

BEFORE THE
FLORIDA PUBLIC SERVICE COMMISSION

In the Matter of:

DOCKET NO. 150010-WS

APPLICATION FOR STAFF-ASSISTED
RATE CASE IN BREVARD COUNTY BY
AQUARINA UTILITIES, INC.

_____ /

PROCEEDINGS: COMMISSION CONFERENCE AGENDA
ITEM NO. 8

COMMISSIONERS
PARTICIPATING: CHAIRMAN JULIE I. BROWN
COMMISSIONER LISA POLAK EDGAR
COMMISSIONER ART GRAHAM
COMMISSIONER RONALD A. BRISÉ
COMMISSIONER JIMMY PATRONIS

DATE: Tuesday, December 6, 2016

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

REPORTED BY: LINDA BOLES, CRR, RPR
Official FPSC Reporter
(850) 413-6734

P R O C E E D I N G S

1
2 **CHAIRMAN BROWN:** We are going to circle back
3 to Item 8. We need to get the other gentlemen. Thank
4 you.

5 (Pause.)

6 Okay. We are on Item 8, and my understanding
7 is that we do have some customers here that would like
8 to address the Commission after staff does its brief
9 overview. Is that correct?

10 **MR. SHAFER:** Yes, Madam Chairman, that's
11 correct.

12 **CHAIRMAN BROWN:** Okay. You may proceed.

13 **MR. SHAFER:** Item 8, as you may recall, was
14 continued from the November 1st Commission Conference.
15 At that conference the Commission approved Issues
16 1 through 9, which included the revenue requirement for
17 all services as well as the quality of service issue.
18 And in addition, at that conference the Commission
19 initiated a performance audit on the utility.

20 The rate issues, we had quite a bit of input
21 from customers and the utility taking exception to
22 staff's recommended rates and suggesting a number of
23 alternatives. At the conclusion of that item, there was
24 no consensus in regard to what rate schedules the
25 customers preferred, and so the Commission elected to

1 continue the item to this agenda to give -- and directed
2 staff to try to develop some additional rate structure
3 alternatives that might be more palatable to the
4 customers. Excuse me.

5 And just to refresh your memory, the primary
6 issue was that the golf course, a large non-potable
7 water customer, the utility expressed concern that the
8 non-potable water rates that were recommended by staff
9 were so high that they felt that the -- there was danger
10 of them losing the golf course as a customer. And the
11 residential customers were also concerned about the
12 financial well-being of the golf course under that rate
13 structure.

14 Staff prepared some additional alternative
15 rate structures and presented those -- provided those
16 rate structures to the customers prior to that -- our
17 supplemental -- excuse me -- supplemental memo being
18 filed, and initially a number of the customer groups as
19 well as the golf course and the utility endorsed what
20 was labeled Alternative 1 in the supplemental memo.

21 Once the memo was filed and the Phase 2 rates
22 were also -- that would fall out of those existing rate
23 structures were made available to the customers, then
24 the customers rescinded and the golf course rescinded
25 their preference for Alternative 1.

1 And so where we find ourselves today is that
2 there is -- the utility, as far as I know, is still in
3 favor of Alternative 1. There was one homeowners group
4 that is not affiliated with the golf course, and they
5 prefer staff's recommended rates and take exception to,
6 you know, some special recognition of any particular
7 customer that they would have to pick up the slack for.
8 And the remaining customer groups are still, to my
9 knowledge at this point, concerned that none of the
10 alternatives are acceptable to them. And that's where
11 we find ourselves today.

12 **CHAIRMAN BROWN:** Thank you very much for that
13 overview, Greg.

14 We have a few customers, as I mentioned, in
15 the audience, and we do have a podium over here for the
16 customers to come to to address the Commission. But we
17 have Representative Fine, we have his aide here today
18 who would like to address us first. His name is Mr. Joe
19 Howard. And welcome. I spoke with Representative Fine
20 yesterday, and I understand he is new to the
21 legislature. And I don't know if you are too, but
22 welcome here.

23 **MR. HOWARD:** Do I need to push or are we good?

24 **CHAIRMAN BROWN:** Oh, no, you don't need to.

25 **MR. HOWARD:** Okay. Great. Yes, I am new as

1 well. I'm Joe Howard. I'm State Representative Randy
2 Fine's legislative aide. Randy represents area --
3 District 53, which Aquarina is part of our district.

4 I apologize that Randy, the Representative --
5 I have to get used to calling him Representative. I've
6 known him for about 15 years. So I apologize that the
7 Representative could not be here. He is at the capitol
8 attending what they're affectionately calling
9 "Representative Boot Camp" or "Representative
10 University."

11 We would like to ask that the Commission
12 revisit the revenue requirement in light of some new
13 information that has not been presented to you
14 previously, the residents will bring that up, as well as
15 consider the new management allocations. It's our
16 understanding that the utility also manages another
17 area, and the allocation of fees is not distributed
18 appropriately. And we would also respectfully ask that
19 the Commission take the time to review all of this
20 information thoroughly and, with the holidays coming,
21 suggest that maybe we can revisit this in February.

22 I appreciate you for your time. This is --
23 the current structure that is proposed is going to be a
24 long-term burden for the customers, and it's going to
25 impact several of them negatively to the point where

1 they may have to move out of the area. So thank you for
2 your time. I greatly appreciate it.

