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BEFORE THE
FLORIDA PUBLIC SERVICE COMMISSION

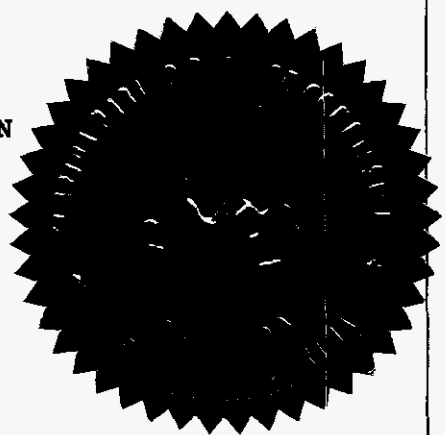
In the Matter of : DOCKET NO. 951056-WS

Application for rate :
increase in Flagler :
County by Palm Coast :
Utility Corporation. :

SECOND DAY - AFTERNOON SESSION

VOLUME 6

Pages 590 through 764



PROCEEDINGS: HEARING

BEFORE: COMMISSIONER J. TERRY DEASON
COMMISSIONER JULIA L. JOHNSON
COMMISSIONER DIANE K. KIESLING

DATE: Tuesday, July 2, 1996

TIME: Commenced at 8:45 a.m.

PLACE: The Knights of Columbus Building
51 Old Kings Road
Palm Coast, Florida

REPORTED BY: JOY KELLY, CSR, RPR
Chief, Bureau of Reporting
ROWENA NASH HACKNEY
Official Commission Reporters

APPEARANCES:

(As heretofore noted.)

DOCUMENT NUMBER-DATE
07450 JUL 18 1996
FLORIDA PUBLIC SERVICE COMMISSION
FPSC-RECORDS/REPORTING

EXHIBITS VOLUME 6

	NUMBER		ID.	ADMTD.
1				
2				
3	28	(Amaya) KAA-1 through 3	596	
4	29	(Amaya) 6-27-92 Revenue Agreement	621	
5				
6	30	(Dodrill) RFD-1 through 3	657	710
7	31	(Dodrill) Late-filed Deposition Ex. No. 3	665	710
8	32	USOA Excerpts	694	
9	33	(Sapp) Department of Revenue Rule 12D-8.011	732	753
10				
11	34	(SAPP) Property Appraisers Comparable Maps	747	751
12	35	(Rodriguez) BRR-1	754	754
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P R O C E E D I N G S

(Hearing reconvened at 1:30 p.m.)

(Transcript follows in sequence from
Volume 5.)

- - - - -

COMMISSIONER DEASON: Call the hearing back
to order. Staff. Your witness is next.

MS. REYES: The next witness we call is
Karen Amaya.

KAREN AMAYA

was called as a witness on behalf of Florida Public
Service Commission and, having been duly sworn,
testified as follows:

DIRECT EXAMINATION

BY MS. REYES:

Q Ms. Amaya, could you please state your name
and business address for the record?

A Sure. My name is Karen Amaya. My business
address is 2540 Shumard Oak Boulevard.

Q And by whom are you employed and in what
capacity.

A I'm employed by the Florida Public Service
Commission as an engineer in the Division of Water and
Wastewater.

Q And have you prefiled direct testimony in

P R O C E E D I N G S

(Hearing reconvened at 1:30 p.m.)

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BY MS. REYES:

Q Ms. Amaya, could you please state your name
and business address for the record?

A Sure. My name is Karen Amaya. My business
address is 2540 Shumard Oak Boulevard.

Q And by whom are you employed and in what
capacity.

A I'm employed by the Florida Public Service
Commission as an engineer in the Division of Water and
Wastewater.

Q And have you prefiled direct testimony in

1 this docket consisting of 11 pages?

2 A Yes, I have.

3 Q Do you have any changes or corrections to
4 your testimony?

5 A Yes, I do.

6 The first ones I would like to talk about
7 are on Page 5 of direct testimony. We received new
8 capacities from Mr. Martin just prior to the lunch
9 break, and I reran some new numbers based on those new
10 capacities. So at Page 5, Line 8, where it says
11 "Wastewater treatment equipment" the new number should
12 be 161.1319, at Line 10 the new number should be
13 74.75, at Line 11 the new number should be 30.

14 And the other changes that I have are KAA-2,
15 Page 2 of 3 which shows the used and useful
16 calculations for the wastewater plant disposal and
17 components. The first change I would make, about
18 halfway down in the page where it says, "Wastewater
19 treatment equipment", "plant capacity" should be
20 3,350,000 gallons per day. The corresponding new
21 percentages are 52.47, 56.93, 61.39, 67.34.

22 MR. REILLY: I'm sorry. Could you repeat
23 those percentages again?

24 A Sure. Starting with the calculated used and
25 useful without margin reserve is 52.47; next is 56.93;

1 61.39, and 67.34.

2 The next change I would make is under
3 Effluent Disposal Facilities. The spray field
4 capacity should be changed to 600,000 gallons per day.
5 This is based on the new modified permit. The newer
6 RIB site should be listed at 750,000 gallons per day,
7 also based on the new modified permit, which gives a
8 total nonreuse disposal capacity of 2.35 MGD, or
9 2,350,000 gallons per day.

10 The corresponding new used and useful
11 percentages are as follows: 62.04; 68.39; 74.75;
12 83.22. And then one last change is the storage tank,
13 the calculated used and useful becomes 30%. And those
14 are all the changes that I have.

15 Q With those corrections if I were to ask you
16 the same questions today, would your testimony be the
17 same?

18 A Yes, it would.

19 **MS. REYES:** Commissioner, may we have
20 Ms. Amaya's testimony inserted into the record as
21 though read?

22 **COMMISSIONER DEASON:** Without objection it
23 will be so inserted.

24 Q **(By Ms. Reyes)** Ms. Amaya, did you also
25 file exhibit numbers KAA-1 through KAA-3 with your

1 testimony?

2 **A** Yes, I did.

3 **Q** Do you have any changes or corrections to
4 any of those exhibits?

5 **A** None other than the ones I just made.

6 **Q** Okay.

7 **MS. REYES:** Commissioner Deason, may we have
8 those exhibits marked for identification?

9 **COMMISSIONER DEASON:** Yes. Composite
10 Exhibit 28.

11 (Exhibit No. 28 marked for identification.)

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DIRECT TESTIMONY OF KAREN AMAYA

1
2 Q. What is your name and business address?

3 A. My name is Karen Amaya and my business address is 2540 Shumard Oak
4 Boulevard, Tallahassee, FL 32399.

5 Q. By whom are you employed and in what capacity?

6 A. I am employed by the Florida Public Service Commission (FPSC) as an
7 Engineer in the Division of Water and Wastewater.

8 Q. What is your educational background and work experience?

9 A. In December, 1992, I received a Bachelor of Science Degree in Electrical
10 Engineering from Florida State University. In October, 1994, I passed the
11 Fundamentals of Engineering earning recognition as an Engineer Intern.
12 Subsequent to earning my engineering degree, I began employment with the FPSC
13 in March, 1993 where I have worked as an engineer in the Division of Water and
14 Wastewater. I am responsible for reviewing and analyzing engineering issues
15 in utility rate applications, customer complaints and service availability
16 applications along with preparing recommendations to the Commission. As
17 needed, I participate in research projects, rulemaking, and making
18 presentations on industry issues.

19 Q. Have you ever testified before the FPSC?

20 A. No.

21 Q. What is the purpose of your testimony in this proceeding?

22 A. I am: (a) supporting an acceptable allowance for infiltration and
23 inflow, (b) recommending the inclusion of a three year margin reserve for
24 wastewater treatment plant and effluent disposal, 18 months margin reserve for
25 water treatment plant, source of supply, and high service pumping, 12 months

1 margin reserve for lines, and no margin reserve for finished water storage,
2 in the calculation of used and useful, (c) providing used and useful
3 calculations and resulting percentages for specific plant components, and (d)
4 recommending the recognition of economies of scale through the use of a three
5 year margin reserve for wastewater treatment plant and effluent disposal
6 (excluding the effluent storage tank), and the allowance of 100% used and
7 useful for the membrane softening plant building.

8 Q. Are you relying on any specific resources in making your
9 recommendations?

10 A. Yes. Currently, the Commission does not have rules which set out a
11 methodology for determining used and useful percentages. Commission staff,
12 however, have been working with industry and the Department of Environmental
13 Protection (DEP) and in May, 1995 issued draft rules. I have incorporated
14 many of the formulas from staff's draft rules in determining the used and
15 useful percentages which I support. With respect to infiltration and inflow,
16 I have referred to EPA's Handbook entitled Sewer System Infrastructure
17 Analysis and Rehabilitation, dated October, 1991. For information on
18 reclaimed effluent storage, I have referred to EPA's Handbook entitled
19 Guidelines for Water Reuse, dated September, 1992. (Please see Exh KAA-1
20 which is attached to my testimony.)

21 Q. What is an acceptable level of infiltration and inflow?

22 A. The Commission has allowed up to 500 gallons per day (gpd)/inch
23 diameter/mile of gravity main for infiltration; however, this allowance does
24 not include inflow. The EPA, in the referenced handbook, allows 40 gallons
25 per capita per day (gpcd) for total infiltration and inflow which is equal to

1 50% of the base domestic flow of 80 gpcd prior to any flows being considered
2 excessive. Based on these criteria, I believe the utility's proposal to use
3 an allowance of 15% of their derived daily flows in determining wastewater
4 demands is reasonable.

5 Q. What specific time periods are you suggesting for margin reserve in the
6 used and useful calculations?

7 A. I agree with the utility's requested 18 month time period for margin
8 reserve for water source of supply and pumping. Further, I believe 18 months
9 is also an appropriate margin reserve period for high service pumping and the
10 membrane softening treatment equipment. The membrane softening plant
11 structure is constructed so as to accommodate a build-out capacity of 6.0
12 million gallons per day (mgd); to expand capacity beyond the current 2.0 mgd,
13 the utility need only add membrane skids and associated pumping and piping.
14 Based on this, 18 months margin reserve should sufficiently allow for the
15 permitting and installation of one or more additional skids and associated
16 appurtenances. For water and wastewater mains, a one year margin reserve is
17 sufficient. I point out that most, if not all, mains are already constructed.
18 As to wastewater treatment plant and effluent disposal, excluding the effluent
19 storage tank, I believe a three year margin reserve is appropriate. I believe
20 that a three year margin reserve period for these components better
21 accommodates the time required for design, permitting, and construction of
22 plant. Further, a three year margin reserve period for these components
23 allows the utility to build in larger increments of plant, thereby taking
24 advantage of economies of scale without unduly burdening existing customers
25 through higher rates. Since my calculations yield a 100% used and useful

1 percentage for finished water storage, no margin reserve period for this
2 component is necessary nor appropriate.

3 Q. For the utility's water facilities, what specific used and useful
4 percentages do you support?

5 A. With the exception of the membrane concentrate line and blend station,
6 the following used and useful percentages are appropriate for the water
7 facilities:

- 8 - source of supply and pumping, 64.71% used and useful
- 9 - high service pumping, 74.99% used and useful
- 10 - lime softening treatment equipment, 100% used and useful
- 11 - membrane softening treatment equipment, 34.46% used and useful
- 12 - both water treatment structures, 100% used and useful
- 13 - finished water storage, 100% used and useful
- 14 - distribution mains, 23.49% used and useful
- 15 - off-site, transmission mains, 72.46% used and useful
- 16 - services, 72.40% used and useful
- 17 - fire hydrants, 94.8% used and useful (as requested)

18 Since discovery pertaining to the capacity and costs of the concentrate
19 line and blend station is still pending, I cannot provide a specific used and
20 useful percentage at this time. If the current concentrate blend station is
21 sized for the build-out capacity of the membrane softening plant, a used and
22 useful adjustment may be appropriate. However, if that is the case, the
23 minimum investment which would have been necessary to construct a smaller
24 capacity blend station to meet current demands should be compared with the
25 investment the utility has made constructing the current blend station and any

1 subsequent used and useful adjustment should not result in a lower percentage
2 of investment in plant than that which would have been necessary for the
3 smaller capacity blend station.

4 Q. For the utility's wastewater facilities, what used and useful
5 percentages do you support?

6 A. The following used and useful percentages are appropriate for the
7 utility's wastewater facilities:

- 8 - wastewater treatment equipment, ~~51.41%~~^{61.39%} used and useful
- 9 - effluent disposal facilities, excluding effluent storage tank,
10 ~~56.66%~~^{74.75%} used and useful
- 11 - effluent storage tank, ~~46.00%~~^{30.00%} used and useful
- 12 - gravity mains, 34.47% used and useful
- 13 - pretreatment effluent pumping system (PEP) mains,
14 6.33% used and useful
- 15 - PEP tanks, 100% used and useful (as requested)
- 16 - pumping plant, 29.75% used and useful
- 17 - force mains, 58.52% used and useful

18 The used and useful calculations along with growth and capacity data are
19 attached to my testimony as Exh KAA-2.

20 Q. Would you describe each calculation, justification for the methodology
21 employed, and the resulting used and useful percentage you have calculated for
22 each of the above components?

