

BEFORE THE
FLORIDA PUBLIC SERVICE COMMISSION

FILED 5/29/2018
DOCUMENT NO. 03930-2018
FPSC - COMMISSION CLERK

In the Matter of:

DOCKET NO. 20170141-SU

APPLICATION FOR INCREASE IN
WASTEWATER RATES IN MONROE
COUNTY BY K W RESORT
UTILITIES CORP.

VOLUME 7
PAGES 975 through 1062

PROCEEDINGS: HEARING
COMMISSIONERS
PARTICIPATING: COMMISSIONER DONALD J. POLMANN
COMMISSIONER GARY F. CLARK
COMMISSIONER ANDREW G. FAY
DATE: Thursday, May 17, 2018
TIME: Commenced: 11:06 a.m.
Concluded: 1:15 p.m.
PLACE: Tortuga Ballroom
DoubleTree by Hilton Grand Resort
Key West
3990 S. Roosevelt Boulevard
Key West, Florida
REPORTED BY: ANDREA KOMARIDIS
Court Reporter
APPEARANCES: (As heretofore noted.)

PREMIER REPORTING
114 W. 5TH AVENUE
TALLAHASSEE, FLORIDA
(850) 894-0828

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

2 (Transcript follows in sequence from
3 Volume 6.)

4 MR. FRIEDMAN: We're going back on the record.
5 And Monroe County, Mr. Wright, you're witness.

6 MR. WRIGHT: Thank you. Thank you,
7 Commissioner.

8 Good morning, Mr. Johnson.

9 THE WITNESS: Good morning.

10 MR. WRIGHT: Home stretch, I think. Before I
11 begin my cross-examination, staff had distributed
12 six potential -- I think it may be -- it may
13 actually be eight potential cross-examination
14 exhibits. I'm going to ask at this time that the
15 first six of those be marked. I'm not a hundred
16 percent sure if I will use the last two. So, we'll
17 mark those if we get to them.

18 The first one is the large one. It's the
19 current DEP domestic wastewater facility permit for
20 KWRU.

21 COMMISSIONER POLMANN: I am at No. 137.

22 MR. WRIGHT: Yes, sir.

23 (Whereupon, Exhibit No. 137 was marked for
24 identification.)

25 COMMISSIONER POLMANN: Monroe County's

1 exhibit, current DEP domestic wastewater facility
2 permit.

3 MR. WRIGHT: And for 138, I would like you to
4 mark KW- -- the document titled "KWRU Wastewater
5 Malfunction Abnormal Event Report; Event of
6 April 2, 2018."

7 COMMISSIONER POLMANN: All right. Hold on a
8 second. That's not in my stack in order.

9 MR. SAYLER: Towards the bottom.

10 MS. MAPP: It's the second-to-last one.

11 COMMISSIONER POLMANN: No. 130- -- oh wait.
12 138?

13 MR. WRIGHT: Yeah, this is 138, I believe.

14 COMMISSIONER POLMANN: Yes, 138.

15 MR. WRIGHT: Okay. That's the event of --

16 COMMISSIONER POLMANN: KWRU wastewater
17 malfunction?

18 MR. WRIGHT: You could just call it Wastewater
19 Event Report 4/2/2018.

20 (Whereupon, Exhibit No. 138 was marked for
21 identification.)

22 MR. WRIGHT: And as Exhibit 139, I would like
23 marked the document described as "E-mail dated
24 May 6th, 2018, from Greg Wright to Gary Hardy,
25 reporting wastewater spill of 500-600 gallons."

1 Short title, I think, would be "5/6/2018 Spill
2 Report."

3 COMMISSIONER POLMANN: Everyone have that,
4 139? May 6th, 2018 -- well, let's just call it
5 "E-mail, May 6th, 2018, Spill Report."

6 MR. WRIGHT: Thank you.

7 (Whereupon, Exhibit No. 139 was marked for
8 identification.)

9 COMMISSIONER POLMANN: You want to continue
10 with 140?

11 MR. WRIGHT: I do, please.

12 COMMISSIONER POLMANN: Oh, I'm sorry -- yeah,
13 140.

14 MR. WRIGHT: I do, please, with the document
15 titled "DEP Rules Regarding WWTP Staffing."

16 COMMISSIONER FAY: I've got doubles of these.
17 I'm guessing someone does not have them.

18 COMMISSIONER POLMANN: Mr. Wright, which one
19 is that?

20 MR. WRIGHT: The document titled DEP Rules
21 Regarding WWTP staffing, in the description line.

22 COMMISSIONER POLMANN: Oh, there we go.
23 No. 140. Does everybody have the document, "DEP
24 Rules Regarding WWTP Staffing"?

25 (Whereupon, Exhibit No. 140 was marked for

1 identification.)

2 MR. WRIGHT: And then, as Exhibit 141, I would
3 ask you to please mark the document titled "Excerpt
4 from DOAH final order granting KWRU WWTP permit."

5 COMMISSIONER POLMANN: Okay. How about we
6 call that "DOAH final order excerpt, February 24th,
7 2016."

8 MR. WRIGHT: Thank you, Commissioner.

9 COMMISSIONER POLMANN: And that was No. 141.

10 MR. WRIGHT: Correct.

11 (Whereupon, Exhibit No. 141 was marked for
12 identification.)

13 MR. WRIGHT: There are two other -- there are
14 two other documents that were distributed that
15 were -- are property information -- property
16 appraiser information cards for Unit 2, Stock
17 Island Marina Village, and Unit 4, Stock Island
18 Marina Village. I -- I am not sure whether I'm
19 going to use those.

20 COMMISSIONER POLMANN: All right.

21 MR. WRIGHT: So, I would like to leave those
22 unmarked, at least for now.

23 COMMISSIONER POLMANN: Yeah, we'll hold those.

24 MR. WRIGHT: And if I do use them they will be
25 at the end of his cross. So, they'll be in the

1 right place in your stack.

2 COMMISSIONER POLMANN: If you're ready, please
3 proceed.

4 MR. WRIGHT: I will. Thank you.

5 EXAMINATION

6 BY MR. WRIGHT:

7 Q Good morning, again, Chris.

8 A Good morning.

9 Q At Page 4 of your rebuttal testimony, you talk
10 about expenses for the chlorine contact changer that
11 have arisen since your filed your direct testimony,
12 correct?

13 A Beginning on Page 4, yes.

14 Q Yes. And you further testified that these
15 additional costs are associated with increased housing
16 expenses and compliance with Work Directive 2018-02;
17 isn't that correct?

18 A Correct.

19 Q To be clear, these costs were not included in
20 your direct testimony, were they?

21 A That's correct.

22 Q What is the total amount of the additional new
23 cost associated with the chlorine contact chamber
24 project? I have it at 38,146.

25 A That's correct.

1 Q Thank you.

2 At Page 6, Lines 2 and 3 of your rebuttal
3 testimony, you describe your prior experience,
4 indicating that KWRU only has the ability to pump the
5 plants down to within approximately four feet from the
6 bottom of the tanks; is that correct?

7 A That's correct, based on prior experience.

8 Q Isn't it true that that prior experience was
9 from a project that the company did in 2010?

10 A That's correct.

11 Q You were -- you were the president of the
12 company by that time; were you not?

13 A Yes, I was.

14 Q Thank you.

15 And those costs consist of an additional
16 43,128 [sic] -- the additional costs, that is, consist
17 of an additional \$48,128 [sic] for sludge hauling, in
18 part, correct?

19 A Correct.

20 Q And the rest of it is \$2,680 for dumpsters,
21 correct?

22 A For four dumpsters, correct.

23 Q Thank you.

24 Given that you knew that -- you knew that the
25 costs were going to be -- given that you knew you were

1 going to have to pump it down to within four feet from
2 the bottom of the tank, from your 2010 experience, why
3 didn't you include those costs in your direct testimony?

4 A If I knew the cost at the exact time I was
5 preparing my direct, I would have put them in. Again, I
6 prepared my direct testimony in a time after the
7 hurricane, in -- in a less-than-ideal office situation.
8 I did not get the costs in. I don't know the reason
9 why. I just didn't get them in.

10 Q Thank you.

11 Page 7, Lines 4 through 11 of your testimony,
12 you talk about -- you make this following statement,
13 "After entering into an agreement with Evoqua, KWRU's
14 maintenance staff discovered that the clarifier drive
15 that was previously thought to be serviceable was in
16 need of replacement," correct?

17 A That's correct.

18 Q And on what date did you enter into the
19 agreement with Evoqua? Isn't it true that it was
20 October 15th, 2017?

21 A Sounds real close. Let me look here.

22 MR. SMITH: Schef?

23 MR. WRIGHT: Yeah.

24 MR. SMITH: Schef, there's two -- two
25 signatures on that, on the Evoqua.

1 THE WITNESS: 10/15.

2 BY MR. WRIGHT:

3 Q Okay.

4 A I signed it.

5 Q And do you -- do you know on what date KWRU's
6 maintenance staff discovered that the clarifier drive
7 needed replacement?

8 A I do not.

9 Q Isn't it true that you did not include the
10 projected cost of the clarifier-drive replacement in
11 your direct testimony filed on November 21st, in this
12 docket?

13 A I did not.

14 Q If you look -- still on Page 7, if you look --
15 sorry. Starting on Line 16, you provide some rebuttal
16 testimony to Witness Woodcock's testimony regarding
17 documentation for the cost of installation of the back-
18 up generator, correct?

19 A That's correct.

20 Q Were all of the costs associated with the
21 installation of the back-up generator you described in
22 your rebuttal testimony included in your direct
23 testimony?

24 A No, they weren't.

25 Q Isn't it true that the total estimated costs

1 for the installation of the back-up generator in your
2 direct testimony was \$296,725.85? You can look on your
3 direct, Page 7, Line 18, if you want to.

4 A I don't have a copy of my direct in front of
5 me.

6 MR. SAYLER: Page 18?

7 (Discussion off the record.)

8 THE WITNESS: Can you back up and re-ask the
9 question?

10 BY MR. WRIGHT:

11 Q Yes, sir. Isn't it true that the total
12 est- -- total estimated costs of installation of the
13 back-up generator, in your direct testimony, was
14 \$296,725.85?

15 A Yes, but not including engineering costs and
16 engineering construction inspections.

17 Q Were costs for those items provided in your
18 direct testimony?

19 A Yes, they were. I'm just saying it's not on
20 the total project costs; it's the items listed in the
21 response.

22 Q And if you'll look a little further down on
23 your direct testimony, isn't it true that the
24 engineering -- the total cost of the engineering was the
25 24,720?

1 A 24,270, correct.

2 Q Thanks. I transposed two numbers, but thank
3 you for getting that correct.

4 Isn't it true that the total estimated cost
5 for the installation of the back-up generator included
6 in your rebuttal testimony is 390,552?