3 **CHAIRMAN BROWN:** Thank you, Mr. Howard.

4 All right. Moving on -- the next customer --
5 well, the first customer to address us is Ms. Joyce
6 Malakoff. Welcome back.

7 **MS. MALAKOFF:** Thank you. Good morning.

8 **CHAIRMAN BROWN:** Good morning.

9 **MS. MALAKOFF:** I just have a brief
10 introduction to try to indicate what it is we hope to
11 present to you today as a community. The last time we
12 stood before you, we were fortunate to have the
13 opportunity to present to you our concerns and the facts
14 underlying them. We were gratified that you heard and
15 recognized us, recommending a reduction in the utility's
16 customer satisfaction rating to marginal without
17 financial penalty, and that you authorized the execution
18 of a management audit, reasonable and just decisions for
19 which we are very appreciative.

20 You also requested our input on the structure
21 of a rate increase, specifically allocations between
22 potable, non-potable, and wastewater. In researching a
23 basis for a sound recommendation, we unearthed a
24 substantive amount of relevant information that quite
25 frankly surprised us, especially in the limited time

1 that we had received this.

2 In the interest of time, we will not present
3 it all to you up here, but we do feel that it should be
4 included in the management audit. We would like to
5 preview an example or two briefly now, and we have
6 provided them to you in hard copy, because we believe it
7 is vital to the need to reconsider the rate of the
8 increase and the determination of the allocation that is
9 most fair to both consumers and provider. As you'll
10 see, all of this underscores the importance of a full
11 and comprehensive audit based upon accurate and
12 up-to-date data, some of which we can provide and some
13 of which is part of public record: For example,
14 management compensation levels, the adequacy of capital
15 equipment and the like.

16 As a matter of fact, the Cedar Oaks audit that
17 was done early in 2016 serves as a reasonable model for
18 our own. We have combed through it and sent it back to
19 you with the addition of a few edits that relate to our
20 own circumstances, although we have not heard back yet.
21 Our goal was to help the staff structure our forthcoming
22 management audit. Therefore, until the management audit
23 is complete, we ask that you reconsider your previously
24 approved rate increase. And we request that whatever
25 rate increase is approved, the allocation mirrors the

1 current allocation of potable, non-potable, and
2 wastewater on which the utility and our community may
3 agree. Thank you.

4 **CHAIRMAN BROWN:** Thank you, Ms. Malakoff.

5 Commissioners, any questions?

6 Thank you. Thank you for coming up here.

7 The next speaker is Ms. Ann Bruns.

8 **MS. BRUNS:** Thank you. I was also here last
9 month. Ann Bruns; I'm the current vice president of our
10 homeowners association and the president of Aquarina
11 Golf, Incorporated, and also a resident.

12 So the introduction spoke to many of these
13 things, and I apologize for any repeat. But we did have
14 some back and forth with the staff. So when we left
15 here after the last meeting, we had four alternatives we
16 were considering. We received some communication in
17 mid-November that gave us two different alternatives and
18 asked us to respond to that within 24 hours. We did,
19 and that's the letter that he spoke to that said we
20 chose Alternative 1. And I think that did not
21 appreciate that it was a phased situation, so we asked
22 for the Phase 2 on, I believe, November 20th. And we
23 just received that a few days ago, which would have been
24 December 1st or 2nd when we got the information on the
25 second phase.

1 So it is -- you know, my point here today is
2 to, again, emphatically rescind the Alternative 1 to say
3 that we think, with all this back and forth and all the
4 different alternatives, we really didn't have the
5 appropriate time to make a decision that we think is
6 critically important to us. So I ask that this
7 Commission allow us that and continue to include us and
8 ask for our opinions, of course, on the allocation. But
9 I also ask that you consider the entire increase again,
10 as we've already pointed out. Thank you for this time
11 to speak to you today.

12 **CHAIRMAN BROWN:** Thank you, Ms. Bruns.

13 Commissioners, any questions?

14 Thank you.

15 Mr. Shanahan, Ed Shanahan.

16 **MR. SHANAHAN:** Good morning, and thank you for
17 the opportunity to talk to you briefly. My name is Ed
18 Shanahan. I live at 200 Osprey Villas Court in
19 Aquarina.

20 I stand to represent the good work of another
21 Aquarina resident, Bob Dragoon, whom you met in
22 November. He is unfortunately ill and regrets he cannot
23 be here. Bob and another Aquarina resident, Don
24 Schwinn, have examined the historical data related to
25 the management fees for companies this size in an

1 attempt to understand the bases for the 41 percent
2 increase in revenue.

3 Both these gentlemen made side-by-side
4 comparisons with the earlier staff report of
5 November 24th, 2003. It's important to note that the
6 2003 management charge was thoroughly benchmarked and
7 analyzed by staff; whereas, the management cost for the
8 214 (sic) test year apparently was not so benchmarked or
9 analyzed.

10 For example, the 2002 earlier utility
11 requested that the management cost reported for 2003 be
12 significantly increased in setting a new revenue target.
13 The PSC staff responded that they found the increase to
14 be unreasonable. The staff then consulted the American
15 Waterworks Association Water Utility Compensation
16 Survey. They used the highest average salary of the
17 management function with the most responsibilities and
18 adjusted for inflation. The staff then recommended a
19 rate of \$22,000 per year.