23 A. Yes. To begin, I have utilized the historical ERC data provided by the
24 utility and have run regression analysis on both water and wastewater data to
25 derive growth projections. For the most part, my growth projection numbers

1 | match the utility's projections. For comparative purposes, I have projected
2 | flows and used and useful percentages for different margin reserve periods,
3 | including no margin reserve, on Exh KAA-2; however, the used and useful
4 | percentage I support and recommend has been shaded.

5 | For water source of supply and pumping (excluding high service pumping),
6 | I believe the utility appropriately reduced total well capacity by deducting
7 | the membrane concentrate amount of 353,000 gallons. However, I believe only
8 | two maximum wells from the lime softening well supply and one maximum well
9 | from the membrane softening well supply should be removed in addition to the
10 | concentrate amount in determining the firm reliable capacity for source of
11 | supply. Using this methodology, a firm reliable well field capacity of
12 | 8,176,120 gpd is calculated. Given the 18 months margin reserve requested by
13 | the utility, the resulting used and useful percentage is 64.71%.

14 | Although the utility did not calculate the used and useful percentage
15 | for high service pumping equipment, I believe it would be appropriate to do
16 | so. However, the break-out of investment between well pumps, backwash pumps,
17 | transfer pumps, and high service pumps, if in fact the utility has booked all
18 | these costs in NARUC Account 311, may not be possible. The utility has
19 | applied the one used and useful percentage calculated for source of supply and
20 | pumping to this account. I have calculated used and useful for high service
21 | pumping utilizing the two methodologies in the draft rules and the resulting
22 | used and useful percentages are lower than that requested by the utility for
23 | source of supply. If the investment in high service pumping can be
24 | determined, then I believe the used and useful percentage I calculated should
25 | be applied to that investment.

1 The lime softening treatment plant was found to be 100% used and useful
2 in the last rate proceeding, and no expansion was made since that time. It
3 is important to note that the Commission included a fire flow allowance in
4 determining the 100% used and useful for the lime softening treatment plant
5 in the last rate proceeding. There is storage available at both plant sites,
6 along with two elevated storage tanks within the service territory, all of
7 which can accommodate fire flow. This 100% used and useful percentage applies
8 to both the structures and improvements and to water treatment equipment for
9 this plant.

10 The next used and useful calculation I performed was on the membrane
11 softening treatment equipment. Since the lime softening plant is 100% used
12 and useful, I reduced the projected customer maximum day demand, plus the
13 600,000 gallon fire flow allowance authorized in the last rate proceeding, by
14 the 5,202,000 gallons produced at the lime softening plant. The remaining
15 flows were then used to calculate used and useful for the membrane softening
16 treatment equipment. Given the 18 month margin reserve period previously
17 discussed, I believe the membrane softening treatment equipment is 34.46% used
18 and useful. I believe that it was prudent and in the interest of economies
19 of scale for the utility to have constructed the build-out capacity for the
20 membrane softening plant structure. Therefore, I believe this structure is
21 100% used and useful.

22 To calculate the used and useful percentage for finished water storage,
23 I first determined the firm reliable capacity. Since elevated storage does
24 not have "dead" storage, I deducted 10% dead storage from the ground storage
25 tanks only. I then added the capacity of the two elevated tanks to achieve

1 a firm reliable storage capacity of 3,850,000 gallons. Using the draft rules,
2 I allowed equalization and emergency storage, which is 0.75 of the maximum day
3 demand, and added fire flow. That resulting demand compared to firm reliable
4 capacity yields a capacity greater than 100%. Since it is not possible to
5 utilize more than 100%, I am supporting 100% used and useful.

6 For determining used and useful on the distribution mains, I utilized
7 the information contained on the utility's water system maps. The maps
8 provide the number of occupied lots and the number of total lots; these
9 numbers exclude beach side and Hammock Dunes. By summing the appropriate
10 numbers, adding a one year margin reserve, the result is 23.49% used and
11 useful. I believe it is appropriate to compare lots connected to lots
12 available, not ERCs connected to lots available. It would be necessary to
13 either convert the number of lots available to ERCs to compare to ERCs
14 connected, or, compare lots connected to lots available in order to compare
15 "apples to apples."

16 Similarly, for services, I have used lots connected with a one year
17 margin reserve, to services available to derive 72.40% used and useful.

18 The Commission normally does not recognize a fire flow allowance in the
19 used and useful calculations for mains. However, I point out that the
20 Commission does not generally penalize a utility, either, for installing
21 larger diameter mains which might be used to supply fire flow.

22 For "off-site" transmission mains, I utilized the utility's hydraulic
23 equivalents which derived the number of lots served. I note that this is not
24 a lots connected to lots available approach; however, the utility has been
25 allowed to use this particular methodology in the last several rate

1 | proceedings and I do not think it appropriate at this time to change the
2 | methodology as a significant deduction to previously authorized rate base
3 | could occur. Further, with transmission mains, unlike distribution mains, in
4 | many cases no fewer could have been constructed to serve current customers.

5 | For wastewater treatment equipment, the projected, derived, average
6 | annual daily flow with margin reserve was compared to the total plant capacity
7 | of 4 mgd. It is important to note that the average annual daily flow is the
8 | correct flow demand to use in this case as the 4 mgd capacity was permitted
9 | based on this flow design. To use any other flow demand in this case would
10 | skew the ratio, resulting in a higher used and useful percentage.

11 | For effluent disposal facilities, I have made two separate calculations.
12 | The first is for what I believe should be considered non-reuse disposal for
13 | ratemaking purposes in this instance. This includes the two spray fields and
14 | the two RIB sites. Again, the projected annual average daily flow demand with
15 | a three year margin reserve was compared to the total capacity of these four
16 | sites yielding 56.66% used and useful. Again, I point out that the DEP
17 | permitted capacity for these four sites is based on annual average daily flow.

18 | For the effluent storage tank which, according to the utility's reuse
19 | feasibility study, is used as wet weather storage for the spray fields, I have
20 | taken the total capacity of the spray fields and looked at capacity needed
21 | based on a required minimum of 3 days (Rule 62-610.414(2)(c), Florida
22 | Administrative Code). This methodology results in 40.00% used and useful on
23 | the effluent storage tank. Since the effluent storage tank is for wet weather
24 | storage, as opposed to a buffer for peaks, I did not deduct dead storage from
25 | the tank capacity. Margin reserve is not appropriate for this component in

1 | that the spray field capacities do not change with changes in customer
2 | demands. However, I believe that economies of scale should be considered for
3 | this component. In lieu of margin reserve, I believe that if the utility can
4 | support the amount of investment that would have been required to construct
5 | a 2.4 million gallon tank for effluent storage, that investment, at a minimum,
6 | should be included in rate base. Of course, if that investment should prove
7 | to be more than what the utility actually invested in the 6.0 million gallon
8 | tank, only the actual investment should be in rate base.

9 | The wastewater collection system for Palm Coast Utility consists of four
10 | components, and I have calculated separate used and useful percentages for
11 | each component. The first component consists of the gravity mains. Again,
12 | I have determined the number of lots connected from the system maps, but have
13 | reduced that number by the number of connections using the PEP system.
14 | Including a one year margin reserve and comparing this number to the total
15 | lots served by gravity mains yields 34.47% used and useful on the gravity
16 | mains.

17 | To calculate used and useful on the PEP mains, I took the number of PEP
18 | connections that the utility provided, included a one year margin reserve, and
19 | divided that number by the total PEP lots available. This results in 6.33%
20 | used and useful for the PEP mains. I agree with the utility proposed 100%
21 | used and useful for the PEP tanks.

22 | The utility provided a detailed calculation for determining used and
23 | useful for pumping plant. I believe the utility's methodology is appropriate
24 | except for the use of a peaking factor of 3. In the last rate proceeding, the
25 | Commission allowed a peaking factor of 2, and absent justification, I do not

1 | believe this factor should be changed at this time. Therefore, I conducted
2 | a similar detailed calculation, however, I have used the peaking factor of 2.
3 | My calculations are attached in Exh KAA-3. This methodology results in 29.75%
4 | used and useful for pumping plant.

5 | The last collection system component is force mains. Again, I followed
6 | the utility's methodology. However, since I believe the pumping plant used
7 | and useful is 29.75%, this results in a different used and useful percentage
8 | on the force mains. By following the utility's methodology, the pumping plant
9 | used and useful percentage is used in determining the force mains used and
10 | useful percentage. Included in the detail in Exh KAA-2 are the force main
11 | details which show the derivation of the 58.52% used and useful I support.
12 | I point out that the major manifold footage for the 8" and 10" force mains in
13 | my calculations differs from what the utility provides in its used and useful
14 | analysis. In the utility's response to the Office of Public Counsel's
15 | document request number 3, two different numbers for the 8" and 10" force
16 | mains are provided. I have used the hand written numbers in my analysis.

17 | Q. Do you have anything further to add?

18 | A. No.

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1 Q **(By Ms. Reyes)** Have you prepared a summary
2 of your testimony.

3 A Yes, I have. My testimony supports an
4 acceptable allowance for infiltration and inflow as
5 supported by the EPA. Further, I am recommending a
6 three-year margin reserve for wastewater treatment
7 plant and effluent disposal facilities due to the
8 potential longer time needed for construction and
9 permitting. I'm recommending an 18-month margin
10 reserve for water treatment plant, or source of supply
11 and high service pumping.

12 And I'm recommending a one-year margin
13 reserve on the lines both for water and wastewater.
14 Further, I have provided as an exhibit to my testimony
15 all of the used and useful calculations I've performed
16 in order to reach those percentages I'm recommending.

17 **MS. REYES:** This witness is tendered for
18 cross.

19 **COMMISSIONER DEASON:** Mr. Schiefelbein.

20 **CROSS EXAMINATION**

21 **BY MR. SCHIEFELBEIN:**

22 Q Ms. Amaya, would you turn to Exhibit KAA-2,
23 Page 2 of 3.

24 A Okay.

25 Q The bottom section of the page, wet weather

1 facilities storage tank capacity.

2 A Okay.

3 Q During the preliminary introduction of your
4 information you reduced the calculated used and useful
5 for that tank without margin reserve from 40 to 30%?

6 A That's correct.

7 Q Is it factual that the storage tank capacity
8 and the spray field capacity three days' data did not
9 change?

10 A My apologies. Yes, the spray field capacity
11 should read 1,800,000 gallons, and that's merely the
12 three days times the 600,000 gallon capacity as
13 modified.

14 Q And the storage tank capacity data would
15 remain unchanged?

16 A Correct.

17 Q Ms. Amaya, Staff has taken the position in
18 this case that an acceptable level of I&I is up to 40
19 gallons per day per capita?

20 A Correct.

21 Q I notice that you did not use the so-called
22 ten-state standards for this calculation. Would you
23 explain why?

24 A The reason I chose the 40 gallons per capita
25 per day is that is recommended by the EPA and that

1 addresses both infiltration and inflow. I know that
2 when we look at the ten-state standards -- and I don't
3 know if you're referring to the 200 gallons per day.

4 Q I am.

5 A That has to do with infiltration, and I
6 wanted to look at something that incorporated both
7 infiltration and inflow.

8 Q Is the ten-state standard also the
9 guidelines in there also designed -- is the purpose of
10 those standards also to apply to new pipe?

11 A That's my understanding, yes.

12 Q So it's your position that the EPA standard
13 is more appropriately applied to existing systems?

14 A That's correct.

15 Q Have you made an estimate of how much I&I 40
16 gallons per day per capita is for Palm Coast?

17 A Yes. During my deposition we assumed a
18 25,000 population and that works out to 1 million
19 gallons per day.

20 Q Do you recall what the I&I for Palm Coast is
21 for the test year?

22 A I did not calculate the actual I&I for the
23 test year. My used and useful calculations are using
24 a derived number as Mr. Guastella had done.

25 Q Do you have the MFRs with you?

1 A Yes, I do.

2 Q Would you please turn to Page 119.

3 A Okay.

4 Q The bottom of Column 1, is that the total
5 gallons treated of wastewater given for the test year?

6 A Yes, it is. It includes projected numbers
7 for the last half of 1995.

8 Q And what is that number?

9 A 760,832,000 gallons.

10 Q Would you turn to Page 115 of the MFRs?

11 A Okay.

12 Q Would you agree that Column 6 is what is
13 reported for year end test year consumption?

14 A Yes, I would.

15 Q What is the total gallons given there for
16 billed consumption?

17 A 593,841,000.

18 Q Is it fair to say that one method to
19 determine the level of infiltration and inflow would
20 be to subtract the gallons billed from the gallons
21 treated?

