771 per month ($\$229,000 \div 48$).
7 WMSI has agreed to pay \$2,000 per month to Radey Thomas, \$2,000 per month to
8 Frank Seidman and \$500 per month to Post Buckley, which is being paid as a credit
9 card deduction. That is \$4,500 per month, very close to the \$4,771, 48 month
10 amortization mentioned earlier. The other rate case expenses from the prior case have
11 been paid. This \$4,500 per month is reasonable and should not be disturbed.

12 **Q. What is your response to Ms. Vandiver's testimony regarding current rate case**
13 **expense?**

14 A. I think it is disingenuous at best. We would not be incurring this rate case expense
15 were it not for OPC's protest. Further, it has been almost 4 years since I started
16 working toward a rate increase in order to build improvements to prevent a
17 catastrophic failure of the water system on St. George Island. This should have been a
18 fairly routine rate case, but OPC responded by publicly accusing me of stealing \$1.2
19 million of my customers' money. OPC has continued this assault on my character
20 through this PAA protest, all without one iota of evidence that any of the \$1.2 million
21 belonged to any of my customers as asserted by OPC. In the course of this assault,
22 OPC has actively and intentionally killed the loan I was working on for the
23 improvements, and has continued to libel and slander me with my customers, my
24 lenders and the general public. To fight this, I have hired the best lawyers I could
25 find, and I relied on their advice regarding the experts to use. The OPC lawyers are

1 paid without fail, win or lose, and their experts are handsomely paid by the state with
2 no review by this Commission. WMSI's lawyers and experts deserve to be paid on
3 the same basis, especially because this protest proceeding was caused 100% by OPC,
4 even though they could not find even one actual client to join the protest.

5 **Q. What do you think of Ms. Vandiver's testimony that your attorney's fees and**
6 **other rate case expenses should be reduced on a percentage, pro-rata basis**
7 **depending on whether you win or lose certain motions?**

8 A. In my 46 years as a lawyer, I have never heard anything like that. Litigation is tough
9 and uncertain, especially against OPC who has full time lawyers, CPAs and other
10 state-paid experts to attack everything that is done. Based on simple math and
11 common sense, an hourly rate lawyer, including all those hired by WMSI, would only
12 be paid for one-half of their time on this basis. For every case and every motion, there
13 are an equal number of winners and losers. OPC is paid in full no matter what, even
14 without a client, and it is only fair and reasonable that WMSI's lawyers and experts be
15 paid in the same way.

16 **Q. What is your response to Ms. Vandiver's testimony that your lawyer should not**
17 **be paid for work on WMSI's motion to withdraw funds from escrow.**

18 A. I would remind everyone that WMSI filed this motion to make it possible to buy land
19 for \$190,000, rather than \$420,000, a savings to OPC's "clients" of \$230,000. Again,
20 it is somewhat disingenuous to now argue against a relatively small legal cost as part
21 of such a large savings to the ratepayers. Further, I did not see any written consent
22 that OPC agreed to such withdrawal, and WMSI's attorney needed to be available to
23 answer Commissioners' questions at the agenda, and to respond to OPC if necessary.

24 **Q. What is your response to the question of hiring both Jeanne Allen and John**
25 **Guastella?**

1 A. Jeanne Allen was hired to prepare and file the MFRs with supporting testimony. She
2 did a very good job at this, and WMSI was prepared to accept the PAA Order despite
3 certain misgivings about transportation expense, cost of debt, double counting of
4 insurance refunds and a few other items. However, when OPC filed a protest
5 involving account 123, service availability charges and other more complicated issues,
6 my attorney and I decided it was necessary to hire John Guastella, a well known
7 expert in water and wastewater rate making. If OPC can use Ms. Vandiver and Mr.
8 Schultz, why can't WMSI use Ms. Allen and Mr. Guastella? His efforts will not
9 duplicate or overlap those of Jeanne Allen.