20 Note that the 2003 report was signed by
21 Braulio Baez and others whom we think -- and we think
22 that it may have represented a gold standard for this
23 sort of analysis. In order to make an apples-to-apples
24 comparison, the group adjusted the 22,000 cost for
25 inflation for growth in the number of homes added and

1 bumped it up by a factor of 1.4 for employee overhead
2 items like insurance and FICA and the like.

3 The 2002 costs restated in 2014 dollars and
4 conditions comes to \$66,000 versus the \$185,000
5 requested. Thus, it appears that the 2014 management
6 cost represents an excessive charge of \$118,944, and the
7 revenue target for rate setting should be reduced by
8 that amount. Thank you very much.

9 **CHAIRMAN BROWN:** Thank you, Mr. Shanahan.

10 Commissioners, any questions?

11 Thank you for coming up here.

12 Next speaker is Sandra Podesta.

13 **MS. PODESTA:** I do have some handouts.

14 **CHAIRMAN BROWN:** Okay. Staff will gladly help
15 assist you. They're right behind --

16 **MS. PODESTA:** Thank you very much. Happy to
17 be back.

18 **CHAIRMAN BROWN:** Nice to see you.

19 **MS. PODESTA:** Thanks. Sandra Podesta. I also
20 live in Aquarina, Osprey Villas Court. Oh, yeah, I'll
21 wait until these are passed out.

22 **CHAIRMAN BROWN:** Would you like those to be
23 made part of the record here?

24 **MS. PODESTA:** Yes.

25 **CHAIRMAN BROWN:** Obviously. Thank you.

1 **MS. PODESTA:** Yes. Thank you.

2 **CHAIRMAN BROWN:** Okay. Thank you. You may
3 begin.

4 **MS. PODESTA:** So what was just passed out
5 are -- is some information from Phillip Mills, who was
6 also here last November and is not here today. He's a
7 full-time working CPA, which is why he's not here.

8 So I'm just going to preview for you two very
9 key points from what was just passed out, and it is
10 Phil's finding. And we all, as the customers, agree
11 that the rate increase, as previously approved, is
12 materially flawed in two additional respects from what
13 we've already mentioned here.

14 One, the rate increase impacts the three
15 communities in ways that are not appropriately allocated
16 based on actual use. It's not a coincidence that we
17 Aquarina residents have traveled 700 miles twice and
18 yesterday through possible tornadoes and thunderstorms
19 to present our concerns to you. The application -- the
20 allocations are simply not equitable.

21 Secondly, a significant related-party
22 transaction of \$184,000 roughly was not disclosed in the
23 2015 annual report. Because this expense was not
24 disclosed, we don't know how much of it, if any, is
25 management fee or some other form of compensation, and

1 this is important as it relates to the total
2 compensation to Kevin and Holly Burge, the officers who
3 run this utility on behalf of its owner, Reginald Burge,
4 Kevin's father, and the fact that Kevin Burge is being
5 compensated for running Aquarina but is rarely even on
6 the premises at Aquarina, devoting substantially all of
7 his time to Polk City Water and Sewer.

8 The consequences of this lack of management
9 presence are evident in the numerous violations and
10 operational flaws that we cited to you last time,
11 including insufficient fire protection water, poor
12 response to customer complaints, and disastrous
13 post-Hurricane Matthew water restoration.

14 With thanks, I'd like to turn this over to
15 Patricia Merchant, who will provide additional
16 information on this topic. I don't know if she's going
17 to do that now or later.

18 **CHAIRMAN BROWN:** Later.

19 **MS. PODESTA:** Okay. So that's it.

20 **CHAIRMAN BROWN:** Thank you so much,
21 Ms. Podesta, and thank you for coming back up here. We
22 appreciate your comments.

23 **MS. PODESTA:** Thank you.

24 **CHAIRMAN BROWN:** Thank you.

25 Commissioners, any questions?

1 Okay. Thank you.

2 And the last customer to speak is Mr. Jim
3 Royer. I believe the last one.

4 **MR. ROYER:** Good morning.

5 **CHAIRMAN BROWN:** Afternoon almost.

6 **MR. ROYER:** My name is Jim Royer, and I'm -- I
7 live at 140 Warsteiner Way in Aquarina on Melbourne
8 Beach. I am president and chair of the water committee
9 that is in charge with looking at the long-term effects
10 of what's happening here and what's best for our
11 community.

12 I just met Carl Vinson, who is going to be in
13 charge of the management audit, and I look forward to
14 working with him when he comes to Aquarina in January.

15 I would first like to address Mr.-- attorney
16 Charles Murphy. He presented a letter yesterday
17 refuting our desire to delay this meeting until
18 February. He stated that we've already consumed two
19 years, we've already delayed this twice. That is not
20 true. The first time we delayed it was in October, and
21 that was because of a natural disaster. Hurricane
22 Matthew arrived on our doorstep on the 7th of October
23 and destroyed over 40 roofs, totaled 40 roofs. We still
24 have a number of temporary roofs on homes and we're
25 still wrestling with insurance adjusters to remedy these

1 situations. So thank you for that change.

