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STATE OF FLORIDA  
DIVISION OF ADMINISTRATIVE HEARINGS

PEOPLES GAS SYSTEM,  
  
Petitioner,

FILED 7/23/2019  
DOCUMENT NO. 05897-2019  
FPSC - COMMISSION CLERK

vs. Case No. 18-4422

SOUTH SUMTER GAS COMPANY, LLC.  
AND CITY OF LEESBURG.

RESPONDENTS.

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VOLUME 3  
PAGES 276 - 402

PROCEEDINGS: FINAL HEARING  
BEFORE: E. GARY EARLY  
Administrative Law Judge  
DATE: June 25, 2019  
TIME: Commenced at 9:00 a.m.  
LOCATION: DIVISION OF ADMINISTRATIVE  
HEARINGS  
1230 APALACHEE PARKWAY  
Tallahassee, Florida  
REPORTED BY: DEBRA R. KRICK  
Notary Public in and for  
the State of Florida  
at Large

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P R O C E E D I N G S

THE COURT: All right. So today is Tuesday, the 24th of June, 2019. We are here for the second day in the case of --

MR. SELF: 25th.

THE COURT: -- in the case of Peoples Gas versus South Sumter Gas System, the gas company, and City of Leesburg. We completed Mr. Stout yesterday, so we are ready for our next witness, Mr. Brown.

MR. BROWN: Stephen Durham, Your Honor.

THE COURT: All right. Mr. Durham, would you raise your right hand, please?

Whereupon,

STEPHEN DURHAM

was called as a witness, having been first duly sworn to speak the truth, the whole truth, and nothing but the truth, was examined and testified as follows:

THE COURT: Your full name, please.

THE WITNESS: Stephen Durham.

THE COURT: Okay. Please be seated.

D-U-R-H-A-M?

THE WITNESS: D-U-R-H-A-M, yes, like bull Durham.

DIRECT EXAMINATION

1 BY MR. BROWN:

2 Q Good morning.

3 A Good morning.

4 Q Could you state your name for the record,  
5 please?

6 A Stephen Durham, Stephen with a P-H.

7 Q What is your profession, sir?

8 A I am an economic consultant.

9 Q And can you tell the Court a little bit of  
10 your educational background?

11 A I have a Bachelor's degree in the area of  
12 economics from Manchester University in England, Master  
13 of Science and Ph.D. in area of economics from Cornell  
14 University.

15 Q And what is some of your -- what is your  
16 current employment?

17 A I am employed by a company called Deiter,  
18 Stephens, Durham & Cook. We are based in Tampa.

19 Primarily what we do is consulting in  
20 adversarial actions. So typically that's litigation,  
21 but things may not be in litigation, but it could be a  
22 property dispute, or something like that, or property  
23 damage. So it might -- it might lead to litigation even  
24 if it's not in litigation.

25 Q And for how long have you been with the firm?

1 A 30 years.

2 Q And before that, what about did you do?

3 A I was a graduate student.

4 Q And did you come straight from being a  
5 graduate student to work for the firm?

6 A Yes.

7 Q All right. We've got a book up there. Let me  
8 make sure it's up there. It is. If I could have you  
9 look at Exhibit 9.

10 THE COURT: Peoples Exhibit 9?

11 MR. BROWN: Peoples Exhibit 9. Yes, Your  
12 Honor.

13 BY MR. BROWN:

14 Q And ask you, what is this?

15 A This is a chart I prepared outlining potential  
16 payments to South Sumter Gas over a 30-year period from  
17 the agreement with the City of Leesburg.

18 Q And this is your work product?

19 A Yes.

20 MR. BROWN: Your Honor, I would move to admit  
21 this into evidence.

22 THE COURT: Mr. Moyle.

23 MR. WHARTON: Object on the basis of  
24 relevance.

25 THE COURT: Anything on top of that, Mr.

1 Moyle?

2 MR. MOYLE: Well, I was kind of thinking that  
3 before it would come in, that he would tender him  
4 as an expert and be accepted before entering  
5 exhibits in with not the witness having been  
6 accepted as an expert.

7 THE COURT: All right. Well, I mean, if  
8 that's -- if that's the objection, I will allow it  
9 in. So I think that will probably go more to the  
10 weight at the point that he either is or is not  
11 accepted as an expert. So I will allow it. I will  
12 receive Peoples Exhibit 9 in evidence.

13 (Whereupon, PGS Exhibit No. 9 was received  
14 into evidence.)

15 MR. MOYLE: Judge, I guess the other thing is,  
16 first, it's right out of the morning, so the coffee  
17 is still working, but I think also on the relevancy  
18 point, his analysis is all done based on an  
19 arrangement in a contract that provides revenue to  
20 SSGC. And, you know, the contract, you will  
21 have -- you already have the contract in front of  
22 you. You have all of that information, you know, I  
23 think it can be derived on. I am not sure it's  
24 that relevant in terms of who makes what. What  
25 issue in the case does that even go to about?

1           THE COURT: You know, another of the  
2           imponderables that I pondered, but at this point --  
3           I mean, I recognize there is this issue out there  
4           that's more jurisdictional than substantive in  
5           terms of what I am going to be asked to do, and  
6           ultimately what the Commission is going to be asked  
7           to do. And I don't know enough about this not, at  
8           this point, to know if I ought to be unraveling it  
9           or tightening it.

10           So I'm probably today going to be allowing a  
11           lot of things in that the parties are going to go  
12           what the -- one or both of the parties are going to  
13           say, what the heck is he doing letting that in, it  
14           has nothing to do with this case. But because of  
15           that issue, and because of the uncertainty in my  
16           mind as to how that issue is going to play out,  
17           having not heard much yet, I am inclined to make a  
18           more substantial factual record for the Commission  
19           to chew on, and for me to chew on.

20           I want to make sure that the Commission has --  
21           if I -- if I err in some way in applying the law to  
22           this case, I at least want the Commission to have  
23           enough facts that they can correct me. Hopefully  
24           that won't be the case.

25           I am inclined to let in more than less. I



1 know that's kind of one of the fallbacks with ALJs  
2 a lot, is how they let everything in and, you know,  
3 say it's going to go to the weight. That's  
4 probably what I am going to be doing more than less  
5 today.

6 MR. BROWN: Your Honor, if I may just add, I  
7 think the testimony that's already in the record in  
8 the deposition of Mr. Rogers is that the cost to  
9 serve for Leesburg is whatever they are paying  
10 under the agreement, and this is an attempt to  
11 quantify what that amount is.

12 THE COURT: Okay.

13 MR. WHARTON: The deposition of who?

14 THE COURT: Jack Rogers.

15 MR. BROWN: Jack Rogers.

16 THE COURT: So like said, I am inclined at  
17 this stage, at least at this stage and probably  
18 throughout the rest of the proceeding, to let a lot  
19 of evidence in, and I am going to have to sort it  
20 all out at the end, because all of y'all are going  
21 to have to tell me how this plays out in the  
22 context of a territorial dispute.

23 MR. MOYLE: I suspect we may have this  
24 conversation a couple of times, so I interpreted  
25 your comments to just kind of play it by ear, it

1           sounded like.

2           THE COURT: Yeah. I am going to play it by  
3 ear, and I am going to probably be more lenient  
4 with some of the strict rules of evidence, which of  
5 course under what we call Graham is -- you know,  
6 the evidence code doesn't necessarily apply and  
7 have a lot of -- and the Commission has a lot of  
8 latitude about what comes in and what doesn't come  
9 in in the evidence code, and under 120 we have this  
10 relaxed evidentiary standard, blah, blah. So I am  
11 probably going to let a lot of evidence in.

12           Like I said, I want to make sure that when I  
13 am done with my part in this proceeding, that the  
14 Commission has enough that they will be able to  
15 correct whatever gross error in substance I make.

16           MR. WHARTON: I was just trying to avoid a  
17 speaking objection and then I didn't get to say  
18 anything.

19           THE COURT: You will have plenty of  
20 opportunities for speaking objections --

21           MR. WHARTON: Okay.

22           THE COURT: -- I am convinced from past  
23 practice.

24           MR. BROWN: Your Honor, just a point, are you  
25 going to require that the witness be tendered or we

1            simply talk about -- I mean, they have sort of  
2            gotten a way from that.

3            THE COURT: Yeah, I do it either way. If I am  
4            convinced based on the standards in 90.702 that  
5            this witness has the educational -- you know,  
6            education, experience, training, et cetera, et  
7            cetera, I am willing to accept them as an expert.  
8            Although, I would like to have an understanding of  
9            what, other than an economic consultant, so I am  
10           assume he is being offered as some sort of an  
11           economic expert -- an expert in economics of some  
12           sort, if you can make --

13           MR. BROWN: I will amplify on that.

14           THE COURT: -- give me a tag that I can use,  
15           it will help.

16 BY MR. BROWN:

17           Q     As part of -- well, in terms of your  
18           experience, is part of what you do to price out, for  
19           example, what different contracts or different  
20           agreements might cost over time?

21           A     Yes.

22           Q     And is that something that you typically do in  
23           your business?

24           A     Yes.

25           Q     And is that something that you do as an

1 economist?

2 A Yes, although, ultimately a lot of it is just  
3 mathematics.

4 Q In this particular case?

5 A Yes.

6 Q Okay. Let's talk about Exhibit 9, and we will  
7 talk about what the calculations are that you have made,  
8 and how you have come up with this.

9 MR. BROWN: Can you see? Am I blocking?

10 MR. WHARTON: No.

11 MR. BROWN: Okay.

12 BY MR. BROWN:

13 Q Let's start at the top of this exhibit, if you  
14 could just explain what these numbers are and where they  
15 came from.

16 A So the agreement -- we call it the  
17 agreement -- specifies the customer charge per month is  
18 \$6.93.

19 Q And when you say the customer charge per  
20 month, that represents the customer charge to -- what  
21 does that represent in terms of payment?

22 A That would be the customer charge payment from  
23 the City of Leesburg to South Sumter.

24 Q Okay. And so that's per customer per month?

25 A Yes.

1 Q And then when it says annual, what is that  
2 number?

3 A So then I just multiply it by 12, and that  
4 gives me \$83.16 per year.

5 Q And then when you say new customers per year,  
6 it says 2,000, where did you come up with that?

7 A That was an assumption provided to me, but I  
8 think the testimony has been -- I don't recall exactly  
9 who -- that the plan is to add 2,000 customers per year.

10 Q And then the third was per customer per year  
11 of 200, where did that come from?

12 A Again, that was provided to me. I believe, as  
13 I recall, that there was maybe testimony more than 200,  
14 but I used 200, a round number.

15 Q And then the next item is base surcharge to  
16 The Villages 0.53988, so what is that number?

17 A So that is also specified in the, quote,  
18 agreement. That's on page eight of the agreement, and  
19 it's per therm actually billed. So that would be a  
20 payment from the City of Leesburg to South Sumter.

21 Q And that's per therm that is billed by  
22 Leesburg?

23 A Per therm per customer, yes.

24 Q Yes. And then it has the Peoples Gas rate  
25 aggregate charge. What is that?

1           A     So that then they take -- it also says, plus  
2 any amount the difference between The Villages'  
3 aggregate charge less the native charge. So the  
4 aggregate charge from the documents I was provided, and  
5 I am not sure whose depo this was an exhibit to, but it  
6 shows 126,705. The native rate is shown as basically 96  
7 cents.

8           Q     And if I direct you in terms of this  
9 document -- in terms of the 1.26, if I direct you for a  
10 moment to Exhibit 37, and if you can flip a couple of  
11 pages in Exhibit 37. Is that the document that you were  
12 using to come up with those calculations?

13          A     Yes.

14          Q     All right. Let us go back to this. The  
15 native rate, I think you talked about that a second ago.

16          A     That's from Exhibit 37 too.

17          Q     All right. And so what -- when you are  
18 subtracting that, why are you subtracting the native  
19 rate from the Peoples Gas rate?

20          A     So what it says on page eight is the  
21 difference between the aggregate charge in the native  
22 rate, the difference being basically 30 cents there,  
23 .30357 was, and then it says to the extent that that  
24 exceeds .25640.

25          Q     All right. So let me stop you. This is --

1 when it says difference, what does that represent, the  
2 .30357?

3 A The difference between the aggregate charge  
4 and the native rate.

5 Q And what does that represent in terms of  
6 payment?

7 A Nothing until you then compare it with .256.

8 Q Okay. And what do you -- I am sorry, where --

9 A The excess over.

10 Q Okay. But is the difference amount, is that  
11 being paid -- oh, I am sorry. So what's being paid to  
12 The Villages is the 539.88?

13 A Yes.

14 Q Okay. And then there is an additional amount  
15 what is paid to The Villages, and is that the excess  
16 over 25,640?

17 A Correct.

18 Q Which, based on the information that you were  
19 provided, is what amount?

20 A \$.04717, basically almost five cents.

21 Q And then we have investment per customer, what  
22 does that represent?

23 A That was based on the testimony yesterday  
24 from -- I have forgotten his name -- the cost to Peoples  
25 Gas is 1,579.95 a customer. I just rounded it to 1,600.

1 Q Okay. All right. And so now let's go across  
2 under, for example, year one, and go through the  
3 analysis.

4 So if you could just explain to the Court, as  
5 we go on year one and go across, what all these  
6 charges -- or what all these calculations are.

7 A Okay. So in year one, you know, the customer  
8 charge is \$83.16 a year. There are 2,000 customers, so  
9 2,000 times \$83 is 166,320.

10 Under the column therms, there are 2,000  
11 customers each using 200 therms, so that's 400,000  
12 therms, and .53988 is paid by the City of Leesburg. So  
13 we do that math, and I believe when we base the SSGC,  
14 it's 215,952.

15 Q All right. And so that include -- the base  
16 includes what, then?

17 A So the base is just a base therm charge from  
18 the City of Leesburg to SSGC.

19 Q And over here under total charge, is that the  
20 customer charge?

21 A Correct.

22 Q All right. And so then the cumulative is  
23 what?

24 A We don't really need that, but the cumulative  
25 column is just going to add up the therm charge over the



1 30 years.

2 Q In other words, when you go the next year and  
3 it's 431, you would add the 431 to the 215 to get 647?

4 A That's correct.

5 Q All right. Now, let's go to the excess  
6 charges, and again we will be on year one?

7 A Okay, so the excess charges we have from the  
8 top of the page, the excess is .04717 times 200 therms  
9 per customer, times 2,000 customers. So in year one,  
10 that gives us 18,868.

11 Q All right. And then when it says total to  
12 SSGC, what does that represent?

13 A So we add up the customer charge, the 166, the  
14 base therm charge, 215, and the excess charges of 18,  
15 and that gives us 401,140.

16 Q And then it says, PGS cost. What does that  
17 represent?

18 A \$1,600 times 2,000 customers a year.

19 Q All right. And so does this represent what it  
20 would cost if Peoples was building the infrastructure?

21 A Correct, based on the testimony we heard  
22 yesterday.

23 Q And total to SSGC would represent what -- does  
24 that represent what SSGC receives under the agreement?

25 A Yes, for each year.

1           Q     And so if we go down to -- well, let's just go  
2 to year two so we can see how this all works, and then  
3 go to the bottom. So let's go across that year two.

4           A     So year two, we still have the customer charge  
5 of \$83.16 a year. We now have 4,000 customers, because  
6 the assumption is we are adding 2,000 customers per  
7 year. So 4,000 times \$83.16 is 332,640. Each customer  
8 is using 200 therms. We now have 4,000 customers, so  
9 that's 800,000 therms. So then we multiply 800,000  
10 times the .539, and that gives us 431,904.

11                     Then across the excess charges, twice as many  
12 therms, twice as much in excess charges, 37,737. Add it  
13 all up, and I get 802,280 being paid from the City of  
14 Leesburg to SSGC in year two.