7 A Yes.

8 Q Isn't it true that that indicates that the
9 difference in cost between the total of the two values
10 we discussed from your direct testimony and the value in
11 your rebuttal was approximately \$69,500?

12 A 69-5 approximately, yes.

13 Q Thank you.

14 On Page 10, Lines 5 through 7 of your rebuttal
15 testimony, you described five months of additional
16 rental for a generator that was not included in your
17 direct testimony, correct?

18 A That's correct. I'm adjusting six months to
19 11; the difference being five, correct.

20 Q And isn't it correct that the additional costs
21 for that additional rental is approximately \$9,700?

22 A Approximately, yes.

23 Q Please turn, if you would, to Page 23, Line 12
24 of your rebuttal testimony. Beginning there, you talk
25 about the new phone system?

1 A Yes.

2 Q I would like to ask a follow-up question to a
3 question Mr. Sayler asked. Has -- has the new phone
4 system been installed?

5 A It has not.

6 Q Okay. If it were to be installed, will it,
7 then, cause you to eliminate any of the services that
8 you required, that you receive or obtain from Comcast?

9 A With the fiber circuit, which is a voice and
10 data circuit -- once we have that functional, we will
11 effectively port the Comcast phone numbers over to the
12 AT&T fiber. And once that's stable and working, we
13 wouldn't have a reason to use voice on Comcast any
14 longer. We do want to retain the redundancy on the
15 internet, however, but the voice could be jettisoned.

16 Q In your direct testimony, you testified that
17 the cost for the phone system would be approximately
18 \$15,000, correct?

19 A Do you have a page and --

20 Q Page 8, Line 21.

21 A Yes, I did.

22 Q Okay. And in your -- now, in your rebuttal
23 testimony, you state that the cost of all the
24 communication expenses is 25,886.67, correct?

25 A Correct.

1 Q So, the difference is roughly \$10,000,
2 correct?

3 A Roughly, correct.

4 Q If you would, please, look at Page 28, Lines 5
5 through 8 of your rebuttal testimony. At -- at that
6 point, you talk about changes in purchase power costs,
7 correct?

8 A There was an increase in purchase power by
9 Keys Energy.

10 Q Can you tell us by how much the purchase power
11 expense of \$240,096, stated in your rebuttal testimony,
12 exceeds the value included in your direct testimony?

13 A Can you point in my direct testimony where I
14 have that number?

15 Q I cannot.

16 A Nor can I.

17 Q Okay. Do you know about how much it is on an
18 annual basis, the difference?

19 A Off the top of my head, I -- I have a
20 spreadsheet with a whole bunch of numbers. I think
21 around 8-percent-ish.

22 Q So, \$10,000?

23 A Ish.

24 Q 8 percent of 240,000 is roughly \$10,000,
25 correct, ish?

1 A Ish.

2 Q Okay. I would like to ask you to turn back to
3 **Page 3, Line 9 of your testimony where you're talking**
4 **about the L2A lift station project.**

5 A Yes.

6 Q **At Line 9, you make the statement, "KWRU**
7 **approached Wharton Smith for a bid," correct?**

8 A That's correct.

9 Q **How did you approach Wharton Smith?**

10 A At the time, Wharton Smith was still doing
11 punch lists or follow- -- follow-up activities to the
12 350,000-gallon-a-day expansion project.

13 The superintendent, Guy Torrio, was still on
14 property. We had a discussion with him, and he
15 indicated Wharton Smith may be interested. And we,
16 then, forwarded the information on to division manager,
17 Greg Williams, at that time.

18 Q **Did you issue a formal request for proposals**
19 **for this work?**

20 A Like on DemandStar?

21 Q **Like anywhere.**

22 A We -- we asked for a proposal, yes.

23 Q **To Wharton Smith?**

24 A To Wharton Smith.

25 Q **And to -- to Beneway?**

1 A B&L Beneway, correct.

2 Q Okay. Did you publish a formal request for
3 proposals in any medium: DemandStar, any other online
4 service, the newspaper, anything else?

5 A No, we did not.

6 Q So, do I have it correct that you solicited
7 bids from exactly two potential contractors: Wharton
8 Smith and B&L Beneway?

9 A Yes.

10 Q Please describe what it means to competitively
11 bid a project.

12 A To put a bid out to two or more contractors
13 would be a competitive bid.

14 Q What -- what does "put it out" mean, in -- as
15 you just used those words?

16 A If two competing contractors are bidding on
17 the same work, you have competition, is what I'm saying.

18 Q You're familiar with the additional work
19 covered by the recently-approved contract between KWRU
20 and Monroe County, are you not?

21 A I am.

22 Q Did you solicit multiple bids for the
23 additional work covered by that contract?

24 A We did.

25 Q Is it correct that you got three bids?

1 A You know, I can't remember if we got three.
2 At least -- we asked for more, but yes, I believe we got
3 three, in the end.

4 **Q Did KWRU select the lowest bid -- cost bidder**
5 **for that work?**

6 A In this case, the low bidder was also the best
7 value. So, yes, we did.

8 **Q Who -- who -- who is the contractor to whom**
9 **you awarded that work?**

10 A Haskins Plumbing, Inc.

11 **Q What's the approximate figure of their bid?**

12 A I don't have that in front of me.

13 **Q Can you tell us approximately the difference**
14 **in -- in prices between the Haskin Plumbing -- is it**
15 **Haskins or Haskin?**

16 A Haskins.

17 **Q Is that between the Haskins Plumbing price and**
18 **the next-closest bidder?**

19 A I don't have the bids -- prices in front of me
20 to look at.

21 **Q So, your answer is, I don't recall?**

22 A I don't recall exact numbers. Sorry.

23 **Q Has KWRU ever used DemandStar?**

24 A We have not put a project out on -- I -- I
25 have personally been on DemandStar over the years, but

1 we have not advertised on DemandStar.

2 There is a cost, I believe, with -- with some
3 of these services. That particular one, I -- I don't
4 know.

5 **Q When you said you've been on DemandStar, was**
6 **that as a potential bidder in your contractor-company**
7 **role?**

8 A Just looking at projects, researching
9 contractors, who were active, that kind of thing.

10 **Q Has KWRU ever used any other online**
11 **internet-type bidding service analogous to DemandStar?**

12 A No, we have not.

13 **Q Have you ever advertised a project with an**
14 **approximate or expected value of \$200,000 or more in the**
15 **newspapers?**

16 A No, we haven't.

17 **Q Thanks. When I said "you," I did mean KWRU.**

18 A You meant --

19 **Q That --**

20 A You meant me?

21 **Q I meant KWRU. Was that your answer?**

22 A KWRU has not.

23 **Q Thank you.**

24 **This is a minor point, but I do want the**
25 **record to be clear, on Page 11, Lines 19 through 20 of**

1 your testimony, you make the statement, "Over the last
2 four years, KWRU has spent in excess of \$7 million in
3 capital planning." Do you see that statement?

4 A Yeah. We talked about that. That should be
5 capital expenditures.

6 Q Thank you.

7 A Sorry.

8 Q Just want the record to be clear. Thank you.

9 On Page 12, Lines 2 and 3, you talked about --
10 you said -- you make the statement, "This resulted in
11 operational shortfalls, which left the utility
12 scrambling to make payroll, pay PSC gross-receipts tax,
13 and remit payment under its contracts," correct?

14 A Correct.

15 Q Is the "this" referred to in the first word of
16 that sentence the aftermath of Hurricane Irma?

17 A I don't believe that was the context I was
18 referring to. By "this," I mean the financial condition
19 of the company, in terms of how much revenue comes in
20 through sewer income and how much expenses we have.

21 We find ourselves constantly in a state of
22 shortfall. I can give an example. Going into hurricane
23 season, June 1st, we have cash infusion to the utility
24 of \$1 million. By Thanksgiving, we need to infuse
25 another \$250,000. Then, prior to Christmas, in mid-

1 December, we need another \$2.1 million.

2 There's just not enough working capital in the
3 company that we can meet our obligations, which leaves
4 us, as I testify, scrambling to make gross-receipts tax,
5 payroll, all these expenses that the utility has.

6 Thank God we had money put aside before the
7 hurricane for capital projects because we utilized that
8 to pay for day-to-day operating expenses.

9 **Q You -- you did refer to three separate**
10 **infusions just now; I think a million dollars in June;**
11 **\$250,000 sometime --**

12 A I think it was actually May 31st, the million
13 dollars. And then, the next one would have been in --
14 right around Thanksgiving; about November 27th, I think,
15 is when the actual account showed money. And then, the
16 other one was mid-December, but top of my head,
17 December 18th-ish.

18 **Q Okay. And was that last year or this year?**

19 A That was --

20 **Q Was that --**

21 A That was after the hurricane. So, I'm talking
22 about 2017 -- May 31st, 2017; November 27th; and then,
23 again, in December of 2017.

24 **Q Now, were those for capital projects?**

25 A This -- this money was used for covering our

1 expenses, our operating expenses as well.

2 Q I may need to come back to that, but I'll --
3 I'll move on for the moment being.

4 On Page 14, you indicate that, as a result of
5 Irma, KWRU received no rate revenues for nearly two
6 months and experienced decreased wastewater treatment
7 flows, correct? Lines 18 through 20 on Page 14.

8 A Yeah, anyone who was here for Hurricane Irma
9 knows that there was no water for a period of time -- I
10 shouldn't say no. There were times where they had one
11 hour per day, that they called "the hour of shower."

12 So, yes, flows, for a period of time, were
13 very much reduced, not only because there weren't people
14 here, because they had evacuated, but also due to the
15 fact that the Aqueduct wasn't able to source water this
16 far down the Keys.

17 Q The answer to my question was: Yes, you said
18 that in your testimony, correct?

19 A Yes, I did.

20 Q Thank you.

21 Did KWRU bounce any checks to employees during
22 this time?

23 A No.

24 Q Did you skip any employees' paychecks?

25 A No.

1 Q Was your paycheck delayed?

2 A No.

3 Q Has the company submitted its annual report
4 for 2017?

5 A We have not.

6 Q It's late, isn't it?

7 A It is not late; we were granted an extension.

8 Q You're only granted -- granted an extension
9 until the end of April, were you not?

10 A We, then, applied for extra extension.

11 Q And your 2016 annual report was late, too,
12 wasn't it?

13 A I believe -- I don't know about that one.
14 When we're -- when we've been in rate cases, we have had
15 cause to be late. That one, I'm not sure.