2 The second change, we asked for a delay
3 because we found this new information that shows that
4 some of the basic premises that the staff looked at were
5 not available to them. So they gave the Commissioners
6 inadequate information to make a true decision about
7 what a fair revenue requirement really is, and we have
8 information that will be presented to address exactly
9 that. It's already been mentioned.

10 And lastly is the allocation. That's really
11 what we postponed till today to address. And I would
12 like to just say it's been a wild swing. We've gone
13 from the February staff 82-page document that
14 recommended one -- on one hand, one extreme to the
15 opposite extreme of nearly -- non-potable water to the
16 tune of over 150 percent with no justification. And it
17 absolutely does not agree with both the customers, the
18 bulk of the customers and the utility. We're on the
19 same page as far as that's an inadequate appropriation
20 or allocation.

21 So we want to revert back to what the
22 Executive Director Baez has already well established as
23 the standard back in 2003. This isn't the first rodeo,
24 okay, for this utility. We have a long track record, a
25 30-year track record of justifiable increases, and we

1 want to follow that lead. And by simply looking at how
2 you allocated in 2003 really shouldn't create a lot of
3 variability in 2016. It was fair and equitable then;
4 it's fair and equitable now. So with that, I'm open to
5 any questions.

6 **CHAIRMAN BROWN:** Thank you, Mr. Royer. Thank
7 you for your testimony here.

8 Commissioners, any questions or comments?

9 Thank you.

10 **MR. ROYER:** Thank you.

11 **CHAIRMAN BROWN:** All right. I believe that is
12 the rest of the customers. If there aren't, please feel
13 free to come up. Okay. Seeing that there are none.

14 All right. Staff -- Mr. Friedman, would you
15 like to address the Commission or wait for Public
16 Counsel?

17 **MR. FRIEDMAN:** Let them have their say first.

18 **CHAIRMAN BROWN:** Okay. Mr. Sayler.

19 **MR. SAYLER:** Madam Chair, we have two handouts
20 to pass out as well.

21 **CHAIRMAN BROWN:** Okay. Can we please have
22 someone help assist? I think Mr. Fletcher is going to
23 help you.

24 **MR. SAYLER:** While that's being passed out, I
25 just want to explain what documents we're passing out.

1 One is an excerpt from the utility's 2015 annual report,
2 which was filed back in April of this year. The other
3 is a copy of an excerpt from the staff management
4 audit -- excuse me -- not the management audit -- the
5 audit that was done for the SARC that was dated
6 April 3rd. And then attached to that is a newspaper
7 article from September 2015 regarding a new utility
8 contract with Polk City that involves the Aquarina
9 Waterworks Company, which is the services company that
10 also provides services to Aquarina Utilities there in
11 Brevard County. And then the other is just an excerpt
12 from the Polk City website that references Mr. Kevin
13 Burge as being one of the contractors for Aquarina
14 Waterworks that provides those services to Polk City.

15 And Ms. Merchant and I will be tag teaming
16 this this morning. I will go through my remarks, and
17 then I'll pass that on to her.

18 **CHAIRMAN BROWN:** Okay. And I do just want to
19 remind you, as you are aware, that this Commission
20 previously approved already the revenue requirement and
21 we are on to the rate structure Issues 10 through 19.
22 Okay?

23 **MR. SAYLER:** Yes, ma'am.

24 **CHAIRMAN BROWN:** And that was approved PAA as
25 well, as you are fully aware. So I just wanted to

1 remind you that's where -- the posture that we're in
2 today procedurally.

3 **MR. SAYLER:** Yes, ma'am. And if this
4 information had been brought to the board in November, I
5 would agree. But I think that -- this is new
6 information that materially affects the overall revenue
7 requirement that this Commission approved last month.
8 And I know Commissioner Graham sought reconsideration of
9 all the items so that you could be on a fresh posture
10 here today. We at that time didn't think there was
11 anything to change as it relates to the revenue
12 requirement. We were concerned about quality of service
13 and the management audit, which were things the
14 customers wanted. I did not know about this new
15 information that came to light. It was provided to our
16 office yesterday, and we contacted staff immediately to
17 ask them if they were aware that Aquarina Waterworks,
18 the services company, where 100 percent of those costs
19 are being allocated to the Aquarina customers, if they
20 were aware that there was another contract that the
21 services company had with Polk City. And --

22 **CHAIRMAN BROWN:** Didn't we reject -- we
23 rejected the motion for reconsideration, but we did that
24 under the assumption that -- of Public Counsel's
25 argument; correct?

1 **MR. SAYLER:** I believe Commissioner Graham
2 withdrew it.

3 **CHAIRMAN BROWN:** Okay.

4 **MR. SAYLER:** And it's -- and this is -- we ask
5 you to hear us out, and if you believe that there's
6 merit to anything that we share here today, I think it's
7 the possibility of avoiding a protest by the customers.
8 And you still have jurisdiction over the rates. You
9 approved the revenue requirement, but you can reconsider
10 that. It's been done before in the past.

11 **CHAIRMAN BROWN:** Fair enough.

12 **MR. SAYLER:** Okay.