22 A Yes.

23 Q Would you perform that calculation?

24 A Sure. (Witness complies.)

25 I achieve 166,991,000. Would you like that

1 on a per day basis?

2 Q Yes, please.

3 A That equates to 457,510 gallons per day.

4 Q And you compare that number to the upper end
5 allowable by the EPA standard, what is your
6 conclusion?

7 A That that's about half of that allowable
8 standard.

9 Q For several years the Commission has
10 utilized an I&I allowance of 500 gallons per day per
11 inch diameter per mile of mains and services; is that
12 correct?

13 A That's correct.

14 Q Does that methodology take into account
15 inflow?

16 A No, it does not.

17 Q And you've already testified that the EPA
18 method does?

19 A Yes.

20 Q Isn't it true that the construction of
21 economically sized plants will have long-term as well
22 as short-term benefits in terms of providing
23 ultimately a lower cost facility to serve customers in
24 the future?

25 A Yes, I believe that's true.

1 Q Do you agree that during occurrences of
2 actual fires that all of the Utility's sources of
3 supply and treatment facilities as well as storage
4 tanks are utilized to provide water to fight fires?

5 A Could you repeat that question, please?

6 Q I'll repeat, and I'm also going to be
7 rephrasing it a little bit.

8 A Okay.

9 Q Would you agree that during occurrences of
10 actual fires that all of the Utility's sources of
11 supply and treatment facilities, as well as storage
12 tanks, can be utilized to provide water to fight the
13 fire?

14 A They can be, yes, if they are all hooked up
15 on the system.

16 Q Excluding mains?

17 A Excluding mains.

18 Q All of those facilities would also be
19 utilized to restore water pressure throughout the
20 system and replenish the water from storage facilities
21 during those fires?

22 A I believe that as to storage on that
23 particular one, that the elevated storage would help
24 restore pressure; not necessarily the ground storage,
25 but the pumps would.

1 Q Treatment facilities?

2 A Not necessarily.

3 Q However, are those facilities used to
4 replenish water pressure in the system?

5 A Yes.

6 Q Would you agree that the cost of installing
7 mains does not depend solely on the number of lots in
8 a particular service area, but that the cost also
9 depends on the flow requirements of customers with
10 different characteristics?

11 A I think you need to know the numbers on both
12 of those. For example, if you were going to install
13 lines for ten lots versus a thousand lots, you really
14 need to know that difference, as well as if you're
15 treating single-family residences versus a commercial
16 establishment.

17 Q Is it true that mains must be designed to
18 meet maximum day plus fire demands, as well as peak
19 hour demands?

20 A I believe they must be designed to meet max
21 day plus fire flow, or peak hour demands, whichever is
22 greater.

23 MR. SCHIEFELBEIN: If I could have a moment,
24 please. (Pause)

25 Q (By Mr. Schiefelbein) You're aware, of

1 course, that Palm Coast Utility has used a peaking
2 factor of 3?

3 A Are you referring to the wastewater lift
4 stations?

5 Q Yes.

6 A Correct.

7 Q Are you aware of any design criteria that
8 would support a different factor?

9 A Yes. As a result of some new discovery that
10 came in, the preliminary design report for the
11 wastewater treatment facility utilized a peaking
12 factor of 2.

13 If I can have moment, I'll find the exhibit
14 and page number for you.

15 Q All right. (Pause)

16 A If you looked at Exhibit 1, which is
17 entitled Preliminary Design Report, on Page 7 the peak
18 hourly flow has a double asterisk notation, and if you
19 look at the double asterisk, it says "peak hourly flow
20 equal two times the annual average daily flow."

21 Q Would you please give us that page number
22 again?

23 A Sure. Page 7.

24 Q This refers to the peaking factor for
25 treatment plant?

1 A Correct.

2 Q Okay. Are you aware of any design factor
3 other than 3 -- let me have recourse to my notes
4 before I go any deeper.

5 Speaking of lift station, are you aware of
6 any design criteria that would support a different
7 factor than 3?

8 A No, I'm not.

9 MR. SCHIEFELBEIN: Thank you.

10 COMMISSIONER DEASON: Mr. Sirkin.

11 **CROSS EXAMINATION**

12 **BY MR. SIRKIN:**

13 Q Good morning, Ms. Amaya. By now you must
14 know, my name is Arthur Sirkin. I represent, along
15 with Al Hadeed, Flagler County.

16 A Good afternoon.

17 Q On Page 2 of your prepared testimony you
18 discuss a working group that has prepared some draft
19 rules in May of 1995 is the date you specify in that
20 testimony?

21 A Could you repeat that? I missed the first
22 part.

23 Q In your testimony you talk about some draft
24 rules on used and useful. I believe they are dated
25 May 1995.

1 A That's correct.

2 Q What's the current status of those draft
3 rules?

4 A My understanding is that a docket has been
5 opened and Staff is preparing or has prepared a
6 recommendation to take to the Commission on an agenda
7 to initiate rulemaking.

8 Q Who was party to that draft agreement?

9 A I'm not sure how to answer that. Those were
10 Commission Staff's draft rules, therefore, Staff
11 proposed them and wrote them.

12 Q Is this the same used and useful draft rules
13 that John Gaustella talks about in his testimony?

14 A I would believe so, yes.

15 Q Well, who was there when those draft rules
16 were prepared besides Staff? Who put in input to the
17 development of these Staff rules?

18 A The Department of Environmental Protection
19 had input into the draft rules. We reviewed some of
20 the engineering report design standards like ten-state
21 standards and recommended standards for waterworks.
22 We held a two-day workshop, I believe it was in July
23 of 1995, where the draft rules were discussed at
24 length and we had many participants. I don't have the
25 list with me currently.

1 Q Was the Public Counsel represented at those
2 meetings?

3 A Yes, it was.

4 Q Are you familiar with what is Attachment 36,
5 two agreements that the Company has provided in
6 response to a request by Public Counsel? One is
7 called the agreement made and entered into this 27th
8 day of June between ITT and Palm Coast Utility
9 Corporation. Let's start with that one first. Are
10 you familiar with that?

11 A No, I don't believe so.

12 Q How about the revenue agreement, 27 June
13 1992, between ITT and Palm Coast Utilities
14 Corporation?

15 A No, I don't believe so. I've looked mostly
16 at engineering documentation and agreements.

17 Q Well, these -- okay. What's the purpose of
18 margin reserve?

19 A What I understand margin reserve is for is
20 to allow the Utility to have a little excess capacity
21 so that it can accommodate future customers in a
22 reasonable period of time, which is statutorily
23 required.

24 Q So does margin reserve increase the used and
25 useful in rate base, used and useful plant in rate

1 base?

2 A It can. I mean margin reserve will only
3 occur if a utility is anticipating or experiencing
4 growth. Or, of course, if there is no growth or
5 declining growth, then there will be no margin
6 reserve.

7 Q If there was another entity standing by to
8 pay the company for the nonused and useful facility,
9 at least in part, would that change your idea of the
10 value of margin reserve in this case?

11 A No, I don't believe it would, because you
12 would still have the same experienced or anticipated
13 growth to come on line for that system regardless of
14 who owned it.

15 Q It's not a question of who owns it, I'm
16 saying who pays for it. If there was another entity
17 that would pay for the nonused and useful plant, does
18 margin reserve any basis, as far as the customers of
19 that company is concerned.

20 A I guess I'm not understanding the scenario.
21 Could you give me --

22 Q If you have one company that says "I will
23 pay you for your period costs related to the nonused
24 and useful plant," that company is a separate company
25 from the utility. But if the Florida Public Service

1 Commission includes that margin reserve as useful,
2 then I won't pay you for that because you're getting
3 paid by somebody else for that, the ratepayers.

4 A Correct. I don't think it should be paid
5 for twice.

6 Q So if someone else is willing to pay for it,
7 how does that benefit the ratepayers?

8 A I guess I'm really having trouble
9 understanding why another company would want to come
10 in and pay for the nonused and useful portion if it's
11 not going to recoup those costs some way.

12 Q Let me show you an agreement --

13 A Okay.

14 Q -- dated 27 June, 1992, between ITT --

15 **COMMISSIONER KIESLING:** Mr. Sirkin.

16 **MR. SIRKIN:** Yes.

17 **COMMISSIONER KIESLING:** You have to talk in
18 the mike.

19 **MR. SIRKIN:** I'm sorry.

20 Q (By Mr. Sirkin) Let me show you an
21 agreement, if all can hear now, an agreement dated 27
22 June, 1992, between ITT and Palm Coast Utility
23 Corporation.

24 A Okay. I just read the paragraph on Page 1,
25 (F), "Period costs," which I understand is the

1 paragraph you intended for me to read.

2 Q That's the first one. Why don't you look at
3 Paragraph 3 now. (Pause) Does that help clarify my
4 question?

5 A Just a little.

6 MR. SIRKIN: Well, rather than belabor this
7 point with this witness, I'd like to have this
8 document marked for identification, as the document
9 does speak for itself.

10 WITNESS AMAYA: I'm not trying to be
11 evasive. I would just want to read the whole
12 document.

13 MR. SIRKIN: And rather than take the time
14 now, as I say, I'd like to have it marked.

15 COMMISSIONER DEASON: It will be identified
16 as Exhibit 29.

17 (Exhibit No. 29 marked for identification.)

18 MS. REYES: I think we would object to this
19 document. The witness has no personal knowledge of
20 it.

21 COMMISSIONER DEASON: We're just identifying
22 it at this point. We're not moving it. You may state
23 your objection if and when it is moved.

24 MS. REYES: Thank you.

25 COMMISSIONER DEASON: Is this the entire

1 agreement dated June 27, 1980, between ITT and Palm
2 Coast Utility?

3 **MR. SIRKIN:** That's the entire agreement
4 that was provided to us. And one comment please.
5 There's a handwritten comment on Page 6. I'm sorry.
6 The agreement you should be getting is the 27 June,
7 1992, is the one we talked about, which one has been
8 handed out.

9 **COMMISSIONER DEASON:** I have 1980.

10 **MR. SIRKIN:** My assistant and I had a little
11 lack of communication.

12 **COMMISSIONER DEASON:** You get what you pay
13 for. (Laughter)

14 **MR. SIRKIN:** I'm glad you said that,
15 Commissioner, not I.

16 **COMMISSIONER DEASON:** I assume he's doing it
17 pro bono, so you're getting what you paid for.

18 **MR. SIRKIN:** Just like I'm doing it pro
19 bono.

20 **WITNESS AMAYA:** I have the 1980 agreement as
21 well.

22 **Q** **(By Mr. Sirkin)** The one you read was the
23 1980 agreement? No, you have both agreements there.

24 **A** Okay.

25 **COMMISSIONER DEASON:** What I have now is

1 revenue agreement dated June 27, 1992.

2 **MR. SIRKIN:** That's the agreement we were
3 talking about.

4 **Q** **(By Mr. Sirkin)** Are you ready to go on?

5 **A** Yes.

6 **Q** For your off-site transmission mains you
7 utilize an approach which is not apples to apples
8 approach you use for the distribution mains; is that
9 correct?

10 **A** That's correct.

11 **Q** And the reason you're not using an apples to
12 apples approach, but shall we say an apples to pears
13 approach is because you say there's a significant
14 deduction that will result in a significant deduction
15 to previously authorized rate base could occur?
16 That's one of the reasons.

17 **A** Correct.

18 **Q** You further say in many cases no fewer
19 transmission mains would have been constructed to
20 serve current customers ; is that correct?

21 **A** Correct.

22 **Q** Have you calculated the number of mains that
23 could have been constructed?

24 **A** No, I have not run that analysis.

25 **Q** So basically this is your belief?

1 A That's my belief looking at the maps.

2 Q And do you always consider the fact that a
3 proper deduction might cause a significant change in
4 previously authorized rate base?

5 A Do I always consider that? Staff tries to
6 consider, you know, all aspects. If you change a used
7 and useful in this proceeding from the last one, we
8 certainly want to look at that, at least point that
9 out.

10 Q So you're saying that proper adjustments
11 shouldn't be made if they make a significant reduction
12 in rate base from the prior case?

13 A Now, if it's appropriate and an error has
14 been made, for example in the last rate case, then I
15 think an adjustment should be made. I don't think so
16 in this instance, however.

17 Q Why don't you think so in this instance?

18 A Because the Commission has looked at, over
19 the course of several rate cases, the Utility's
20 methodology, and what the Utility does is it
21 transforms its transmission mains into hydraulic
22 equivalents and compares that to lots. I look at the
23 transmission portion as being basically the backbone
24 to the water distribution system, and then the
25 distribution lines coming off of that.