16 Q Well --

17 A This one -- we have -- we have applied.

18 Q Thank you.

19 Well, the 2016 and 2015 annual report covers
20 that shows the filing dates are in the record. So, I'll
21 move on.

22 On Page 15, Lines 4 through 8, you make a
23 statement referring to paying down debt.

24 A Yes.

25 Q The implication there -- I think you say

1 **this -- is that, if you pay down debt, you would only**
2 **save 20 basis points or 0.2 percent. Is that what you**
3 **said -- meant to say there?**

4 A That was just an example, based on a low
5 interest rate.

6 Q **Does KWRU have long-term debt?**

7 A Yes, KWRU does.

8 Q **With whom?**

9 A We have notes with BB&T bank.

10 Q **What's the interest rate on that debt?**

11 A On the most-recent May 6th statements,
12 5.25 percent because of the interest hike from the Fed.

13 Q **If you had cash available to pay down debt,**
14 **wouldn't you pay down that debt before you would pay**
15 **down debt with a lower interest rate?**

16 A That's a business decision that would have to
17 be made by the utility. There's a lot of other
18 considerations. Certainly making its obligations is
19 very important to the utility. And that would be --
20 that would be a consideration as well. I mean, in a
21 vacuum, maybe, yeah.

22 Q **Perhaps I wasn't clear in my question. And**
23 **you are the president of the company.**

24 A Correct.

25 Q **If you were going to use cash to pay down**

1 debt, wouldn't you pay down higher-cost debt as opposed
2 to lower-cost debt?

3 A If you're going to, absolutely, you would.

4 Q Thank you.

5 Are you aware whether there is any penalty,
6 prepayment penalty, call penalty, or anything like that,
7 on the BBT -- BB&T notes you described?

8 A I believe there is not.

9 Q Thank you.

10 I just need a minute to look in the company's
11 annual report. I'm going to try to answer the questions
12 I was trying to -- trying to -- try to ask the questions
13 I was trying to ask about five minutes ago.

14 The most-recent annual report that I have is
15 for 2016 -- excuse me. I believe I have an extra copy.
16 If you will, bear with me a minute. I'm -- I'm just
17 going to give the witness my copy.

18 One predicate question: What's -- what's the
19 company's monthly payroll or what's -- I think you have
20 two paychecks a month, right?

21 A We're changing that right now, but in the
22 deposition, at that time, yes, that is correct. We're
23 going to a two-week format now, but previously, we've
24 been on the 15th of the month and on the last day of the
25 month.

1 Q What -- what's the company's payroll --
2 periodic payroll?

3 A From what time period?

4 Q Currently.

5 A I can tell you a range of what withdrawals we
6 make to our payroll company on a monthly basis, if
7 that's what you want to know, but included in that --

8 Q Monthly -- monthly -- a monthly figure would
9 be great.

10 A Okay. So, in the \$50,000 range, twice a
11 month.

12 Q So, a hundred thousand dollars a month?

13 A Yeah.

14 Q If you could, look at F3 there for 2016.

15 Isn't it correct that the annual operating expenses were
16 about 1.6 million?

17 A That's correct.

18 Q And the annual operating revenues were about
19 2.1 million?

20 A That's correct.

21 Q On a monthly basis, then, the revenues would
22 have been about 1.75 million -- no, 175,000 -- 12 into
23 2.1 million.

24 A 177.

25 Q Thank you.

1 Would you do the same calculation for the
2 operating expenses?

3 A 133,510.

4 Q Thank you.

5 I would like to ask you to turn to Page -- I
6 think maybe we were on Page 15. I would like to ask you
7 to be with me on Page 15, Lines 23 and 24, where you
8 discuss the new office building that you, now, expect
9 will be installed in December of 2018.

10 A I heard Mr. Pabian say the fall.

11 Q Right.

12 A So, I'm optimistic.

13 Q Okay. Your rebuttal testimony said December
14 of 2018, but --

15 A That's correct.

16 Q Renewed cause for optimism, yes?

17 A Correct.

18 Q It was originally supposed to be completed
19 about six weeks ago, correct?

20 A Correct.

21 Q And you don't have any written promise that it
22 will be completed either in the fall or by December 31st
23 of this year, do you?

24 A We do not.

25 Q Thank you.

1 **And is it also correct that there's no penalty**
2 **for the office being installed later than December?**

3 A That's correct.

4 **Q And it's also correct that you're not pursuing**
5 **any -- any legal action to -- against Mr. Pabian for**
6 **failure to perform?**

7 A Discussed earlier, the hurricanes, yes, we're
8 not pursuing that.

9 **Q Okay. Is it also correct that you're not**
10 **seeking any other bids?**

11 A At this -- at this point, we're waiting for
12 Mr. Pabian to come back with the design for our
13 approval.

14 **Q Okay. Just so the record is clear, the answer**
15 **to my question is, yes, that's correct, and then with**
16 **your explanation.**

17 A Correct.

18 MR. WRIGHT: All right. I -- Mr. Chair --
19 Mr. Presiding Officer, I do have four more exhibits
20 staff have, I would like distributed at this time.
21 We'll mark them when they're distributed.

22 (Discussion off the record.)

23 COMMISSIONER POLMANN: Everybody have four?

24 I'm at 142.

25 Mr. Wright?

1 MR. WRIGHT: Thank you, Mr. Chairman. I think
2 everyone should, now, have four documents. The
3 first document that I would like marked as Exhibit
4 142 is KWRU's responses to Monroe County's second
5 set of interrogatories.

6 COMMISSIONER POLMANN: We will do that.

7 (Whereupon, Exhibit No. 142 was marked for
8 identification.)

9 MR. WRIGHT: Thank you. As 143, I would like
10 marked the document identified as "Special Warranty
11 Deed, Sunset Marina to Stock Island Apartments."

12 COMMISSIONER POLMANN: Okay. 143, with the
13 title Mr. Wright indicated.

14 (Whereupon, Exhibit No. 143 was marked for
15 identification.)

16 COMMISSIONER POLMANN: 144?

17 MR. WRIGHT: As 144, I would like marked the
18 document titled "Secretary of State Record
19 CC6459981212, Stock Island Apartments, LLC."

20 COMMISSIONER POLMANN: And we will do so, 144,
21 with the title Mr. Wright indicated.

22 (Whereupon, Exhibit No. 144 marked for
23 identification.)

24 MS. MAPP: I'm -- Mr. Wright, can you go over
25 the number of 144? I believe there are two

1 documents for the Secretary of State, and I'm not
2 quite sure if it's the 512 or 812.

3 MR. WRIGHT: Yeah, the one I would like marked
4 as 144 is the 812.

5 MR. FRIEDMAN: What is -- that's 144?

6 MR. HALL: Yes.

7 MR. WRIGHT: Yes, ending in 812.

8 COMMISSIONER POLMANN: And it indicates Stock
9 Island Apartments.

10 MR. WRIGHT: Yes, sir.

11 COMMISSIONER POLMANN: 145?

12 MR. WRIGHT: And 145, I have -- is the
13 document I would like marked as Exhibit 145,
14 Secretary of State Records -- Record CC2381371512,
15 Sunset Parcels Condominium Association.

16 COMMISSIONER POLMANN: Everybody has those?

17 COMMISSIONER CLARK: Yes.

18 (Whereupon, Exhibit No. 145 was marked for
19 identification.)

20 COMMISSIONER POLMANN: Please proceed,
21 Mr. Wright.

22 MR. WRIGHT: Thank you.

23 BY MR. WRIGHT:

24 Q Does KWRU, or do any of KWRU's officers,
25 agents, consultants, or attorneys have any other

1 business dealings with Mr. Pabian beyond the contract
2 for the modular office building?

3 A I don't know.

4 Q You sponsored -- if you would, please, look at
5 Exhibit 142. I would like to ask you, please, to look
6 at the -- these were not numbered as submitted to us,
7 but that's fine. If you will turn about five page --
8 four or five pages in, the question, Interrogatory No. 9
9 and the response begins at the bottom of that page.

10 A Yes.

11 Q Okay. "Please identify any contract," et
12 cetera -- are you with me?

13 A Yes.

14 Q And noting its objection, KWRU went out --
15 went on to state, "There are no such contracts between
16 KWRU's officers, employees, consultants, or agents,
17 other than the contract for the new modular office
18 building," correct?

19 A Correct.

20 Q And you sponsored that -- that interrogatory
21 answer, correct?

22 A Correct.

23 Q So, if that -- is that the -- at that time,
24 was that your definitive statement, no, there weren't
25 any other contracts?

1 A Correct.

2 Q And just now, you just answered "I don't
3 know," correct?

4 A I'm answering that. I don't know of any
5 contracts.

6 Q Okay. If you could, please, look at the
7 document marked as Exhibit 143, special warranty deed.

8 A Yes.

9 Q Okay. If you would, please -- does that
10 appear, to you, to be a record from the Monroe County
11 clerk's office purporting to be what it is, a special
12 warranty deed for a real estate transaction?

13 A Yep, that's what it looks like.

14 Q Okay. Are you familiar -- you're familiar
15 with Sunset Marina, are you not?

16 A I'm familiar with Sunset Marina; not this
17 warranty deed. Yeah.

18 Q Fair enough.

19 A Yeah.

20 Q And you're also familiar with Stock Island
21 Apartments. And this Stock Island Apartments is the
22 other Stock Island Apartments that was covered in an
23 earlier exhibit and discussed by Mr. Wilson, correct?

24 A Yes. I saw that exhibit.

25 Q Okay. If you look on the third -- third page,

1 who signed on behalf of Sunset Marina?

2 A Barton Smith signed on Sunset Marina's behalf.

3 Q I missed the last word, Bart Smith signed --
4 oh, behalf.

5 A Yes.

6 Q Thank you.

7 I would like to ask you to look at
8 Document No. 144. This is a record obtained from the
9 Sunbiz website of the Florida Secretary of State for
10 Stock Island Apartments, LLC.

11 A Yes.

12 Q If you look at the second page, who -- who is
13 the manager listed that would be authorized persons
14 there?

15 A That's Bob Pabian.

16 Q Thank you.

17 Did you not know about the sale transaction of
18 Sunset Marina to Stock Island Apartments, managed by Bob
19 Pabian?

20 A I see that, yeah.

21 Q My -- thank you. I understand you see that,
22 and I appreciate that. My question is: Did you just
23 not know about that when you submitted --

24 MR. SMITH: Can I --

25 Q -- your interrogatories --

1 MR. SMITH: I would like to put in an
2 objection to this line of questioning. He stated
3 he did not know that warranty deed. And now he's
4 asking him to read into the record things off
5 documents that he hasn't even asked if he even
6 recognized this document or if he's ever seen these
7 documents.

8 In other words, he's trying to admit the --
9 the documents or the evidence into the record
10 through him just reading it without any --
11 establishing any knowledge of these documents.

12 So, not only am I going to object to these
13 documents being admitted, which he's stated he has
14 not seen, I would request that the testimony as to
15 what is stated in the documents be stricken.

16 COMMISSIONER POLMANN: Ms. Helton?

17 MR. WRIGHT: Commissioner, he already said he
18 recognized the Sunbiz report for Stock Island
19 Apartments, LLC, before Mr. Smith objected.