13 **CHAIRMAN BROWN:** Fair enough. I just wanted
14 to kind of set the tone, though.

15 **MR. SAYLER:** Oh, absolutely, and I appreciate
16 that clarification.

17 We believe this new information, if the
18 Commission is willing to look at it and have the staff
19 look at it and to determine whether or not it would
20 affect the revenue requirement in this case, we think
21 it's important to bring it to you now. I agree it's at
22 the 11th hour. But we also think this is a
23 staff-assisted rate case. It's important to get the
24 revenues and the rates done right. This utility has
25 waived the statutory time clock. The time clock is

1 normally 15 months, but it's been waived. There's no
2 requirement to have it done by a time certain. And
3 based upon this new information, we think that if the
4 Commission staff -- if the Commission or the Commission
5 staff are willing to look at it, we think that it will
6 affect the rates that you approved last month and here's
7 why.

8 Again, the Burges own this services company,
9 and you approved 100 percent allocation of their
10 salaries and expenses to this customer group. At the
11 time we weren't aware that they were also, with the same
12 services company, providing similar services to Polk
13 City. We also found out this only in the last few days.

14 And let me give you the time frame. That
15 first document that's stapled is the management audit
16 dated April of '15, the staff audit -- excuse me -- the
17 staff audit. And in the staff audit, the staff audited
18 the information they knew and had available at that
19 time.

20 If you flip a couple of pages, you'll see the
21 newspaper article where the Polk County -- Polk City
22 Commission approves a contract with Aquarina Waterworks.
23 This happened after the staff audit, and this is new
24 information that we don't believe that the staff was
25 ever aware of when they were forming rates or

1 recommending rates to you for approval.

2 We contacted staff yesterday with this
3 information, and to the best of our knowledge, the
4 utility has never provided this information to staff.
5 And you see the last page shows that Kevin Burge is one
6 of the main contacts for this.

7 Now if you look at the other document, it's
8 the excerpt from the annual report. There's two pages.
9 If you turn to the page where it shows parent and
10 affiliate organization chart --

11 **CHAIRMAN BROWN:** Uh-huh.

12 **MR. SAYLER:** -- you do not see anywhere on
13 there where Aquarina Services Corporation is mentioned.
14 And then if you turn it over, you will see that Kevin
15 Burge, as president, allocates 100 percent of his time
16 to Aquarina, this utility. However, it's impossible to
17 allocate 100 percent of your time as the president to
18 Aquarina Utility and also serve Polk City, and that is a
19 concern that we have. And we don't know if Ms. Holly
20 Burge allocates any of her time to Polk City or any of
21 the other utilities owned by this family unit. We just
22 don't know. And that's why this information is material
23 and we believe would affect the revenue requirement that
24 this Commission approved last month if you had had that.
25 And obviously salaries and services are always

1 allocated. If there's a services company and there's
2 two systems, it's allocated percentage basis between the
3 two systems. And we don't think staff was aware of
4 this. We don't know at what time that they would have
5 become aware of it until we found out about it
6 yesterday. We endeavored to get this information to
7 you.

8 When I spoke with Mr. Murphy last week, I told
9 him, "I'm not planning really to address this at all."
10 It wasn't until this information came in yesterday is
11 why I'm here addressing the Commission today.

12 **CHAIRMAN BROWN:** Okay.

13 **MR. SAYLER:** So, again, Ms. Merchant has more
14 information to amplify as it relates to this, and I will
15 turn the mic over to her. But, again, thank you for
16 taking this new information into account for the
17 possibility of reconsidering what the Commission did
18 last month.

19 **CHAIRMAN BROWN:** Okay. Thank you.

20 Ms. Merchant.

21 **MS. MERCHANT:** Good afternoon, Commissioners.
22 We really did receive this letter that's entitled, "Dear
23 Commissioners" and other addressees that you got earlier
24 from one of the customers, we got this at about 4:00
25 yesterday afternoon. My first take was, you know, we've

1 already been through the revenue requirement, that was
2 already established, and, you know -- and so then I
3 started reading -- I got to the end of the very first
4 paragraph, which says that Kevin Burge is devoting
5 substantially all of his time at Polk City Water and
6 Sewer, and I'm like, "I've never even heard of this
7 utility." It's a government.

8 So my first thing to do was to Google it to
9 see what was going on. And, sure enough, I went to the
10 Polk City Water and Sewer website and it has Kevin
11 Burge's name and Keith Burge's name. That's his brother
12 who runs another system called Gold Coast. So I started
13 thinking about it, did some more Googling, and I found a
14 newspaper that approved -- where the city commission
15 approved the contract, \$425,000 a year. And then I went
16 back and I'm like, "Man, that's a game changer for me."
17 Because the staff audit said -- which was completed in
18 early 2015, this contract was signed in September of
19 2015, and now we're here at the end of 2016.

20 So I looked at -- I tried to look through
21 every single document that was in the docket file in
22 this case to see if I could -- if this was even
23 disclosed or asked about or anything, and I could not
24 find anything. There may have been something, but I
25 certainly went through a whole lot of documents between

1 last night and today.