15           Q     All right. And so let us go down to --

16                     THE COURT: Dr. Durham, if you don't mind, let  
17 me ask you a question.

18                     THE WITNESS: Sure.

19                     THE COURT: So you are assuming all costs on  
20 this are flat for the entire 30 years?

21                     THE WITNESS: Correct. Both the costs and  
22 billing chart.

23                     THE COURT: Everything is a flat rate for the  
24 entire 30 years of the term of the contract?

25                     THE WITNESS: Yeah. I didn't put any

1           inflation in the toll, I heard some questions  
2           yesterday. So there is no increase in PGS's cost,  
3           but there is also no increase in the billing  
4           charges. There is no increase in the excess  
5           charges either.

6           THE COURT: Okay.

7           MR. WHARTON: Your Honor, I am sorry, but  
8           since there is a rate, give me a signal, we got a  
9           new chart, we got a new column on this chart than  
10          what we were given at deposition and a witness who  
11          said that he was not going to testify about PGS  
12          costs or Leesburg costs and compare them, and  
13          that's what's happening here. I move to strike.

14          THE COURT: I think -- let me hear from you on  
15          cross --

16          MR. WHARTON: Okay.

17          THE COURT: -- and then we will take that up.

18          MR. WHARTON: Thank you, Your Honor.

19          MR. BROWN: We will deal with it when it comes  
20          up. It was provided.

21          THE COURT: We will deal with it.

22          MR. BROWN: All right.

23          BY MR. BROWN:

24           Q     All right. Let's go down to the total, then,  
25           for what this looks like on a 30-year basis.

1           A       So then you look at the column total charge,  
2       it's been increasing because there are more and more  
3       customers. And over 30 years, the City of Leesburg will  
4       pay \$77,338,800 under the provision of total charges.

5                    Going across to the column base to SSGC, which  
6       is the base therm charge, they will pay 100,417,680.  
7       And then under the excess charges, 8,773,620.

8                    Add those all up, which is the column total to  
9       SSGC, and we have \$186,530,100.

10           Q       And then what would the total be of Peoples'  
11       cost?

12           A       So \$1,600 per customer over 30 years,  
13       92,800,000.

14           Q       Now, let me -- since there has been an issue  
15       raised about this particular exhibit, could I direct you  
16       to Exhibit 10? And really Exhibit 10 and -- Exhibit 10,  
17       and that's two pages. Do you see that there?

18           A       Actually, what I have is three pages. It  
19       appears to be three.

20           Q       Three pages.

21           A       Three exhibits from my deposition.

22           Q       Right. Those are the original -- are those  
23       your original deposition exhibits?

24           A       Yes.

25           Q       And does this Exhibit 9, does this contain all

1 of that information just with different columns  
2 included?

3 A That is correct. And also, like, if you look  
4 at Exhibit 2 to my depo, it's entitled Potential Payment  
5 to The Villages, I changed that to say to SSGC.

6 Q All right. And I think when you -- and I  
7 think on Exhibit 3 of your deposition and Exhibit 10, I  
8 think instead of saying PGS cost, did you say  
9 investment?

10 A It says investment. It also says that on  
11 Exhibit 2.

12 Q But is that the same thing, just with a --  
13 same calculations, just with a different title on it?

14 A Yeah. The very -- at the very top, it says,  
15 investment cost 1,600, just as this exhibit says  
16 investment per customer.

17 MR. BROWN: I would move Exhibit 10 into  
18 evidence, Your Honor.

19 THE COURT: Mr. Wharton.

20 MR. MOYLE: We would object to the relevancy,  
21 but given your prior ruling.

22 MR. WHARTON: I would -- we would join the  
23 objection, and also say that to the extent there is  
24 any change, that the prehearing order said that the  
25 final exhibits were to be brought with experts to



1 department at Cornell.

2 Q And 80 to 85 percent of your work for personal  
3 injury or wrongful death?

4 A All medical malpractice practice, yeah, I  
5 would say so.

6 Q Have you gone back and read your deposition  
7 recently?

8 A I have read it but it was a while ago.

9 Q It's a good thing, too.

10 Now, you are not sure if you have ever worked  
11 for PGS, but you have been retained by TECO, PGS's  
12 parent, in personal injury cases, right?

13 A Personal injury and wrongful death, yes.

14 Q Right. And don't you agree that your  
15 testimony is just a mathematical exercise, it's not  
16 being an expert of regulatory economics?

17 A Yes.

18 Q All right. Let me ask you couple of quick  
19 ones, and that is, do you recall telling me at your  
20 deposition that you would not be offering any expert  
21 opinions or testimony on the City or PGS's cost of  
22 providing natural gas service?

23 A Correct, and I am not.

24 Q All right. And do you recall telling me at  
25 your deposition that you had not formed any opinion, nor

1 would you be offering any evidence on PGS and the City  
2 of Leesburg's cost of service?

3 A All I am offering is what the agreement says.  
4 That's it. I mean, I don't know what PGS's costs is. I  
5 heard the testimony yesterday, but I have no expert  
6 opinion on that.

7 Q I understand. And let's -- mostly what I am  
8 going to try to do, sir, is to just make sure the record  
9 is clear on your testimony.

10 I mean, you do have a column up here on this  
11 chart that says PGS cost, right?

12 A Yes.

13 Q But you don't really know what those costs  
14 are, it's just a number were you given?

15 A It was based on the testimony we heard  
16 yesterday, 1,579.95, so I rounded it to 1,600, but  
17 that's not my expert opinion.

18 Q All right. And you are not saying you created  
19 this demonstrative since yesterday?

20 A No. No. No.

21 Q But it was based on the testimony that you  
22 heard yesterday?

23 A Yes.

24 Q All right. Now, you have done a calculation  
25 for 60,000 homes over 30 years, right?



1           A     That's correct.

2           Q     All right.  You don't know where the area that  
3     PGS says is the disputed area in this case is, do you?

4           A     No.

5           Q     And you don't know how many homes are there or  
6     are projected to be built there, do you?

7           A     I do not.

8           Q     And you don't know where the area that  
9     Leesburg says is the disputed area in this case is, do  
10    you?

11          A     You are correct.

12          Q     And you don't know how many homes are there or  
13    projected to be built there, do you?

14          A     No.

15          Q     So to make sure that the record is clear, your  
16    calculations are not calculations of what Leesburg will  
17    pay SSGC or The Villages in the disputed area?

18          A     That I don't though.  I have no opinion on it.  
19    This is -- I was asked to assume 2,000 customers per  
20    year.

21          Q     So rather, your calculations -- we will talk  
22    about your assumptions in a moment -- are calculations  
23    of what Leesburg will pay SSGC on some 60,000  
24    hypothetical homes over 30 years in some location you  
25    are not aware of; is that correct?

1 A Correct.

2 Q All right. And you don't have any information  
3 or opinions with regard to Leesburg's cost to serve  
4 customers in the disputed area, do you?

5 A No.

6 Q And you don't have -- you haven't formed any  
7 opinion or will be -- nor do you intend or did you  
8 intend to offer any evidence on PGS and the City of  
9 Leesburg's cost of service?

10 A No.

11 Q All right. Let's talk about your assumptions.  
12 Your basic assumptions were 2,000 customers  
13 per year, 200 therms per customer, and then you were  
14 requested to accept the cost of 1,600 per customer as  
15 the investment, correct?

16 A That's correct.

17 Q Now, at the time you did your initial  
18 calculations, you got all those numbers from Mr. Brown?

19 A I think I had additional information, but that  
20 was what I was asked to assume, yes.

21 Q All right. You were asked by Mr. Brown?

22 A Yes.

23 Q All right. And you agree that if any of your  
24 assumptions are wrong, your calculations are wrong?

25 A Well, the calculations are correct. I would

1 certainly agree with you, if we change the number of  
2 therms to 190, then those numbers are going to go down  
3 ever so slightly; or if we changed it to 210, they are  
4 going to go up ever so slightly. I would agree with  
5 that.

6 Q So you would agree that if any of your  
7 assumptions are incorrect, then your calculations would  
8 change --

9 A Absolutely.

10 Q -- appropriately?

11 A Yes.

12 Q All right. Now, where did you get the 30  
13 years?

14 A My understanding is that -- because although  
15 the agreement doesn't say it, this results to an  
16 agreement between the City of Wildwood and the City of  
17 Leesburg.

18 Q Leesburg?

19 A No. It's based on that they have to accept  
20 that Wildwood was going to grant something. You  
21 probably know the legalese now much better than I.

22 Q We'll leave it at that.

23 Isn't it true that, as we sit here today, you  
24 don't know whether there is room for 60,000 homes in the  
25 disputed area?

1           A     That's correct.

2           Q     You don't know if there is room for 40,000?

3           A     I don't know if there is room for one.

4           Q     Okay. I appreciate that.

5                     And you didn't do any runs assuming less than  
6     30 years, right?

7           A     No. You can see on the -- I only did  
8     accumulative on the base therm charge. So you can see  
9     there is a run on that, but not on the total charge.

10          Q     All right. And you didn't form any opinion,  
11     and you didn't intend to offer any testimony about  
12     whether the return to The Villages is a good investment,  
13     or results in a good return or a good quantity of  
14     return, correct?

15          A     That's correct.

16          Q     All right. I have to ask you this just  
17     because I enjoy it.

18                     Isn't it true you told me at your deposition  
19     you didn't particularly understand the purpose or scope  
20     of your testimony, or how it related to the case?

21          A     While I was asked to do these calculations,  
22     and you established I am not a regulatory economist, so  
23     I can certainly do calculations. As you have  
24     established, this is just mathematics.

25          Q     Do you have any idea or knowledge about where

1 PGS sends its profits that it makes selling natural gas,  
2 and how it distributes its revenues?

3 MR. BROWN: Objection, Your Honor. This is  
4 beyond the scope of any --

5 MR. WHARTON: That's at the heart of this  
6 testimony, he did mention PGS costs.

7 THE COURT: I am going to sustain the  
8 objection. I don't know that this is the right  
9 witness to make that testimony.

10 MR. WHARTON: All right.

11 BY MR. WHARTON:

12 Q Did you do a sensitivity analysis on these  
13 calculations?

14 A You mean if we changed it to 1,900 or  
15 something? No, I didn't. I mean, if you want to ask me  
16 some questions, I can try and help you.

17 Q Do you have a margin of error on this  
18 calculation?

19 A Well, sure. So the customers, I mean, it's  
20 pretty simple, we've got 2,000 per year. If it's  
21 10 percent more than that, then you can change the total  
22 charge and increase it 10 percent. So it's a straight  
23 ratio.

24 The therms, if they don't use 200, they only  
25 use 190, that's 95 percent. So you would take

1 95 percent of 100 million, so there would only be  
2 95 million.

3 Q So what you are saying is, if these  
4 assumptions are correct, you are pretty sure your  
5 numbers are correct?

6 A Correct.

7 Q All right.

8 A The only -- so the uncertainty is the three  
9 parameters we talked about, and we can ratio up or down.

10 Q Okay, your inputs?

11 A Yes.

12 Q Let's talk about a couple of assumptions made  
13 here.

14 First of all, we talked with you in your  
15 deposition about the fact that you had assumed all  
16 customers would come on January 1?

17 A Year one, yes.

18 Q In year one? What about after year one?

19 A Well, yes. Starting year one, yes.

20 Q All right. And perhaps that assumption might  
21 not be reflective of reality, would you agree with that?

22 A Yeah. You could maybe take the midpoint of  
23 the year.

24 Q We talked about a different couple of  
25 conventions you could use, and one was the half year

1 convention rather than the beginning of the year  
2 convention. Do you recall that?

3 A Yeah, that's what I just said actually.

4 Q And you believe that would be a reasonable  
5 thing?

6 A Yes.

7 Q And do you agree with me that that would make  
8 a \$6 million difference?

9 A To which number?

10 Q Well, to your conclusion, that is that the  
11 amount of money going to The Villages would go down by  
12 \$6 million if you used the half year convention?

13 A We are doing it at 186? Yeah, I think that's  
14 about right.

15 Q Well, it sounds like you haven't done the  
16 exact math, but roughly?

17 A Yes.

18 Q Let's talk about another assumption that you  
19 made. You assume 18,868 of what you call excess charges  
20 as part of the revenue stream, correct?

21 A Oh, in year one? Sorry. Yes.

22 Q And then continuing into the subsequent years?

23 A Yes.

24 Q And you agreed -- so you do that every year?

25 A Yes.

1           Q     Yeah.  And you agreed at your deposition --  
2     well, let me ask you.

3                     Do you agree that if that rate is variable, it  
4     should be excluded?

5           A     What rate is variable?

6           Q     What you have called the excess charge, which  
7     you have included, of 18,868.

8           A     Well, the agreement outlines exactly what I  
9     have.  If those provisions change in some sense, yes, I  
10    would agree with you, but --

11          Q     So it's your understanding under the agreement  
12    that the excess charge was 18,868 every year without  
13    variation?

14          A     No.  It was my understanding it was .04717  
15    cents per therm per customer.

16          Q     Which, under your assumptions, came out to  
17    18,868 per year for 30 years without exception?

18          A     No.  In year one.  It's more in year two.

19          Q     Oh, so it goes up every year?

20          A     Yeah.  You can see on the third to the last  
21    column.  I mean, the amount per customer doesn't go up,  
22    it's just more customers.

23          Q     Well, let me have you take a look at your  
24    deposition, if you will, sir.

25          A     I don't have it with me.



1           MR. BROWN: Your Honor, again, if he wants to  
2           ask a question first so we know what it is we are  
3           going to talk about --

4           MR. WHARTON: I'm getting a different answer  
5           now than I did in the depo.

6           THE COURT: I think he asked a question, I am  
7           comfortable with it.

8           BY MR. WHARTON:

9           Q     Take a look at page -- well, do you recall  
10          that I took your deposition, sir, on -- or, actually, I  
11          don't think I took it, but your deposition was taken on  
12          March 20th, 2019?

13          A     Yeah.

14          Q     Does that sound about right?

15          A     This says February 20th, 2017, and I know that  
16          is absolutely not correct.

17          Q     Oh, is that right? You are right, 2019.

18          A     Yes.

19          Q     So let's take a look at page 31.

20          A     Okay.

21          Q     And at the bottom of 31, it says: Do you have  
22          an understanding with respect to the excess number will  
23          vary over time? And you say at the top of page 32: I  
24          don't have an opinion about that. Is that still your  
25          testimony today?

1           A     Yes.

2                   MR. BROWN:  Your Honor, for completeness, it  
3           then says he doesn't know exactly how it's derived,  
4           the excess number, but then he says, you know  
5           formulaically how it's derived, and he says that's  
6           correct?

7                   MR. WHARTON:  That's fine, too.  I mean, I am  
8           a work in progress here.

9                   THE COURT:  All right.

10          BY MR. WHARTON:

11                 Q     So then there is a little discussion about it,  
12           and you give an answer on line 12 of page 32:  If that  
13           varied, and it varied such that there was no excess,  
14           then we would just get rid of Column H, which is the  
15           excess charges?

16                 A     Can I read the question again?

17                 Q     Sure.  Absolutely.

18                 A     That way I know what I am answering.

19                 Q     Sure.

20                 A     Correct.

21                 Q     Okay.

22                 A     Yeah, if the Peoples Gas rate changes, or the  
23           aggregate charge changes such that the difference isn't  
24           .303, it's 24 cents, then there is no excess over 25  
25           cents, so there would be no excess charge.

1           Q     All right.  And if, sir, I asked you to assume  
2 a hypothetical that, in fact, the City is providing  
3 service now, and that excess charge has already been  
4 zero at least once, would that change your calculations?

5           A     Well, sure.  Of course.

6           Q     And that, too, could have about a \$7 million  
7 effect -- actual well, actually \$8.7 million effect?

8           A     8.773, yes.  I mean, if there were no excess  
9 charges, absolutely.

10          Q     Let me ask you something else about your  
11 calculation, Dr. Durham, and you may have to look at it  
12 for a while.

13                   Do you agree that even if all of your  
14 calculations are correct, SSGC will have a negative cash  
15 flow under this agreement until year 15?