20 And if you want to -- you want a proffer as to
21 why -- as to relevance, I'm happy to provide --

22 MR. SMITH: Well, did he state that he's --
23 recognizes the Sunbiz report, Mr. Johnson?

24 THE WITNESS: I never recognize the name -- I
25 said, I recognize the name from the previous

1 exhibit --

2 COMMISSIONER POLMANN: Mr. Johnson, hold on.

3 MR. SMITH: Throwing exhibits in front of
4 him --

5 COMMISSIONER POLMANN: Ms. Helton, please?

6 MS. HELTON: I don't know that I heard
7 Mr. Wright have the witness authenticate this
8 particular document, which has been identified as
9 Exhibit No. 144. So, I think that would be an
10 appropriate tact to take before he were to be able
11 to conduct any cross-examination concerning the
12 document.

13 MR. SMITH: Thank you.

14 And this -- 143, as well -- he stated he did
15 not recognize them and then he asked him questions
16 on that exact subject as well.

17 COMMISSIONER POLMANN: Ms. Helton, where do we
18 stand in terms of where Mr. Wright first referred
19 to Exhibit 143 and then 144, with regard to the
20 questioning and the answering of those questions?
21 I -- I believe that's what Mr. Smith objected to.
22 And I think he requested that that be stricken.
23 So, I don't quite understand --

24 MS. HELTON: I think he did, but I don't think
25 we heard Mr. Wright's response to his request to

1 strike any testimony and I think -- before we go
2 further along those lines, I think that we are --
3 Mr. Wright is entitled to address that request.

4 COMMISSIONER POLMANN: Mr. Wright?

5 MR. WRIGHT: I'll -- I'll ask it this way --
6 he did say that he's not familiar with the warranty
7 deed.

8 BY MR. WRIGHT:

9 Q Are you familiar -- do you know that, fairly
10 recently, Mr. Pabian -- Mr. Pabian's -- an entity owned
11 or controlled by Mr. Pabian, bought a property from an
12 entity, Sunset Marina, LLC, that includes in its
13 ownership and/or management, members of the officers of
14 KWRU?

15 MR. SMITH: I would object to the
16 characterization. It specifically provides
17 authorized signatory. And there's been no evidence
18 as to --

19 MR. WRIGHT: I'm not asking about the deed
20 now, Commissioner. I'm asking: Does he know about
21 this transaction.

22 BY MR. WRIGHT:

23 Q Do you know whether Sunset Marina was bought
24 by Mr. Pabian's entity, Stock Island Apartments, LLC?

25 A I do, now. How it was bought, I -- I have

1 never seen any documents on who bought what, when. I
2 know Mr. Pabian is on the parcel now with the company
3 name of Stock Island Apartments, LLC.

4 Q And how -- how did you -- you say you know
5 that now. How did you become aware of that?

6 A By looking at the documents in front of me.

7 Q Okay. We have had some earlier discussion
8 about Stock Island Apartments, LLC, in this hearing.
9 Have you heard -- had you heard of that entity before
10 this hearing?

11 A I had heard the name Stock Island Apartments,
12 LLC, before.

13 Q Were you aware that that was a -- an entity
14 owned or controlled by Mr. Pabian, before the hearing?

15 A Yes. I knew he was connected with that
16 entity.

17 Q And did you know that he had bought the --
18 some of the Sunset Marina properties?

19 A I know that he is on that property; however,
20 how the transaction happened -- whether there were
21 holding companies involved or anything else, I don't
22 know the specifics.

23 Q Do you know whether any of KWRU's officers,
24 directors, or agents are principals in the Sunset Marina
25 property that Mr. Pabian's entity bought?

1 A Yes.

2 Q Is that the answer to the question, yes, there
3 are some -- some KWRU officer, agents, and so on,
4 involved?

5 A Yes.

6 Q Thank you.

7 I would like -- we can argue about whether
8 these come in when I move them in, I think, but I do
9 want to ask a question about Exhibit 145. You do have
10 Exhibit 145 in front of you, Mr. Johnson?

11 A Yes.

12 Q Have -- have you used Sunbiz? Are you
13 familiar with the Sunbiz website?

14 A I have used Sunbiz, yes.

15 Q And when you go to reports, do you see
16 documents that look a lot like this?

17 A I've looked up a number of properties over the
18 years. Yes, I've seen these.

19 Q Thanks.

20 So, this appears to be -- you'll agree that
21 this appears to be a Sunset report --

22 MR. SMITH: I --

23 Q Sunset Parcels --

24 MR. SMITH: I would object --

25 Q -- Association --

1 MR. SMITH: He hasn't asked if he
2 recognized -- recognizes this document or has seen
3 this document before. And he's purporting to state
4 what it is, into -- in order to try to get it into
5 the record.

6 MR. WRIGHT: I'll ask my questions --

7 COMMISSIONER POLMANN: Mr. Wright, you may
8 want to ask questions in a way -- you either need
9 to --

10 MR. WRIGHT: I've got it.

11 COMMISSIONER POLMANN: -- validate this or
12 approach this in a different way.

13 MR. WRIGHT: I shall approach it in a
14 different way.

15 BY MR. WRIGHT:

16 **Q Are you familiar with the -- an entity known**
17 **as Sunset Parcels Condominiums Association, Inc.,**
18 **Mr. Johnson?**

19 A I see it in front of me. That's a lot of
20 words. I know what Sunset Marina is. This exact
21 business name -- I couldn't have probably come up with
22 it off the top of my head if you had asked me.

23 **Q Are you familiar with a -- a property**
24 **identified -- generally known as Sunset Parcels or**
25 **Sunset Parcels Condominiums?**

1 A Is this the parcel that the new buildings are
2 being built on?

3 Q I don't know the answer to that.

4 A If so --

5 Q I asked --

6 A If so, I'm familiar with the property.

7 Q You are familiar with the property.

8 A Yes, I've been out there in a capacity of
9 inspection.

10 Q Do you -- do you have any knowledge as to the
11 ownership of that property?

12 A I believe Mr. Pabian owns it now.

13 Q Do you know whether any of KWRU's officers,
14 agents, or principals have any interest in that or did,
15 until recently, have any interest in that?

16 A Previously, yes.

17 Q Thank you.

18 When you referred -- maybe -- when you
19 qualified that -- your answer by stating "previously,"
20 did you mean up until the time the property changed
21 hands?

22 A I don't know who the buyer was, but up until
23 there was a buyer, yes.

24 Q And do you know about when that buyer -- that
25 purchase occurred?

1 A No, off the top of my head, I don't.

2 Q Thank you.

3 Exactly who selected Mr. Pabian's company for
4 the modular office building? Was that you, personally,
5 or was that ownership of KWRU?

6 A It was myself bringing up contracting names
7 and due to the fact that Mr. Pabian -- I had two names I
8 brought up, Don Miller and Bob Pabian. Those folks that
9 have put up more modulars in Stock Island recently, in
10 recent years, than any other vendor I could think of.
11 Those were the names that came to the top of the list.

12 The fact that Mr. Pabian was already mobilized
13 and working kind of gave him a leg up. So, I -- I put
14 his name out. I said, how about this company. And I
15 was told, pursue that.

16 Q My -- my question -- thanks for that
17 explanation, which, candidly, we've heard before. But
18 my question for you was: Who made the decision; you or
19 ownership?

20 A I made that decision with ownership's
21 approval.

22 Q Thank you.

23 My -- my last question for you along these
24 lines is: Did the -- did other business relationships
25 between Mr. Pabian and principals of KWRU have anything

1 to do with selecting Mr. Pabian's company to do this
2 work?

3 A No. Had Mr. Pabian not worked out, I would
4 have been happy to try to pursue Don Miller or, if he
5 didn't work out, some other contractor.

6 Q Thank you.

7 On Page 21 of your testimony, Lines 4 to 7,
8 you talk about changing the amortization period over
9 which the company requests hurricane expenses to be
10 amortized, correct?

11 A Correct.

12 Q Originally, you requested five years, correct?

13 A Correct.

14 Q What -- what was -- what amor- -- if you
15 recall, what amortization period was included in the
16 direct testimony? Was that five years? Or in the
17 company's case as filed.

18 A Do you know what page in my direct it's on?

19 Q No, I don't.

20 A I don't either. I don't know where it is, if
21 it's even in there.

22 Q Well, I'll -- I'll move on, but still on this
23 line. Was the four-year amortization request included
24 in your direct testimony?

25 A I don't know. I -- I remember the issue

1 between four and five years coming up. And I don't
2 remember which -- where it is in my testimony, exactly.

3 Q Oh, well, if we look -- look further down at
4 Line -- Line 4 on Page 21, it says: KWRU initially
5 proposed that it be amortized over five years, right?

6 A Yes.

7 Q Okay.

8 A There we go.

9 Q Who decided on changing the amortization
10 period from five years to four years?

11 A I think I ultimately did. There was
12 discussions between Ms. Swain, myself, and the attorneys
13 what a relevant period would be. And that's -- four
14 years is what we came up with.

15 Q Okay. What -- what, if any, sources regarding
16 hurricane frequency did you discuss?

17 MR. SMITH: And I --

18 Q I'm sorry -- did you consult.

19 MR. SMITH: I'm going to have an objection as
20 to any discussions with Counsel. If he can answer
21 the question without indicating discussions that
22 were had with Counsel --

23 THE WITNESS: It was in a group discussion.

24 MR. WRIGHT: If it was in a group discussion
25 as to the question five years versus four years, it

1 was not a discussion for the purpose of obtaining
2 legal advice. It's completely permissible cross.

3 MR. SMITH: And I would -- I would agree with
4 that point, but I would -- would expressly state,
5 any conversation with Counsel, solely Counsel,
6 would be covered by the attorney-client privilege.

7 MR. WRIGHT: I don't think we're going to
8 get --

9 COMMISSIONER POLMANN: I agree on both points.

10 MR. WRIGHT: I -- I don't think we're going to
11 get to that, Commissioner, but it has to be
12 communication made between client and attorney, for
13 the purpose of giving or receiving legal advice.

14 I certainly respect Mr. Smith's objection. It
15 can stand. And I'm not asking this witness to
16 divulge any privileged attorney-client
17 communication. I don't think any of my questions
18 would solicit any kind of response like that.

19 COMMISSIONER POLMANN: I agree with all the
20 points made.

21 Mr. Smith, did -- it's incumbent upon you to
22 pay attention to the question. And if you feel
23 that he's going in a direction that you believe is
24 the attorney-client privilege, then you need to
25 make another objection to that. So -- I'm agreeing

1 with everything. I think we need to proceed.

2 MR. SMITH: And I agree. And if it's
3 conversation that also involved Ms. Swain, he
4 certainly can answer.

5 COMMISSIONER POLMANN: Mr. Wright, you may
6 continue.

7 MR. WRIGHT: Thanks.

8 BY MR. WRIGHT:

9 Q I think the pending question was this: What,
10 if any, sources regarding frequency of hurricanes
11 striking the relevant area did you consult in changing
12 the company's position from five years to four years?