2 But if you -- also, I don't know if you got
3 this in your packet, but I was looking at the annual
4 report for 2015, which is actually filed May 2nd of
5 2016, and on the page that says, "Business contracts
6 with officers, directors, and affiliates," it only says,
7 "Kevin and Holly Burge, equipment rental, and then the
8 affiliated entities Kevin and Holly Burge." It doesn't
9 mention Aquarina Waterworks.

10 And the next page talks about affiliation of
11 officers and directors, and it says, "For each official,
12 provide any principal occupation or business
13 affiliation, all affiliations or connections with any
14 other business or financial organizations." And they
15 only list on that page of the annual report Keith Burge
16 from Gold Coast, which is the brother, and Reginald
17 Burge, which is the father. So none of this information
18 regarding Aquarina Waterworks, the service company, that
19 was actually in effect -- the auditors mentioned it in
20 their audit report but it's not in the annual report.
21 So to me, it's quite material. You've got a contract
22 with a -- it's a small government. I don't know how
23 many customers they have. But the total contract is
24 about equal to the total O&M expenses for Aquarina. So
25 to me, that was a major, major change that hadn't been

1 addressed and I think some allocation needs to be made.

2 **CHAIRMAN BROWN:** Okay. Thank you,
3 Ms. Merchant. And absolutely appreciate you bringing
4 this to our attention. It would have been nice to get
5 it along the same time so our staff could have looked at
6 it. And I don't know what staff is going to recommend
7 on this, but we'll go to the utility first to hear from
8 them.

9 **MS. MERCHANT:** I did forward it to the staff
10 last night once I got it, so -- but that was --

11 **CHAIRMAN BROWN:** Thank you.

12 **MR. FRIEDMAN:** Thank you. Marty Friedman on
13 behalf of Aquarina Utilities.

14 I as well thought we were here to talk about
15 allocating, so although somebody at the beginning of the
16 agenda gave me a copy of what was handed out today, I
17 didn't get it before today. And so we're not prepared
18 to do that. You know, this rate case has been going on
19 for two years. The utility, without my advice last
20 summer, agreed to extend that time because the customers
21 weren't all in residence during the summer and they
22 wanted to wait until they were in residence to have the
23 agenda. And my client agreed to -- or waived that
24 15-month deadline without consulting with me. And it
25 goes to that old adage "No good deed goes unpunished."

1 So instead of giving a waiver to a specific time frame,
2 they just said, "We waive it." And so, in theory, there
3 is a blanket waiver out there, but that doesn't mean you
4 ought to take advantage of that waiver.

5 All of this has been vetted. The auditors
6 know about this, and I'm not -- I know about this other
7 company as well. I'm not going to go in to tell you all
8 I know about it. But all I can tell you is that a
9 little bit of knowledge is a very dangerous thing. And
10 you can't take something and automatically look at it as
11 if, oh, there is something bad going on. That's a very
12 negative way to look at something that's not negative.

13 And I'm not prepared to discuss all that. We
14 went through it. I had problems with the staff
15 recommendation on the revenue requirement. You voted
16 the revenue requirement. We came back, and y'all had
17 asked that we try to all get together, get a little
18 Kumbaya and come up with an agreement on what the
19 allocation should be. The staff spent some time and put
20 out two options there, and we -- I thought we all had
21 agreement on that option until I think yesterday when
22 somebody on the staff said, "Oh, by the way, we're going
23 to have a lot of customers come talk about this." And I
24 didn't know what they were going to talk about because I
25 thought we were here to talk about allocation. What's a

1 fair way to allocate it to protect the customers but
2 also to protect the utility from having a substantial
3 portion of its revenue requirement be a customer or
4 customers that aren't required to take the service? And
5 if they -- any of those customers, not just the golf
6 course, if any of the homeowner associations decide to
7 dig their own wells, it would have a devastating effect
8 on this -- the revenue requirement for this small
9 company. And that's why, you know, in order to do the
10 other prong of your job, which is to protect the
11 financial integrity of utility companies, it's to
12 allocate -- let's reallocate that revenue requirement to
13 other services.

14 Since the irrigation system also provides the
15 fire flow, it's not just irrigation customers that are
16 benefiting from the irrigation system. It's the whole
17 body of ratepayers. Everybody on a hydrant is
18 benefiting from this irrigation system. There's no
19 separate allocation for that separate benefit over and
20 above just giving you irrigation to water your yard and
21 look nice.

22 And so I thought that there needs to be --
23 number one, we need to protect the integrity of the
24 utility. There needs to be some recognition that that
25 irrigation system is the fire flow system and,

1 therefore, everybody should share in some portion of
2 that cost. And Option 1 seemed to be the best
3 alternative to do those, and that's still the
4 alternative that the utility requests that this
5 Commission adopt. Thank you.

6 **CHAIRMAN BROWN:** Thank you, Mr. Friedman. So
7 that's Alternative I as proposed in Attachment 1 of the
8 staff recommendation; right? Is that what you were
9 saying? You said Option 1 and I didn't know if that --

10 **MR. FRIEDMAN:** I'm sorry. It's -- it is
11 termed Alternative I. That's correct.

12 **CHAIRMAN BROWN:** Okay. Thank you. I'm going
13 to turn to staff before we bring it back to the bench
14 and just ask them to address Public Counsel's handouts,
15 Mr. Fletcher, and other comments that were just made.