16          A     SSGC?

17          Q     That's who's receiving the payments from the  
18 City.

19          A     Yeah, I know that.

20          Q     Okay.  Sorry.

21          A     I don't know what their costs are, so I don't  
22 know.  I have no opinion.

23          Q     You don't know.  You can't tell from this at  
24 what year they will have a negative return?

25          A     No.

1 MR. WHARTON: Give me just one moment, if you  
2 would, Your Honor. I will come back to that point.

3 THE COURT: All right.

4 BY MR. WHARTON:

5 Q If you were asked to do similar calculations  
6 for a particular area and were given the assumptions of  
7 how many homes could actually be constructed in that  
8 area, could you have done it?

9 A Yes. I mean, it sounds like it would be just  
10 alternative math.

11 Q Did you actually get the assumption that  
12 60,000 homes would be built from the agreement?

13 A No.

14 Q Right. Were you able to ascertain from the  
15 agreement how much property, or how many homes that was  
16 actually subject to the agreement?

17 A No. The agreement doesn't even say the term  
18 of the agreement. That has to come from another  
19 document, so no.

20 Q But you didn't get it from another document,  
21 you got it from Mr. Brown?

22 A The 30 years?

23 Q Yes.

24 A The City of Wildwood agreement with someone,  
25 yes.

1           MR. WHARTON: Give me just one moment, if you  
2           would, Your Honor.

3           THE COURT: Sure.

4           MR. WHARTON: That's all, Your Honor.

5           THE COURT: Okay. Mr. Moyle.

6           MR. MOYLE: Thank you.

7                           CROSS EXAMINATION

8           BY MR. MOYLE:

9           Q       Just in terms of your chart, the column that  
10          is the fifth one over, the base to SSGC.

11          A       Yes.

12          Q       What is that?

13          A       So that is 400,000 therms in year one, which  
14          would be 2,000 customers using 200 therms. So 400,000  
15          therms times the base therm charge, which is in the  
16          agreement, of \$.53988, so multiply it out, it gives you  
17          215,952 in year one.

18          Q       The internal rate of return, did you calculate  
19          the internal rate of return?

20          A       I did some preliminary calculations on that,  
21          yes.

22          Q       And what did you determine to be an internal  
23          rate of return for SSGC?

24          A       Well, I did it relative to PGS's costs, and I  
25          think it was, like, 11 to 12.

1 Q Then you also calculated it with respect to  
2 the return that SSGC would realize?

3 A I only did it relative to the \$1,600 per  
4 customer, as I recall, because I don't think I knew  
5 SSGC's costs.

6 Q All right. Well, do you have your depo?

7 A I do.

8 Q On page 17 -- you remember you and I met at  
9 your deposition, right?

10 A We did.

11 Q And --

12 A Hold on, give me a second. Page 17, okay.

13 Q You were asked a question: Do you anticipate  
14 giving any other opinions outside of what you just  
15 described? I asked that question on line 12.

16 A Yes, I see that.

17 Q And then would you read your answer?

18 A No, I don't think so. I looked at, you know,  
19 given the cash flow, what's the internal rate of return.  
20 I think it was 10.7, but apart from that, that's not  
21 even really opinion. That's just a formula. I don't  
22 anticipate giving any of other opinions, as I didn't  
23 give that opinion on direct.

24 Q And today, you answered with a different -- a  
25 different rate; is that right?

1           A     Correct. I didn't remember what I said. I  
2 mean, I didn't prepare for that because I didn't give  
3 that opinion today until you asked me.

4           Q     And with respect to the rate of return, who  
5 would that be for that you calculated the 10 point --  
6 the 10.7? Was that a PGS? You didn't have the PGS  
7 numbers then, right? So that was an SSGC number?

8           A     No. What that would be, would just be a  
9 straight mathematical formula, internal rate of return,  
10 given you spent 1,600 per person per year for 30 years,  
11 and you have got this cash flow, 186 million, what is  
12 that in internal rate of return.

13                     It really doesn't relate to anybody, because I  
14 don't know the SSGC's cost of that, and certainly  
15 Peoples Gas isn't getting that cash flow. But it was  
16 just a calculation I did, and clearly didn't express on  
17 direct.

18           Q     So how much has to be spent? I mean, on that  
19 chart, what's the spend on that to get to that 10.6  
20 number?

21           A     So -- and there is a slight problem, which I  
22 will explain in a minute. You spend \$92.6 million, and  
23 you get 186 back, that would be a 10.7 internal rate of  
24 return.

25           Q     And that's what you were testifying to in the

1 deposition?

2 A When you asked me about that, yes.

3 Q That last column, the PGS cost, I thought I  
4 understood your testimony to be that that was something  
5 that you put in there, or understood to be from  
6 testimony from yesterday; is that right?

7 A So I was provided with the assumption that  
8 there would be testimony to support that. So at the  
9 time I gave my deposition, I had the \$1,600 number. As  
10 you are aware, we heard yesterday of 1,579.95, but I had  
11 already done the calculations at the time of my  
12 deposition.

13 Q Right. And the calculations don't include, I  
14 mean, testimony about appliances and things going in  
15 like that, that doesn't include anything? You just took  
16 the number that showed up on that exhibit, right, and  
17 rounded it up for the purposes of your calculations?

18 A Correct.

19 Q You would agree that when you are projecting  
20 things out, it's -- the further out in time you go, the  
21 harder it is to project something, correct, in terms of  
22 variables?

23 A Well, if I was doing an economic projection, I  
24 would certainly agree with you. I mean, this is really  
25 just straight mathematics, as the judge asked me. There



1 is no growth in here. There is no growth in the  
2 customer charge. There is no growth in the excess  
3 charge, and there is no growth in PGS cost. It's just  
4 there is no growth. So there is really no projections.  
5 It's just straight -- this is what the agreement said.  
6 And given the assumptions on the top, this is what it  
7 means for 30 years.

8 MR. MOYLE: May I have a minute?

9 BY MR. MOYLE:

10 Q So, you know, you talked about you didn't make  
11 any assumptions, or it's straight math that you did,  
12 essentially Mr. Brown said, could you do this math for  
13 us; is that right?

14 A Yes.

15 Q And so, for example, Mr. Wharton asked you  
16 about the uptake of homes. You had originally said, oh,  
17 the homes are going to come in on day one, you said,  
18 that's probably not the way it actually happens in the  
19 field, correct?

20 A Yes.

21 Q And a similar issue with respect to the  
22 therms, I mean, the therms is the big driver in this, is  
23 it not?

24 A Well, yeah. It's 100 million out of 186 --  
25 well, with the excess charge, it's \$108 million out of

1 186, yes.

2 Q And so if I am a new customer coming in, all  
3 my therms, they are going to take some time. There is a  
4 while where I am going to -- if I buy the house and I am  
5 not moved in yet, my therms are going to be low, and  
6 then as I move in, they will go up. There is no  
7 variability with respect to something like that,  
8 correct?

9 A Correct.

10 Q And you read the agreement?

11 A Yes.

12 Q The whole agreement?

13 A Yes, several times.

14 Q There was discussion yesterday about the PGS  
15 witness put that number up on 17, you rounded it to  
16 1,600, but that was all capital costs, was it not,  
17 largely?

18 A Kindly, I couldn't really see from the back,  
19 but that appeared to be, yes.

20 Q Right. And the calculation -- based on  
21 calculations in which you heard and you are reading an  
22 agreement, that the revenue flow that you have here, I  
23 mean, none of that -- that's all kind of cost of capital  
24 stuff, is it not?

25 A I am sorry, I don't know what you are talking

1 about. I mean -- no. I mean, the only thing related to  
2 PGS is the far right column. Everything else is based  
3 on the agreement. It doesn't have anything to do with  
4 the testimony yesterday.

5 MR. MOYLE: Okay. All right. Thanks for your  
6 time.

7 THE COURT: Mr. Brown.

8 REDIRECT EXAMINATION

9 BY MR. BROWN:

10 Q Just a couple of quick things.

11 First of all, since Mr. Moyle asked about the  
12 rate of return, to put some context in that, what is the  
13 City's bond rate at this point, roughly?

14 A I don't have -- back when I did my analysis, I  
15 think it was about three, three-and-a-half.

16 Q So in other words, if the City were to borrow  
17 money by bonds, would they be able to obtain it at that  
18 rate?

19 MR. WHARTON: Objection, it's outside the  
20 scope of cross.

21 MR. BROWN: He opened the door, Your Honor.

22 THE COURT: I think we got into a little bit  
23 on rate of return, and I am not sure what's in or  
24 out on that, although, it seemed to be more of a  
25 mathematical calculation at that time, but I will

1 allow a little bit.

2 MR. BROWN: That's the last question.

3 THE COURT: Okay.

4 THE WITNESS: At the time, right before my  
5 deposition, when I looked at City of Leesburg bond  
6 yields, the yield -- their bonds were yielding  
7 about three-and-a-half. Now, whether they -- how  
8 much and at what rate they could raise additional  
9 money, I don't have an opinion on that.

10 BY MR. BROWN:

11 Q All right. Now, if we go over to the chart  
12 for a moment, and we say that it's only going to be 10  
13 years worth of homes, just conceptually, if we say 10  
14 years worth of homes, then the PGS cost on the last  
15 column only goes for 10 years, correct?

16 MR. WHARTON: Objection, outside the scope.

17 THE COURT: Overruled.

18 THE WITNESS: Yeah, I guess. I mean, I am not  
19 sure why we would want to go 10 years.

20 BY MR. BROWN:

21 Q Well, just hypothetically, if we only go 10  
22 years, and say we will be building 20,000 homes, okay,  
23 that's what I meant -- I mean, you were asked some  
24 questions along that line. The column over here for  
25 what Peoples is paying, would that stop at the 10-year

1 mark?

2 A Correct.

3 Q Would the payments pursuant to the agreement  
4 keep going?

5 A Yes.

6 Q So in other words, if, at the 10-year mark,  
7 the total customer charge is \$1,496,880, would that  
8 amount keep being paid for the next 20 years?

9 MR. WHARTON: Objection, leading.

10 THE WITNESS: Actually --

11 THE COURT: Overruled.

12 THE WITNESS: -- you misread it. 10 years is  
13 1,663,000.

14 BY MR. BROWN:

15 Q Oh, I am sorry, okay. Would that payment  
16 continue being made for the next 10 years -- 20 years?

17 A Yes.

18 Q And the same thing, if we talk about the base  
19 payment off the base number of therms, let me make sure  
20 I have got that right, so that would be \$2,159,520?

21 A Yes.

22 Q Would that payment continue being made for the  
23 next 20 years?

24 A Yes.

25 Q And if there were accumulative charge --

1 that's the cumulative.

2 If there were excess charges at \$188,680,  
3 would that charge continue being made for the next 20  
4 years?

5 A Yes.

6 MR. BROWN: That's all I have. Thank you.

7 THE COURT: All right. Doctor, thank you.

8 THE WITNESS: Thank you.

9 (Witness excused.)

10 THE COURT: All right. So it's ten o'clock,  
11 let's take five minutes. Does that give everybody  
12 enough time to get settled? Take five minutes and  
13 come back.

14 (Brief recess.)

15 THE COURT: Bring on your next witness.

16 MR. BROWN: I call Brent Caldwell.

17 THE COURT: Good morning. Can I have you  
18 raise your right hand, please?

19 Whereupon,

20 JAMES BRENT CALDWELL

21 was called as a witness, having been first duly sworn to  
22 speak the truth, the whole truth, and nothing but the  
23 truth, was examined and testified as follows:

24 THE COURT: And your full name, please.

25 THE WITNESS: James Brent Caldwell.

1 THE COURT: All right. Please be seated.

2 DIRECT EXAMINATION

3 BY MR. BROWN:

4 Q Before we get started, I am go to ask you to  
5 put the microphone close enough to where it's  
6 comfortable and we will be able to hear you.

7 A Does that sound about right?

8 Q Maybe raise it up slightly, I think we will  
9 hear better.

10 A Is that better?

11 Q That is better. Thank you.

12 All right. Could you state your name for the  
13 record, please?

14 A James Brent Caldwell.

15 Q And, sir, could you give the Court the history  
16 of your educational background?

17 A Electrical Engineer from Georgia Tech, and a  
18 Master's degree in engineering from the University of  
19 South Florida.

20 Q And when did you receive those?

21 A '85 and '87.

22 Q And could you tell the Court your employment  
23 history with Peoples Gas, or Tampa Electric?

24 A Sure. I started at Tampa Electric in 1994. I  
25 was there for three years in the regulatory area. I was

1 part of the team that looked at the acquisition of  
2 Peoples Gas.

3 After the acquisition, I had the opportunity  
4 to join Peoples Gas in the regulatory area, which is  
5 also combined with the gas supply area at the same time.  
6 So I spent a number of years at Peoples Gas in  
7 regulatory, gas supply, helped develop the  
8 transportation programs.

9 Q Do you need some water? I can get you some  
10 water. Let me do that.

11 A Thank you.

12 The transportation programs where commercial  
13 customers, industrial customers can choose a supply from  
14 different entity than a utility. I also worked in the  
15 unregulated gas marketing company called TECO Gas  
16 Services for a year. That company was sold in 2003, and  
17 I came back to Tampa Electric, Peoples Gas, combined  
18 fuels group, where I ran the transportation programs and  
19 ultimately, now I am with Tampa Electric in the research  
20 planning area.

21 Q And what do you do in the research planning  
22 area?

23 MR. WHARTON: Your Honor, while the witness is  
24 thinking -- you know, I am old as dirt, I have  
25 never seen fact witnesses give their resumes and



1           their experience. We are cutting a funny line  
2           here. I don't have -- I withdraw whatever it was I  
3           just made.

4           THE COURT: It doesn't hurt for me to know  
5           even a fact witness' background, unless they are  
6           here just to tell me what color the light was at  
7           the intersection.

8           MR. WHARTON: All right.

9           THE WITNESS: I was with Peoples Gas in here  
10          and Tampa Electric, the planning is all about how  
11          much resource do you need to meet customer needs in  
12          the future. It may be pipeline capacity. It may  
13          be gas supply. It may be coal. It may be power  
14          generation, the concepts are the same.

15 BY MR. BROWN:

16          Q All right. Let's talk a little bit of an  
17          overview on the world of gas supply if we could.

18                 When we talk about purchasing gas, what are we  
19          talking about?

20          A Commonly, it refers to the molecules of  
21          commodity, the gas itself. That's generally produced in  
22          the Gulf Coast of -- Gulf of Mexico, Texas, Alabama,  
23          maybe as far north as Pennsylvania. So that's the gas  
24          piece of the business, the molecules.

25          Q And so how is that typically purchased by

1 Peoples Gas?

2 A We have a number of enabling agreements, 130  
3 or more enabling agreements with counter-parties that  
4 sell natural gas commodity, and on a forward and a daily  
5 basis, we are contacting many of those and arranging for  
6 gas supply to be delivered to the state.

7 Q All right. And let's talk about, then, the  
8 pipeline aspect of gas supply. Could you explain that  
9 to the Court?

10 A Yes. As I mentioned, the gas supply is coming  
11 from far away but has to get delivered to Florida and to  
12 the place where it's going to be used. The interstate  
13 pipelines are the primary means of transporting that gas  
14 from Texas to Florida, and you contract for that  
15 pipeline capacity on a long-time forward basis.

16 Q So are you paying for the gas itself?

17 A To those third-parties, the of supply gas,  
18 yes.

19 Q And you are also having to pay for pipeline  
20 capacity?

21 A Yes.

22 Q And are those the two main components of what  
23 it costs the utility to get gas?

24 A It is.

25 Q And are those also the two main components

1 about the availability of gas?

2 A Yes.

3 Q All right. So in other words -- kind of give  
4 the overview on that. You have to have gas, and you  
5 have to have pipeline capacity to get it there?

6 A That's correct. The molecules don't do you  
7 any good in Texas. You have to get them to the city  
8 gate of the utility, so it can be redelivered to the  
9 customer.

10 Q And how is that typically accomplished from  
11 the -- how does it typically get from the transmission  
12 line to the LDC, or local distribution company, such as  
13 Peoples Gas?