10 **Q. What is your response to Ms. Vandiver's testimony regarding service availability**
11 **charges?**

12 A. My basic position is that WMSI should be allowed to recover 75% of the cost of its
13 plant at buildout from its customers who benefit from that plant. The \$10,004 CIAC
14 number in WMSI's MFRs is based upon the detailed formula set forth in the PSC
15 rules, and there is no question that the number is correct based upon WMSI's books
16 and records, including the pro-forma plant. I do not understand why a policy decision
17 should be made that WMSI, i.e. the shareholders, should have to fund a great deal
18 more than 25% of this cost. The State of Florida came in and destroyed WMSI's
19 supply main without our consent. WMSI had to spend \$7,009,000 in connection with
20 the new supply main, which was built to serve the existing customers as well as new
21 customers. Even if these service availability charges are increased to the 75% level as
22 we have requested, that still leaves over \$1,750,000 that will have to be funded by
23 WMSI, its shareholders and me. The only other PSC regulated utility in Franklin
24 County, a utility owned by St. Joe, is allowed to collect CIAC at the 75% level, and I
25 do not see why we should be treated differently. The St. Joe owned utility was built

1 strictly as a development amenity, and the St. Joe company can afford the excess plant
2 investment a lot better than our small company that has never made a profit in over 38
3 years. Also, I have seen PSC cases where utilities were ordered to increase their
4 CIAC closer to the 75% standard. I have subsidized this company since it started, and
5 I do not see why I should be forced to increase that subsidy by denial of the 75%
6 CIAC recovery which is allowed for most other PSC regulated utilities in Florida.

7 **Q. Does that complete your response to the testimony of Ms. Vandiver?**

8 A. Yes, it does.

9 **Q. Turning next to the testimony of Helmuth Schultz, III, I would like you to**
10 **respond to his testimony on page 45 that your salary should be reduced.**

11 A. I believe my salary of \$110,000 per year is fair and reasonable, especially since it has
12 already been reduced to \$96,250 by another non-protested adjustment in this case.

13 **Q. What was it prior to 2009, the test year in the last rate case?**

14 A. It was \$150,000, before I reduced it in 2009.

15 **Q. Why did you reduce it then?**

16 A. Because the company was experiencing cash flow problems due to the economy and a
17 tremendous increase in the installation of shallow wells.

18 **Q. Have you compared your salary to that of any other CEOs of PSC regulated**
19 **water utilities in Florida?**

20 A. I looked at Marion Utilities, which is approximately the same size as WMSI. Its
21 President is paid \$183,000 per year, and the President's his wife is also paid \$183,000
22 per year, for a total of \$366,000 per year. The salaries for Ms. Chase and myself are
23 less than one-half of that amount. Our salaries have already been reduced by an
24 additional 12.5% because of our involvement with BMG, so my salary before the 15%
25 reduction in the PAA Order was only \$96,250, not \$110,000.

1 **Q. Why do you believe you are worth \$96,250 per year to the utility?**

2 A. I have 38 years of experience as a utility company chief executive. I am also an “A-
3 V” rated Florida lawyer with 46 years of legal experience. This background of
4 training and experience has helped me develop a utility company that is very well
5 managed for the benefit of its customers on St. George Island.

6 **Q. How have your customers benefitted?**

7 A. We provide great, 24/7 service with virtually no complaints. We consistently receive
8 the top ratings from DEP, and we are in full compliance with the rules and regulations
9 of all our other regulatory agencies, such as the water management district, the federal
10 EPA and this Commission.

11 **Q. Can you be more specific as to how you have helped your customers?**

12 A. For example, in 2000, the State of Florida announced they were going to tear down
13 our water supply main on the St. George Island bridge, and I was given 60 days to
14 start moving our old line. This cost WMSI over \$7,000,000 which required WMSI to
15 file a limited proceeding. The initial filing was based on the market interest rate at
16 that time, and the requested rate increase was well over 100%. Later, after the case
17 was filed, I secured a loan from DEP at 2.99% which has saved the ratepayers
18 approximately \$500,000 per year for the past 10 years or so. A subsequent pleading in
19 the limited proceeding by my attorney, Rick Melson, put the savings at \$480,000 per
20 year, but I have calculated that it is actually around \$525,000 per year.