13 A I guess it's just from my personal experience
14 of what led me to that decision. I've been here since
15 2002. So, I've been through the active hurricane
16 seasons.

17 And I also have talked to Chip Casper, who is
18 heading up the weather station here in -- in Key West.
19 And he agrees there is data available that suggests
20 these hurricanes comes in groupings. So, you'll be hit,
21 hit, hit, and then you'll have a period of time where
22 there's less activity or very little activity.

23 So, is this based on a single study that
24 somebody put out? No. It's based on personal
25 experience and also some consultations with weather

1 experts, but I can't guarantee the weather and nobody
2 can.

3 Q Moving on to another line -- and we're getting
4 there. This line, we discussed in your deposition, just
5 so you'll have it kind of coming to the fore in your
6 memory.

7 We talked about the variable cost of serving
8 additional gallonage. Can you tell us what KWRU's true
9 incremental cost per 1,000 gallons for treating
10 wastewater is?

11 And by that, I mean the actual change in the
12 company's costs to go from treating, let's just say,
13 200 million gallons to 201 million gallons, expressed on
14 a dollar-per-thousand basis.

15 A Yes, I cannot.

16 Q How would you calculate that?

17 A There are a lot of variables to consider when
18 making these kind of calculations. It -- this isn't an
19 easy calculation, I don't even think, for a person who
20 specializes in rate-making. I certainly don't
21 specialize in rate-making.

22 My day-to-day job is running the utility,
23 treating water. I really don't know the -- I don't
24 really know how I would go about calculating that.

25 It -- it would take quite a bit of time, I can tell you,

1 because of all the inputs.

2 Q Will you agree that chemical expense is likely
3 to change in direct proportion to the gallons treated?

4 A Yes.

5 Q Will you agree that sludge removal or sludge-
6 hauling costs are likely to change in direct proportion
7 to the gallons treated?

8 A Yes.

9 Q Will you agree that purchase power costs are
10 likely to change in direct response to the gallons
11 treated?

12 A Yes.

13 Q Can you identify any other account in which
14 the cost would change in direct proportion to the
15 gallons treated when we're talking about a
16 relatively-small 5-percent-or-less change in the gallons
17 treated?

18 A I think there's components to a lot of
19 different accounts that could be partial. So, to
20 definitively answer that question is very difficult.
21 This isn't my area of expertise.

22 I heard you answering similar questions to
23 Ms. Swain, who has decades more experience in this arena
24 than I do, and -- and I don't think it was something she
25 thought was an easy task.

1 Q Just -- just to be clear, you -- in that
2 answer, you did not name any other cost category that
3 you would assert changes in direct proportion to an
4 increase, to a relatively-small increase, in gallons
5 treated, correct?

6 A I did not name one, but the -- the three that
7 you named would have been the first three that I would
8 have thought of.

9 Q Good.

10 Moving on to the next line -- of questions,
11 that is, Exhibit CAJ-35 to your rebuttal testimony is a
12 copy of an FDEP operating permit for KWRU's plan; is
13 that correct?

14 A Yes.

15 Q I would like to ask you to look at Page 4 of
16 60 of CAJ-35. It shows the effective date of the
17 permit. And that's all I really want to ask you about
18 at this moment.

19 A Effective date is February 20th, 2017.

20 Q Thank you.

21 Isn't it true that this is not KWRU's current
22 FDEP operating permit? If -- if I may -- I -- I'll let
23 you answer it.

24 A (Examining document.) The effective date
25 certainly is -- is accurate, February 20th, 2017, to

1 February 19, 2022. This looks a little different than
2 the one we have in our office, though.

3 Q I would like to ask you to look at the
4 document that you were handed by the staff a little
5 while ago that's been marked for identification as -- as
6 Exhibit 137.

7 A Yes. This one looks more familiar.

8 Q Good. If you'll look at the second page, I
9 think you'll see an effective date toward the top-
10 left --

11 A Yes.

12 Q -- of that page.

13 A There we go.

14 Q And so, the current permit was issued on
15 August 30th of 2017?

16 A That's correct.

17 Q You didn't file your rebuttal testimony until
18 April 11th, 2018, correct?

19 A Correct.

20 Q Why didn't you include the current permit
21 instead of the old one?

22 A That was completely unintentional. They look
23 very similar and -- my intention was to put this permit
24 in.

25 Q So, that we don't get an objection to this one

1 coming in, is KWRU currently in compliance with its
2 current FDEP operating permit?

3 A We are. We had our last inspection, I
4 believe, in October 2017.

5 Q Has KWRU reported any malfunctions or abnormal
6 events to the Department of Environmental Protection in
7 2018?

8 A We have, yes.

9 Q If you would, look, please, at what's been
10 marked as Exhibit 138, titled "KWRU Wastewater
11 malfunction/abnormal event report, event of April 2,
12 2018."

13 A Yes, sir.

14 Q Is this a report of an event that you referred
15 to in your previous answer?

16 A Yes, it is.

17 Q I would like you to also look at what's been
18 marked as Exhibit 139. This is an e-mail from Greg
19 Wright to Gary Hardy, correct?

20 A That's correct.

21 Q Who is Greg Wright?

22 A Greg Wright is the vice president of the
23 utility.

24 Q And is he the -- the principal operator of the
25 plant?

1 A He's -- he has an operating license, as do I.
2 He is not our lead operator. That title is -- goes to
3 Mr. Tim Sunderman.

4 **Q Thank you.**

5 **And who is Gary Hardy?**

6 A Gary Hardy is the DEP south district -- I
7 don't know his exact title -- compliance officer. He
8 would be the person that would do an inspection on our
9 plant. And he did do the inspection that I referenced
10 earlier, in October, I believe it was, of '17.

11 **Q Thank you.**

12 **And does this e-mail serve as a -- as a report**
13 **to the Department that there was a spill, as stated in**
14 **Mr. Wright's e-mail?**

15 A Yes, sir. There's a requirement that, if
16 there is a spill of any kind, to notify the south
17 district office. And Mr. Wright is trying to advise
18 Mr. Hardy that his voice mail was not available and that
19 this will serve as notice. And this is typically
20 followed up by more information.

21 **Q Thank you.**

22 **That spill did occur, correct?**

23 A A spill did occur, yes.

24 **Q Thank you.**

25 **I want to return to talk about phone service,**

1 **briefly. At Page 17, beginning at Line 13 of your**
2 **rebuttal testimony, you talked about the phone system,**
3 **correct?**

4 A You said Page 17?

5 Q **Yes, sir.**

6 A Yes, I'm here.

7 Q **Okay. You do make a reference to the DEP**
8 **operating permit there, correct?**

9 A Yes, I do.

10 Q **Isn't it true that nothing in your FDEP**
11 **operating permit requires KWRU to have a back-up phone**
12 **system?**

13 A I would say that's true, but in our operating
14 permit, it doesn't say we have to have anything backed
15 up, and we certainly do. We have back-up chlorine
16 contact chambers. We have back-up filters. We have
17 back-up plants, so we can take one offline while we work
18 on another.

19 It doesn't explicitly say that in here, but
20 that doesn't mean that we don't -- that we don't have
21 them.

22 Q **I asked the question to make it clear that**
23 **your testimony was not intended to convey that the**
24 **permit required it; is that correct? The permit doesn't**
25 **require it, does it?**

1 A The permit doesn't implicitly state that we
2 need to have a back-up, that's correct.

3 Q Are you familiar with -- I would like to ask
4 you to look at Exhibit 140, the DEP rules regarding WWTP
5 staffing, 62-699311.

6 A Will you give me the rule?

7 Q It's been marked as Exhibit 140.

8 A Yes.

9 Q Does anything in the rule require you to have
10 a back-up phone system?

11 A No. By rule, I was -- I was referring to the
12 SCADA system.

13 Q Thanks.

14 Does the rule require you to have a back-up
15 SCADA system?

16 A No, the rule doesn't say that.

17 Q Thank you.

18 I would like to ask you to turn to Page 29 of
19 your rebuttal testimony. At Pages -- I'm sorry. On
20 Page 29, at Line 7 through 10, it appears, to me, that
21 you criticize Mr. Wilson's testimony by using values of
22 either 250 gallons per day or 167 gallons per day in his
23 calculations. Is that an accurate characterization of
24 your testimony?

25 A I'm pointing out the numbers he's using,

1 that's correct.

2 Q I would like to ask you to look at what has
3 been marked as Exhibit 141. This is an excerpt from
4 what we commonly call "the Last Stand order." It was
5 the -- the permitting application proceeding for your
6 wastewater treatment plant, correct?

7 A Correct.

8 Q Okay. I would like to ask you to look at
9 what, I think, is the -- I think it's the next-to-the
10 last page in there. The bottom-right corner is
11 Page 120 -- sorry -- Page 26.

12 A Yes.

13 Q At the bottom of the page -- at the bottom of
14 the page, there's a numbered paragraph, 116, in the
15 final order. In summary, you'll agree that that states
16 that your witness, Mr. Castle -- also our witness
17 yesterday -- used 167 gallons per day of wastewater flow
18 for each EDU in his analyses, correct?

19 A That is what it states, yes.

20 Q Do you recall Mr. Castle giving that testimony
21 in the Last Stand proceeding?

22 A I don't know if I heard him give it, but I --
23 I'm reading this, and I believe that he gave that --

24 Q Thank you.

25 A -- testimony.

1 Q I have a few -- a few more questions. And
2 this is my last line of cross, everyone will be happy to
3 know. This does address your rebuttal of Mr. Wilson's
4 testimony.

5 Previously, Mr. Wilson's original rebuttal
6 testimony, before he submitted his revised -- revisions
7 with the errata yesterday, was that there were -- there
8 would be an increase of about 10-and-a-half million
9 gallons per year, according to his calculations; do you
10 recall that?

11 A Yes, I recall that.

12 Q And you -- you were here yesterday to hear his
13 testimony, correct?

14 A Yes.

15 Q And are you aware that he's -- has changed
16 that number downward to 9.26 million gallons per year?

17 A I don't remember 9.26, but it was in the nine-
18 million range, yeah.

19 Q Have you had a chance to re- -- we did
20 distribute those exhibits, the revised exhibits, last
21 Friday. Were you able to review those exhibits, the
22 revised exhibits from Mr. Wilson's testimony?

23 A Not completely, no.

24 Q Do you dispute his 9.26 million gallons per
25 year, incremental usage, based on the specific projects

1 identified in his testimony?

2 A Yes, I do.

3 Q Let's talk about the FKSPCA. Have you
4 reviewed his data for calculating the increased flows
5 for the FKSPCA, based on the incremental increase of
6 0.78 ERCs?