14 A Well, that's the firm pipeline capacity that  
15 you contract for frequently, as far as 30 years in the  
16 future, and you reserve space in that pipe, so that on a  
17 daily basis, you schedule the gas that you purchase to  
18 flow on that pipe.

19 Q All right.

20 A So that space, you pay for it every day  
21 whether you use it or not.

22 Q And then does that -- how does that gas get  
23 entered into the Peoples Gas System off the pipeline?

24 A There are points of interconnection between  
25 the interstate pipelines and the local distribution

1 companies. It's called gate stations. And that's where  
2 the control of that gas changes hands at those gate  
3 stations.

4 Q And so in layman's terms, when we talk about a  
5 point of interconnection, in other words, there is a  
6 pipe run from Peoples Gas, for example, into the  
7 transmission line, and there is a station that transfers  
8 the gas to the Peoples' gas pipeline?

9 A Correct. Typically it's changing the  
10 pressure. Those interstate pipelines are operating at  
11 pressures in the neighborhood of 1,000 pounds, and the  
12 local distribution is between 200 and, you know, a  
13 quarter pound.

14 Q All right. Give the Court an overview of the  
15 Peoples Gas System over all in terms of supply, and in  
16 terms of pipeline capacity.

17 A Peoples Gas has in the neighborhood of  
18 600,000, 700,000 customers spread across the state.  
19 Those customers can consume anywhere between 400,000 to  
20 7100,000 decatherms, MMBTU, of gas in a day. It's going  
21 to vary based on season, based on temperature, and  
22 those -- we have divisions across the state, about 14  
23 divisions, Ocala being one of those, we have interstate  
24 pipeline capacity to deliver that gas to those  
25 divisions.

1                   In the winter, about 600,000 decatherms a day  
2 of capacity. In the summer about 400,000 decatherms.

3           Q       And how much capacity does Peoples have over  
4 all, pipeline capacity?

5           A       That's the 600,000 decatherms in the winter  
6 and 450,000 decatherms in the summer.

7           Q       And when you get capacity, do you have to have  
8 an amount kind of over and above what you expect you are  
9 going to be using?

10          A       Generally, yes.

11          Q       And why --

12          A       You want to be able to serve on that peak day.  
13 You want to have enough gas capacity to get the gas to  
14 the customers on those peak lines.

15          Q       All right. Describe if you will, what the  
16 sources are, what the pipelines are from which Peoples  
17 Gas receives gas.

18          A       The majority of Peoples' pipeline capacity is  
19 on Florida Gas Transmission, often referred to as FGT.  
20 That is the bulk of the pipeline capacity. For Peoples,  
21 it's anywhere in the neighborhood of, let's say, 400,000  
22 decatherms.

23                   Then we also have capacity on Gulf Stream  
24 Pipeline. That's the pipe that actually comes from  
25 Alabama on the bottom of the Gulf of Mexico and comes up

1 in Port Manatee. And that feeds Peoples Gas about  
2 50,000 decatherms, or MMBTUs a day. Those are the same  
3 quantity. And then another 50 to 100,000 of capacity in  
4 decatherms for SONAT that comes into the Jacksonville  
5 area.

6 THE COURT: What's the same of that one?

7 THE WITNESS: SONAT, S-O-N-A-T, stands for  
8 southern natural.

9 THE COURT: Got you.

10 BY MR. BROWN:

11 Q Now, let's talk about the Ocala Division for a  
12 minute. Do you know how many customers there are on  
13 that?

14 A For the Peoples Gas?

15 Q Yes, roughly.

16 A About 25,000, I believe.

17 Q All right. And how many gate stations are  
18 there in the Ocala Division?

19 A Immediately in the Ocala area, three gate  
20 stations.

21 Q All right. And so -- and those are tied into  
22 what particular line?

23 A Those are all Florida Gas Transmission gate  
24 stations.

25 Q Does Peoples have the ability to get gas to

1 Ocala from other pipelines and from other sources?

2 A Indirectly, yes.

3 Q Could you explain that to the Court?

4 A Because of Peoples' gas' connection for  
5 multiple pipelines, we can bring gas from on a Gulf  
6 Stream Pipeline into Tampa, and then use capacity that  
7 goes to Tampa to be used in Ocala, or we can bring the  
8 gas into Jacksonville and use the gas, the FGT gas in  
9 Jacksonville in Ocala. So your -- the molecules aren't  
10 getting to Ocala, but you are using the pipelines to  
11 enhance your ability to get gas to Ocala.

12 Q All right. And what are Section 11 rights?

13 A That's a right that's in the Florida Gas  
14 Transmission tariff, and it is available to any  
15 similarly situated customer of FGT, but you have to have  
16 multiple divisions under the same contract. So you have  
17 one entity contracting with multiple delivery points on  
18 FGT, and that's what gives us the right to take that  
19 type of capacity, the delivery point for FGT contract,  
20 and deliver to Ocala; and in Ocala, it has the same  
21 rights as it would have been if it was delivered to  
22 Tampa.

23 Q And is that a way that Peoples can get gas to  
24 areas that have an increase in demand?

25 A Yes.

1           Q     And is that a way that Peoples can get gas to  
2 those areas with increased demand without having to  
3 build new infrastructure?

4           A     Correct.

5           Q     I want you to assume that there is going to be  
6 somewhere between 10,000 and 15,000 houses in The  
7 Villages development over the next 10 to 15 years. And  
8 let me put up a map so we are a little more clear about  
9 what we are talking about.

10                     And so what I want you to assume is that there  
11 is going to be somewhere 10,000 to 15,000 customers  
12 maybe in that area, this area, over the next 10 to 15  
13 years?

14                     MR. WHARTON: Can we identify that map, Andy?

15                     THE COURT: It's Petitioner's 6.

16                     MR. BROWN: I'm sorry, yes. Thank you.

17                     MR. MOYLE: It wasn't really clear either when  
18 he said this area, he pointed about four or five  
19 things.

20                     THE COURT: For the record.

21                     MR. BROWN: Sure, I understand.

22                     THE COURT: I saw it, but the Commission  
23 didn't.

24 BY MR. BROWN:

25           Q     All right. If we are looking on this map, see



1 these red areas here --

2 A Yes.

3 Q -- those developments on Exhibit 6, and in  
4 this shaded area here, do you see that?

5 A Yes.

6 Q And I want you to assume that these are all  
7 areas of either current construction in the red, or  
8 future planned construction in the shaded areas. And I  
9 want you to assume that there is going be to 10,000 to  
10 15,000 homes there in the next 10 to 15 years. Would  
11 Peoples have any problem supplying gas for these  
12 developments based on its existing sources of supply?

13 A Not at all.

14 Q Would it have any difficulty serving those  
15 areas based on Peoples' existing pipeline capacity?

16 A Not at all.

17 Q Now, let's talk a little bit -- before I do  
18 that, let me ask you about a couple of concepts in the  
19 world of gas.

20 So what is interruptible service?

21 A On an interstate pipeline -- may I describe  
22 all the types of services so we can get it kind of  
23 clear?

24 Q Sure. By all means. I am often not clear.  
25 Please do that.

1           A       The primary firm is the normal pipeline  
2 capacity concept. That's when you paid for that space  
3 in the pipe for a long time, say 30 years. That primary  
4 firms means if you use that space in the pipe to deliver  
5 gas on that date, it is the highest priority, it cannot  
6 get bumped by anyone else. So that's primary firm  
7 pipeline capacity, and that's what utilities typically  
8 use to serve their customers, because it has to be  
9 there.

10                   THE COURT: Primary?

11                   THE WITNESS: Primary firm.

12                   THE COURT: Firm, oh, okay.

13                   THE WITNESS: Firm, yeah, F-I-R-M, firm.

14           You asked about interruptible, and then there  
15 are two different types of interruptible service.  
16 You can go to the interstate pipelines on a daily  
17 basis and say, you will sell me interruptible  
18 service for this date? They will charge you a  
19 price. And as long as the pipeline can flow at  
20 that date, it will flow, but if other people ask  
21 for interruptible service on that date, you may not  
22 get as much as you thought you were going to get.  
23 If there is space of 100, two people ask for 100,  
24 then you are only going to get half of it and the  
25 other person is going to get half of it. That's

1           interruptible service on a pipe pipeline.

2                   And then there is alternate firm. That is,  
3           Florida Power & Light holds a lot of interstate  
4           pipeline capacity. We can ask them to use their  
5           pipeline capacity to deliver gas to Ocala. It's  
6           alternate firm, it has lower priority and lower  
7           rights than primary firm capacity being delivered  
8           to Ocala, but that is also interruptible capacity  
9           on the pipeline.

10   BY MR. BROWN:

11           Q       And is there also interruptible capacity to  
12           industrial customers within the Peoples system?

13           A       Similar to the interstate pipeline capacity,  
14           there is firm service and there is interruptible service  
15           on the LDC, there is also firm service and interruptible  
16           service.

17           Q       And how can Peoples use those interruptible  
18           services both on the pipeline and both to customers to  
19           help increase its gas supply -- to increase its gas  
20           supply that's available for customers and residents?

21           A       If, for whatever reason, an extreme condition  
22           exists where pipeline capacity and gas supply is being  
23           limited into the state, through the retail tariff,  
24           Peoples Gas has a right to require some of its  
25           interruptible customers to make their gas available for

1 the utility use for residential customers. It's  
2 interruptible service, it's not used very often, but as  
3 a tool, it is there.

4 Q All right. And is that a way that Peoples  
5 can, in essence, increase its gas supply?

6 A Yes.

7 Q All right. Now, let's talk about  
8 transportation service, if we could, more on the retail  
9 level.

10 What is transportation service?

11 A I mentioned the 600,000 or so load, 600,000  
12 MMBTUs of load. Peoples Gas is not buying all of that  
13 commodity. Peoples Gas is buying, say, 30,000 of that,  
14 and through transportation service, the rest of the gas  
15 is being bought and delivered to customers.

16 Transportation service means certain  
17 commercial and industrial customers have the right to  
18 pick their gas supplier someone other than Peoples. And  
19 so they will go to, you know, Joe's Gas Company. They  
20 will go to Joe's Gas Company, make an arrangement with  
21 them to buy a commodity from Joe, and then use Peoples  
22 transportation on the pipeline to get it to Peoples.

23 Q So is what is happening in that circumstance  
24 that the only Peoples charge is for the use of the  
25 pipeline to transport the gas that's been bought by

1 Joe's to the customer?

2 A Correct.

3 Q And is that a way that customers can save  
4 money on their industrial users, or large commercial  
5 users can reduce the cost of gas?

6 A I won't say necessarily reducing their cost of  
7 gas. They may be. More so I believe they like buying  
8 from that entity because they can scope the purchase the  
9 way that works for them. They can set a fixed price.  
10 They can set a cap. They can lock it in for two years  
11 or maybe go to spot market and pay for that price every  
12 day.

13 For the utility, we have the purchase gas  
14 adjustment regulated cost of gas, you know, that price  
15 is going to be what it's going to be. They can control  
16 their price when they go to Joe's Gas Service.

17 Q All right.

18 A And the vast majority of Peoples' commercial  
19 and industrial customers use transport service.

20 Q All right. Let us now talk about the Sabal  
21 Trail pipeline. There has been some talk about it,  
22 there is going to be more talk about it as we go on in  
23 this, but let's talk about it in general. Can you see  
24 it on this map? If not, I can direct you to Exhibit 6.

25 A It's the black and yellow dashed line running

1 diagonally through there.

2 Q All right. If we say diagonally through  
3 there, it's kind of coming up from the south, it's  
4 coming up on the Sumter/Lake County line?

5 A Yes.

6 Q And then it kind of curves off to the  
7 northwest along the Florida Turnpike?

8 A Yes.

9 Q And then it jogs along 468, and then turns  
10 north back to the Florida Turnpike?

11 A I see it, yes.

12 Q Okay. I am just doing this for the record so  
13 we have it identified on here. I know you and I are  
14 looking at it. It's kind of awkward, but we are doing  
15 this for the record purposes.

16 And then it continues on generally the  
17 northwest on up off of this map. Do you see that there?

18 A I do.

19 Q Okay. What is the Sabal Trail pipeline?

20 A That is the most recent interstate pipeline  
21 built into the state of Florida, built primarily to  
22 serve Florida Power & Light. It comes off of Transco --  
23 that's another, T-R-A-N-S-C-O, Transco,  
24 transcontinental -- another pipeline that runs from the  
25 Gulf Coast up to New York.

1           It comes off of that pipe, runs southeast out  
2 of Alabama through Georgia, into Florida, down to South  
3 Florida where it interconnects with southeast connector  
4 and directly to Florida Power & Light's plants.

5           Q     And where is that gas from?

6           A     Well, most of it is coming from the Marcellus  
7 Shale, which is up in Pennsylvania, Ohio, that area.

8           Q     All right.

9           A     Now, there is also gas coming from the  
10 southwest from the Gulf Coast. At that area, you are  
11 getting gas from both directions.

12          Q     All right. And does Peoples have a tap at  
13 this point on the Sabal Trail line?

14          A     When the Sabal Trail pipe was being built,  
15 Peoples contracted to have Sabal Trail build a tap and  
16 opening in the pipe in the Ocala Division. So we have  
17 access to it, we have not built additional equipment to  
18 pull the gas off of it.

19          Q     All right. Does Peoples need the Sabal Trail  
20 line in order to serve these developments that are  
21 depicted on this map?

22          A     We do not.

23          Q     All right. What is the primary reason that  
24 Peoples would tap into the Sabal Trail line?

25          A     Well, the Sabal Trail line, if we ultimately

1 pull gas from there, it improves the diversification of  
2 gas supply, mentioning Marcellus gas coming from  
3 Pennsylvania. It allows us to use that flexibility in  
4 Section 11 rights. We can pull the gas off Sabal Trail  
5 into Ocala and use that Ocala capacity in Panama City,  
6 Jacksonville, Orlando, other locations. And should  
7 something happen to an FGT pipe, you got the Sabal Trail  
8 as a backup.

9 Q Okay. Are you aware what the transportation  
10 costs are on the Sabal Trail line?

11 A Relative to other pipes in the state, it is  
12 expensive.

13 Q Roughly what is it?

14 A Roughly it depends on what rights you pay for,  
15 between \$1.15 and \$1.90.

16 Q And what is Peoples' overall rate of  
17 transportation on its overall system?

18 A 60 to 65 cents, so about a third.

19 Q Even if Peoples tapped into the Sabal Trail  
20 line, would that have any significant impact on the  
21 transportation rates for Peoples Gas given that it has a  
22 600,000 MMBTU capacity in its system?

23 MR. WHARTON: Objection, calls for an opinion.

24 THE COURT: Calls for? Can you repeat that  
25 question?



1                   (Whereupon, the court reporter read the  
2                   requested portion of the record.)

3                   THE COURT: I don't think that really calls  
4                   for expertise. That seems more mathematics at this  
5                   point, so I will overrule it.

6                   You can answer.

7                   THE WITNESS: It would not raise the overall  
8                   rate very much. The 600,000 decatherms at roughly  
9                   60 to 65 cents, you add, say, 10,000 or 20,000 at  
10                  \$1.50, the weighting of that 20,000 over 600,000 is  
11                  going to be very small, so it just raised the 65  
12                  cents rate a small amount.

13 BY MR. BROWN:

14                  Q     Let's talk a little bit about the Leesburg  
15                  system. Do you know generally what the Leesburg  
16                  capacity is at its gate stations?

17                  A     Generally, yes.

18                  Q     How much is that?

19                  A     In the neighborhood of 8,300 total MMBTUs  
20                  delivering for the gate.

21                  Q     And if we assume another 10,000 to 15,000  
22                  homes coming on-line for Leesburg, do you have some  
23                  estimate as to what the -- well, do you have an estimate  
24                  about what the additional capacity would be for those?

25                  A     For 14,000 homes --

1           MR. MOYLE: Your Honor, at this point, he has  
2           not been identified as an expert.

3           THE COURT: I don't think this is expertise.  
4           I think this is factual information. I think you  
5           can explore it on cross.