21 **Q. How were you able to get such a loan at below market rates?**

22 A. Among other things, I was able to do it by personally guaranteeing a loan of over
23 \$6,000,000 from DEP along with my wife and all my affiliates, including the
24 following: Land in Fla., St. George’s Plantation, Leisure Development Services, Inc.,
25 Brown Family Trust, Leisure Properties, Ltd., St. George Island Utility Co., Ltd., and

1 Barbara S. Withers, Trustee. I have attached some of the personal guarantee
2 documents as **Exhibit "GB-6."**

3 **Q. Is that a normal part of the duties of an officer of a utility company, to personally**
4 **guarantee over \$6,000,000 of debt?**

5 A. I do not know what other companies do, but I think those personal guarantees should
6 be taken into account by anyone trying to determine my level of compensation,
7 especially when the guarantees resulted in such a huge savings to the customers. In
8 fact, I have had to personally guarantee every debt the utility has, including the
9 \$3,000,000 line of credit from Gulf State Bank, which is now Centennial Bank. The
10 personal guarantees and pledges of other personal assets were even more extensive for
11 the \$3,000,000 loan from Gulf State than the \$6,000,000 loan from DEP, and included
12 the pledge of other personal, non-utility assets as set forth in **Exhibit "GB-7."**

13 **Q. Do most company CEO's have to pledge their personal assets for utility company**
14 **loans?**

15 A. Again, I do not what other companies do, but I do not believe it would be possible to
16 find anyone with my background and expertise to work full time for \$96,000 a year to
17 run WMSI, while pledging their personal assets as part of over \$9,000,000 in loan
18 guarantees.

19 **Q. Are there any other ways you have saved money for the ratepayers?**

20 A. Yes, as pointed out on pages 7 and 8 of my August 1 memo to the Commission, my
21 negotiation of a 10 year extension on the DEP loan amortization saved the ratepayers a
22 great deal of money.

23 **Q. Anything else?**

24 A. As you know, I recently negotiated a deal to buy 24 lots on St. George Island for
25 \$190,000 as the site for the improvements, after the Commission had approved

1 spending \$420,000 for similar lots. This will save the ratepayers approximately
2 \$230,000.

3 **Q. Anything else?**

4 A. When I negotiated the \$3,000,000 line of credit with Gulf State Bank, prime was 8%
5 and I agreed to pay 1 over prime, with no floor which was not standard or normal for
6 commercial loans at that time. When prime dropped to 3.25%, that omission saved the
7 utility well over \$100,000 during the last part of the 5-year term of the loan. My legal
8 expertise allows me to do things like that which would otherwise require the company
9 to hire outside legal counsel. Also, I believe there is value to the customers in the
10 expert team of dedicated employees who assist me in providing such great water
11 service to St. George Island. The average tenure of my employees is well over 20
12 years, which is the primary reason we are able to provide such outstanding service in
13 full compliance with all the various rules and regulations that must be followed.

14 **Q. How do you respond to Mr. Schultz's testimony that WMSI may not even be a**
15 **"going concern"?**

16 A. OPC is doing everything in their power to cause WMSI and me to fail, so they can
17 convince this Commission that we are not a "going concern." Using confidential
18 information they obtained as counsel in this case, the OPC actively and intentionally
19 took action to kill the loan WMSI has to have to construct the critical improvements
20 needed to guarantee water service. **Exhibit "GB-8"**. Months ago, when I spoke at
21 the St. George Island Civic Club, I was publicly and directly accused by several of our
22 customers of taking \$1.2 million of those customers' money. This was based on what
23 OPC had told them. They apparently thought I had taken their money out of escrow or
24 something. After I told them the truth, a group of the customers came up and
25 apologized to me after the meeting. The next day, at least two others called my office