7 A Do you have a document you could put in front
8 of me, please?

9 MR. WRIGHT: Sure.

10 (Discussion off the record.)

11 MR. WRIGHT: (Handing to witness.)

12 THE WITNESS: Thank you.

13 COMMISSIONER FAY: Which exhibit is it?

14 MR. WRIGHT: KGW-9. It was distributed
15 yesterday, but -- it's not in the stack of new
16 exhibits. It's a revised exhibit to Mr. Wilson's
17 testimony.

18 COMMISSIONER FAY: Gotcha.

19 BY MR. WRIGHT:

20 Q The -- is the new facility -- is the new SPCA
21 facility operating?

22 A To my knowledge, it is not.

23 Q Thanks.

24 The existing facility has 6.5 ERCs, correct?

25 A I don't -- I don't actually know that.

1 Q Do you have any basis to disagree with that?

2 A I don't, but I -- I -- I can't confirm it, no.

3 Q Okay. Do you agree that your company charged
4 the FKSPCA for 7.28 ERCs?

5 A That sounds about right.

6 Q For -- for its service availability charges?

7 A Yeah.

8 Q Okay. So, that difference -- if we assume
9 that the 6.5 is correct, that difference is .78 ERCs,
10 correct?

11 A Yes.

12 Q And do you agree that Mr. Wilson calculated
13 incremental gallonage in his revised KGW-9 by
14 multiplying .78 ERCs times 167 gallons per day, times
15 365?

16 A Where would I find that number?

17 Q I think it's discussed in a footnote to the
18 table, but the number is rounded to zero --
19 .05 million gallons per year in -- in the row of the
20 table of the FKSPCA --

21 A I do see it now. Thank you.

22 Q Okay. Do you dispute that increased
23 gallonage?

24 A We're not looking at an actual number derived
25 off a meter, FKAA meter here. We're -- we're giving a

1 number that's based off of a table. So, do I agree that
2 it's reflective of actual water-meter flow? No. Do I
3 agree that he took a number off of a table accurately?
4 Yes -- and did the math correctly? Yes.

5 **Q And is that table a table that's commonly used**
6 **for purposes of establishing gallonage by facilities of**
7 **the general type of the FSPCA facility?**

8 A It is an estimated flow tool; however, there
9 are a lot of considerations that go along with it. When
10 you use that tool, you are trying to measure full
11 potential of the property.

12 So, for example, we talked about Bernstein
13 Park. If your facility is rated at full capacity having
14 "X" amount of people in it and that only happens once in
15 a while, your table value that is derived out of 10D6 --
16 or 64E6 now -- sorry, I'm going by the old name -- it's
17 going to give you a higher number than you actually have
18 in the real world because it's under the assumption at
19 full potential.

20 So, in that regard, is this number accurate?
21 It's not based on a water-meter reading, therefore --
22 but that is how you assess properties and estimated
23 flows and charging EDUs, ERCs, et cetera. But there's a
24 distinction there. I'm just making it understood that
25 there's --

1 Q I understand the distinction.

2 I will ask you my question: Do you
3 specifically dispute the value shown in the table for
4 the FKSPCA as incremental flow?

5 A I don't know.

6 MR. WRIGHT: Mr. Chairman, I'm going to hand
7 the witness a copy of revised S- -- KGW-10.

8 COMMISSIONER POLMANN: Yes.

9 BY MR. WRIGHT:

10 Q Have you reviewed Mr. Wilson's revised data
11 concerning the usage levels for the Oceanside Investors
12 property?

13 A Is this the exhibit that he produced on
14 Friday?

15 Q It is the exhibit we produced on Friday and
16 also had entered yesterday as revised Exhibit KEW-10,
17 which, I guess, is 51 --

18 A Yeah, I haven't fully reviewed this document.

19 Q Pardon?

20 A I haven't fully reviewed this document.

21 Q Well, I'll jump to the bottom-line question.
22 Do you specifically dispute Mr. Wilson's usage
23 calculations for the Oceanside Investors property as
24 revised in Revised Exhibit KGW-10?

25 A Are we talking about location ID No. 8766 and

1 205678?

2 Q Did you say page number?

3 A I'm on the first page.

4 MR. SMITH: Schef.

5 MR. WRIGHT: Yeah.

6 MR. SMITH: He just named the Stock Island
7 Marina Village one, not the Oceanside one.

8 BY MR. WRIGHT:

9 Q I -- I think you referred to -- to meters for
10 Stock Island Marina.

11 A Okay. Which ones do you want to talk about?

12 Q I'm trying to ask you about Oceanside.

13 A Oceanside.

14 Q Which, I think, is the bigger block.

15 A Okay.

16 (Discussion off the record.)

17 THE WITNESS: So, these -- all these are
18 water-meter readings in this case, correct?

19 BY MR. WRIGHT:

20 Q Correct.

21 A (Examining document.)

22 MR. WRIGHT: Commissioner?

23 COMMISSIONER POLMANN: Yes, Mr. Wright?

24 MR. WRIGHT: I'm going to move the process
25 along and withdraw the last question.

1 COMMISSIONER POLMANN: I was trying to think
2 of what I was going to say to get you to do that,
3 so -- please proceed.

4 BY MR. WRIGHT:

5 Q On Page 29 of your rebuttal testimony, you
6 were -- made some reference to the City of Key West
7 transportation maintenance facility. Do you recall
8 that?

9 A Yes, I do.

10 Q You'll agree that Mr. Wilson did not include
11 any additional gallonage from the transportation
12 maintenance facility in his calculations; will you not?

13 A I would agree.

14 Q Thanks.

15 So, you didn't criticize his gallonage values
16 based on his passing reference to the City of Key West
17 transportation facility, did you?

18 A I didn't. I was just clarifying.

19 MR. WRIGHT: That's all I have. Thank you.

20 COMMISSIONER POLMANN: Thank you, Mr. Wright.

21 MR. WRIGHT: Commissioner, with your
22 permission, I'll retrieve my documents that I gave
23 to the witness.

24 COMMISSIONER POLMANN: I'm sorry -- sure. Go
25 ahead. Thank you.

1 MS. MAPP: Staff has a few exhibits we would
2 like to hand out to the witness.

3 COMMISSIONER POLMANN: Okay. While staff is
4 handing out exhibits. We're going to take six
5 minutes. Off the record here.

6 (Brief recess.)

7 COMMISSIONER POLMANN: Have you handed out all
8 the paper you needed to?

9 MS. MAPP: Yes, it has all been handed out.

10 COMMISSIONER POLMANN: How many do we have?

11 MS. MAPP: Everyone should have three
12 exhibits. And I would like to mark them, for
13 convenience sake.

14 COMMISSIONER POLMANN: Okay. Does everybody
15 have three documents?

16 Proceed, Ms. Mapp.

17 MS. MAPP: So, 142 would be --

18 MR. SMITH: Whoa. Whoa. Whoa.

19 (Simultaneous speakers.)

20 COMMISSIONER POLMANN: We're on 146.

21 MS. MAPP: 146 --

22 COMMISSIONER POLMANN: I'm on 146.

23 MS. MAPP: -- would be the document marked
24 KWRU's Responses to Staff's 4th Interrogatories,
25 No. 88.

1 COMMISSIONER POLMANN: Okay. 146, with the
2 title Ms. Mapp indicated, KWRU Response to Staff's
3 Fourth Interrogatory No. 88.

4 (Whereupon, Exhibit No. 146 was marked for
5 identification.)

6 MS. MAPP: No. 147 would be KWRU's Responses
7 to Staff's Fourth Interrogatories, No. 80.

8 COMMISSIONER POLMANN: That's 147, with the
9 title so stated.

10 (Whereupon, Exhibit No. 147 was marked for
11 identification.)

12 MS. MAPP: And 148 would be KWRU's Responses
13 to Second Set of Interrogatories, No. 42.

14 COMMISSIONER POLMANN: Exhibit 148, with the
15 title you just indicated.

16 (Whereupon, Exhibit No. 148 was marked for
17 identification.)

18 MR. WRIGHT: Commissioner, for the record, we
19 will object to 146 and 147 for the reasons
20 previously discussed.

21 COMMISSIONER POLMANN: So noted.

22 Anything else, comments?

23 Are you --

24 MS. MAPP: Good afternoon --

25 COMMISSIONER POLMANN: Are you ready,

1 Mr. Johnson?

2 THE WITNESS: I am. Thank you.

3 COMMISSIONER POLMANN: Proceed.

4 EXAMINATION

5 BY MS. MAPP:

6 Q Good afternoon, Mr. Johnson.

7 A Good afternoon.

8 Q Could you please refer to the document labeled
9 Exhibit No. 148, please.

10 A Yes.

11 Q And if you -- this is a response provided by
12 the utility in -- to Staff's No. 42. This was provided
13 by you or one of your employees, correct?

14 A That's correct.

15 Q Could you turn to the third page. It has a
16 No. 32 at the bottom.

17 A Yes.

18 Q And the second row discusses a tow-behind
19 generator. Do you see that?

20 A Yes, I do.

21 Q And you'll notice in the column labeled
22 "bill" -- I'm sorry -- "bid selected," that it's labeled
23 "TBD"?

24 A Yes.

25 Q That means that, at the time this was

1 submitted, a bid had not been selected; is that correct?

2 A That's correct.

3 Q If a bid had not been selected, how are you
4 able to determine a March 31 estimated completion date?

5 A That was the utility's target date for being
6 completed. It didn't mean that a bid was selected. It
7 just means that was the date we wanted to be -- have a
8 decision by.

9 Q And if you could, turn to the exhibit marked
10 146. Was this also a response provided by you or one of
11 your employees?

12 A Yes, it was.

13 Q And the original question is, "Please refer to
14 KWRU's responses to staff's No. 42 and ask, has a bid
15 been selected for a tow-behind generator?"

16 Can you read the response, starting with the
17 words "the bid selected."

18 A Response: The bid selected was from Global
19 Power Supply, Offer No. GPSQ7027, invoice number,
20 5960-001. This bid was selected, as the generator
21 provides the best value for -- for money to KWRU. The
22 generator will meet the reliability requirements,
23 presents a lower projected cost of maintenance than
24 other units considered, and includes a two-year,
25 2,000-hour warranty.

1 Used machinery carries an inherent risk of
2 failure, even if prudently inspected. Given the cost of
3 those other units reviewed, the reliability variables
4 and the strong inducement provided by the warranty
5 coverage, the selection of this generator was reasonable
6 and prudent.

7 **Q So, as indicated by this response, the tow-**
8 **behind generator that was selected is used machinery,**
9 **correct? It's not new?**

10 A No, ma'am. This is a new generator. Sorry.

11 **Q And as relates to the two-year, 2,000-hour**
12 **warranty, given past usage of the previous tow-behind**
13 **generator, how long do you believe it will take for this**
14 **unit to reach 2,000 hours operation?**

15 A It's really hard -- difficult to answer the
16 question. The events where this generator will see a
17 lot of use are hurricane events. The last time we saw
18 really full-time use of generators was in Wilma. The
19 island went under water. Several lift stations were
20 completely without power, to the point where we had to
21 put power poles in, new services, and get them back up
22 and running.