6           THE WITNESS: So you use 14,000 homes at about  
7           235 therms a year of consumption, you need over  
8           2,000 decatherms MMBTUs of capacity to serve that  
9           load. There is additional load probably coming  
10          from commercial customers, so it would actually be  
11          more than just that 2,000.

12         BY MR. BROWN:

13           Q     Do you expect that it will become more  
14           difficult over time, in your experience, to tie into the  
15           Sabal Trail line? Let me ask it this -- let me ask a  
16           predicate question.

17                    Are you -- is there untapped capacity  
18           available on the Sabal Trail line at this point?

19           A     There is probably about 100,000 of -- 100,000  
20           MMBTUs of capacity available on Sabal Trail at this  
21           time.

22           Q     And in your job duty, are you involved in kind  
23           of keeping track of what gas sources are available for  
24           Peoples Gas?

25           A     I am.

1           Q     And so do you have a general understanding of  
2 how quickly capacity on pipelines is being purchased?

3           A     Yes.

4           Q     And in general, describe what's been going on  
5 with the Sabal Trail pipeline in terms of how fast  
6 capacity has been getting used.

7           A     Well, the pipe became operational a year, two  
8 years ago, and it is pretty much full now. The most  
9 recent additional load was Duke's Citrus plant, and they  
10 took 300,000 decatherms, MMBTUs of capacity out of the  
11 800,000 space on the pipe. So when you build a large  
12 natural gas combined cycle electric utilities in the  
13 state, that will easily consume 100,000, or much more  
14 than that, of capacity that might be available in Sabal  
15 Trail.

16          Q     And if people who need gas need to get it from  
17 Sabal Trail -- well, let me ask you -- do you expect  
18 that capacity to be used up in the not too distant  
19 future?

20          A     Yes.

21          Q     And when we talk about the not too distant  
22 future, give the Court an estimate of what that  
23 timeframe would be.

24          A     By '21 -- 2021.

25          Q     All right. Do you have any experience with

1 what happens to the costs of getting on a pipeline as it  
2 gets closer to capacity?

3 A I'm struggling a little bit with what you are  
4 asking. What I do know is once the pipes are fully  
5 subscribed, you cannot get any more primary firm  
6 capacity from that pipeline. For there to be more firm  
7 primary firm pipeline capacity, the pipe has to expand,  
8 and that's usually a very expensive, very long process.  
9 And those expansions in the order of magnitude of  
10 500,000 to a million MMBTUs of capacity, they are driven  
11 by an electric utility like Florida Power & Light, or  
12 Duke, saying, I am going to build this big plant and I  
13 got to get gas to it.

14 Peoples is probably too small to get a  
15 pipeline expanded. It takes the electric utilities, and  
16 you have to strike when the opportunity is there.

17 Q All right. Let's talk about the costs  
18 generally associated with tapping into Sabal Trail. You  
19 mentioned earlier something about that Peoples has  
20 already got the right to tie into the system. Generally  
21 explain that concept to the Court.

22 A We talked about the gate station earlier.  
23 That's the transfer point both physically and  
24 contractually control the gas.

25 Typically, the pipe is 30 inches in diameter,

1 an inch in thickness, operating at 1,000 pounds of  
2 pressure. So when an LDC or electric utility wants to  
3 take gas off that, you have to cut a whole in that pipe,  
4 weld a flange to it, additional piping, bring it up to a  
5 regulator station, valving, all sorts of different  
6 pieces of equipment to be able to safely take that  
7 1,000-pound gas off the interstate pipeline and transfer  
8 it to the low pressure at the LDC. It takes a lot of  
9 stuff.

10 Q So is there initially a charge to just for the  
11 right to tie into the system?

12 A There generally is.

13 Q Okay. And then is there -- what's the next  
14 thing that has to happen -- you mentioned a gate  
15 station, one has to construct that?

16 A Right.

17 Q Okay. Do you have an idea of the range in  
18 costs in general to build a gate station?

19 A It certainly varies depending on the size of  
20 the gate station, but building a gate station is border  
21 magnitude a million or two million type dollars.

22 Q And then what is a --

23 MR. MOYLE: I am sorry, could he -- he said  
24 one million or two million? I am sorry.

25 THE COURT: He said one or two.

1 THE WITNESS: One or two million dollars.

2 BY MR. BROWN:

3 Q And what is a reservation fee?

4 A That's when you pay for that pipeline capacity  
5 having the right to move gas on the pipe.

6 Q And then you have to pay on a per therm basis,  
7 or per decatherms basis, I guess it is -- explain to the  
8 Court how you have to pay at that point?

9 A For transportation?

10 Q For transportation?

11 A I think I mentioned this before. You pay the  
12 reservation charge that you pay whether you use gas or  
13 not. That's the bulk of the cost of transportation on  
14 the interstate pipelines. There are additional charges,  
15 which is what's called the usage charge, which is  
16 usually pretty small. But for every therm that goes  
17 through the pipe, you pay a little bit for that, for  
18 every MMBTU that goes through to the pipe.

19 And then you also give the pipe some gas. If  
20 you need 100 decatherms delivered to Ocala, then you put  
21 103 decatherms in the pipe at the input, and they use  
22 those three therms to power the compressors and the kind  
23 of cost of moving the gas from Texas to Florida.

24 Q Now, if you get firm capacity on a line like  
25 Sabal Trail, do you have to make the payments whether or

1 not you are actually taking the gas off?

2 A Yes. The reservation charge you pay for  
3 whether you use the capacity or not.

4 Q In other words, if you reserve 2,000  
5 decatherms or MMBTU, or they might be the same?

6 A They are the same.

7 Q Okay. Different people have used different  
8 terms, and it gets me crossed up in time.

9 A I think I have used all of them, yes.

10 Q Okay. If you reserve 2,000 MMBTU or  
11 decatherms on a pipeline, are you paying for it whether  
12 or not you take off the 2,000 therms per day?

13 A Yes.

14 Q And do you generally have to reserve more  
15 capacity than you actually need?

16 A You need to reserve capacity to meet your peak  
17 need. So you need it, but on a daily basis, you are not  
18 using all of it.

19 Q But you are paying for it?

20 A You are paying for it, yes.

21 MR. BROWN: Let me have a moment, Your Honor.

22 THE COURT: Sure.

23 MR. BROWN: I have no further questions, Your  
24 Honor.

25 THE COURT: Mr. Wharton.

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CROSS EXAMINATION

BY MR. WHARTON:

Q Good morning, Mr. Caldwell.

A Good morning.

Q Isn't it true that you learned what you know about the capacity of Leesburg at the two gates you testified about by spending two minutes looking at a website?

A Right. The FGT electronic bulletin board shows the capacity available by location.

Q And isn't it true that you don't have any facts to support that the areas that Mr. Brown showed you on the map would accommodate 14,000 homes?

A I saw that in the petition, that it was planned for it.

Q In the PGS petition?

A Right.

Q So that's the source of your fact?

A Well, I believe it's also in the notes from the City Commission meeting.

Q You believe it is or you know it is -- that those particular areas are in the notes from the City Commission meeting has the capacity of 14,000?

A Those exact areas, I don't know that.

Q All right. If, in fact, the capacity for



1 growth in those areas is about 4,000, would that change  
2 your calculations, factual calculations that you made  
3 today?

4 A It would take about a quarter of the capacity  
5 to serve 4,000 homes as it would to serve 16,000 homes.

6 Q All right.

7 A You still would have commercial load,  
8 additional load beyond those homes, though.

9 Q Well, now, isn't it true that you said that  
10 you really don't know what Leesburg uses on a daily  
11 basis, you said that in your deposition?

12 A Yes.

13 Q And isn't it true that you don't know the load  
14 on Leesburg's natural gas system?

15 A That's correct.

16 Q And you don't know how Leesburg goes about  
17 procuring its natural gas?

18 A I know it uses Florida Gas Utilities, and I  
19 assume that it procures natural gas like everyone in the  
20 industry. There is the trading period every day where  
21 you buy and schedule the gas for the next day.

22 Q And have you -- that's an assumption, though?

23 A It's the way the industry works.

24 Q Well, have you reviewed your deposition  
25 lately?

1 A Yes.

2 Q Do you recall telling me in the deposition  
3 that you didn't know how Leesburg goes about procuring  
4 its natural gas?

5 MR. BROWN: Your Honor, that's improper  
6 impeachment. I mean, if he wants to ask a question  
7 and if he gets a different --

8 THE COURT: I think he asked him a question.  
9 I will let him go with it. Go ahead.

10 BY MS. WASHINGTON:

11 Q Do you recall that?

12 A I do not know exactly how Leesburg procures  
13 its gas.

14 Q Okay. And you don't really have any  
15 information about Leesburg's planned connection to Sabal  
16 Trail?

17 A Correct.

18 Q And you don't really have any information,  
19 factual information, about what the cost would be for  
20 Leesburg to connect to Sabal Trail?

21 A Specific to that connection, I do not.

22 MR. WHARTON: That's all I have.

23 THE COURT: Mr. Moyle.

24 MR. MOYLE: I have a couple of questions, and  
25 I am going to ask for a couple of minutes, if I

1           could.

2                   THE COURT:   Okay.   That doesn't mean I am  
3           going to give them to you.

4                                   CROSS EXAMINATION

5   BY MR. MOYLE:

6           Q       Just to be clear, and this is, you know, a few  
7           moving parts, but there are -- you talked about if you  
8           have firm capacity and it's subscribed and a pipe is  
9           fully subscribed, then without the gas company doing  
10          something to increase the capacity, then that was kind  
11          of it, right?

12          A       When an interstate pipeline is fully  
13          subscribed, there is not any more primary firm capacity  
14          to purchase.

15          Q       And I think with respect to Sabal Trail, you  
16          said how much was remaining on it, 100,000, right?   How  
17          many homes would that provide gas for?

18          A       A lot of homes.

19          Q       Like 100,000, more than 100,000?

20          A       Probably more than 100,000, yes.

21          Q       Okay.   But you also described -- you go ahead  
22          and get your firm transportation to meet your peak  
23          demand, your anticipated peak demand, correct?

24          A       Correct.

25          Q       But your peak demand only occurs what, once a

1 year? Is how you guys measure peak demand?

2 A Generally once a year, or a couple of times  
3 during the year -- during a season.

4 Q So for about most every other day, you are  
5 not -- you are not using all of that firm capacity,  
6 correct?

7 A That's correct.

8 Q And there is a pretty robust market where  
9 people are going into the market and buying firm  
10 capacity on what they call secondary market, is that  
11 right?

12 A That's correct. Yes.

13 Q All right. And do you trade on the secondary  
14 market, you being PGS?

15 A PGS, yes, definitely.

16 Q Right. And one of the advantages of that is  
17 you can do it and it's a little less expensive, right,  
18 because your firm capacity is the most expensive, but  
19 then as you operate your system, you also get capacity  
20 on the secondary market; correct?

21 A In general, yes. Secondary capacity certainly  
22 can be more expensive on a daily basis than primary  
23 firm. On a tight day, when people are fighting for  
24 those last pieces of space on the pipe, the price can go  
25 up a lot.

1           Q     But that's not typical. More often than not,  
2     is it not, is that somebody has scheduled firm, they  
3     don't need it, the plant is down or FPL, you know, it's  
4     a cool day, they don't need gas for power plants, and  
5     there is a lot of opportunities there to buy firm  
6     capacity on the secondary market; correct?

7           A     Correct. A lot of days there is secondary  
8     capacity available, but on those days when you really  
9     need it, when customers need their energy, that's when  
10    it's difficult to get.

11          Q     Right. And then you had talked a little bit  
12    about the Section 11 rights, and let me just make sure I  
13    understand what you are saying.

14                 Section 11 is a provision of a tariff, right?

15          A     Yes.

16          Q     So it's not a federal code or anything. It's  
17    just in a tariff, Section 11, and it gives you the  
18    ability to aggregate your load and manage it in a way  
19    where you can do a number of things; is that fair?

20          A     That's fair enough. Yes.

21          Q     Okay. And one of those things that you can do  
22    is -- you had used, I think, an example of Jacksonville  
23    and Tampa, and that you can move gas from different  
24    places because the weather may be different, and you may  
25    have a situation you can say, well, I can use that gas

1 over here to supply this, the molecules aren't actually  
2 being moved, and you use your Section 11 rights in a way  
3 that would probably otherwise reduce the amount of firm  
4 capacity that you would need to contract for  
5 transportation; correct?

6 A Correct.

7 Q Okay. And are you aware that FGU also has --  
8 FGU is run by a gentleman named Tom Geoffroy, right?

9 A Yes.

10 Q And you have known him, and don't have any  
11 question about his ability to get gas, right?

12 MR. BROWN: Your Honor, this is a little bit  
13 beyond direct. I mean, they are talking about Tom  
14 Geoffroy.

15 MR. WHARTON: It goes to the ability of  
16 Leesburg to get capacity.

17 THE COURT: Hang on. Hang on. I am going to  
18 overrule. Although, I think how Leesburg is going  
19 to get -- well, hang on. I will say that this  
20 witness testified -- really had very little  
21 information about how Leesburg gets its gas.  
22 Doesn't know what Leesburg uses on a daily basis.  
23 Doesn't know Leesburg's load. Doesn't know how  
24 Leesburg procures gas. Doesn't know how Leesburg  
25 connects to Sabal Trail. Doesn't know the cost.

1           So is this issue with FGU and Tom Geoffroy, is that  
2           related to how Leesburg gets its gas?

3           MR. MOYLE: It is.

4           THE COURT: I am going to sustain the  
5           objection. I think you will probably have another  
6           witness you can --

7           MR. MOYLE: Actually, Mr. Geoffroy will be  
8           here.

9           THE COURT: All right. Sounds like a good  
10          question for him.

11          MR. MOYLE: Right. Okay. Can I have my  
12          couple of minutes?

13          THE COURT: I will give them to you.

14          (Discussion off the record.)

15          MR. MOYLE: Thank you. I have no further  
16          questions.

17          THE COURT: Mr. Brown.

18          MR. BROWN: No questions, Your Honor.

19          THE COURT: All right, sir. Thank you very  
20          much.

21          (Witness excused.)

22          THE COURT: We've probably been at it about 40  
23          minutes, you want to just keep going?

24          MR. BROWN: Just a two-minute break.

25          THE COURT: All right. We will take a couple

1 of minutes.

2 (Brief recess.)

3 MR. KRUPPENBACHER: Call Mr. Deason.

4 THE COURT: All right. Raise your right hand.

5 Whereupon,

6 JAMES TERRY DEASON

7 was called as a witness, having been first duly sworn to  
8 speak the truth, the whole truth, and nothing but the  
9 truth, was examined and testified as follows:

10 THE COURT: And your full name, please.

11 THE WITNESS: James Terry Deason.

12 THE COURT: All right. Please be seated, sir.

13 DIRECT EXAMINATION

14 BY MR. KRUPPENBACHER:

15 Q Mr. Deason, good afternoon. Would you please  
16 tell us your educational background?

17 A Yes. I have a Bachelor's degree with a major  
18 in Accounting from Florida State University, which I  
19 received in 1975. And I have a Master's degree in  
20 Accounting, which I also received from Florida State  
21 University, and that was some years later that I  
22 received my Master's degree. I believe it was 1987,  
23 perhaps 1988.

24 Q And what is your employment background, and  
25 could you go through it chronologically, please?



1           A     Yes.  Upon graduation with my Bachelor's  
2 degree in Accounting, I entered the banking profession,  
3 and I was an assistant trust officer for approximately  
4 two years at a local bank here in the Tallahassee area.

5                     Then I took a position, that would have been  
6 in 1977, I took a position with the State Office of  
7 Public Counsel, which has the responsibility to  
8 represent consumers in matters before the Florida Public  
9 Service Commission.