1 to apologize. This smear campaign to defame me with the public and my bankers has
2 also been carried out over the internet. **Exhibit "GB-9"** is a copy of an email from a
3 WMSI customer who does not even know me, asking OPC why I am not in jail for my
4 conduct in this matter. This is all based on what OPC in emails or other personal
5 communication told her. The best Mr. Schultz could do in support of OPC's "going
6 concern" narrative was to say on page 24 of his testimony that this "may" be an issue
7 unless WMSI gets "some significant increase in revenue." I agree: That is the whole
8 point of this case, to obtain an increase in revenue so we can continue providing great
9 water service to St. George Island.

10 **Q. Can you respond to Mr. Schultz's testimony that you have taken large sums of**
11 **money from the utility which must be repaid?**

12 A. As I said earlier, I have had to come up with over \$15,000,000 to operate WMSI since
13 the year 2000. These funds were over and above the funds WMSI collected from rates
14 and ratepayers. Without this money, which came from me, my affiliates and third
15 parties, including loans personally guaranteed by me, the utility could not have stayed
16 in business to provide water service to the island. These financial facts are
17 documented by the cash flow analysis attached as **Exhibits "GB-2" and "GB-3."** I
18 should not have to pay out any more money to Water Management Services to provide
19 water service on St. George Island. After 4 years of effort, it is time for a rate
20 increase so the ratepayers who benefit from their great water service can share part of
21 the financing burden of providing that service.

22 **Q. Can you respond to Mr. Schultz's testimony that your actions with regard to the**
23 **DEP loan may constitute managerial imprudence?**

24 A. First, with regard to the allegation that extending the amortization on the loan was
25 imprudent, that is simplistic and wrongheaded. As I explained in some detail in my

1 August 1 memo to the Commissioners, that extension saved the ratepayers a great deal
2 of money by preserving a 2.99% rate in lieu of a higher 6.5% interest rate or an equity
3 rate of over 9%, either of which would have been much more expensive to the
4 ratepayers. Next, with regard to the payment reserve, I recall having to personally
5 come up with a reserve deposit of about \$209,000. This came from my own resources
6 and was not included in the rates. It did not come from ratepayers and I do not see
7 how it is relevant to any issue in this case. Third, regarding the question of an annual
8 audit requirement in the DEP loan, I am attaching as "**Exhibit GB-10**" amendment
9 number one to the DEP loan agreement which waived this requirement, as I noted in
10 my deposition. I assume OPC and Mr. Schultz overlooked this in their review of the
11 loan documents which are so extensively discussed by Mr. Schultz in his testimony.
12 The bottom line is this: The DEP loan is current and in good standing. I have
13 preserved and extended this loan to the financial benefit of the ratepayers. It was
14 prudent, not imprudent, to extend the amortization to 30 years to more nearly match
15 the depreciable life of the supply main, which is 35 years. That extension saved
16 WMSI \$112,000 per year in cash flow, which may well make the critical difference in
17 WMSI's ability to finance the improvements which are subject of this case.

18 **Q. What is your response to Mr. Schultz's concern about the value of the Brown**
19 **Management Group stock?**

20 A. I have more knowledge and expertise regarding this valuation than anyone else
21 involved in this matter, including Mr. Schultz. I valued the stock at an amount that
22 was greater than the balance in account 123. **Exhibit "GB-11."** This value was
23 reasonable, if not conservative. I recently turned down a cash offer for one of BMG's
24 assets that was substantially greater than the value listed on my estimate of value in
25 the BMG financial statement. This account 123 stock transaction had no effect on

1 rates or ratepayers, and I saw no reason to pay for an expensive appraisal of the BMG
2 assets as now suggested by Mr. Schultz.