23 So, in these instances, we were running
24 generators all day long up until 11:00 at night, first
25 thing in the morning, 6:00 a.m. In these instances, you

1 pile on hours in a short period of time. If there are
2 no hurricane events, if -- you're going to put on less
3 hours.

4 So, to answer this as accurately as possible,
5 it's hard to know. It's going to depend on unusual
6 events: power failure, natural disasters, that kind of
7 thing.

8 Q And could you turn to exhibit marked 147. And
9 on the first page of that document, in the top right, it
10 states, "Invoice 5960-001." Do you see that?

11 A Yes.

12 Q Is this the invoice cited to in your previous
13 response for the tow-behind generator?

14 A I think it is. Let me check. Yes, it is.

15 Q And if you could turn to the third page of
16 that document, it states 020236.

17 A Yes.

18 Q And at the top, it says "Deposit now due."

19 A Yes.

20 Q This was paid by the utility on April 9th,
21 2018, correct?

22 A (Examining document.) 4/9/2018, Check 0487,
23 correct.

24 Q Thank you.

25 Now, in your rebuttal testimony, you go over

1 the ten capital projects for which the utility is
2 requesting recovery, correct?

3 A Correct.

4 Q Of these ten capital projects, how many would
5 you say are related to growth?

6 A I don't think any of them are.

7 Q Earlier, there was a line of questioning
8 concerning your Comcast phone service and switching to
9 AT&T. Do you recall that line of questioning?

10 A Yes, I do.

11 Q I believe that, according to the utility's
12 general ledger, that during a test year, you did have
13 service from AT&T; that, according to the ledger, was
14 terminated in December of 2016. Why was that done?

15 A In 2016, I believe that is when the utilities
16 switched from AT&T to Comcast. And that AT&T service
17 was not fiber; it was traditional voice. Comcast did
18 offer considerable cost savings at that time. That was
19 a motivating factor.

20 Also, the AT&T DSL, which we were using during
21 the last rate case, was atrocious. We could not upload
22 to Dropbox all the documents that we needed to. And the
23 uploads speeds on Comcast -- and it's true today -- are
24 much better, as far as upload speeds.

25 So, those -- a combination of both of those

1 were the reasons we switched.

2 **Q But isn't it now -- didn't you testify that**
3 **the utility intends to switch from Comcast back to AT&T?**

4 A We would like to add a fiber circuit, which is
5 a whole new technology. And it's purported to be much
6 more reliable. We would like to put our voice and data
7 on that AT&T fiber circuit, and then, we would like to
8 just maintain the Comcast cable part, the coaxial
9 internet connectivity part, which would give us
10 redundancy.

11 We would have a switch that, if one or the
12 other would fail, the switch would put us on the system
13 that's up and operational.

14 **Q Are you able to quantify the difference in the**
15 **bills that -- what would result?**

16 A Yes. We've -- we've spoken with
17 representatives from AT&T. We've gotten their
18 projections on what the cost would be and we presented
19 those in this rate case.

20 **Q I'm sorry. I meant the bills when you**
21 **switched from AT&T to Comcast originally. You stated**
22 **that it was a cost savings to switch to Comcast.**

23 A Yes.

24 **Q What amount was -- were those cost savings?**

25 A I don't know off the top of my head what the

1 savings was. It was more than a little bit, but it
2 wasn't -- it wasn't humongous. The main reason was --
3 the up- -- upload speed.

4 **Q Are you able to quantify the prospective**
5 **savings by dropping the Comcast phone service and**
6 **switching to AT&T?**

7 A I don't know exactly what that would be
8 either, at this time.

9 **Q You also testified concerning new customers**
10 **that may come online with the utility in the future,**
11 **correct?**

12 A Did I provide testimony?

13 **Q Yes, as related to growth and flows, future**
14 **flows. On Page 28 of your rebuttal --**

15 A Yes, I did.

16 **Q Okay. And you were present during the**
17 **customer service hearing here on Tuesday night, correct?**

18 A I was, yes.

19 **Q And did you happen to hear the comments of**
20 **Mr. Andrew Birrell and his empty residential building**
21 **that has yet to connect to the utility?**

22 A Yes, I did.

23 **Q Prior to Tuesday night, were you aware of**
24 **Mr. Birrell's complaint?**

25 A Yes, I was aware. It's in the cast system.

1 Q Can you describe that actions the utility has
2 taken or plans to take in response to Mr. Birrell's
3 complaint?

4 A Yes. The utility outlined for Mr. Birrell the
5 options that he has to connect his property to central
6 sewer. His options are to provide infrastructure on his
7 own or he is aware that the County and the utility, in
8 an intergovernmental capacity, are planning to put
9 infrastructure in. And he knows that his property is on
10 that list because this information is public record.

11 I did meet with him after he was at the -- at
12 the meeting. I provided him with my card. He's very
13 interested in allowing the County and the utility to do
14 the work to put the infrastructure in. He's just hoping
15 that it is sooner rather than later.

16 And we are -- we are going to give his
17 property -- to the extent we can -- and we'll have to
18 work with the County -- priority. In other words,
19 there's a few people, like Mr. Birrell, that would like
20 to be hooked up right now. And as far as we can, we're
21 going to push them to the top of the list.

22 We do have a competing project on Monroe --
23 that Monroe County is doing on the island. So, we
24 obviously can't be on top of the each other, but to the
25 extent we can, we will put people like Mr. Birrell

1 first.

2 Q Thank you.

3 And I want to move on to the chlorine contact
4 chamber project.

5 A Yes.

6 Q The utility is providing housing for the labor
7 to save on contract price. That's your testimony,
8 correct?

9 A That's correct. We took a hundred thousand
10 dollars out of the contract for that.

11 Q And has the utility reserved housing at this
12 point for those labor workers?

13 A Yes, we have. We're housing them now.

14 Q And where is that pole located?

15 A We have a couple of different facilities. We
16 have two apartments and one home at Sunny Isles.

17 Q And why was no documentation provided in this
18 proceeding supporting the current costs already expended
19 by the utility for that housing?

20 A I believe we tried to put as much
21 documentation in as we could for the housing.

22 Q In response to a discovery, a screenshot of a
23 Craigslist posting was provided; however, nothing
24 further for the housing. Are you stating that further
25 information was provided?

1 A It may be that after the housing was
2 provided -- up until the point that we had the
3 information -- I don't know the requests and the dates
4 of the requests. We reserved some housing. Then we
5 added additional housing on. So, I don't know the
6 timing of it all.

7 Q And just a point of clarification, the DEP
8 permit attached to your testimony is not the current
9 one, but the current one would be what Mr. Wright
10 previously handed out today?

11 A That is correct.

12 MS. MAPP: Thank you. I have no further
13 questions.

14 COMMISSIONER POLMANN: Thank you, Ms. Mapp.
15 Commissioners?

16 Mr. Johnson.

17 THE WITNESS: Yes, sir.

18 COMMISSIONER POLMANN: There was a line of
19 questioning, I think, from Mr. Sayler -- and I'm
20 sorry I can't point to a -- a page and line number.
21 This had to do with a petition you filed without
22 cost information.

23 You -- your response -- in your response, you
24 said you did not file a line item for particular
25 costs he was questioning you on.

1 THE WITNESS: That was relating to the sludge
2 hauling, I believe.

3 COMMISSIONER POLMANN: Well, thank you for
4 that recollection. I -- I appreciate that.

5 The -- my question for you is: When you filed
6 the petition without identifying a cost item -- in
7 this case, for example, the sludge hauling -- if
8 you did not identify that there would be a sludge-
9 hauling cost, regardless of what it would be, you
10 didn't have the line item, then, by what mechanism
11 do you think would be appropriate, then, to add
12 that cost, if you didn't even identify that there
13 would be such a cost?

14 THE WITNESS: Well, you -- you talked a little
15 bit about this yesterday with Mr. Castle.
16 Sometimes in contracts you will have a contingency
17 item in the contract where, if an item like this
18 were to materialize -- and it can be known,
19 unknown, forgotten, not forgotten. It can be any
20 number of things that materializes during the
21 course of the project -- there's that, quote,
22 unquote, contingency monies that can take care of
23 unforeseen or unknown or stuff that was missed or
24 whatever it is that needs to get done to get the
25 project done.

1 COMMISSIONER POLMANN: In the case where
2 you -- the contract identifies a contingency that
3 would -- could be included as a known/unknown, so
4 to speak. Is -- would that be correct, in your --
5 in your mind? There would be an allocation of an
6 allowance; is that correct?

7 THE WITNESS: Yeah, the contingency would
8 essentially be an allowance. And if something like
9 this were to arise, a decision could be made to say
10 this could be handled under the provisions of the
11 contingency.

12 COMMISSIONER POLMANN: I believe you -- you,
13 in answering Mr. Sayler, were aware that there
14 would be a sludge-hauling cost, based on your prior
15 experience at this plant, having a similar
16 maintenance history or a similar rehabilitation.

17 THE WITNESS: Right.

18 COMMISSIONER POLMANN: Is that correct?

19 THE WITNESS: We had done a similar project in
20 2010, yes.

21 COMMISSIONER POLMANN: So, in this case,
22 you -- you had reasonable expectation that there
23 would be a sludge-hauling cost; is that correct?

24 THE WITNESS: It -- it is in the contract that
25 is not included. So, it is clear.

1 COMMISSIONER POLMANN: Okay. Thank you.

2 With regard to staffing, again, in response to
3 Mr. Saylor's line of questioning -- and I believe
4 it's in your rebuttal testimony. On Page 12, there
5 is a statement, more or less to the effect that --
6 or, perhaps, it was in your answer -- that KWRU has
7 been understaffed from time to time. And there has
8 been a lot of discussion here about carrying
9 vacancies in your salary budget.

10 Can you please tell us if there is an
11 advantage and, if so, what type of an advantage the
12 utility would have of having some number of
13 vacancies with regard to hiring and training or --
14 or whatever it may be? I'm trying to understand if
15 there's a benefit to having vacancies.

16 THE WITNESS: Well, I don't know what the
17 benefit would be as far as me, a manager, or my
18 employees -- certainly, from our perspective, it's
19 the opposite of a benefit.

20 It's a situation where the existing staff has
21 to take on -- has to shoulder a -- more burden. As
22 you say, that creates kind of a cycle where people
23 get burned out and quit; a new person comes in;
24 that person, now, has to be trained.

25 So, there aren't a lot of advantages to

1 running a business like that. You would much
2 rather be fully staffed at the proper number -- not
3 overstaffed, not understaffed, but at the proper
4 number -- properly train your employees and retain
5 your employees so that, once you train them today,
6 can bear fruit tomorrow.