1 I think that given the information in the
2 preceding rate cases and the Utility's methodology,
3 the Commission has looked at that issue and has
4 accepted this methodology for this utility as being
5 correct.

6 Q Even though that's apples to pears?

7 A Correct.

8 MR. SIRKIN: I have no further questions of
9 this witness.

10 COMMISSIONER DEASON: Mr. Reilly.

11 CROSS EXAMINATION

12 BY MR. REILLY:

13 Q Ms. Amaya, when you were making your
14 amendments to your testimony, or rather to your
15 exhibits, you changed the plant capacity from
16 4 million gallons per day to 3.35 million gallons a
17 day?

18 A Correct.

19 Q What was your reason for doing that?

20 A That was based on Mr. Martin's testimony
21 given just prior to lunch.

22 Q I believe his testimony -- wasn't his
23 testimony directed to wastewater disposal and not
24 wastewater treatment? It's my understanding that the
25 plant's permitted capacity is, in fact, still

1 4 million gallons a day. Would your opinion change if
2 that was proved to be the case?

3 A My opinion would change. I'm trying to
4 incorporate the most recent and valid data. Based on
5 my understanding of Mr. Martin's testimony, that was
6 to the treatment plant. However, I do not have the
7 benefit of having that modified permit in front of me,
8 so that's based on verbal testimony. If I were to
9 look at that modified permit and it showed that the
10 plant capacity was still 4.0 MGD, of course, that's
11 the capacity I would want to use. And then the
12 percentages would remain as they were.

13 Q Okay. Very good. Also under cross
14 examination by Mr. Schiefelbein you spoke of the
15 standard of 40 gallons per capita per day for your I&I
16 allowance?

17 A Correct.

18 Q Which I believe you said produced
19 approximately 1 million gallons a day threshold for
20 I&I?

21 A Right.

22 Q For this utility?

23 A Correct.

24 Q Could you also identify what the average
25 annual daily flow of this plant is at the end of the

1 test year?

2 A One moment. (Pause)

3 This is coming from the NOR Schedule F-2, so
4 that includes some projected months. Is that all
5 right, for this calculation?

6 Q That would be fine.

7 A 2,084,471 gallons. That would be per day.

8 Q Didn't you say 2 million 80 --

9 A 4,471.

10 Q So basically are you suggesting that
11 Staff -- it's your recommendation that Staff should
12 not be concerned about I&I unless the plant's flows --
13 let me restate the question.

14 If the plant's flows are almost 50% made up
15 of inflow and infiltration, you still don't believe
16 that that represents excess inflow infiltration; is
17 that correct?

18 A I'd like to answer that question -- yes, but
19 with an explanation.

20 Q Okay.

21 A In this particular instance the Utility has
22 already said that the lines are more excessive than
23 what is needed, so they did not use actual wastewater
24 treatment plant flows. What they have done is they've
25 looked at numbers and came up with a derived flow per

1 ERC, and they have included an allowance of 15% of
2 those flows for infiltration and inflow which, given
3 the different criteria set out for infiltration alone
4 or infiltration and inflow together, is very
5 reasonable. Therefore, I did not do an actual look at
6 infiltration and inflow for this utility as to whether
7 it was excessive or not.

8 Q I'm really not asking that. I'm trying to
9 test the reasonableness of your 40 gallons per capita
10 per day standard.

11 A Okay.

12 Q And my concern is that if we begin applying
13 that standard to utilities all over the state of
14 Florida, that this allowance is so incredibly liberal
15 that there will never be any excessive I&I. And in
16 this case by your admission this standard permits
17 approximately 50% of the entire flow of the plant to
18 be I&I before it triggers any concern by Staff.

19 Could you comment on that as to why you
20 would not be concerned until after it reaches about a
21 47% level?

22 A I will not say that Staff would not be
23 concerned, because Staff looks at -- every case that
24 comes in has some unique circumstances that go along
25 with it. In this instance Palm Coast has an excessive

1 amount of mains that are out there that can serve many
2 more customers than are currently on line. Staff will
3 look at wastewater treatment plant flow, Staff looks
4 at wastewater treatment flows that have been billed,
5 like at what the difference is, just like
6 unaccounted-for water. I'm not saying Staff will not
7 be concerned. I'm saying this is a particular
8 standard that has been endorsed and supported by the
9 EPA as an upper cap for existing systems.

10 Q However, do you believe it's reasonable to
11 apply this standard in utilities around the state of
12 Florida given the magnitude of the flows it will be
13 permitted to go into these treatment plants before any
14 adjustments are made?

15 A I believe that, yes, it can be a reasonable
16 standard. Again I need to make sure I'm expressing
17 that this is for existing older mains, not for newly
18 designed construct mains, so there is a difference.
19 As pipes age you are more susceptible to infiltration;
20 therefore, the cap goes up.

21 Q Concerning fire flow, are the supply wells
22 connected directly to the distribution system, or must
23 they first go through treatment, storage and high
24 service pumps?

25 A They must first go through treatment and

1 storage.

2 Q On Page 7, Lines 11 through 14 of your
3 testimony.

4 A Yes.

5 Q Here you talk about the 600,000 gallon fire
6 flow allowance.

7 A Correct.

8 Q And isn't it correct that you include this
9 fire flow allowance in the treatment plant because it
10 was allowed in the prior rate case?

11 A Correct.

12 Q However, is it general engineering practice
13 to use fire flow plus peak demands as a design flow
14 for a water treatment plant?

15 A My understanding is that for design you look
16 at your maximum day plus fire flow, or your peak
17 demand, which can be on a hourly basis. If you have
18 storage as in this case, many times you can just
19 design for the max day plus fire flow.

20 Q Could you inform us where you got the
21 information that it should be max danger plus fire
22 flow for the treatment plant?

23 A Sure. (Pause)

24 I was looking at AWWA Manual M-31 which is
25 Distribution System Requirements for Fire Protection.

1 And I was looking at the design flow which occurs on
2 Page 16 under "Fire Protection."

3 Q Now, is that for distribution or treatment?

4 A Well, this is specifically for distribution.

5 Q Okay.

6 A But that is what I was using for my
7 criteria. It says design flow should be based on the
8 peak hourly demand or the peak day demand plus fire
9 flow requirement, whichever is greater.

10 Q But are you representing that that standard
11 applies to the treatment plant itself and the supply
12 wells, or rather to storage and distribution?

13 A It applies to storage and distribution.
14 Again, you know, it depends on if the utility has
15 supply wells and mains or do they have storage that it
16 goes through. The two criteria are different.

17 Q But this utility does have adequate storage?

18 A I believe so.

19 Q To meet the fire flow demands?

20 A I believe so.

21 Q Are you aware that Mr. Biddy does recommend
22 a fire flow allowance for storage and distribution?

23 A Yes.

24 Q And it is his suggestion that the standards
25 which he is aware of does not require under those

1 situations fire flow to be added to the max day for
2 treatment plant?

3 A That's my understanding, yes.

4 Q And would you have any engineering standards
5 to share with us that would differ with Mr. Bidy's
6 recommendation once it's clarified in that way?

7 A No, I can't think of anything off the top of
8 my head.

9 Q On Page 8, lines 1 and 2,

10 A Okay.

11 Q You mention using the draft rules which
12 requires .75 of the max day demand for equalization
13 and emergency storage?

14 A Correct.

15 Q Can you explain how the .75 of max day
16 demand was determined for equalization and emergency
17 storage?

18 A No, I cannot. Again, that goes back to the
19 proposed used and useful rules, and there's a very
20 long history to those rules, and the Division of Water
21 and Wastewater was participating in workshops
22 throughout the state, I believe, in 1992 which was
23 prior to my time coming to the Commission, and
24 throughout various workshops and discussions between
25 the Division of Water and Wastewater, I believe DEP

1 and the industry, that the .75 of the max day demand
2 was a result thereof.

3 I believe that in some design standards they
4 will look at average day demand for emergency or
5 equalization purposes versus maximum day demand.

6 Q I believe it's been testified that there
7 have been substantial industry involvement with Staff
8 in developing these rules, and is it your
9 understanding that Public Counsel's office actively
10 participated in any such recommendation as this, and
11 that this -- any of these types of recommendation
12 would be in any way endorsed by the Office of Public
13 Counsel?

14 A I know that the office --

15 COMMISSIONER KIESLING: Hold on. Which
16 question do you want her to answer?

17 MR. REILLY: You can pick any one of those
18 three.

19 COMMISSIONER KIESLING: Well, that's why,
20 when it's a yes or no question --

21 Q (By Mr. Reilly) I would like to explore
22 your understanding of the extent of Public Counsel's
23 endorsement of any of these recommendations that, of
24 course, have never made it to a rule yet, but were
25 workshopped. Is it your understanding that Public

1 Counsel conceded to or in any way endorsed these
2 recommendations?

3 A If silence concedes agreement, yes. I know
4 that the Office of Public Counsel was invited to the
5 various meetings. Mr. Billy D. Smith, I believe his
6 name was, was at the two-day workshops last July of
7 1995, so Office of Public Counsel has been aware that
8 the draft rules were going on and has been invited to
9 participate. I don't know if that endorses or not.

10 Q Other than Billy D. Smith's attendance in
11 listening in on some of the discussion, do you have
12 any other names of people from Public Counsel that may
13 have participated in these rules?

14 A Nothing comes -- no other names come to
15 mind.

16 Q And so you wouldn't suggest Public Counsel
17 endorsement accept that Billy D. Smith sat back and
18 listened to some of the discussion, and that his
19 silence is interpreted as endorsement?

20 A I believe you're probably the better one to
21 answer that question. I know that.

22 Q I'm not allowed to testify.

23 A We've invited you.

24 Q I would never do such a thing.

25 A We've invited Public Counsel, and that's the

1 extent of my understanding of your endorsement or not.

2 Q Very good. Do you understand that Staff's
3 recommendation on this particular issue is more
4 generous and greater than what the company is even
5 requesting in this case?

6 A Yes, I do. I believe -- and I'd like to add
7 a little bit to that. I believe that if, in my
8 opinion, a downward adjustment is appropriate, to do
9 that. Also if there's an upward adjustment, I believe
10 it's appropriate to do that as well as.

11 Q In light of this understanding, would you
12 suggest that this Commission would provide a more
13 liberal allowance than the company has even asked for
14 in this filing, or do you believe it would be more
15 appropriate -- at least on the high side. Obviously
16 Public Counsel will be recommending a figure less than
17 what the company is asking for. But would you
18 continue to recommend in opposition to the Utility's
19 position that notwithstanding the Utility's request,
20 the Commission should nevertheless grant them this
21 higher allowance? Is that your position?

22 A If it's based on engineering judgment, yes,
23 that's my position. Again it goes to looking at all
24 aspects of used and useful. There may be instances,
25 and I think most instances in my testimony, where I'm

1 recommending a lower used and useful percentage than
2 the utility has requested. In this particular one
3 instance, what I've calculated is actually greater.
4 I'm not so sure that the point isn't moot, however,
5 because the storage is 100% used and useful.

6 Q Just a small quick question here. Do you
7 want to confirm something?

8 A I'm just taking one moment.

9 Q Sure. Go ahead. I had not run a particular
10 calculation. I thought I had. Just a quick question
11 on your Exhibit KAA-2 Page 3 of 3.

12 A Okay.

13 Q On this page, do you recommend a 100% used
14 and useful calculation for major manifold force mains?

15 A Yes, I believe that's how that works out.

16 Q And could you explain your reason for such a
17 recommendation?

18 A Again I looked at what the company had done
19 and adopted their methodology in this particular
20 instance. And again it's based on methodologies used
21 in prior rate proceedings.

22 Q What is your understanding of their
23 methodology? What is their reason for including this
24 element as 100% used and useful?

25 A The way that the system is designed, you

1 have a lot of different force mains.

2 This utility has some manifolded lift
3 stations, and I believe those are the major manifold
4 mains. And for example, you can have 12 different
5 lift stations dumping into one major manifold lift
6 station which then pumps to the wastewater treatment
7 plant. I believe that can be considered 100% used and
8 useful.

9 Q Could you just help us understand a little
10 bit the definition of a major manifold force main as
11 opposed to -- normal force main?

12 A My understanding would be that it's
13 associated with the manifolded lift stations and is,
14 therefore, pumping more than just flows from a single
15 lift station, therefore, it's going to be used perhaps
16 on a 24-hour basis.

17 MR. REILLY: Okay. Thank you. No further
18 questions.

19 **CROSS EXAMINATION**

20 **BY MR. MELSON:**

21 Q Ms. Amaya, I'm Rick Melson representing the
22 Dunes.

23 A Good afternoon.

24 Q Good afternoon. In preparing your used and
25 useful analysis for the 6 million gallon storage tank,

1 did you conclude that the purpose of that tank was to
2 provide wet weather storage for the Utility's own
3 spray fields?