3 **Q. Mr. Schultz says you should have used all the settlement proceeds from the**
4 **pipeline litigation to pay down the DEP loan. Do you agree?**

5 A. No. I used over half of those proceeds to pay down the DEP loan (\$417,390), but it
6 would have been imprudent to use all the proceeds for DEP, which would have
7 ultimately resulted in higher costs for the ratepayers, as I explained in my August 1
8 memo. Whenever you are running a business, whether a utility or anything else, you
9 pay off your higher interest debt first and your low interest debt last, so long as there is
10 debt as in the case of WMSI. During the litigation period, we made all the debt
11 service payments required by DEP, and it would have been foolish to pay extra
12 principal on a 2.99%, federally subsidized loan. Also, I would like to point out that
13 WMSI reduced its plant by the full amount of the litigation settlement, which reduced
14 our rate base, so that the ratepayers are not being charged for any part of the settlement
15 proceeds. Mr. Schultz and OPC have not pointed out even one specific action or
16 inaction that would constitute managerial imprudence. They are just trying to put that
17 label of imprudence on me so that I will not be able to finance the critically needed
18 improvements in this case. They are trying to fulfill the narrative that OPC set up over
19 2 years ago, i.e., that I am a dishonest, incompetent manager who deserves no rate
20 relief. The facts show otherwise.

21 **Q. Mr. Schultz says that WMSI still owes BMG \$335,000 and that there are other**
22 **technical problems regarding the accounting between WMSI, BMG and the**
23 **other affiliates. Do you agree?**

24 A. No, all of this was netted out by, between and among WMSI, my affiliates and me. I
25 own or control all of these entities and an agreement was made to merge everything

1 into BMG, whose ownership was transferred to WMSI in settlement of all the
2 intercompany accounts, including account 123. The value of BMG was greater than
3 the balance in Account 123, and it was certainly greater than the \$882,000 bottom-line
4 number in the PSC staff audit. This was fair and reasonable. It had no effect on rates
5 or ratepayers. This agreement between and among all the parties to the transaction, as
6 confirmed by the tax returns and financial statements of those parties, should trump
7 the opinion of one accountant who has only briefly looked at partial financial records.
8 Accordingly, this transaction should not be disturbed by this Commission.

9 **Q. Mr. Schultz says that WMSI's cash investments in BMG have harmed the**
10 **operation of the utility? Do you agree?**

11 A. No, quite to the contrary. I do not believe the utility company could have survived the
12 past several years without the investments made in BMG. Several years ago my local
13 bank announced that it could not lend to WMSI, or for any projects on St. George
14 Island, which was outside their market area. That bank and others had recently had
15 bad experiences on the island with other projects by other borrowers. Also, all of
16 WMSI's assets were tied up with the DEP and Centennial loans. However, my bank
17 gave me any and all money I asked for in my personal name or in the name of Brown
18 Management Group. That allowed WMSI to continue operations with BMG assets
19 that were sold, or with BMG assets that were used for collateral. For example, in
20 2010, BMG sold two assets for \$421,000, and gave a large part of that cash to WMSI.
21 Just this year, BMG borrowed \$100,000 from its local bank and used almost all of that
22 money to fund the ongoing WMSI cash deficit. A little over a year ago, BMG
23 borrowed \$150,000 against two of its assets to help fund the WMSI cash deficit.
24 Several years ago, BMG borrowed \$360,000 secured by two of its assets, resulting in
25 an immediate cash infusion of almost \$230,000 into WMSI. Before that, BMG sold

1 one asset and immediately gave the \$175,000 of cash proceeds to WMSI. There have
2 been numerous smaller transactions, which are detailed in GB-4 through the end of
3 2010. In addition, BMG and I have borrowed substantial sums in 2011 and 2012 to
4 produce cash for the utility, including another loan from my 401k. The utility
5 company could not have survived without these and other cash infusions by BMG, and
6 BMG would not have made those cash infusions without investments in BMG as
7 reflected in account 123.