7 COMMISSIONER POLMANN: So, do you have any
8 reason at all to -- to carry a vacancy on your
9 budget?

10 THE WITNESS: We don't -- we would not -- we
11 don't want to have a vacancy. We would love it if
12 we could maintain our staff indefinitely. You and
13 I know that's not going to happen in the real
14 world, but as much as possible, that's our goal, to
15 maintain staff.

16 COMMISSIONER POLMANN: So, there -- there was
17 a point of questioning, you know, in -- in your
18 testimony highlighting the word that that's your
19 intention. Maybe you can help us understand how
20 you achieve that, rather than how you intend to.
21 Is -- are you doing something different --

22 THE WITNESS: Yes.

23 COMMISSIONER POLMANN: -- now than you have
24 done in the past? You're -- you're fully staffed
25 now. So, how did -- what are you doing differently

1 that achieves that so that you're not carrying the
2 vacancies?

3 THE WITNESS: I think it's -- it's not one
4 thing in particular, but I think it's a number of
5 things. Just this year, January 1st, we offered a
6 new pension plan. And that plan was available for
7 all our employees; not just some of our employees.
8 And that plan was well-received by our employees.

9 Prior to that, in recent years, we've done
10 other things. We've added two holidays. We have
11 added on-call pay.

12 Now, of course, you've always been paid for
13 coming out in the middle of night, but in the past,
14 we haven't given people "X" amount of dollars for
15 just agreeing to be on-call. Our competitors do;
16 they give 16 hours. Well, that would probably
17 break the bank with us, but we did give six hours.

18 These measures, while maybe they don't --
19 aren't exactly equal to some other utilities, do
20 show our employees that we care about them, that we
21 value them, and that we are taking measures each
22 and every year to, what I will say, narrow the gap
23 maybe between our utility and other utilities.

24 COMMISSIONER POLMANN: And -- and I understand
25 those -- those factors, perhaps, making it more

1 attractive.

2 And what I'm asking is: Have you done
3 anything to, perhaps, broaden your reach to try to
4 seek out a larger candidate pool? Are you looking
5 further afield or are you doing anything else?
6 Just briefly.

7 THE WITNESS: Yes. We actually -- that is
8 exactly what we did.

9 COMMISSIONER POLMANN: Okay.

10 THE WITNESS: Our last -- our previous two
11 operation managers were not from the wastewater
12 field specifically. This time, when we hired our
13 maintenance manager, we wanted a maintenance
14 manager with wastewater background. We did go far
15 afield. We -- trade publications.

16 COMMISSIONER POLMANN: Okay.

17 THE WITNESS: We did go far and we found a
18 gentleman with extensive experience and we brought
19 him in. Right after the hurricane, he started.

20 COMMISSIONER POLMANN: Okay. Thank you.

21 There's been quite a discussion about the
22 May 31st [sic] date for project completion of the
23 modular building. And apparently, that became
24 known to you quite sometime ago that that
25 March 31st [sic] date was not achievable; that the

1 project would be delayed.

2 And I believe your response earlier today was
3 something to the effect that, because of the
4 hurricane, so forth, that simply -- by common
5 sense, were your words -- that that was not -- not
6 going to be achieved, but the fact that you did not
7 update, within the filings, selected new dates.

8 You also indicated that you have a not-to-
9 exceed contract of \$250,000 and -- is it the
10 utility's intention, then, to -- to seek recovery
11 for \$250,000?

12 THE WITNESS: Yes.

13 COMMISSIONER POLMANN: So, you're just basing
14 this off of a not-to-exceed value?

15 THE WITNESS: Yes.

16 COMMISSIONER POLMANN: With -- with regard to
17 selection of the Pabian company for that project,
18 I -- I was unclear. And I heard questions about
19 this, but I was unclear. I think I may have heard
20 two different answers. Did you select the company?

21 THE WITNESS: Yes, I -- I brought the company
22 up as one of two companies that I knew of that I
23 felt -- based on my experience in the field, doing
24 inspections for the utility, I see all new modulars
25 going in.

1 COMMISSIONER POLMANN: I understand. I'm
2 looking for a very specific answer.

3 THE WITNESS: Yes, I -- I brought it to the
4 board's attention and they said yes.

5 COMMISSIONER POLMANN: Okay. And this is the
6 distinction. Let me -- let me give you the points
7 of distinction I'm looking for; and that is, did
8 you recommend the company? Did you select the
9 company? Did you contract with the company and
10 then get concurrence from ownership? Or did you
11 bring two companies forward and then did they give
12 you guidance on which one to pick?

13 In other words, was it -- was it you going
14 forward and said, I like this one, or did you take
15 two forward and they said, they like this one?

16 THE WITNESS: I think what it was is two,
17 obviously, bubbles to the top of -- anybody who
18 knows the area would probably come up with these
19 two names --

20 COMMISSIONER POLMANN: Right.

21 THE WITNESS: -- and say, these are the two.
22 And then it came down to, well, these folks right
23 here are now on a project on Stock Island, right
24 now --

25 COMMISSIONER POLMANN: Understood. That's not

1 my point.

2 THE WITNESS: And that was why --

3 COMMISSIONER POLMANN: My point was: Who made
4 the -- who made the selection?

5 THE WITNESS: I did. And I said, should we
6 pursue this contractor because he's mobile- --
7 mobilized. And if he doesn't want to do it, Don
8 Miller will be discussed. And then, if he doesn't
9 want to do it, Southern Structures or some other
10 company is down the line.

11 COMMISSIONER POLMANN: Very good, sir. Thank
12 you.

13 Redirect?

14 FURTHER EXAMINATION

15 BY MR. SMITH:

16 Q Mr. Johnson, as to the draining the tanks, you
17 stated that it was excluded from the contract with
18 Evoqua, correct?

19 A Yes.

20 Q Was that the utility's obligation to drain the
21 tanks?

22 A It's not the utility's obligation; however,
23 Evoqua is not doing it.

24 Q Has the utility decided to undertake this
25 obligation?

1 A We have.

2 Q Did you make a determination as -- as to the
3 date of your direct testimony being filed?

4 A I'm sorry. There was some noise.

5 Q Did you make a determination as to who would
6 drain the tanks as of the date of your testimony -- your
7 direct testimony was filed?

8 A Not at that time.

9 Q Going to employees, are you capable to force
10 employees to stay at a company?

11 A I am not.

12 Q There was mentioning of 13.5 employees and now
13 your 14 employees. Can you explain that .5 difference,
14 what that was?

15 A The .5 difference was based on an employee who
16 was a part-time employee, a long-time employee, who,
17 between the last rate case and now, has retired. And,
18 now, we've replaced that retired, part-time employee,
19 with a full-time employee. And her part-time was
20 anywhere from 25 to 30 hours a week, depending -- when
21 she left.

22 Q During some of the questions by Mr. Wright, he
23 brought up the rental costs of the generator as
24 approximately \$9700 for the additional five months. Do
25 you recall that testimony?

1 A Yes.

2 Q Is that -- is that the correct amount for the
3 rental of the generator?

4 A Certainly not for the big generator -- see,
5 there's two generators.

6 Q Is the big generator approximately \$10,000 per
7 month?

8 A It's more than that.

9 Q Okay. Going to the capital projects, there's
10 a discussion of the -- the several million dollars that
11 had been infused. Is that -- you recall that -- that
12 line of questioning?

13 A Yes, I do.

14 Q Are those capital projects still ongoing?

15 A Those capital projects are still underway,
16 yes.

17 Q You had turned to Exhibit 140, which was that
18 DEP rule, DEP Rule 62699.311. Let's go to the bottom of
19 that page -- first page, you see that? Subsection 5A
20 said -- the last paragraph -- can you read that
21 sentence? It starts with, "For plants." Do you see
22 that? Starts with, "For plants that are under."

23 A What page are you on?

24 Q The first page.

25 A Okay. Subsection --

1 Q 5A. It's at the bottom of the page. Starts
2 with, "For plants that" --

3 A Yes, I do.

4 Q Can you read that?

5 A "For plants that are under an electronic
6 surveillance system or automatic control system,
7 staffing requirements shall be reduced as follows."

8 Q Is that electronic surveillance system or
9 automatic control system -- is that like a SCADA system?

10 A That is a SCADA system, yes.

11 Q And this is discussing the reductions that you
12 get in employees due to that?

13 A Yes.

14 Q Going to the final order of the Division of
15 Administrative Hearings, you recall Ed Castle's
16 testimony about utilizing the 167 gallons per day. Do
17 you recall that testimony?

18 A Yes.

19 Q Okay. Was -- what was Mr. Castle utilizing
20 that 167 gallons per day for?

21 A That was used for projected wastewater flow
22 for future residential development on Stock Island.

23 Q Was that utilized to size the plant?

24 A Yes, it was.

25 Q When you size a plant, do you utilize the

1 **average or the maximum flows?**

2 A You use the full potential number.

3 MR. SMITH: Thank you. No further questions.

4 At this juncture, I would -- where's my
5 exhibit list.

6 MS. HELTON: 61 to 77.

7 MR. SMITH: Thank you.

8 At this juncture, I would move into the
9 record, Exhibit No. 61 to 77.

10 COMMISSIONER POLMANN: Okay. We have exhibits
11 numbered 61 to 77. Those numbers are on the
12 comprehensive exhibit list. We will move those in
13 at this time.

14 (Whereupon, Exhibit Nos. 61 through 77 were
15 admitted into the record.)

16 COMMISSIONER POLMANN: We have identified here
17 this morning, with this witness, exhibits numbered
18 136 through 148. So, let's argue about those.

19 MR. SAYLER: Commissioner Polmann.

20 COMMISSIONER POLMANN: Yes, sir. Mr. Sayler.

21 MR. SAYLER: If the parties anticipate a lot
22 of evidentiary arguing over all these various
23 exhibits, could I request that --

24 COMMISSIONER POLMANN: Yes.

25 MR. SAYLER: -- we interrupt that and do that

1 after --

2 COMMISSIONER POLMANN: Yes.

3 MR. SAYLER: -- Mr. Schultz's testimony?

4 COMMISSIONER POLMANN: Let's proceed on --
5 unless anybody feels strongly about it, let's take
6 up the remainder of the witnesses because we do
7 have time constraints. So, let's move on to
8 surrebuttal.

9 (Transcript continues in sequence in Volume
10 8.)

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CERTIFICATE OF REPORTER

STATE OF FLORIDA)
COUNTY OF LEON)

I, ANDREA KOMARIDIS, Court Reporter, do hereby
certify that the foregoing proceeding was heard at the
time and place herein stated.

IT IS FURTHER CERTIFIED that I
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DATED THIS 29th day of May, 2018.



ANDREA KOMARIDIS
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EXPIRES February 9, 2021