4 A Yes. Different documents I've looked at
5 supported that.

6 Q And can you tell us what documents those
7 were?

8 A Yes, I can. One of those documents was the
9 updated reuse feasibility study. If you'll bear with
10 me. On Page 28, another one that I looked at.

11 Q Would that include the original abbreviated
12 reuse study and the preliminary design report?

13 A Yes, I believe, but I don't have a page
14 number. I believe that's incorporated in there, but I
15 think there was one other document as well and I can't
16 put my hands on it right now.

17 Q Would you take a look -- I see you have the
18 original abbreviated reuse feasibility study that's
19 been identified as Exhibit 2.

20 A Yes.

21 Q Would you look at Pages 3-6 and 3-7 of that
22 document and see if that's part of the basis for your
23 conclusion?

24 A Yes.

25 Q And does that document -- do you recollect

1 the preliminary design report and transmittal letter
2 we looked at yesterday during Mr. Guastella's
3 testimony?

4 **A** I looked at the preliminary design report.
5 I've not looked at the transmittal letter.

6 **Q** Okay. Do you know if this language is
7 essentially the same as what is in the preliminary
8 design report?

9 **A** Yes, it is.

10 **MR. MELSON:** I've got no further questions,
11 thank you.

12 **COMMISSIONER DEASON:** Redirect.

13 **MS. REYES:** No redirect.

14 **MR. SCHIEFELBEIN:** Excuse me. May I inquire
15 further based on some of the cross examination by the
16 other parties?

17 **COMMISSIONER DEASON:** Please proceed.

18 **RECROSS EXAMINATION**

19 **BY MR. SCHIEFELBEIN:**

20 **Q** Thank you. Ms. Amaya, I think it's
21 established during cross examination that you do not
22 have familiarity with the guaranteed revenue
23 arrangement that the Utility is a party to; is that
24 correct?

25 **A** That's correct.

1 Q All right.

2 A I am aware of it in a very vague generic
3 sense only.

4 Q Okay. You do not offer any testimony as
5 to -- regarding imputation of CIAC represented by a
6 margin reserve, do you?

7 A No, I do not.

8 Q Okay. Is it your position that
9 Mr. Guastella's 20% economy of scale argument is
10 perhaps unnecessary because of the allowance of a
11 margin reserve?

12 A Again, I think you have to look at very
13 site-specific cases. In this particular instance with
14 Palm Coast I believe that looking at a three-year
15 margin reserve for wastewater treatment plant and the
16 effluent disposal facilities incorporates in and of
17 itself economies of scale. I also recommended 100%
18 used and useful on the membrane softening structure,
19 which would recognize economy of scale.

20 Q But if I understand what you're saying
21 correctly, part of the reason that you are not
22 agreeing with the John Guastella economy of scale
23 argument is to an extent that's already taken care of
24 through a margin reserve. Is that a fair
25 characterization? In this case.

1 **A** I'm saying that his result is going to give
2 you one thing. And the way that I'm looking at
3 economy of scale is different and will give you
4 another result. I don't know that you should compare
5 the two.

6 **MR. REILLY:** Chairman Deason, we would like
7 to object to this line of questioning. I don't recall
8 that being the ambit of cross examination, and I think
9 he's embarking on a recross that doesn't relate to
10 the -- anything that was crossed.

11 **MS. REYES:** We would join in the objection
12 as well.

13 **COMMISSIONER DEASON:** Mr. Schiefelbein.

14 **MR. SCHIEFELBEIN:** I'll move on.

15 **Q** **(By Mr. Schiefelbein)** In the event that a
16 margin reserve in this case is not allowed because of
17 guaranteed revenue arrangements, would that affect
18 your recommendation regarding -- or excuse me, your
19 testimony regarding the 20% economy of scale proposal?

20 **MR. REILLY:** I repeat the same objection.

21 **MR. SIRKIN:** We would join in that objection
22 as well.

23 **COMMISSIONER DEASON:** Mr. Schiefelbein.

24 **MR. SCHIEFELBEIN:** Commissioners, I think
25 it's fair game.

1 **COMMISSIONER DEASON:** One, could you refresh
2 my memory and indicate to me which party asked
3 questions on this subject matter and why it's
4 necessary for you to conduct recross?

5 **MR. SCHIEFELBEIN:** If I can keep my thought
6 patterns straight, I'm referring to guaranteed
7 revenues, and this is based on Mr. Sirkin's
8 examination of the witness that guaranteed revenues --
9 given guaranteed revenues, that there should not be
10 any allowance for what he termed nonused and useful
11 plant. And I'm -- so I think that opens it up as fair
12 game to briefly inquire as to if guaranteed revenues
13 are taken into account in this, so that there would
14 not be a margin reserve, what impact would that have
15 on her position. And I appreciate it and I'll be
16 brief.

17 **Q** **(By Mr. Schiefelbein)** Are you with me?

18 **A** Yes. And I don't think you'll like my
19 answer.

20 Not being that familiar with the guaranteed
21 revenues, you know,, I would feel uncomfortable giving
22 you an answer.

23 What I have done is I have provided used and
24 useful calculations that are without margin reserve,
25 with one and a half year margin reserve, and three

1 year and five year, so there is certainly different
2 percentages available if Staff were to recommend no
3 margin reserve.

4 Q But you're just not familiar with the
5 guaranteed revenue sufficient enough to render an
6 opinion?

7 A Correct.

8 Q In the event that this Commission were to
9 impute CIAC against margin reserve, would this utility
10 be denied an opportunity --

11 MS. REYES: We're going to object. That's
12 not in her testimony. I think that's already been
13 established she does not address the imputation of
14 CIAC.

15 MR. SCHIEFELBEIN: I understand that I
16 didn't get out the question that you've objected to,
17 but I understand your anxiety. But this witness has
18 testified about what an appropriate margin reserve
19 should be. And I'm asking questions well within the
20 scope of that testimony as to what would be the
21 effect, if that margin reserve were imputed against,
22 what I'm getting to to get to the question, would that
23 have a effect on her position on the economy of scale
24 argument.

25 COMMISSIONER DEASON: I'm going to sustain

1 the objection. I think there was no testimony given
2 upon imputation of CIAC. I think it is moot. I do
3 remind you you are on recross at this point.

4 **MR. SCHIEFELBEIN:** Okay. I appreciate your
5 indulgence. Nothing further. I beg your pardon.
6 Something on an entirely different -- well within the
7 scope of cross.

8 **Q (By Mr. Schiefelbein)** Ms. Amaya, is it
9 your testimony that the 6.0 million gallon effluent
10 storage tank is not needed to provide equalization to
11 the Dunes?

12 **A** Could you restate that?

13 **Q** First may I repeat it?

14 **A** Sure.

15 **Q** Is it your testimony that the 6.0 million
16 gallon effluent storage tank that you were talking
17 about with Mr. Melson is not needed to provide
18 equalization to the Dunes.

19 **A** Yes. I believe that's a side benefit.

20 **MR. SCHIEFELBEIN:** Thank you.

21 **COMMISSIONER DEASON:** Redirect.

22 **MS. REYES:** We have no redirect.

23 **COMMISSIONER DEASON:** Exhibits.

24 **MS. REYES:** We'd move composite Exhibit 28.

25 **COMMISSIONER DEASON:** Without objection

1 composite Exhibit 28 is admitted.

2 MS. REYES: We would object to that exhibit.

3 MR. SCHIEFELBEIN: We would join in that
4 objection.

5 COMMISSIONER DEASON: State your objection.

6 MS. REYES: That the witness has stated she
7 has no knowledge, and has not ever seen this exhibit
8 before.

9 COMMISSIONER DEASON: Mr. Schiefelbein.

10 MR. SCHIEFELBEIN: We would agree with that.

11 MR. SIRKIN: This exhibit goes to her use of
12 margin reserve and the need for margin reserve,
13 whether she has seen it or not.

14 COMMISSIONER DEASON: I'm going to sustain
15 the objection. This witness has no knowledge of this
16 exhibit. It's improper for her to sponsor it. I
17 would note there are rebuttal witnesses that are
18 coming for the company.

19 MR. SIRKIN: We will resubmit this.

20 COMMISSIONER DEASON: We'll take a
21 ten-minute recess at this point.

22 (Brief recess.)

23 - - - - -

24 ROBERT F. DODRILL

25 was called as a witness on behalf of the Staff of the

1 Florida Public Service Commission and, having been
2 duly sworn, testified as follows:

3 **DIRECT EXAMINATION**

4 **BY MR. EDMONDS:**

5 Q Would you please state your name and
6 business address for the record, please?

7 A I'm Robert Dodrill, Staff auditor for the
8 Public Service Commission. My address is 400 West
9 Robinson Street, Suite N-512, Orlando, Florida 32801.

10 Q Did you prefile testimony in this docket
11 consisting of six pages?

12 A Yes, I did.

13 Q Do you have any changes or corrections to
14 your testimony at this time?

15 A Yes, I do, concerning the issue that was
16 struck during prehearing conference. Please strike
17 Page 4, Line s 11 through 18. And Pages 30 and 31 of
18 40 of Exhibit RFD-1, which is attached to the
19 testimony.

20 Q I'm sorry, what were those page numbers of
21 the audit report?

22 A Strike Page 4, Lines 11 and 18, and Pages 3
23 on and 31 of 40 of the Exhibit RFD-1.

24 Q With those corrections, if I were to ask you
25 the same questions, would your testimony be the same?

1 **A** Yes, they would.

2 **MR. EDMONDS:** Mr. Chairman, may I have
3 Mr. Dodrill's testimony inserted into the record as
4 though read?

5 **MR. SCHIEFELBEIN:** Commissioners, may I
6 inquire on voir dire?

7 **COMMISSIONER DEASON:** Yes.

8 **MR. SCHIEFELBEIN:** Thank you. I'd first like
9 to do a voir dire of Mr. Dodrill's expert witness
10 status regarding a certain issue.

11 **VOIR DIRE EXAMINATION**

12 **BY MR. SCHIEFELBEIN:**

13 **Q** Mr. Dodrill, Audit Exception No. 1 deals
14 with your valuation of the rapid infiltration basin
15 site, does it not?

16 **A** Yes, it does.

17 **Q** And you make a recommendation there, a
18 simple yes or no would suffice -- but you make a
19 recommendation there to revalue that parcel; is that
20 correct?

21 **A** Yes.

22 **Q** Okay. And disclosure No. 1 deals with a
23 spray field site; is that correct?

24 **A** That's correct.

25 **Q** And you also in your audit report and

1 testimony revalue that site?

2 A That's correct.

3 Q In doing so you have disregarded or
4 rejected -- let me rephrase that, you have rejected
5 independent appraisals performed for those two sites?

6 A Yes. I think --

7 Q Could I stop you there?

8 A I'd like to continue if I could.

9 Q I'd rather not get into the merits one way
10 or the other at this point, but --

11 **COMMISSIONER DEASON:** Customarily the
12 witness has the right to explain the answer. I
13 understand we're kind of a limited scope of cross
14 examination, with voir dire. I'm going to allow the
15 answer to be limited, and if anything needs to be
16 covered, I will give Staff attorney an opportunity to
17 ask further clarifying questions as a result of the
18 voir dire.

19 **MR. SCHIEFELBEIN:** Thank you.

20 Q **(By Mr. Schiefelbein)** Mr. Dodrill, do you
21 have expert knowledge in the area of land appraisal?

22 A No, I do not. But I have experience in
23 utility rate base valuation, and in this case I was
24 valuing the land with the standard of original cost,
25 which is in the Uniform System of Accounts.

1 **MR. SCHIEFELBEIN:** Commissioners, I'd move
2 to strike that comment as not being responsive beyond
3 the "No, I do not."

4 **COMMISSIONER DEASON:** I'm not going to
5 strike it. You're going to have to be quick with your
6 objection if you want to prevent such information.

7 **MR. SCHIEFELBEIN:** All right.

8 **Q** **(By Mr. Schiefelbein)** Do you have expert
9 knowledge in the area of land appraisal, Mr. Dodrill?

10 **A** No, I do not.

11 **Q** And I'm tracking the language of the
12 Evidence Code. Do you have expert skill in the area
13 of land appraisal?

14 **A** No, I do not.

15 **Q** Do you have any experience as an expert in
16 the area of land appraisal?

17 **A** I just said I am not an expert. I provided
18 testimony.

19 **Q** So the answer was none?

20 **A** The answer is no.

21 **Q** Do you have any education regarding the area
22 of land appraisal?

23 **A** I have limited education or training through
24 the Public Service Commission's land audit techniques
25 course, which took place in a couple of years ago.