8 **Q. Have you seen anything in the testimony of Mr. Schultz or any other OPC**
9 **witness that supports OPC's allegation that the \$1.2 million shown in account 123**
10 **was actually money that belonged to your customers?**

11 A. No, I have not. In fact, on page 15, Mr. Schultz acknowledges that he was not asked
12 to determine the source of those funds. They were not ratepayer's funds, and here we
13 are, over 2 years after this bald-faced lie by OPC was told to my customers, my
14 bankers, members of the general public and this Commission. The source of those
15 funds is detailed in the cash flow analysis attached as **Exhibits "GB-2" and "GB-3"**
16 to my testimony. That analysis stands unrefuted, now almost a year and a half after it
17 was first presented to the PSC staff and others on May 20, 2011. The PSC audit staff
18 simply called this a "subsequent event," but neither Ms. Dobiac nor the audit ever says
19 the numbers are wrong or inaccurate. Like Mr. Schultz, staff witness Dobiac never
20 got into the question of where all the extra millions of dollars came from. By simple
21 math and common sense, it is clear that the money did not come from customers. It
22 came from me, my affiliates and third parties, including loans secured with my
23 personal guarantee and the pledge of any personal assets.

24 **Q. What is your response to Mr. Schultz's concern that the \$85,000 advance to SMC**
25 **Investment Properties has not been repaid?**

1 A. As I noted in my deposition, this \$85,000 was repaid in full well over 3 years ago.
2 Attached as **Exhibit "GB-12"** is a series of documents which show that SMC paid
3 BMG \$144,500 on June 19, 2009, and that full amount was simultaneously paid over
4 to WMSI by check number 1730 dated June 19, 2009. This not only paid back the
5 \$85,000 advance to SMC, it also gave WMSI an extra \$59,500 of cash to help cover
6 its operating deficits in 2009 when the utility was working on its request for a rate
7 increase.

8 **Q. What is your response to Mr. Schultz's suggestion that you should have to**
9 **liquidate all of BMG's assets and impute that revenue to reduce customer rates?**

10 A. Again, I repeat that the account 123 investment in BMG had no impact whatsoever on
11 rates or ratepayers. In fact, it helped the utility survive through tough times, and the
12 assets are still available for collateral or sale purposes at the discretion of
13 management, which has both the responsibility and the liability for all such matters.
14 Even if this Commission had the power to order the liquidation of a non-regulated
15 subsidiary such as BMG, which it does not, this would be an imprudent and unfair
16 decision. As this Commission decided at pages 55 and 56 of the January 3, 2011
17 Order regarding account 123 in the last case: (1) there has been no misappropriation of
18 funds; (2) the amounts in question have been adjusted out of rate base and expenses;
19 (3) those amounts were not considered in the determination of rates; (4) that the
20 quality of service was good; and (5) that the Commission should not micromanage the
21 business decisions of regulated companies (not to mention non-regulated companies
22 such as BMG), but should focus on the "end-product goal." Nothing has changed to
23 justify a deviation from this order entered on the same facts and figures just last year.
24 The only difference is that WMSI has now established that the funds shown by
25 account 123 did not come from any customers, and that WMSI continues to provide

1 outstanding service to all its customers, none of whom have been impacted in any way
2 by anything having to do with account 123. This Commission should refocus on the
3 “end-product goal” as referenced in the last rate case order, and should help this utility
4 move forward to construct the critical improvements needed for the water system on
5 St. George Island. To go back now and second guess the utility on such things as
6 possible violations of loan covenants 7 or 8 years ago as advocated by Mr. Schultz
7 would be the height of micromanagement, all with no purpose or benefit to the
8 ratepayers or the utility.