10                    I actually had three different tenures at the  
11 Office of Public Counsel.  My first tenure there was  
12 interrupted by about a year's employment with Ben  
13 Johnson Associates, which is an economic consulting firm  
14 specializing in regulatory matters.  I then received an  
15 offer of promotion back at the Public Counsel's office,  
16 so I went back to the Public Counsel's office.

17                    And then I took a position at the Public  
18 Service Commission.  I was offered a job by then sitting  
19 Commissioner Gerald Gunter to be his -- well, in those  
20 days it was -- the position was to be his aid.  I think  
21 now its vernacular at the Commission is chief advisor is  
22 the position.  And that basically was the role to be the  
23 chief advisor to the Commissioner.

24                    I served in that role for, I believe the years  
25 were 1987 through -- I am sorry, 1981 through 1987.  And

1 then I got another offer from the Public Counsel's  
2 office to come back as its chief analyst. And I held  
3 that position until I was first appointed to the Public  
4 Service Commission in 1991.

5 I was first appointed by the Public Service  
6 Commission Nominating Council, and then I was  
7 subsequently appointed by Governor Chiles, and then I  
8 was subsequently appointed by Governor Bush --  
9 reappointed by Governor Bush two times for a total of  
10 four terms on the Commission, or 16 years. And in that  
11 capacity, I served as Chairman on two separate occasions  
12 of the Commission.

13 And then I retired from the Commission at the  
14 end of 20 -- no, I am sorry, 2006. And I have been  
15 providing consulting services ever since that time. I  
16 am employed at the Radey Law Firm, not as an attorney,  
17 but as a consultant. And I have been providing  
18 consulting services to primarily regulatory -- I am  
19 sorry, regulated utility companies, but I have also  
20 provided consulting services to advocacy staff of public  
21 service commissions and to some local governments, city  
22 and county governments.

23 Q What were your responsibilities at the Office  
24 of Public Counsel?

25 A Well, as I indicated, Public Counsel's office

1 is a -- is statutorily created. It's not part of the  
2 Public Service Commission, but it has the responsibility  
3 to represent consumers at the Public Service Commission.  
4 So it's essentially a law office. And he while I am not  
5 an attorney, I was an analyst, and provided support to  
6 the attorneys in litigating cases. That included all  
7 aspects of litigation to, you know, reviewing testimony  
8 and to doing discovery in cases -- or assisting the  
9 attorneys in their discovery, reviewing discovery, and  
10 on occasion, I had opportunity to present expert  
11 testimony on behalf of the Office of Public Counsel.

12 I also had the opportunity to interact with  
13 customers on occasion, and to be able to address their  
14 concerns of the regulatory process here in Florida.

15 Q And briefly, what were your responsibilities  
16 as the aid or chief advisor to the PSC commissioner?

17 A Well, it actually involved all of the aspects  
18 of a commissioner, the full responsibilities. While I  
19 was not the decision-maker, I advised the Commissioner  
20 on all aspects of his job at the Commission.

21 So it included everything that the Commission  
22 does, and the various functions of the Commission, all  
23 the way from legal matters, technical matters and  
24 administrative matters, and reaching out to the public,  
25 responding to the public, and making recommendations to

1 the Commissioner on matters that came before the  
2 Commission for a vote.

3 Q During your years with the PSC, both as an  
4 advisor and then as a Commissioner, did you develop  
5 expertise and experience in dealing with territorial  
6 disputes involving utilities within Florida?

7 A Yes.

8 Q Did that expertise include dealing with gas  
9 utility territorial disputes?

10 A Yes, on occasion, but the primary -- the vast  
11 number of cases involved electric utilities.

12 Q Okay. I would like to show you Petitioner  
13 Exhibit No. 5. Are you familiar with this document?

14 A Yes.

15 Q And what do you recognize this document is  
16 describing?

17 A It's generally recognizing the territorial  
18 area that is in dispute in this proceeding, and it  
19 contains a number of natural gas lines that have been  
20 constructed in the area, and who constructed those, and  
21 I think there is some information on one of the exhibits  
22 that discusses the timeframe of that.

23 Q And do you recognize these blue lines as being  
24 the gas lines installed by Peoples Gas?

25 A Yes.

1           Q     I am going to show you the overlay part  
2 Exhibit No. 5, and do you recognize this green as being  
3 the lines installed by South Sumter Gas?

4           A     Yes, that's my understanding, and I heard it  
5 discussed previously here in the hearing.

6           Q     And going back to the first page, based upon  
7 your experience and knowledge in the state of Florida  
8 regarding the expansion of gas utilities, what is your  
9 opinion when you see this line -- these gas lines  
10 sitting by themselves, no other gas company, as to the  
11 areas around those gas lines, what is the territory that  
12 that, in your opinion, would cover?

13                   MR. WHARTON: I object to the relevance.

14                   THE COURT: Well, as I indicated, I am going  
15 to probably take in more than I should. In fact,  
16 there will be some things with Commissioner Deason,  
17 I assume it's like governor, once you have been  
18 one, you are always one. So I know that we also  
19 have Commissioner Garcia. So I am going to give  
20 both parties a little bit of latitude to explore --  
21 some things based on policy and experience,  
22 probably more than I would if only one of y'all had  
23 a --

24                   MR. WHARTON: We have also got a similar  
25 expert, and also, Judge --

1           THE COURT:  And I am going to let you do it.  
2           And I may not do much with the testimony.  As I  
3           indicated yesterday, I may give it about as much  
4           weight as if I had a senator coming in here telling  
5           me that he or she was involved in the passage of  
6           366.04, and here's what they intended when they  
7           voted on it.

8           So I am going to hear it out from both of  
9           them, so I will give you, Mr. Brown and Mr.  
10          Kruppenbacher, a heads-up, when Commissioner Garcia  
11          is sitting up here, I am going to be allowing  
12          latitude as well.

13          MR. WHARTON:  I won't make any further  
14          objections because I think our position is clear.

15          THE COURT:  I understand.

16          MR. WHARTON:  I am also going to wait until  
17          cross.  This sounds like an opinion, you indicated  
18          that it would be better dealt with in cross.

19          THE COURT:  Right, okay.

20          THE WITNESS:  And could -- I am sorry, could  
21          you repeat the question?

22          BY MR. KRUPPENBACHER:

23           Q        Yes.

24                    Based upon your experience with the Public  
25          Service Commission and your knowledge of the Public

1 Service Commission and its policies, when you look at  
2 the lines that run here on this site down to 301, this  
3 is 468, what would be the territory that would be  
4 covered by Peoples Gas by putting those lines in?

5 A Well, it's hard to look at a map and  
6 adequately define that. When I look at this map --  
7 first let me say I am not an engineer. I don't profess  
8 to be an engineer, and I express no judgment on the  
9 adequacy of those lines in terms of if they were  
10 engineered correctly and correctly sized, and things of  
11 that nature.

12 But I can tell you, with my experience in  
13 regulating gas utilities and electric utilities, when it  
14 comes to extending facilities to provide service, I make  
15 the assumption, until it's proven otherwise, that the  
16 utility is meeting its requirement, subject to  
17 regulation, to have adequate facilities in place in a  
18 reasonable timeframe to adequately and reliably serve  
19 customers.

20 The other balance of that is that,  
21 particularly in the case of an investor-owned utility  
22 that is subject to the full regulatory jurisdiction of  
23 the Commission, that they have to balance that with the  
24 consideration of the cost of making those expansions and  
25 whether they were prudently incurred.

1           And so that's the reason that I believe that  
2 this was part of Peoples Gas responsibilities to serve  
3 customers, that they have the obligation to prove that  
4 to the Commission in a rate proceeding before they get  
5 rate recovery of those amounts as part of the regulated  
6 utility's obligation to plan to serve customers  
7 adequately and then, when it is appropriate, to extend  
8 facilities to make sure there is an adequate  
9 infrastructure upon which future growth can be served  
10 timely and economically.

11           Q     Based upon your knowledge of the gas industry,  
12 would your opinion that if people abutting in this area  
13 wanted to have natural gas, standing alone by itself,  
14 the most efficient way to do that would be to have it  
15 served by Peoples?

16           MR. WHARTON:  Objection, leading.

17           THE COURT:  Overruled.

18           THE WITNESS:  I can answer?

19           THE COURT:  Yes, sir.

20           THE WITNESS:  There are many factors in place  
21 that could affect that, but as a general  
22 proposition, the Commission, in its jurisdiction,  
23 tries to promote service that is economic and is in  
24 the overall interest of customers, and so the cost  
25 of providing services is one of those.



1           And when you have utilities that are serving  
2           in similar areas, or adjacent areas, it often comes  
3           down to a matter of cost. Who can extend the  
4           facilities most cost effectively so that the  
5           service can be provided efficiently with a lesser  
6           amount of rate impact on customers.

7           Part of that determination at the Commission,  
8           it takes the facts as they are and makes those  
9           determinations. And so a big factor would be if  
10          there are facilities already constructed and in  
11          place, logically there would be less of a need for  
12          additional incremental investment, incremental  
13          infrastructure, to make the necessary connections  
14          to serve those customers.

15          So it's not the fact that this line exists.  
16          When you make that comparison between two  
17          utilities, you take the investment as it exists.  
18          You don't try to allocate it to different things.  
19          It's a sunk cost, and sunk costs are irrelevant in  
20          making these type determinations.

21          BY MR. KRUPPENBACHER:

22          Q       Now, let's look at this. Would it be  
23          economically efficient to have a sunk cost to be the  
24          South Sumter Gas to run a line up here to serve in this  
25          area, run a line down this area serving this area when

1 Peoples already has lines throughout that area?

2 A I can't make that determination just looking  
3 at a map. But on its face, it looks like, just looking  
4 at distances, and realizing that the costs are similar  
5 between utilities to make those types of investments,  
6 that if one utility has to extend facilities a longer  
7 distance, it would be a natural inclination to think  
8 that it would cost more, but that would depend on the  
9 facts at that are produced in a proceeding.

10 Q Have you read and reviewed Petitioner's  
11 Exhibit No. 1, which is the agreement by and between the  
12 City of Leesburg and South Sumter Gas?

13 A Yes.

14 Q Based upon your experience and expertise, what  
15 is your opinion as to whether this does or does not  
16 create a regulated utility as it relates to --

17 MR. MOYLE: Judge, I am going to object to  
18 that --

19 MR. KRUPPENBACHER: Let me finish the  
20 question.

21 THE COURT: Let's get the question out.

22 BY MR. KRUPPENBACHER:

23 Q -- as it relates to South Sumter Gas?

24 THE COURT: All right. So I have an  
25 objection.

1           MR. MOYLE: I apologize. I was so excited to  
2           major this objection.

3           I understand the latitude, and appreciate the  
4           latitude. Mr. Garcia will be doing this in terms  
5           of talking about this. But, you know, the question  
6           that was asked about the hybrid utility, you know,  
7           is a legal conclusion. Mr. Deason, you know, has  
8           expertise in regulatory matters, but he is not a  
9           lawyer, and I just don't think it's appropriate for  
10          this proceeding.

11          MR. WHARTON: Respectfully and very briefly,  
12          Your Honor, I won't keep repeating myself.

13          To me, respectfully, Your Honor has to ask  
14          himself, is this going to go in the factor of  
15          conclusion of law? That's is right in the matrix.

16          THE COURT: Well, an expert witness is -- it's  
17          allowable for an expert witness to opine on issues  
18          that might ultimately be conclusions of law.

19          I am going to allow Commissioner Deason to  
20          testify, and I think -- again, I am going to  
21          unravel this knot at some point, and I will turn,  
22          if I give this testimony any weight; because this  
23          is -- I mean, I view my role in forming proposed  
24          conclusions of law, I guard that fairly jealously,  
25          and I will make my on decisions based on the law as

1 I read it as to whether or not this fits. But I am  
2 willing to listen to Commissioner Deason, as I will  
3 be willing to it listen to Commissioner Garcia.

4 MR. MOYLE: Okay, I guess the only other point  
5 Ms. Putnal pointed out, if you asked the question  
6 at the depo of Mr. Deason about --

7 THE COURT: Good issue for cross.

8 MR. MOYLE: Yeah, he didn't bring it up.

9 THE COURT: Overruled.

10 BY MR. KRUPPENBACHER:

11 Q You can answer the question, please?

12 THE COURT: You want that question red back so  
13 we --

14 THE WITNESS: I believe I understand the  
15 question.

16 First, before I answer the question, I  
17 understand the function that's going on here at  
18 this board, and the responsibilities -- I think I  
19 understand, I won't try to put myself in your place  
20 obviously.

21 MR. WHARTON: I object to the narrative, Your  
22 Honor. I don't think it's responsive to the  
23 question.

24 THE COURT: Yeah --

25 THE WITNESS: Okay.

1           THE COURT:  -- just go with responding to the  
2           question.

3           THE WITNESS:  I am just trying to show some  
4           respect, John.  I am not trying to be presumptuous.

5           MR. WHARTON:  Mr. Deason and I were staffers  
6           together at the PSC a long time ago.

7           THE COURT:  Well, having this flipped, I can't  
8           tell you how much I am enjoying that.

9           THE WITNESS:  I guess the best way to begin  
10          the answer, and I apologize if it's an involved  
11          answer because it is an involved question.  I guess  
12          the best way to begin is what is being proposed in  
13          the agreement, in my opinion, is unprecedented.

14          Historically, when the Commission deals with  
15          territorial disputes, you have two entities that  
16          are clearly utilities that are either regulated by  
17          the Commission or exempt from regulation by a  
18          provision of statute.  And if this were a  
19          situation, the City of Leesburg, which did not  
20          solve South Sumter Gas in any way, and it was a  
21          question of who's to provide service to what area,  
22          and it was strictly between Leesburg and Peoples  
23          Gas, that would fit the traditional model that the  
24          Commission has used to determine, and it would be  
25          based upon statute and rule and previous decisions

1 of the Commission, and determinations like we just  
2 spoke about as to who can provide service most cost  
3 effectively and reliably and provide adequate  
4 service to customers and protect the customers'  
5 interest if there is a mechanism to protect  
6 customers' interest, either through action of the  
7 Commission or through the City Council of the City  
8 of Leesburg in this case. It would be a fairly  
9 clearcut structure to answer that question. I am  
10 not saying what the answer would be, but it would  
11 be a clearcut structure to answer that.

12 What we have here is something that's never  
13 been presented to the Commission before, and that  
14 we have an entity that is created by the agreement,  
15 and it creates questions -- questions in my mind as  
16 to who is actually providing service, and whether  
17 the interest of customers are going to be protected  
18 through this arrangement.

19 And I would just highlight that there are  
20 certain provisions within the agreement which  
21 highlights the concerns that I have, and as to  
22 whether what is being proposed would be in the  
23 public interest. And one of the first things that  
24 comes to mind is the sale of the natural gas, the  
25 rates and how those revenues are allocated or

1 shared. It's never been a situation in front of  
2 the Commission before where there is such an  
3 allocation of revenues.

4 I can say that the Commission, when it's made  
5 determinations in other cases, even in declaratory  
6 statements, there have been situations where folks  
7 have come to the Commission and says, please  
8 declare me not a utility. And the Commission has  
9 looked at those, and just about without fail, I  
10 cannot think of any exception, is that if it's  
11 determined that that entity is selling, be it  
12 electricity or what other commodity that is  
13 regulated, and they get the revenues based upon  
14 that production and sale, they are a utility. And  
15 that if they go forward with that -- if they go  
16 forward with that approach, that they would have to  
17 be a utility subject to regulation and all of the  
18 requirements that go along with that.

19 We have a situation here where South Sumter  
20 Gas Company is sharing in those revenues. I think  
21 an argument can be made that they are in the  
22 business of selling gas to end use customers. That  
23 would make them a utility under that definition.

24 When we are making comparisons between two  
25 competing utilities to serve an area, usually there

1 is a straightforward question of the cost to extend  
2 service, and which one can do it more economically.

3 Here, we have a situation where there is not a  
4 fixed cost that is being paid to South Sumter Gas  
5 Company for the construction of the facilities.  
6 That's why on the previous witness, we had this  
7 analysis that showed all of these revenue streams  
8 and 30-year analysis and that. And I suppose that  
9 information is going to be used -- or may be used  
10 by the Court to try to make a determination of  
11 relative cost.