1 Q You do not have any education in the area of
2 land appraisals?

3 A That's correct.

4 **MR. SCHIEFELBEIN:** Commissioners, as far as
5 my voir dire as to the expert status of this witness,
6 to pass on two independent land appraisals and to
7 value two parcels of land, I would submit that this
8 witness is not an expert in those areas and his
9 testimony in those subject areas should be struck. I
10 have additional voir dire to go to the underlying
11 facts and data he examined. But before I get into
12 that I'd like to raise that objection.

13 **COMMISSIONER KIESLING:** May I ask a
14 question?

15 **COMMISSIONER DEASON:** Surely.

16 **COMMISSIONER KIESLING:** If I recall the
17 Evidence Code correctly, there was also a category for
18 experience. And you didn't ask him that one. I just
19 wondered if that -- I thought it was qualified by
20 education, experience, etcetera.

21 **MR. SCHIEFELBEIN:** My recollection is that I
22 did ask that but I'll ask it again, or ask it for the
23 first time. If I'm wrong, I'm sorry.

24 Q **(By Mr. Schiefelbein)** Mr. Dodrill do you
25 have any experience as an expert in the area of land

1 appraisal?

2 **A** The answer is no, but with a qualifications.

3 I have 14 years of experience with
4 evaluating utility rate base addition.

5 **MR. SCHIEFELBEIN:** That completes my voir
6 dire of this gentlemen as he's offered as an expert in
7 the area of land appraisal, land valuation.

8 **COMMISSIONER DEASON:** Mr. Edmonds.

9 **MR. EDMONDS:** I'd just like to ask a few
10 clarifying questions.

11 **Q** **(By Mr. Edmonds)** Mr. Dodrill, by whom are
12 you employed and in what capacity?

13 **A** I'm employed by the Florida Public Service
14 Commission as a regulatory analyst.

15 **Q** And did you prepare the Staff audit in this
16 docket?

17 **A** Yes. As our manager I prepared the Staff
18 audit for Palm Coast Utilities in this docket.

19 **Q** Does part of that audit include land
20 valuation?

21 **A** Yes.

22 **Q** When you prepared that audit, did you
23 attempt to perform an independent appraisal?

24 **A** No, I did not. Let me expand on that.
25 I did not attempt to perform a commercial

1 appraisal. A commercial appraisal would be covered by
2 certain codes of a professional appraiser which I have
3 not qualified to perform as I've mentioned.

4 I am a certified public accountant. As an
5 auditor I was evaluating utility additions to rate
6 base.

7 Q One more question. Does the Staff audit and
8 accompanying testimony consist of an independent
9 appraisal?

10 A No, it does not.

11 MR. EDMONDS: That's all I have. Thank you.

12 MR. SCHIEFELBEIN: If I may, Commissioners,
13 though it is being offered in lieu of and to discredit
14 two independent appraisals that have been performed
15 for the subject properties.

16 COMMISSIONER DEASON: You're moving to have
17 certain portions of testimony stricken based upon your
18 voir dire; is that correct?

19 MR. SCHIEFELBEIN: Yes, sir. I'd be moving
20 to strike that portion of his testimony that relate to
21 audit exception 1 and Audit Disclosure 1, as well as
22 those portions of the audit report, and those portions
23 of the audit work papers that relate to Audit
24 Exception 1 and Audit Disclosure 1.

25 COMMISSIONER DEASON: Mr. Edmonds.

1 **MR. EDMONDS:** I would object to that motion
2 on the basis that the parts of Mr. Dodrill's testimony
3 and audit that go to land valuation are commonly used
4 in utility regulation and valuing rate base.

5 **MR. SCHIEFELBEIN:** I think that is an utter
6 mischaracterization of what Commission policy is. I
7 think that the testimony of this witness is also
8 utterly repugnant to what the Commission has done in
9 the past as far as what is the proper evidence of
10 arm's length value of transactions between related
11 parties for land, and that is an independent
12 appraisal. Now we have a gentlemen with no expert
13 credentials apparently being set up as the competing
14 expert that you all may pick and choose as far as the
15 testimony. I don't think that this gentlemen has the
16 ability to do that.

17 **MR. REILLY:** May Public Counsel join the
18 fray? Our opinion would be --

19 **COMMISSIONER DEASON:** I'm ready to rule, and
20 I think that you don't need to join in.

21 **MR. REILLY:** Okay.

22 **COMMISSIONER DEASON:** I'm going to deny the
23 motion to have the testimony stricken. I don't think
24 this witness is providing testimony to conduct his own
25 independent appraisal of the property. He is an

1 auditor or CPA. He has taken training at the Public
2 Service Commission in land audit techniques. I think
3 that he can provide the testimony, and that the
4 Commission can give whatever weight to that testimony
5 it deems appropriate.

6 **MR. SCHIEFELBEIN:** Commissioner, I
7 understand that. Under Section 90.705 (2) of the
8 Florida Evidence Code I believe I'm also entitled,
9 prior to the witness giving his opinion, to conduct a
10 voir dire examination of the witness directed to the
11 underlying facts or data for his opinion. And if I
12 believe, the law states I can establish prima facia
13 evidence that the expert does not have a sufficient
14 basis for his opinion, then his opinions and the
15 inferences are inadmissible, unless the testimony
16 establishes the underlying facts or data. So I'd like
17 to continue this voir dire in that vein, if I may.

18 **COMMISSIONER DEASON:** Please proceed.

19 **Q** (By Mr. Schiefelbein) Mr. Dodrill, you've
20 previously testified during this voir dire that you
21 have rejected two independent appraisals for the
22 parcels. Did you do so on the basis of certain
23 statements made to you by Mr. Guy Sapp?

24 **A** No, I did not.

25 **Q** And there's no changes to your testimony?

1 A That's correct. What I have done is I
2 formed my own opinion about the land parcels. I
3 formed my own opinions based on my plant tour of the
4 land, based on records obtained from the county
5 courthouse. And at the same time I was joined by
6 Mr. Sapp and his opinion.

7 **MR. SCHIEFELBEIN:** Commissioners, that's a
8 shocking answer and it's going to take me a moment for
9 me to get my exhibits in front of me. (Pause)

10 Would you turn, please, to Page 14 of 40 to
11 in your Exhibit RFD-1.

12 A Yes.

13 Q And I'm referring to the second half of that
14 page. You refer to conversations that audit Staff had
15 with Mr. Guy Sapp; is that correct?

16 A Yes.

17 Q Mr. Sapp made various characterizations
18 regarding the comparable of parcels included in the
19 appraisal, the 1990 appraisal of the RIB site? That
20 was a question.

21 A That is page -- the way Page 14 of 40 of my
22 exhibit reads, yes.

23 Q Is that inaccurate?

24 A Yes. In fact, my audit exception 1 was
25 written somewhat in chronological order, and you'll

1 find that my discussion of the appraisal occurs on
2 Page 10 of 40. And in my discussion of the facts of
3 the appraisal you'll see enumerated several facts in
4 the appraisal that raise a question. And only after I
5 have read the appraisal did I -- inadvertently did I
6 happen upon Mr. Spano in the Flagler County
7 courthouse.

8 Q Was that Mr. Sapp and not Mr. Spano?

9 A I'm sorry, Mr. Sapp. I'm sorry.

10 MR. SCHIEFELBEIN: Commissioners, I'm
11 utterly mystified by that answer, and rather than
12 putting the Commission through torture, what I'd like
13 to do is examine his underlying data and references
14 and so forth during regular cross examination, and
15 then, as appropriate, move to strike or ask that his
16 testimony be given little weight. I think if I go
17 about it this way, given the adversarialness of both
18 myself and Mr. Dodrill, we'll be here for the better
19 part of the week, so if we might change gears that
20 would be good for everyone, I think.

21 COMMISSIONER DEASON: That's much
22 appreciated.

23 You renew your motion to have the prefiled
24 testimony inserted in the record?

25 MR. EDMONDS: Yes, please.

1 **COMMISSIONER DEASON:** That prefiled
2 testimony will be inserted in the record.

3 **Q** **(By Mr. Edmonds)** Mr. Dodrill, did you also
4 prefile exhibits RFD-1 through RFD-3 with your
5 testimony?

6 **A** Yes, I did.

7 **Q** Other than the corrections that you have
8 already made, do you have any other changes to those
9 exhibits?

10 **A** No. Those were workkpapers of the audit and
11 those stand as submitted.

12 **MR. EDMONDS:** Mr. Chairman, may I have those
13 exhibits marked for identification.

14 **COMMISSIONER DEASON:** Yes. Composite
15 Exhibit 30.

16 (Exhibit No. 30 marked for identification.)
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DIRECT TESTIMONY OF ROBERT F. DODRILL

1 |
2 | Q. Please state your name and business address.

3 | A. My name is Robert F. Dodrill and my business address is Hurston North
4 | Tower, Suite N512, 400 W. Robinson Street, Orlando, Florida.

5 | Q. By whom are you presently employed and in what capacity?

6 | A. I am employed by the Florida Public Service Commission as a Regulatory
7 | Analyst III in the Division of Auditing and Financial Analysis.

8 | Q. How long have you been employed by the Commission?

9 | A. I have been employed by the Florida Public Service Commission since
10 | September, 1979. Briefly, from mid-1993 until the end of 1994 I left the
11 | Commission and I assisted in operating a family business.

12 | Q. Briefly review your educational and professional background.

13 | A. I graduated from the University of Florida in 1971, with a major in
14 | Business Operations Research. I am also a Certified Public Accountant
15 | licensed in the State of Florida.

16 | Q. Please describe your current responsibilities.

17 | A. Currently, I am a Regulatory Analyst III with the responsibilities of
18 | planning and directing audits of regulated companies, and assisting in audits
19 | of affiliated transactions. I also am responsible for creating audit work
20 | programs to meet a specific audit purpose and I have specific authority to
21 | direct and control assigned staff work as well as participate as a staff
22 | auditor and audit manager.

23 | Q. Have you presented expert testimony before this Commission or any other
24 | regulatory agency?

25 | A. Yes. I testified in the following: Gainesville Gas Company Rate Case,

1 Docket No. 870688-GU; United Telephone Rate Case, Docket No. 910980-TC; Marco
2 Island Utilities Rate Case, Docket No. 920655-WS, and Southern States
3 Utilities, Inc. Rate Case, Docket No. 950495-WS.

4 Q. What is the purpose of your testimony today?

5 A. The purpose of my testimony is to sponsor the staff audit report of Palm
6 Coast Utility Corporation, Docket No. 951056-WS. The audit report is filed
7 with my testimony and is identified as RFD-1.

8 Q. Was this audit report prepared by you?

9 A. Yes, I was the audit manager in charge of this audit.

10 Q. Please review the audit exceptions you are sponsoring.

11 A. Audit Exceptions disclose substantial non-compliance with the Uniform
12 System of Accounts, a Commission rule or order, Staff Advisory Bulletins, and
13 formal company policy. Audit Exceptions also disclose company exhibits that
14 do not represent company books and records and company failure to provide
15 underlying records or documentation to support the general ledger or exhibits.

16 Audit Exception No. 1 discusses my opinion that the utility is in
17 violation of the NARUC requirement that utility assets shall be recorded at
18 the original cost to the person first devoting it to public service. This
19 exception also recommends a reduction of \$385,490 to the Rapid Infiltration
20 Basin (RIB) Land Site and \$19,280 to the 1995 buffer strip, for a total
21 reduction in the Land account of \$404,770. The staff audit workpapers
22 relating to Land are attached to my testimony and are identified as RFD-2.

23 Audit Exception No. 2 discusses the reclassification \$1,410,299.32 of
24 consulting fees, materials, engineering, and AFUDC charged to plant subaccount
25 #380 (Treatment and Disposal Equipment) which I believe should be charged to

1 Structures and Improvements. The staff audit workpapers relating to Utility
2 Plant in Service are attached to my testimony and are identified as RFD-3.

3 Audit Exception No. 3 recommends that \$548,416 in water and \$504,537 in
4 wastewater should be eliminated from the Palm Coast Utility Plant in Service
5 accounts. These amounts were capitalized, but my audit indicates that these
6 are recurring periodic expenses.

7 Audit Exception No. 4 discusses various adjustments to the historical
8 test year Operation and Maintenance expenses. These adjustments reflect
9 undocumented expenses, the lobbying portion of Florida Waterworks Association
10 Dues, travel expenses for an employee to speak at a conference at Marco
11 Island, installation of Christmas lights on one of the elevated water tanks,
12 an adjustment to reflect the actual amount for audit fees, and legal fees
13 pertaining to the sale of the utility.

14 Audit Exception No. 5 discusses the utility's sale of water to the Dunes
15 Community Development District (DCDD). The utility records this sale and
16 other General Service sales in Metered revenues (commercial). I recommend
17 that the utility record this sale in the Sales for Resale account, pursuant
18 to the NARUC Uniform System of Accounts.