16 **MR. FLETCHER:** Commissioners, if you refer to
17 the letter that was handed out, I guess it was by
18 Phillip Mills, this is what I did receive from Erik
19 Sayler from Office of Public Counsel yesterday. We put
20 it in the docket file this morning. And we definitely
21 did some researching into the information provided in
22 that letter.

23 The number I want to point your attention to
24 is the 184,269. What you were also handed out was
25 another handout double sided with the annual report for

1 2015. I didn't focus just on '15. I focused on the
2 2014 annual report. And some of those same schedules
3 like the E5 for 2014 does reflect Aquarina Waterworks,
4 the name of the company that's mentioned in the letter
5 by Phillip Mills. And I looked at the other
6 corresponding page, I think it was E6 in the 2014 annual
7 report, and it comes to the exact same figure that's in
8 this letter, 184,269.

9 I think it deals with presentation in your
10 annual reports for 2015 and 2014. How the company had
11 related on the annual reports was it was an employee
12 contract. It was for Keith -- excuse me -- Kevin and
13 Holly Burge, and I believe there was another employer
14 too there. And they put it -- recorded it as, like, a
15 management, if you will, employee contract for Aquarina
16 Waterworks.

17 In this case, the test year is 2014. We do
18 have a breakdown, and we don't believe it's any double
19 counting, if you will. It's presentations regarding the
20 annual report. We have an itemized list, a breakdown of
21 all the hours per employee for Holly, Kevin as the chief
22 plant operator. There are three systems for Aquarina
23 Utilities, Inc. You have a potable, non-potable, and
24 the sewer system. Again, he is the chief plant
25 operator. There is another plant operator and then a

1 relief operator. You're dealing with three systems.
2 Our engineering staff did look at the number of hours.
3 Particularly for Kevin Burge, there was 1,780 hours as
4 his chief operator -- plant operator time hours and then
5 overtime of about 100. It's for maintenance or
6 emergency situations for the overtime.

7 I can tell you that I was not aware of that,
8 but it doesn't change the inputs that staff looked at
9 and ultimately what the Commission approved in revenue
10 requirement regarding salaries. We had a break --
11 itemized breakdown of each employee's time, the hourly
12 rate, the number of hours that they spent for this
13 utility. And I will note that we have a test year of
14 2014. This contract that was signed, it was after the
15 test year. And I can tell you based on what staff --

16 **CHAIRMAN BROWN:** The contract was for one
17 year?

18 **MR. FLETCHER:** And it was renewed, yes. It
19 was, I believe, October of 2015, based on the
20 information I could gather, and it was renewed.

21 But that's important to note, that those
22 expenses, none of those -- because they didn't have --
23 they weren't working on the Polk City contract at that
24 time, operator. And I can tell you what is embedded in
25 rates, based on staff's analysis, we don't see any

1 subsidization of the Aquarina Utility, Inc., customers
2 of -- related to this operating contract with Polk City
3 for the water and sewer. I just -- we -- I don't -- we
4 haven't uncovered any information regarding any subsidy.

5 Regarding the allocations, as mentioned in the
6 last agenda, those allocation methodologies, we kind of
7 did a hybrid of what the Commission had allocated
8 commonly -- common costs among all three systems, the
9 potable, non-potable, and sewer. And this time we tried
10 to directly identify costs associated with each system
11 before any allocation. And the really reason why you
12 see a shift is in the last rate case you had the potable
13 water -- the non-potable water gallons were very low at
14 that time. There's been a huge shift. The non-potable
15 gallons are many times over the potable gallons, and
16 that's the reason why you see basically kind of what I
17 think Commissioner Graham mentioned at the last agenda
18 is the cost causer. You've got the increased flows.
19 That's why the costs -- the common costs are being
20 allocated to the non-potable, just a different
21 situation. So I hope that addresses the question
22 regarding the salaries and the affiliate.

23 Always affiliate transactions, you know, we
24 require greater scrutiny, and I believe the level of
25 analysis that staff has done in this case has uncovered

1 that. And just a really quick point, note, I was
2 reminded this morning that we did ask a discovery
3 question because we had all the salaries and stuff, you
4 know, their salaries, wages, employees, and officers in
5 those buckets, if you will, those expense accounts. We
6 did ask a question of the utility to make sure any
7 equipment rental that they were leasing to -- for
8 utility purposes for Aquarina Utilities, Inc., if that
9 was only spent for this utility purpose and none of it
10 was going to Aqua Waterworks for any other purpose. And
11 so we got our response back and that was no. There's no
12 allocation for that specific equipment rental. And I
13 think that's all I can speak to.

14 **CHAIRMAN BROWN:** So to summarize your remarks,
15 you would not recommend a revisit -- revisiting of the
16 revenue requirement because you think the analysis and
17 the new information that was just presented to us has
18 already been addressed in what we've voted on at the
19 Agenda Conference.

20 **MR. FLETCHER:** Yes, Commissioner. Yes, Madam
21 Chairman.

22 **CHAIRMAN BROWN:** Thank you.

23 Okay. Commissioners, let's go to Issue -- if
24 any -- if Commissioners don't have any comments or
25 questions on those preliminary thoughts, I think we

1 should go to the proposal by staff on the Alternative 1,
2 the rate structure.