9 **Q. Mr. Schultz supports the PAA order which disallows all transportation expense**
10 **reimbursement for both your and WMSI’s Vice President, Sandra Chase. Do**
11 **you agree with that?**

12 A. No, I do not believe there is any legal or rational basis for requiring Mrs. Chase and
13 me to personally pay for all our travel expense for utility company business. This is
14 wrong and inconsistent with the prior orders of this Commission on this same issue for
15 this same company. In the last case, I drove a company vehicle during the test year of
16 2009. WMSI requested that 50% of the expenses related to that vehicle be included in
17 rates. I did not keep mileage records, partially because I had never been ordered to do
18 so. Despite the lack of mileage records, this Commission allowed recovery for my
19 requested 2009 transportation expense based on reasonable, after-the-fact estimates of
20 my travel. However, in the same case, this Commission issued an order to show cause
21 why WMSI should not be fined \$1,000 for failure to keep travel expense records for
22 administrative employees, such as Mrs. Chase and myself. The Commission
23 acknowledged that adequate records had been maintained for field employees. I
24 responded by pointing out that the prior 1994 order referenced in the show cause
25 proceeding only applied to field employees, and not to administrative employees such

1 as Ms. Chase and me. In Order No. 11-0250-FOF-WU, dated June 13, 2011, this
2 Commission agreed and the show cause proceeding was dismissed with no hearing
3 and no fine. However, that order made it clear that travel documentation would be
4 required for all WMSI employees in the future, i.e., after the date of the order which
5 was June 13, 2011. Based on all of this and the order in the last case dated January 3,
6 2011, both Mrs. Chase and I started keeping detailed mileage reimbursement records
7 for the WMSI use of our personal vehicles as of January 1, 2011, and we keep those
8 records on a daily basis throughout all of 2011. Those detailed records were kept on
9 the same forms we had always used for field employees as approved by the
10 Commission. Those records supported our total annual reimbursement of \$9,322.51,
11 but we are requesting only \$8,916 in this case because that is the amount in the MFR's
12 prepared before the end of 2011. Under these circumstances, January 1, 2011 is the
13 earliest date Mrs. Chase and I could reasonably have been expected to keep detailed
14 mileage reimbursement records on our personal vehicles. Before that, WMSI was
15 claiming expenses for our use of company vehicles. The expense of my company
16 vehicle in 2009 was approved based on general, after-the-fact estimates. I do not
17 understand why the expense related to WMSI's use of my vehicle and Mrs. Chase's
18 vehicle cannot now be approved on the basis of detailed, day-by-day, and mile-by-
19 mile reimbursement forms that have been presented to the Commission and its staff.

20 **Q. What is your response to Mr. Schultz's testimony regarding the gain on sale**
21 **issue?**

22 **A.** As I discussed earlier, this issue relates to two investment lots in Tallahassee that my
23 company bought from WMSI for a great deal more than WMSI paid for the lots.
24 Those lots were never in rate base, and the ratepayers never had any investment or
25 involvement in the lots. They should never have been included in the gain on sale

1 calculation in the last case, which has already cost WMSI approximately \$100,000.
2 This Commission should not compound that mistake by charging WMSI with another
3 \$153,292 as advocated by Mr. Schultz.

4 **Q. Can you respond to Mr. Schultz's testimony regarding accounting expenses?**

5 A. Yes, WMSI is asking for recovery based on a 5 year average of actual, documented
6 accounting expense as allowed in the last case. The accounting expense for the test
7 year of 2010 was \$18,550, primarily for extensive work on plant depreciation
8 schedules and other complicated accounting issues to comply with NARUC. The bill
9 for this work was detailed, and it has been paid in full, including the \$4,500 referenced
10 by Mr. Schultz. Mr. Schultz correctly points out that the accounting expense was
11 higher in 2010 than the other years. That is why WMSI is using an average, to even
12 out the high years with the low years. That was done in the last case, and it should be
13 done in this case. This average is still just a little over \$5,000 per year, which is very
14 reasonable for a highly regulated utility such as WMSI.