12 In a traditional situation, you wouldn't have  
13 to have that type of an analysis because there is  
14 not a sharing of revenues. Those revenues, I read  
15 the agreement, I find nowhere in that agreement  
16 where that sharing of revenues is any way tied to  
17 the cost of service of constructing those  
18 buildings. So that's another area of concern.

19 BY MR. KRUPPENBACHER:

20 Q If you will look at this exhibit, which is --

21 MR. BROWN: It's not an exhibit.

22 BY MR. KRUPPENBACHER:

23 Q It's just a demonstrative. When you read the  
24 agreement --

25 A Counsel, I am going to, you asked me the



1 question, I am going to answer it, okay?

2 Q Okay.

3 A Very well.

4 THE COURT: I take it you weren't done.

5 THE WITNESS: I am sorry?

6 THE COURT: I take it you weren't done with  
7 your answer.

8 THE WITNESS: I was not done with my answer.

9 THE COURT: All right. You can proceed.

10 MR. KRUPPENBACHER: The judge has sustained  
11 your objection.

12 THE WITNESS: Another thing is that a concern  
13 of the agreement is who controls the rates? To me,  
14 it's clear in the agreement that it is South Sumter  
15 Gas that controls the rates. There is a structure  
16 of rates that is not based upon the cost of  
17 providing service, and that South Sumter Gas  
18 controls the rates. That would be another  
19 indication that the entity providing service here  
20 is South Sumter Gas Company.

21 South Sumter Gas, basically, under my reading  
22 of the agreement, determines when and where  
23 Leesburg must expand facilities to meet further  
24 development. To me, that's an indication that  
25 South Sumter Gas is in control and would be the

1 utility.

2 There are even provisions in the agreement  
3 that allows South Sumter Gas to assign work to  
4 subcontractors without the consent of Leesburg. Here  
5 again, that's an indication to me that it's not  
6 Leesburg providing the service. It's South Sumter  
7 Gas that's providing the service.

8 There are even provisions in the agreement  
9 that allow South Sumter Gas to do things so much as  
10 to dictate that there is not going to be  
11 transportation service to customers, and even what  
12 is communicated to customers in the bills, that's  
13 within the discretion of the South Sumter Gas  
14 Company.

15 Again, a utility would control what's in the  
16 bills that goes to their customers. They would  
17 have a mechanism to set rates based upon the  
18 parameters that the City felt appropriate, and  
19 would not have to get the agreement of a third  
20 party to increase rates if they felt it was  
21 necessary to adequately provide service for their  
22 customers.

23 And then we get to the question of who owns  
24 the infrastructure. And there are a number of  
25 provisions in the agreement that cast doubt as to

1           who owns the infrastructure. Now I am not  
2           questioning the structure of the agreement that  
3           appears, to me, to be such that it would avoid the  
4           payment of property taxes to the County because the  
5           City owns that. That's internal to the agreement.  
6           I don't know if that was the motivation or not, but  
7           I can look at the agreement and look at what  
8           happens when there is an early termination of the  
9           agreement and who gets the infrastructure.

10                   There are also provisions in the agreement  
11           which address what happens if Leesburg, who was  
12           granted a franchise agreement in this area, if they  
13           exercise certain rights of that; and if the  
14           agreement is terminated, who ultimately ends up  
15           with the infrastructure, and at what, if there is  
16           any, payment to the City of Leesburg.

17                   I think one scenario allows there to be  
18           depreciated by a year, there is another scenario  
19           where there is no payment. I can't even find  
20           whether there is a condemnation or it it's just an  
21           exercise of provisions within the franchise  
22           agreement.

23                   I mean there, may be other things in the  
24           agreement. Those are the things highlighted in my  
25           mind, which begs the question as to who is actually

1           serving these customers, and I think there are  
2           provisions that raise the question as to whether  
3           it's actually the City of Leesburg and whether it  
4           is South Sumter Gas.

5           I have concluded my answer now, counselor, and  
6           I apologize. I just wanted to get some things  
7           covered.

8           BY MR. KRUPPENBACHER:

9           Q       May I ask you another question?

10          A       Please.

11          Q       Based upon your experience and expertise, is  
12          the proposed agreement, if it went into effect -- is in  
13          effect -- is the arrangement that's been put together in  
14          the agreement that's been identified as Petitioner's  
15          Exhibit 1 in the best interest of the citizens of  
16          Florida?

17          A       Based upon my understanding of the facts as  
18          they exist now, in my reading of the agreement, I would  
19          say that I have sincere doubt, and I would have to fall  
20          down on this idea that it is not in the public interest,  
21          and let me explain.

22                 The Public Service Commission has a wide area  
23          of jurisdiction, and in giving that jurisdiction to the  
24          Commission, the Legislature has declared that the  
25          provisions in within the statutes are to be liberally

1 construed, and I think the Commission has done that, and  
2 basically they are regulated in the public interest,  
3 that is the requirement in the statute, and they look at  
4 the interest of all involved, and we have a number of  
5 entities that are involved here. And when you regulate  
6 in the public interest, you basically have a focus on  
7 the customer, which I think should be the focus of this  
8 proceeding, what is best for the customer?

9 I think we have got three different customer  
10 groups here that are potentially impacted by whatever  
11 decision is made here. I will begin with the  
12 customers -- the existing customers of the City of  
13 Leesburg.

14 To the best of my knowledge, the City of  
15 Leesburg provides excellent service and is a value to  
16 the customers. I think -- and the best of my knowledge,  
17 the City customers are satisfied customers. I am sure  
18 there would be rare complaints. There are always  
19 complaints for utilities regardless of whether municipal  
20 or investor-owned investors owned.

21 But based upon my review, my knowledge, my  
22 belief, is that the City of Leesburg provides adequate  
23 service on reasonable terms. And I am not taking issue  
24 with that. I congratulate the City for that. But they  
25 are embarking on a bold new adventure here as to what is

1 being proposed. And to me, it is a risky proposition.

2 I am sure that the managers and the hierarchy  
3 at the City have looked at that, and think that it's  
4 worth going forward with this. I don't question them  
5 that, in their opinion, that's appropriate. But I think  
6 that there is some risk to the existing customers of the  
7 City of Leesburg when you look at the fact that, based  
8 upon growth projections -- and I am not testifying to  
9 the projections, but I understand that we have such  
10 magnitude that at some point you are going to have the  
11 vast majority of the customers that are getting service  
12 from Leesburg or else through some entity in conjunction  
13 with South Sumter Gas where you are going to have the  
14 vast majority of the customers who do not reside in the  
15 City. And this is not consistent with the way utilities  
16 normally expand their service territories in the state  
17 of Florida, particularly municipals. Historically, they  
18 have done much different than that's been proposed  
19 here.

20 So there is a certain risk factor, I think,  
21 for the existing customers. It may work out wonderfully  
22 for the existing customers of the City, but then again,  
23 this is something that's being asked of the existing  
24 customers to have their local municipal utility expand  
25 in such an area, and under an agreement where they have

1 to share, depending on the number, 50 to 55 percent of  
2 the revenues with another entity to make that expansion.  
3 I would raise question -- it raises questions in my mind  
4 as to the risks that are being asked to be absorbed by  
5 the existing customers within the City.

6 That's one customer group. Then we have  
7 another customer group that's the existing customers of  
8 Peoples Gas.

9 Now, in an earlier question, I described how I  
10 perceived the lines that were constructed, and being a  
11 fully regulated utility, until proven otherwise, I would  
12 make the reasonable assumption that Peoples constructed  
13 those lines based upon its responsibility under statute  
14 and PSC regulation to make investments to serve  
15 customers, and that they, by so doing, have a reasonable  
16 expectation that there are going to be customers that  
17 will take service from those facilities, and that will  
18 provide revenues adequate to cover the cost of those  
19 facilities.

20 If those facilities are constructed under a  
21 consistent, prudent plan, and there is a decision by the  
22 Commission ultimately to which takes potential revenues  
23 away from Peoples Gas, well, then you have potential for  
24 facilities that are underutilized. And what that means  
25 is that it's potentially a cost burden on the existing

1 customers of Peoples Gas when their utility has just  
2 done what is expected of the Commission to provide  
3 adequate service as the growth materializes. So there  
4 is a potential impact on the customers, the existing  
5 customers of Peoples Gas.

6           And then let's get to the third group of  
7 customers, and that's the customers that are going to be  
8 buying the homes, residing in the area that's in  
9 dispute, and receiving service. How are they protected?  
10 I am concerned that there is inadequate protections.  
11 Certainly not the protections that are currently  
12 afforded the existing customers of the City and  
13 protections that are afforded the existing customers of  
14 Peoples Gas.

15           They will be customers in an area, not only  
16 outside the City boundaries, but my understanding is in  
17 a different county. They certainly will not have the  
18 ability to reflect their concerns on their natural gas  
19 service in terms of quality of service and level of  
20 rates by electing City Council people who would listen  
21 to their concerns and make decisions that would help  
22 protect their interests. That's one concern.

23           Another concern that I have for the future  
24 customers to be served in this area is that their rates  
25 will not be based upon costs. Their rates are based



1 upon an agreement as to what the rates will be, who can  
2 approve those rates, and how those rates can be  
3 increased, and so I have concern about that as well.

4 And then, as I mentioned, there are certain  
5 provisions in the agreement that prohibits  
6 transportation service. Obviously, customers would not  
7 have the benefits of the Public Service Commission  
8 approved conservation plans. That would be another  
9 factor. So it raises concerns for me about the  
10 potential future customers who would be in the public  
11 interest.

12 So to me, all three customer groups that are  
13 going to be impacted by this decision one way or the  
14 other, I think there is risk -- there are risks and a  
15 lack of protections, and potential adverse consequences  
16 as a result of the decision that's made.

17 Q Thank you.

18 MR. KRUPPENBACHER: No further questions, Your  
19 Honor.

20 MR. MOYLE: Could we take a couple minutes?

21 THE COURT: You have got cross? Really?

22 MR. MOYLE: Can we have maybe just a couple of  
23 minutes?

24 THE COURT: Sure. We can take five. Is that  
25 okay, Mr. Wharton, or are you ready to charge

1 forward?

2 MR. WHARTON: No. No. It's not going to be  
3 much, actually.

4 THE COURT: All right.

5 (Brief recess.)

6 THE COURT: Mr. Wharton, you are up. Back on  
7 the record.

8 CROSS EXAMINATION

9 BY MR. WHARTON:

10 Q Good morning, or afternoon, whichever it is,  
11 Commissioner.

12 A It's still morning.

13 Q I call all the former, as Mr. Garcia could  
14 tell you, I call all the former commissioners, I always  
15 say Commissioner.

16 First, let's talk about what seem to be a  
17 little bit of testimony that you gave, and you were  
18 shown the facility map that's not up there anymore. But  
19 would you agree, wouldn't you, that you wouldn't have  
20 done any analysis of the cost of the facility's location  
21 or when the facilities were put in?

22 A No, and that wouldn't be necessary for the  
23 opinions that I just gave.

24 Q And you haven't done any analysis with regard  
25 to the cost of the facilities or expansion of the

1 facilities, and you have no opinion who's in a better  
2 position to serve?

3 A I agree with that, except I did give an answer  
4 to a previous question, which I still stand behind, is  
5 that on its surface, it appears that, if there is a  
6 greater distance, you would assume that the utility  
7 having to go the further distance would have higher  
8 costs, but that would be a matter for a determination  
9 based upon the facts produced.

10 Q Let me ask you this: Have you reviewed your  
11 deposition transcript lately?

12 A Yes.

13 Q Do you recall that at your deposition you  
14 indicated you had no opinion about who was in a better  
15 position to serve?

16 MR. KRUPPENBACHER: Your Honor, could he --

17 THE WITNESS: Maybe you could correct me.

18 MR. WHARTON: I'm just asking a question.

19 THE COURT: I think, at this point, it's a  
20 question if you recall. If he doesn't recall, then  
21 I am sure you can refresh his recollection.

22 MR. WHARTON: Let's do that.

23 THE WITNESS: I have it. Can you give me the  
24 page and line?

25 MR. SELF: Okay. John, he has it.

1 BY MR. WHARTON:

2 Q Well, let me ask the right question.

3 Do you agree that you aren't making any  
4 determinations in who's in a better position with regard  
5 to the cost of the facilities or the extension of  
6 facilities, and that sort of thing?

7 A I stand by that answer, and my previous  
8 answer, I think, is consistent with that.

9 Q I understand.

10 Let's talk about your testimony about the City  
11 of Leesburg and the service outside the municipal  
12 boundaries.

13 First of all, would you agree that, to your  
14 knowledge, this agreement was entered into by two  
15 sophisticated parties?

16 A Yes.

17 Q All right. And isn't it true that there is  
18 nothing in Florida law that regulates -- let's just put  
19 it this way. There is no PSC rule, order or statute  
20 which regulates the rates, fees or charges of a  
21 municipality, is there?

22 A That's correct.

23 Q And there is no PSC rule, order or statute  
24 that regulates the conditions of service of a  
25 municipality, is there?

1           A     Generally, but the PSC does have jurisdiction  
2 over territorial matters, and that's why we are here.

3           Q     But that is the extent of that jurisdiction?

4           A     That's my -- based upon my recollection at  
5 this point, yes, for natural gas.

6           Q     And that's for natural gas utilities, right?

7           A     Yes.

8           Q     And you would agree that there is no PSC rule,  
9 order or statute that gives the PSC jurisdiction over  
10 the conditions of service of municipal gas utilities?

11          A     Yes, I think that's correct. I think it gives  
12 them the fact that the PSC has a policy of encouraging  
13 transportation service for the utilities they regulate.  
14 My understanding is the City doesn't do that. That's  
15 their call, and the PSC doesn't require them to do  
16 something of that nature.

17          Q     It's completely their call under their lawful  
18 authority?

19          A     That's my understanding, yes.

20          Q     And you would agree that there is no PSC rule,  
21 order or statute that regulates whether municipal  
22 utilities expand their natural gas utilities either  
23 within the municipalities or outside the municipality?

24          A     I agree that there is no statute, rule or  
25 order. I can just describe what traditionally has been

1 the case and what has worked well in Florida's  
2 regulatory framework as to how municipals expand their  
3 territories --

4 MR. WHARTON: I would ask that the witness  
5 just respond to the question.

6 THE COURT: I think he was trying to give his  
7 balanced response as he understood it to be.

8 MR. WHARTON: Understood.

9 THE WITNESS: I would conclude my answer by  
10 saying what's been proposed here has never been  
11 proposed before, and it does not fit within  
12 Florida's overall scheme of regulating utilities  
13 and ensuring adequate and reliable service at a  
14 reasonable cost to all utility consumers, both  
15 those from municipalities as well as PSC regulated.

16 BY MR. WHARTON:

17 Q Okay. So you believe that the law of Florida  
18 does give the PSC jurisdiction over the rates or  
19 conditions of service of municipalities then?

20 A No, absolutely not. What I was alluding to is  
21 the fact that under Florida's regulatory scheme, that  
22 the Legislature, in its wisdom, decided that municipals  
23 should not be subject to that regulation at the PSC, and  
24 that customers can be adequately protected by their  
25 elected representatives who do have say over the level

1 of rates and the quality of service.

2 Q Okay. Let me ask you another question. We've  
3 taken the map off the easel but leaning on the floor,  
4 it's just as well there?

5 MR. MOYLE: I can put it up if you want.

6 MR. WHARTON: Okay. Either one.

7 MR. MOYLE: I like the Leesburg one.

8 MR. WHARTON: Well, I would actually -- let's  
9 go with this one, Jon. Let's go with the one  
10 that's up there.

11 MR. MOYLE: Okay.

12 BY MR. WHARTON:

13 Q All right. Do you understand that what's  
14 depicted on those maps are two of The Villages, which is  
15 what The Villages calls its subdivisions, one is called  
16 Fenney and the other is called Bigham?