19 Q. Please review the audit disclosures you are sponsoring.

20 A. Audit Disclosures disclose material facts that are outside the
21 definition of an Audit Exception.

22 Audit Disclosure No. 1 discusses my recommendation that the Commission
23 should consider reducing the 1985 Sprayfield cost. Based on the facts and
24 conclusions developed in Audit Exception No. 1, it appears that the Sprayfield
25 has the same Original Cost per acre to the ITT group as the RIB Site land.

1 | Therefore, I recommend that this site be reduced by \$268,509.

2 | Audit Disclosure No. 2 discloses for information purposes certain facts
3 | related to the Dunes Community Development District (DCDD) agreement with Palm
4 | Coast Utility Corporation (PCUC) to accept 600,000 gallons per day of treated
5 | wastewater effluent and to provide wet weather storage for up to 1,000,000
6 | gallons per day for seven days.

7 | Audit Disclosure No. 3 discusses the level of test year revenues. I
8 | recommend that operating revenue be increased by \$39,005 for water and
9 | by \$56,190 for wastewater to fully reflect the impact of a price index
10 | increase during the test year.

11 | ~~Audit Disclosure No. 4 discloses information related to the recovery of~~
12 | ~~rate case expense allowed in the last rate case. Section 367.0816, F.S.,~~
13 | ~~states that~~

14 | ~~".... At the conclusion of the recovery period, the rate of the~~
15 | ~~public utility shall be reduced immediately by the amount of rate~~
16 | ~~case expense previously included in rates."~~

17 | ~~Palm Coast Utility Corporation did not reduce its rates at the end of the~~
18 | ~~amortization period, which ended on or about April, 1993.~~

19 | Audit Disclosure No. 5 discusses "Table C" of the Utility's Effluent
20 | Rate Study. This study was included with the MFRs for this rate case. In
21 | this study, the utility states that in support of an effluent reuse rate, it
22 | will dedicate \$2,935,977 of Sewer Utility Plant in Service to reuse.

23 | Audit Disclosure No. 6 discusses the outstanding debt of Palm Coast
24 | Utilities Company, Inc. The utility's parent, ITT Corporation, issued a
25 | letter of guarantee to South Trust Bank of Alabama, N.A., the lender, for all

1 | of the above mentioned debt that includes the following statement:

2 | "In order to induce you to enter into the Credit Agreement, ITT
3 | Corporation, a Delaware Corporation ("ITT"), hereby irrevocably
4 | and unconditionally guarantees to you payment when due, whether
5 | by acceleration or otherwise, of the full amount of any and all
6 | liabilities of the Company to you under the Credit Agreement."

7 | I believe that the outstanding debt and the cost to service such debt does not
8 | represent a true "arms length transaction" for "related parties" as defined
9 | in FAS 57, Par. 3 and App. B paragraph 24(f) respectively, issued March 1982
10 | by the Financial Accounting Standards Board. The interest rates associated
11 | with this outstanding debt may be impaired because of the parent's
12 | unconditional guarantees as referenced above. If this debt is in essence the
13 | outstanding debt of the parent, ITT Corporation, the Commission should use the
14 | parent's capital structure to calculate a true market based Cost of Capital
15 | for this rate case proceeding.

16 | Audit Disclosure No. 7 discusses the capital structure of the utility's
17 | parent company. On November 30, 1995 the utility's parent, ITT Corporation,
18 | was reorganized into three separate companies: ITT, ITT Hartford, and ITT
19 | Industries. The reorganization was executed as a tax free stock for stock
20 | transaction. Palm Coast is now a wholly owned subsidiary of ITT Industries.
21 | The audit revealed that the parent company capital structure, as presented in
22 | the MFRs is not comparable to the utility's as it is a simple average and not
23 | a 13-month average. In addition, the parent's capital structure information,
24 | as filed, is obsolete because of ITT Corporation's reorganization executed on
25 | November 30, 1995.

1 | Q. Does this conclude your testimony?

2 | A. Yes, it does.

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1 **MR. EDMONDS:** I tender the witness for cross
2 examination.

3 **COMMISSIONER DEASON:** Mr. Schiefelbein.

4 **CROSS EXAMINATION**

5 **BY MR. SCHIEFELBEIN:**

6 **Q** Mr. Dodrill, would you turn to disclosure
7 No. 3 of your audit?

8 **COMMISSIONER KIESLING:** Could you give us a
9 page reference for those of us who haven't memorized
10 the pages.

11 **WITNESS DODRILL:** 29 out of 40. RFD-29 out
12 of 40.

13 **Q** **(By Mr. Schiefelbein)** Is it fair to say
14 that the substance of Audit Disclosure No. 3 is that
15 the utility failed to properly annualize its test year
16 revenues at the indexed rate?

17 **A** Just give me a minute to refresh my memory
18 here. (Pause)

19 As I stated in the opinion, the Utility did
20 not apply the index rates per its tariff to November
21 1995 customer billings. The Utility's failure to
22 apply the new tariff in November of '95 resulted in an
23 understatement of revenues for the test year ending
24 December 31, 1995.

25 **Q** Was that answer yes?

1 A To that extent, yes.

2 Q Is that your testimony today, Mr. Dodrill?

3 A That's the way the Audit Disclosure reads,
4 yes.

5 Q Is that your testimony today, sir?

6 A Yes. This is my testimony.

7 Q Do you have in front of you Late-filed
8 Deposition Exhibit No. 3?

9 A No, I do not. Oh.

10 Q Is that a copy of Late-filed Deposition
11 Exhibit No. 3 from your deposition?

12 A Yes. I'm reading it. That's correct.

13 **MR. SCHIEFELBEIN:** May I have that
14 identified, please?

15 **COMMISSIONER DEASON:** Yes. Exhibit 31.

16 (Exhibit No. 31 marked for identification.)

17 Q (By Mr. Schiefelbein) Mr. Dodrill, is the
18 late-filed deposition exhibit correct?

19 A As far as my knowledge, yes.

20 Q So Audit Disclosure No. 3, then, is
21 incorrect?

22 A Audit Disclosure No. 3 deals with a small
23 piece of the test year revenue.

24 Q Would you please answer my question, sir.
25 Is Audit Disclosure No. 3 incorrect?

1 A No it's not.

2 Q Just so I understand, Audit Disclosure No. 3
3 says that Palm Coast Utility did not properly
4 annualize their test year revenues at the indexed
5 rate, correct?

6 A Where did you have that, I'm sorry? Where
7 did that come from?

8 Q Did Audit Disclosure No. 3, is it a fair
9 summary to say that says that the Utility did not
10 annualize its test year revenues at the indexed rate?

11 A I didn't see the word "annualize" in here.
12 I think we're just talking about a brief period
13 between November and December per the general ledger.

14 Q All right. Mr. Dodrill, did Palm Coast
15 actually annualize its test year revenues at the
16 indexed rate?

17 A According to this late-filed deposition,
18 yes, they did.

19 Q And did they, sir?

20 A Yes.

21 Q Would you please turn to disclosure No. 5 of
22 your audit report. And that is Page 32 of 40. Are
23 you there, sir?

24 A Yes.

25 Q Could you give us a brief summary of

1 disclosure No. 5?

2 A When I was reviewing the other attachments,
3 the other enclosures with the MFRs, I noticed there
4 was a reuse study involved. It was also enclosed with
5 the MFRs. And in reviewing that I noticed there was a
6 large amount of plant that have earmarked as being
7 used -- looks like it was in order to back up a reuse
8 rate. And to the extent that identified several plant
9 subaccounts that were also -- that I had also worked
10 with in the sewer rate base, I brought this point to
11 the attention of the Commission so that there would be
12 no chance of double counting and to try to minimize
13 any cost subsidization between the sewer customers and
14 the reuse customers.

15 Q So it's your concern then that the Utility
16 not recover the 2.9 million twice? Is that a fair
17 summary?

18 A Right. That was part of my concern. And
19 the other concern was the avoidance of cost
20 subsidization, because we're dealing with an
21 allocation issue with reuse, and attention should be
22 paid to the plant which perhaps was only partially
23 used for reuse issues.

24 Q So it would be your position then that the
25 2.9 million, to the extent that it's otherwise

1 properly recognized, should be recovered either from
2 the reuse customers, the wastewater service customers
3 or possibly a combination of both? Is that correct?

4 A That's correct.

5 Q Would you please turn to Exception No. 2.
6 And that is on Page 19 of 40. And I've just realized
7 the exhibit that's being distributed, although a
8 marvelous piece of paper, relates to a different item
9 so we'll come to that, but it doesn't relate to this.

10 Could you briefly summarize Exception No. 2,
11 please?

12 A All right. Palm Coast purchased land for
13 its rapid infiltration basin. And when they made that
14 land purchase, they had to make some dramatic
15 improvements to the land before it could be useful in
16 utility service. And those improvements were made by
17 a contract by ITT Construction Company, and the
18 Utility classified -- or the Utility booked that
19 construction contract into the sewer disposal
20 equipment account. And it was my opinion that those
21 improvements to the land were, in fact, structures and
22 improvements and not equipment.

23 Q Okay. And that determination you reached
24 after a review of the uniform system of accounts?

25 A That opinion occurred to me when I was

1 walking around on the rapid infiltration cells
2 themselves, and I do have a knowledge of the uniform
3 system of accounts.

4 Q Okay. And you are saying that these amounts
5 which were booked in account -- which account were --
6 these amounts that you're looking to reclassify, which
7 account were they booked to?

8 A I believe that was 380, Equipment, T&D
9 Equipment.

10 Q Okay. And you are recommending that they be
11 reclassified to what account?

12 A Structures and improvements.

13 Q Okay. And I have distributed, as a matter
14 of fact, excerpts from the uniform system of accounts.
15 Do you have those before you, sir?

16 A Yes, I do, thank you.

17 Q And if you take a moment to look at those,
18 do those seem to be the current descriptions of
19 Accounts 354, Structures and Improvements; and Account
20 380, Treatment and Disposal Equipment?

21 A Yes.

22 Q Is a rapid infiltration pond -- please
23 strike that.

24 There are certain amounts associated with
25 this RIB site related to engineering plans, are there

1 not?

2 A That's correct.

3 Q And you are advocating reclassifying those
4 to structures and improvements, correct?

5 A That's correct.

6 Q Is it a fact that the basis of your
7 recommendation is the first sample of items given
8 under Account 354, under structures and improvements,
9 architect's plans?

10 A No, that's not correct. In fact, my opinion
11 arriving at the reclassification was based on a
12 complete analysis of the construction contract. And
13 that analysis resulted in a 98% mapping of the line
14 items of the construction contract directly into the
15 items list for the structures and improvements
16 account.

17 Q Do you have your deposition transcript
18 available, Mr. Dodrill?

19 A No, I do not.

20 MR. SCHIEFELBEIN: Can somebody provide him
21 with a copy of his deposition transcript? (Witness
22 provided transcript.)

23 WITNESS DODRILL: Thank you.

24 Q (By Mr. Schiefelbein) Would you turn please
25 to Pages 26 and 27 of your deposition transcript? Are

1 you there, sir?

2 A Yes.

3 Q Okay. Do you recall that we had a lengthy
4 discussion on the record where we walked through how
5 you reached your conclusions in reclassifying items to
6 structures and improvements from treatment and
7 disposal equipment?

8 A Yes. I remember at that time I was
9 struggling with several pieces of paper in front of
10 me --

11 Q Yes, sir. Would you please turn to Page 27
12 of your deposition transcript. And on Line 5, did you
13 offer to give examples of items that you were
14 referring to for this reclassification?

15 A Yes, I did.

16 Q And on Line 7, what is the first example
17 that you gave as a basis for this reclassification?
18 Was it architect's plans and specifications?

19 A That's correct.

20 Q Okay. Would you turn to Page 28? On Lines
21 4 through 6, did you testify that included in your
22 \$246,000 figure for this reclassification, were
23 architect's plans and specifications? Is that
24 correct, sir?

25 A That's correct.

1 Q Do you see at Line 23 of that page where I
2 indicate to you that these architect's plans -- I beg
3 your pardon.

4 On Line 17 you say that, "The engineers came
5 up with a plan for this RIB site, and it is included
6 in that number." Do you see that testimony, sir?

7 A Yes.

8 Q On the next page on 29, I asked you, "Are
9 those terms interchangeable to you, architect and
10 engineer?" What was your response, sir?

11 A For the most part, yes. And let me add, if
12 I may, the consulting firm that drew up the plans for
13 the RIB site calls itself on its letterhead an
14 architectural and engineering firm.

15 Q Were these engineer plans, sir?

16 A Yes, they were.

17 Q Do you recall that we talked about a fence?

18 A That's correct.

19 Q All right. And in your \$246,000 adjustment,
20 you reclassified the cost of the fence around the RIB
21 site; is that correct?

22 A I don't understand where you get the
23 \$246,00. We talked about a fence as being one of the
24 items on the list, yes.