3 **COMMISSIONER EDGAR:** Issue 10.

4 **CHAIRMAN BROWN:** Issue 10. Thank you,
5 Commissioner Edgar. What am I going to do without you?

6 Issue 10, we have three options before us on
7 this. The staff recommended Alternative 1, which the
8 utility has just said that they support, and then
9 Alternative 2. Any comments or questions on those
10 proposals? I see no lights.

11 This is a very, very -- as everyone here is
12 aware, it's a very difficult situation. It's a very
13 tricky, tricky solution here that we have before us.
14 And we've got -- my understanding is we have one
15 customer group that really wants the cost to be shared.
16 I believe Alternative 2; is that correct?

17 **MS. BRUCE:** That's correct.

18 **CHAIRMAN BROWN:** Okay. So we've got one
19 group. But then we also have some other customer --
20 another customer group, about 40 customers or so, that
21 want -- prefers to go with the staff recommended;
22 correct?

23 **MS. BRUCE:** Correct.

24 **MR. SHAFER:** That's correct.

25 **CHAIRMAN BROWN:** And as Commissioner Graham

1 said, we like the cost causer -- this Commission likes
2 to have the cost causer bear the cost. And I still see
3 no lights, so I'm just going to keep on talking here.
4 Just keep on talking here. I mean, my inclination
5 really, going along those lines, is to go with the staff
6 recommended structure, but I'm open to suggestions.

7 Commissioner Edgar. Thank you for doing that.

8 **COMMISSIONER EDGAR:** You're welcome.

9 Madam Chair, I think I agree with where I
10 think you are heading. As always, I'm so appreciative
11 to the customers for sharing their thoughts, to the
12 newly elected representative and his legislative aide
13 for contacting us and sharing their thoughts as well.
14 I'm always so pleased to see people are interested in
15 and participate in our process. It certainly makes all
16 of our decisions better informed and stronger.

17 I also am grateful to the staff and all who
18 participated in taking the additional time to go back
19 and look at the rate -- proposed rate structure and
20 potential alternatives to the rate structure,
21 recognizing the discussion that we had in early
22 November, and the facts of how to spread out the
23 necessary and approved revenue requirement did have some
24 information that we were looking at very closely at that
25 moment. So the additional time to look at it and

1 reanalyze or see if there was something that made more
2 sense or it was more in keeping with general past
3 practice I think was a good effort and worth the
4 additional time.

5 However, from what I've heard today, it does
6 seem that the staff recommendation that we have and
7 where they, I think, started or what they initially
8 proposed to us is probably the stronger and most
9 equitable approach. So I'm open to hearing further
10 discussion, but I would suggest moving forward on the
11 staff recommendation on Issue 10, unless there is a
12 compelling concern otherwise.

13 **CHAIRMAN BROWN:** Thank you, Commissioner
14 Edgar. I think you summarized my thoughts beautifully.

15 Commissioners, any other questions or comments
16 on that? Commissioner Edgar's, I think proposal, if I
17 can --

18 **COMMISSIONER EDGAR:** If you're ready, I would
19 move approval of the staff recommendation on Issue 10.

20 **CHAIRMAN BROWN:** Is there a second?

21 **COMMISSIONER GRAHAM:** Second.

22 **CHAIRMAN BROWN:** Any further discussion on
23 Issue 10, on the motion? All those in favor, say aye.

24 (Vote taken.)

25 Opposed?

1 (No response.)

2 The motion passes unanimously. Thank you.

3 Now we have Issues 11 through 19 left. Staff,
4 we don't have to make any other changes based on that
5 recommendation, correct, on those issues?

6 **MR. SHAFER:** I believe that's correct, Madam
7 Chair.

8 **CHAIRMAN BROWN:** Okay. So we could either
9 take it up individually or in bulk, if any Commissioner
10 has a question or concern on any of the other
11 recommendations 11 through 9 -- 19.

12 **COMMISSIONER PATRONIS:** Move staff
13 recommendations on Items 11 through 19.

14 **CHAIRMAN BROWN:** Thank you. Is there a
15 second?

16 **COMMISSIONER GRAHAM:** I'll second it to make
17 sure that any fallouts that -- from changes we made
18 1 through 9 are all included and updated.

19 **CHAIRMAN BROWN:** Thank you. Any further
20 discussion? Seeing none, all those in favor on the
21 motion, say aye.

22 (Vote taken.)

23 Okay. The motion passes unanimously. Thank
24 you. Thank you.

25 **MR. SAYLER:** Thank you, Madam Chair, for the

1 opportunity to bring this to your attention, and, again,
2 thank you for the indulgence.

3 **CHAIRMAN BROWN:** And thank you for -- to the
4 customers for coming out here and for bringing that to
5 our attention. And with that, happy holidays to all,
6 safe travels. This meeting is adjourned.

7 (Commission Conference adjourned at 12:25
8 p.m.)

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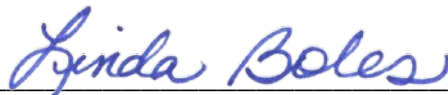
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5 Reporter, do hereby certify that the foregoing
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7 stated.

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

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

18 DATED THIS 9th day of December, 2016.

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