17 A That's my understanding.

18 Q Okay. Do you know how many Villages there are  
19 in The Villages?

20 A I do not.

21 Q And how many villages The Villages intends to  
22 construct over time?

23 A I do not.

24 Q Now, you had -- isn't it true that you believe  
25 that the proximity of facilities is one of the things to

1 be factored in a territorial dispute, right?

2 A Proximity in the fact that that impacts costs  
3 to serve, and that is certainly one of the defined  
4 factors that the Commission should, and does, consider.

5 Q But wouldn't you agree with me that the mere  
6 fact that The Villages allowed PGS to provide service in  
7 a single village, the Village of Fenney, should not mean  
8 that The Villages have locked into PGS forever?

9 A I agree it's not looked in, but I also agree  
10 that, given that there are adequate facilities, and I  
11 think other witnesses testified to the adequacy of those  
12 facilities that are in close proximity, that is a  
13 contributing factor which impacts costs, and that is a  
14 factor the Commission should consider.

15 Q But you have made no determination about the  
16 adequacy of the facilities of Leesburg and PGS in  
17 relation to each other, right, as you told me in  
18 deposition? You did no analysis?

19 A I have no made no evaluation of the adequacy.  
20 I would have to rely upon fact witnesses as to what that  
21 situation is.

22 Q All right. Now, another thing that you said  
23 when you talked about the public interest, you said you  
24 have never seen such an allocation of revenues. Do you  
25 know how many municipal gas utilities there are?



1           A     There are numerous. I don't know the exact  
2 number.

3           Q     If there is over 100, does that sound right?

4           A     That doesn't surprise me that it's over 100.

5           Q     Do you think some of them take their revenues  
6 and they build a new ballpark? Is that something the  
7 Commission investigate as an improper way to allocate  
8 the revenues after they are received?

9           A     No. And I wasn't speaking to that allocation.  
10 I am talking about an agreement between a utility, a  
11 municipal utility and a third party, that they are going  
12 to share their revenues with that third-party that is  
13 not affiliated with the municipality.

14          Q     Well, you say share the revenues, sir. That's  
15 a euphemism, isn't it? What's really happening here is  
16 that Leesburg receives the rates and then there is a  
17 payment, formulaic payment to SSGC?

18          A     You said it's formulaic, I agree with that.  
19 And I agree that the City is the agent for the  
20 collection of the revenues.

21          Q     The customers aren't sending part of the rate  
22 to SSGC and part of it to Leesburg, right?

23          A     That's correct.

24          Q     All right. Do you agree with me that nothing  
25 in the agreement violates any rule, order or statute

1 that you are aware of of the state of Florida?

2 A I cannot point to anything that the agreement  
3 violates. I can just point to the general body of the  
4 PSC statutes, and how it has ruled in matters that -- it  
5 raises questions of whether this overall arrangement is  
6 in the public interest.

7 Q I understand.

8 MR. WHARTON: Thank you very much.

9 THE COURT: Mr. Moyle.

10 MR. WHARTON: Mr. Moyle is running a flanking  
11 maneuver.

12 CROSS EXAMINATION

13 BY MR. MOYLE:

14 Q Good afternoon, I think officially now, Mr.  
15 Deason, maybe not.

16 A It's close.

17 Q It's close.

18 It's my privilege to represent the City of  
19 Leesburg, and I appreciate --

20 A And you have an outstanding client.

21 Q Thank you. Thank you. I appreciate the  
22 compliment you paid for to them with for their service  
23 to the customers.

24 One of the issues you raised was whether -- I  
25 thought I heard you say, well, if there is a majority of

1 people being served that are outside corporate limits,  
2 that's a concern; is that the gist of what you  
3 communicated?

4 A Yes, it's a concern that I would have. And I  
5 think it's a concern that the Commission has expressed  
6 as well.

7 Q All right. And with respect to the City of  
8 Leesburg, do you know how many people they serve now  
9 that are outside of their corporate boundaries?

10 A I don't know that breakdown.

11 Q You got into some areas of regulatory policy,  
12 and I wanted just to ask you, it's -- the arrangement  
13 that is the contract that you talked about is different  
14 than the arrangement that PGS would face through a  
15 regulatory matter, correct, in terms of how they make  
16 money?

17 A Maybe you could just ask the question again.  
18 I had difficulty following it.

19 Q Well, Tampa Electric is going to make money if  
20 the judge awards the territory to them, correct?

21 A Yes, they will make money. They also will  
22 make money if they don't. It may be less than otherwise  
23 would be achieved through full utilization of these  
24 assets, and it may need -- it may result in the need to  
25 raise rates for all of the other customers to provide

1 adequate revenues to support those assets.

2 Q But also, in terms of going forward, the way  
3 utilities typically make money is the capital expenses,  
4 the costs that they have, the capital expenses they have  
5 when they have a rate case, those go into rate base,  
6 correct?

7 A The capital costs are generally capitalized  
8 and become part of the rate base, yes.

9 Q And then the utility has the opportunity to  
10 earn a return on those capitalized assets, correct?

11 A That is correct.

12 MR. KRUPPENBACHER: Your Honor, I am going to  
13 object that we are getting into rates of return, et  
14 cetera, because that's beyond the direct.

15 THE COURT: Overruled. I think it fairly ties  
16 into some of the testimony I heard with regard to  
17 the public interest and cost to customers and  
18 impact on customers.

19 BY MR. MOYLE:

20 Q And you were here when Mr. Durham said there  
21 is a 10.7 internal rate of return. Are you aware that  
22 TECO's approved return is higher than that as we sit  
23 here today?

24 A I would have to -- you would have to clarify  
25 your question as to whether you are talking about a

1 return on equity or an internal rate of return.

2 Q Return on equity.

3 A Overall rate of return or return on equity?

4 Q Return on equity.

5 A Okay. I don't know TECO's return on equity.

6 I would anticipate that it's probably in excess of 10.7,  
7 but that is not a fair comparison between an internal  
8 rate of return, which I would equate more with an  
9 overall rate of return as opposed to return on equity,  
10 and particularly, given the fact that the City has the  
11 ability to borrow funds at very low interest rates,  
12 which gives them an advantage, because of the federal  
13 tax code, that also makes that an unfair comparison.

14 Q I am a history major, and talking to an  
15 accountant, I think I am going to stop.

16 I have a couple other questions.

17 The firm you are with, you primarily, over the  
18 years, have testified, at least since you and I have  
19 been talking with you being under oath, investor-owned  
20 utilities, correct?

21 A Correct.

22 Q And the policy of the State of Florida with  
23 respect to energy, you would agree that that is made by  
24 the Florida Legislature, correct?

25 A Yes.

1 Q And that the Florida Public Service Commission  
2 sometimes is given rule-making authority and can  
3 implement policy through rules, and rules would set  
4 forth policy, correct?

5 A That is a mechanism, yes.

6 Q And you would also agree that commissions,  
7 when they have disputes, or when a commission has a  
8 dispute and the dispute is appealed, that decisional law  
9 also can set forth energy policy, correct?

10 A Certainly the courts have a say into the  
11 statutes and how the Commission implements those  
12 statutes.

13 Q And the Commission is, indeed, subject to  
14 rule-making, is it not?

15 A Yes, the PSC routinely engages in rule-making.

16 MR. MOYLE: That's all I have, Your Honor.

17 THE COURT: All right.

18 MR. KRUPPENBACHER: No further questions,  
19 Judge.

20 THE COURT: Okay. Commissioner Deason, thank  
21 you, sir.

22 (Witness excused.)

23 THE COURT: You can advise Commissioner Garcia  
24 that he probably should be ready to expound in  
25 various topics, because it will be a fair play

1 opportunity, I think, for him.

2 All right. So it's a few minutes after noon.

3 MR. WHARTON: Can we do an hour and 15 like  
4 yesterday?

5 THE COURT: Are you interested in lunch?

6 MR. MOYLE: Your Honor.

7 THE COURT: Yes, sir, Mr. Moyle.

8 MR. MOYLE: I had a conversation with  
9 Mr. Brown. I know -- I think he only has one more  
10 witness, and it's not supposed to be long, and I  
11 think we will have an argument about whether the  
12 witness will be able to be called. So maybe we  
13 could take, just a suggestion, take that, and then  
14 Leesburg can start its case after lunch. I think  
15 that would be the end of Mr. Brown's case.

16 MR. BROWN: That's correct, Your Honor. We  
17 just want to recall Mr. Wall for one brief topic.

18 THE COURT: All right. Are you okay knocking  
19 that out and then --

20 MR. WHARTON: Sure.

21 THE COURT: That sounds like a great idea.

22 All right, Mr. Wall.

23 Mr. Wall, I will remind you you are still  
24 under oath.

25 THE WITNESS: Yes, sir.

1 THE COURT: Please be seated.

2 Whereupon,

3 RICHARD FRANCIS WALL

4 was recalled as a witness, having been previously duly  
5 sworn to speak the truth, the whole truth, and nothing  
6 but the truth, was examined and testified as follows:

7 MR. WHARTON: Judge, I almost feel like I  
8 don't need to fill in the details, now or later.

9 A recalled witness is a witness who has been  
10 on the stand, and Mr. Wall and his lawyer have been  
11 talking about this testimony.

12 THE COURT: That's probably a good question  
13 for you to ask on cross.

14 MR. WHARTON: Okay, later.

15 THE COURT: All right. Mr. Brown.

16 DIRECT EXAMINATION

17 BY MR. BROWN:

18 Q Mr. Wall, there was some testimony yesterday  
19 from Mr. Stout, he was asked a question about the energy  
20 conservation program. Could you simply explain how that  
21 works to the Court?

22 A Yes. The energy conservation program is a  
23 program approved by the Florida Public Service  
24 Commission. It is essentially a surcharge that is  
25 applied to the monthly bill to all residential and



1 commercial customers. The surcharge is approximately  
2 between one cent to one-and-a-third cent per therm on a  
3 monthly basis therm based on a consumer's consumption.

4 The program is trued up annually with the  
5 Public Service Commission, and it's designed to enable  
6 customers to maintain gas equipment, replace gas  
7 equipment, and the overall rate party benefit from  
8 revenue loss and higher operating expenses in the  
9 future. It is not a capital charge.

10 Q And so would it be included in the capital  
11 cost of installing infrastructure in a development?

12 A No, it would not.

13 MR. BROWN: That's all I have. Thank you,  
14 sir.

15 THE COURT: All right. Mr. Wharton.

16 CROSS EXAMINATION

17 BY MR. WHARTON:

18 Q I am trying to figure out the point of the  
19 testimony you just gave, Mr. Wall. Was it that that's  
20 why Mr. Stout didn't include that allowance on his  
21 chart?

22 A My understanding was Mr. Stout was unable to  
23 describe whether it was or was not included in the  
24 construction charges that were capitalized.

25 Q And it was not, correct?

1           A     It is not part of those costs.

2           Q     Right.  And that's -- well, let me ask you a  
3 question.  All the charges on Mr. Stout's chart that are  
4 incurred by PGS are eventually paid by the ratepayers,  
5 right?

6           A     They ultimately end up in rate base, yes.

7           Q     Okay.  Do you know how much PGS has paid to  
8 The Villages for the conservation charges you are  
9 testifying about?

10          A     I do not know that amount.

11          Q     Does 1.4 million sound right?

12          A     I have not seen the report or would have any  
13 total value indication of that.

14                   MR. WHARTON:  That's all.

15                   THE COURT:  Okay.  Mr. Moyle.

16                                   CROSS EXAMINATION

17   BY MR. MOYLE:

18           Q     Those costs, they were costs that were paid,  
19 correct?  I mean, we talked about this yesterday.  PGS  
20 wrote a check to The Villages for some amount that you  
21 don't know?

22           A     PGS collects a fee on the monthly bills for  
23 energy conservation.  It's based on a calculation and a  
24 program that's been existing over an extended period of  
25 time.  Those costs are then paid back to the consumers

1 or the developers as they apply for the rebate.

2 Q All right. And ultimately, do the Emera  
3 shareholders pay for those costs, or is that something  
4 paid by shareholders?

5 MR. BROWN: Objection, Your Honor.

6 THE COURT: Can you read that?

7 (Whereupon, the court reporter read the  
8 requested portion of the record.)

9 THE COURT: What's Emera?

10 MR. BROWN: The parent.

11 MR. MOYLE: The parent company.

12 THE COURT: The parent company?

13 MR. MOYLE: I will come at it another way.

14 THE COURT: All right.

15 BY MR. MOYLE:

16 Q All right. Are you aware of the phraseology,  
17 below the line, above the line, in the regulatory world?

18 A Yes.

19 Q And doesn't that designate above the line is  
20 stuff that ratepayers pay and below the line is the  
21 stuff that the shareholders or corporate interests pay?

22 A I do not believe it's a below the line item.  
23 It's a surcharge that's applied and paid by all  
24 customers.

25 Q Okay. My question was, isn't below the line

1 meaning corporate pay, payment, or shareholders  
2 typically when we are talking about it?

3 A Yes.

4 MR. BROWN: Your Honor, we are beyond the  
5 scope of the questions just to explain the program.  
6 Now we are just --

7 THE COURT: Well, I think it's probably  
8 getting a little into the weeds, but I am going to  
9 give latitude. I have an open door and he can  
10 answer.

11 MR. MOYLE: Thank you. And I am going to try  
12 to extract myself from those weeds.

13 BY MR. MOYLE:

14 Q At the end of the day, those payments are  
15 monies that go and are paid by ratepayers for those  
16 appliances, correct?

17 A Yes. The money is collected on a monthly  
18 basis. It's a set calculation, it's trued up annually  
19 by the Public Service Commission. And again, the money  
20 is collected from the ratepayers and then paid back to  
21 the ratepayers or the developers.

22 Q And the PSC rule with respect to territorial  
23 disputes for natural gas companies, it doesn't suggest,  
24 does it, that those conservation costs are not to be  
25 included when looking at the numbers, there is nothing

1 in the rules that says that, that you are aware of, is  
2 there?

3 MR. BROWN: Objection.

4 THE COURT: I think that probably kind of goes  
5 into more of a legal conclusion that I will be  
6 responsible for. Mr. Wall, as I recall, wasn't an  
7 expert, and so that kind of crossing over into  
8 legal conclusions doesn't apply, and so I will  
9 sustain that objection.

10 MR. MOYLE: Maybe we will have a chance to  
11 argue about this in the PRO.

12 THE COURT: That you will.

13 MR. BROWN: I can't imagine it.

14 MR. MOYLE: Thank you. That's all we would  
15 have.

16 MR. BROWN: Nothing further.

17 THE COURT: All right. Mr. Wall, thank you.

18 THE WITNESS: Thank you.

19 (Witness excused.)

20 MR. WHARTON: 1:30, Your Honor?

21 THE COURT: All right. So at that point, is  
22 it correct that the Petitioner rests at this point?

23 MR. BROWN: We do.

24 THE COURT: All right. So we will come back  
25 and we will take up -- I don't recall what the

1           order of presentation was going to be between  
2           Leesburg and South -- Leesburg will go first?

3                     All right. So 1:30 sounds fine, and we will  
4           reconvene then. Thank you.

5                     (Lunch recess.)

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CERTIFICATE OF REPORTER

STATE OF FLORIDA     )  
COUNTY OF LEON     )

I, DEBRA R. KRICK, Professional Court  
Reporter, certify that the foregoing proceedings were  
taken before me at the time and place therein  
designated; that my shorthand notes were thereafter  
translated under my supervision; and the foregoing  
pages, numbered 279 through 401, are a true and correct  
record of the aforesaid proceedings.

I further certify that I am not a relative,  
employee, attorney or counsel of any of the parties, nor  
am I a relative or employee of any of the parties'  
attorney or counsel connected with the action, nor am I  
financially interested in the action.

DATED this 23rd day of July, 2019.



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DEBRA R. KRICK  
NOTARY PUBLIC  
COMMISSION #GG015952  
EXPIRES JULY 27, 2020