15 **Q. How do you respond to Mr. Schultz's testimony regarding working capital?**

16 A. It makes no sense to me that WMSI should not be allowed any working capital just
17 because we changed from being a class "B" utility to a class "A" utility. If anything,
18 the need for working capital has increased. This case is a good example. I started
19 working on this matter in 2009. Here we are four years later, having spent or incurred
20 almost about \$600,000 while collecting about \$20,000 in new rates. Mr. Schultz states
21 that WMSI is not entitled to any working capital because it has not issued sufficient
22 equity or debt. All I can say is that my other shareholders and I have invested millions
23 of dollars in this company over the past 38 years as shown by Exhibits "GB-2 and
24 GB-3." WMSI is entitled to have a working capital allowance included in rate base.

25 **Q. Mr. Schultz testified that WMSI should not be allowed to include any recovery**

1 **for life insurance premiums as part of the weighted cost of capital. Do you**
2 **agree?**

3 A. No. The original Gulf State Bank \$3,000,000 line of credit loan required the pledge of
4 life insurance on my life in the amount of \$1,000,000. When that loan came due and
5 had to be renegotiated with Centennial Bank, that new bank required an increased total
6 of \$3,000,000 of life insurance, with premiums of over \$39,000 per year. Centennial
7 required a pledge of life insurance because they are relying on my personal guarantee
8 that the money will be repaid. If I die, they want immediate payment. They do not
9 want to be tied up with litigation involving my heirs and other lenders such as DEP,
10 which does not have a pledge of life insurance. If it were not for this Centennial Bank
11 loan requirement, I would not maintain \$3,000,000 of life insurance, and I would not
12 have to pay over \$39,000 per year in premiums. Actually, all of these premiums
13 should have been included as a WMSI expense, but they were not. WMSI is simply
14 requesting that this mandated cost be reflected as a component of the cost of debt, just
15 like any other cost required by the loan covenants. This will result in the ratepayers
16 being charged for only part of the actual premiums. That is reasonable and
17 appropriate because the ratepayers are benefitting from the water service that could
18 not have been provided without the \$3,000,000 loan, and that loan could not have been
19 secured without my personal guarantee and the pledge of insurance on my life.

20 **Q. Do you have any final response to the testimony of Mr. Schultz?**

21 A. My general impression is that it is very academic and indefinite. It does not deal with
22 the real-world issues involved in running this water company, which is focused on
23 getting the critically needed improvements started and finished for the benefit of our
24 customers. I would like this Commission to “focus on the end-product goal,” which is
25 a phrase I pulled from page 56 of the order in our last rate case. If this Commission

1 accepts all the deductions and recommendations of Mr. Schultz, WMSI will not have
2 sufficient funds to operate, let alone to finance all the necessary improvements to the
3 St. George Island water system. Our bank will require proof of adequate cash flow to
4 operate, plus a reserve of at least 15%, before getting to the questions of adequate cash
5 flow to service the new debt. That loan and the new improvements should be the
6 focus of both the utility and this Commission. The fact that WMSI was willing to
7 accept the PAA Order does not mean that WMSI does not need, or is not entitled to,
8 the benefit of the items included in WMSI's cross protest. This cash flow could well
9 be the critical difference in WMSI's ability to finance the critically needed
10 improvements in this case. WMSI's last rate case based on a 2009 test year resulted in
11 cash outlay of well over \$230,000 in rate case expenses, while the rates were increased
12 only by an insignificant amount, \$13,000 per year. The limited proceeding before
13 that, around 2003, did not have any general rate relief, and did not even provide
14 sufficient cash flow to pay the debt service on the DEP loan, as I detailed in my
15 August 1, 2012 memo to the Commission. **GB-2**. So the only significant rate relief
16 for this utility from this Commission was almost 20 years ago in the 1994 case based
17 on a 1992 test year. I believe WMSI is now entitled to rate relief in this case,
18 including the items in our cross-protest.

19 **Q. Does that conclude your testimony?**

20 **A.** Yes, it does.

21

22