25 Q Included within the \$246,000 that you are

1 reclassifying is the cost of a fence; is that correct?

2 A Right. I'm reclassifying the entire RIB
3 site addition. Now, the \$246,000, I believe, was only
4 the materials and engineering AFUDC costs. But I'm
5 reclassifying the entire RIB site addition, yes.

6 Q Would you turn to Page 2 of the description
7 of structures and improvements, Item No. 10. Now,
8 these are examples of items that should be booked to
9 structures and improvements, correct?

10 A That is correct.

11 Q Would you read Item 10 as one of those
12 examples?

13 A Fences and fence curbs. Not included
14 protected fences isolating items of equipment which
15 should be charged to the appropriate equipment
16 account.

17 Q Okay. You have been to the RIB site, sir?

18 A Yes, I have.

19 Q There is a six-foot tall fence surrounding
20 the RIB site?

21 A I'm not sure whether it's six foot, but
22 there is a chain linked fence, yes.

23 Q Is it topped by barbwire?

24 A I can't recall.

25 Q Are you an engineer, sir?

1 A No, I'm not.

2 Q Do you think that there is any element of
3 engineering expertise required or engineering judgment
4 required in determining where particular items should
5 be booked?

6 A These are a uniform system of accounts and I
7 am a certified accountant and so I suspect I have
8 credentials for classifying accounts, yes.

9 Q Do you think that there is an element of
10 engineering judgment in determining where items should
11 be booked in these areas?

12 A Of course.

13 Q And you don't have that expertise?

14 A I'm not an engineer.

15 Q Where was the initial RIB site booked by the
16 Utility? Do you know?

17 A No, I do not.

18 Q Would it surprise you to know that it was
19 booked in Account 380, Treatment and Disposal
20 Equipment?

21 A I wouldn't have any knowledge of that area.

22 Q Do you have any knowledge as to how many
23 Palm Coast rate cases that first RIB site has been
24 included in rate base in Account 380?

25 A We rarely revisit old audits in that degree.

1 Q Well, you indicate in your audit work papers
2 that you've read all the prior Palm Coast rate orders
3 in this case, do you not?

4 A I read a good deal of the later audits, yes.

5 Q If you would turn to Page 3 of this
6 description of this account, Item 47, that's Yard
7 Surfacing, Gravel, Concrete or Oil, First Cost Only.
8 Is that correct?

9 A That's correct.

10 Q Okay. And there is concrete used in this
11 RIB site, isn't there?

12 A That's correct.

13 Q So on that basis you reclassified in part --
14 that was part of the justification for you
15 reclassifying the RIB site from treatment and disposal
16 equipment to structures and improvements?

17 A Okay. In this case --

18 Q Could you precede your --

19 A Yes.

20 Q Okay. Go ahead.

21 A But in this case it's a very small part.
22 It's only 52/100 of 1% of the reclassification. I
23 think I can save you some further effort.

24 Subsequent to the time that we had our
25 discussion on record, I've gone back to the contract

1 where ITT Construction Company --

2 **MR. SCHIEFELBEIN:** Commissioners, I think
3 this goes well beyond being responsive to my question.
4 I mean, if you allow it; you allow it. But all I
5 asked him for was because there was some concrete
6 involved in the project, this was part of the basis
7 for reclassifying the project. And I think he's
8 embarking on something that is not responsive.

9 **COMMISSIONER DEASON:** I'm going to sustain
10 that objection. It can be brought out in redirect if
11 necessary.

12 **MR. REILLY:** I was going to suggest that --
13 he said it would save us a great deal of time, if he
14 could explain. And that would be a compelling reason
15 that the Chairman might consider his explanation if it
16 would speed up this line of questioning. But you've
17 already made your ruling, and I didn't get to
18 interject that argument to oppose the objection.

19 **MR. SCHIEFELBEIN:** Commissioner --

20 **COMMISSIONER DEASON:** We are going to
21 proceed.

22 **MR. SCHIEFELBEIN:** Okay.

23 **Q** (By Mr. Schiefelbein) Could you turn to the
24 description of Account 380, Treatment and Disposal
25 Equipment?

1 A Yes.

2 Q This is the last page of the exhibit that
3 I've handed out. Does this give as an example of
4 items to be included in this account, an oxidation
5 pond or lagoon?

6 A Yes, it does.

7 Q Does this also give as an example a
8 sedimentation basin?

9 A Yes, it does.

10 Q Okay. But it doesn't give as an example a
11 rapid infiltration basin, does it?

12 A No, it does not. And I might add that the
13 Utility has mentioned several times that the RIB site
14 technology is a brand new thing. I think I heard it
15 mentioned in this hearing, it's a brand new
16 technology.

17 Q That has evolved, perhaps, after the
18 adoption of the NARUC Uniform System of Accounts?

19 A Perhaps.

20 Q Is a rapid infiltration basin similar in
21 function to an oxidation pond or lagoon?

22 A I would think it might be similar in
23 function, yes.

24 Q Is a rapid infiltration basin similar in
25 function to a sedimentation basin?

1 A Yes, it is, similar in function.

2 Q Would you turn to Exception No. 3, which is
3 on Page 21 of 40. Is it fair to say that you come to
4 the conclusion in this exception that Palm Coast
5 Utility misclassified repair or rehabilitation costs?

6 A That's correct.

7 Q It's your position that they classified them
8 into utility plant in service inappropriately?

9 A Yes. It's my position that in Exception
10 No. 3 the Utility took major rehabilitations and
11 repairs and coded them or placed them into the utility
12 plant in service account.

13 Q Okay. And so you think that they are
14 improperly capitalized, and from our prior
15 conversations you also do not believe they should be
16 expensed? Is that fair to say?

17 A I can't recall our previous conversations,
18 but I know they are improperly classified.

19 Q Is it your position that these items
20 represent periodic recurring items that should be
21 expensed pro rata over the period that they benefit?

22 A That's correct.

23 Q And you don't make a recommendation as to
24 the proper amortization period for those items?

25 A No, I'm not an engineer; I'm only an

1 accountant.

2 Q I'm not certain if it's clear or not, but --
3 in the audit exception -- but there were approximately
4 \$49,000 relative to diesel engines related to wells,
5 and those items are properly capitalized; is that
6 correct?

7 A That's correct. Let me expand on that, if I
8 may. The utilities are making plant additions and
9 repairs all the time. I think it's up to the
10 engineers and the accountants to watch out for a
11 concept known as a "betterment." If there is a
12 betterment in these expenditures -- in other words, if
13 the plant gets better, if there is additional capacity
14 added or if there is a function that's done more
15 efficiently, then those are betterments and should
16 properly be classified into plant. Other expenditures
17 which just bring the existing plant up to original
18 operating specifications should be expensed over some
19 period of time.

20 Q All right. But other than the diesel
21 engines, it's your position that the subject of this
22 audit exception are recurring items that should be
23 amortized over the period that they benefit; is that
24 correct?

25 A That's correct.

1 Q Would you please turn to Page 33 of 40,
2 Audit Disclosure No. 6. And, I beg your pardon,
3 before we get into this regarding the amortization of
4 those prior items, are you aware of Rule 25-30.433
5 Subsection 9?

6 **MR. SCHIEFELBEIN:** Commissioners, if you
7 could bear with me for a moment.

8 Q (By Mr. Schiefelbein) I beg your pardon,
9 Subsection 8. Are you aware that the Commission's
10 rules provide that nonrecurring expenses shall be
11 amortized over a five-year period unless a shorter or
12 longer period of time can be justified?

13 A I believe that's always the prerogative the
14 Commission has, yes.

15 Q If I could draw your attention to your
16 opinion/recommendation paragraph for Disclosure 6.
17 The first paragraph, the last complete sentence
18 beginning with, "The interest rates." Would you read
19 that, please?

20 A I'm sorry, which paragraph?

21 Q I'm on Page 33 of 40 under
22 opinion/recommendation. The first paragraph, the last
23 sentence of that paragraph. Would you read that? It
24 begins, "The interest rates."

25 A "The interest rates associated with this

1 outstanding debt may be impaired because of the
2 parent's unconditional guarantee as referenced above."

3 Q You've already testified that you don't have
4 any further changes to make of your testimony,
5 correct?

6 A That's correct.

7 Q Okay. Now, you are dealing with parent
8 company guarantees of Palm Coast Utility's debt; is
9 that correct?

10 A That's correct.

11 Q Okay. And you are taking the position that
12 the parent guarantee impairs Palm Coast's debt; is
13 that correct?

14 A That's correct.

15 Q Do you recall the discussion we had about
16 this at our deposition?

17 A Yes.

18 Q Would you turn to Page 61 of your
19 deposition, to try to speed things up.

20 A I don't have my deposition in front of me,
21 I'm sorry. Oh, yeah, I do.

22 Q That was Page 61.

23 A Yes.

24 Q On Lines 23 and 24, would you read that
25 sentence there which is your testimony? It begins,

1 "And so."

2 A "And so I think a guarantee by a parent,
3 like ITT, would reduce the interest rate."

4 Q The guarantee would reduce the interest
5 rate. Would it be a fair statement then to say that
6 the debt is enhanced by the guarantee instead of
7 impaired?

8 A That's correct.

9 Q Would you agree that the purpose of a
10 guarantee is to reduce the risk of nonpayment and
11 provide a basis for a lower or enhanced interest rate?

12 A That's correct.

13 Q Do you recall testifying at your deposition
14 that the relationship with ITT is beneficial to the
15 customers when it comes to this cost of debt?

16 A Yes.

17 Q If you would turn to Audit Disclosure No. 7,
18 which is on Page 35 of your audit report. You there
19 disclose that -- and I've got to be careful of my
20 summary.

21 You certainly make some commentary there
22 regarding the capital structure presentation by Palm
23 Coast Utility. Is that fair to say?

24 A That's correct.

25 Q Okay. Are you aware of how the Commission

1 has approached Palm Coast Utility's capital structure
2 in its prior rate cases?

3 A Yes.

4 Q You were not at your deposition.

5 A Well, I'm not certain. At this point I've
6 been informed -- been doing some more reading, yes.

7 Q Okay, fair enough. So would you agree that
8 in each of the cases where a capital structure is
9 explicitly discussed or scheduled in those prior rate
10 case orders, Palm Coast Utility's stand-alone capital
11 structure was used? Is that a correct statement?

12 A That's correct.

13 Q Is it the Commission's preference to use the
14 Utility's stand-alone capital structure where it is
15 reasonable?

16 A Where it's reasonable, correct.

17 Q Do you recall from your prior readings of
18 orders in Palm Coast Utility rate cases whether or not
19 the equity ratio for a stand-alone, Palm Coast
20 Utility, how it compared with the equity ratio in this
21 case?

22 A I don't recall.

23 Q Would you turn to Page 66 of your
24 deposition, please?

25 A All right.

1 Q Well, first of all, do you recall -- and let
2 me help you out. If you would turn to Page 67 on Line
3 4, I believe you give the equity ratio in the current
4 case as filed. Is that correct? And if so, what is
5 that equity ratio?

6 A It looks like 51.37%.

7 Q All right. And in the 1988 rate case with
8 the deposition transcript before you, can you tell me
9 what the equity ratio was in the 1990 rate case for
10 Palm Coast Utility? Was it not 65%?

11 A 65% in 1990?

12 Q Yes, sir.

13 A Okay.

14 Q That is a yes?

15 A Yes.

16 Q And wasn't it about 60% in 1988?

17 A Yes.

18 Q Then at the deposition you agreed with me
19 that the lower the equity ratio, the lower the cost of
20 capital; is that correct?

21 A That's correct.

22 Q Is it reasonable to use Palm Coast stand-
23 alone capital structure with the enhanced debt in this
24 proceeding?

25 A I would think so, yes.

1 Q And now we come to the land. And we
2 couldn't agree with this during voir dire,
3 Mr. Dodrill, but isn't it a fact that your audit
4 report in part makes certain observations and
5 statements regarding Mr. Guy Sapp? And I'm referring
6 to Audit Exception No. 1. Do you not refer to various
7 statements made by Mr. Guy Sapp?

8 A Yes, I do.

9 Q And who is Mr. Guy Sapp?

10 A Mr. Guy Sapp is the Flagler County
11 appraiser.

12 Q Okay. Did Mr. Sapp make certain statements
13 regarding the concept that we've all come to know as
14 DQ?

15 A Yes, he did.

16 Q Okay. And DQ stands for disqualified; is
17 that correct?

18 A A DQ probably is one that might be possibly
19 disqualified based on further scrutiny.

20 Q Disqualified absent additional scrutiny; is
21 that correct?

22 A May be disqualified pending further
23 scrutiny, yes.

24 Q And Mr. Guy Sapp advised you or the audit
25 Staff that two of the comparables used by Mr. Spano

1 were DQ, did he not?

2 A I haven't looked at the exact quote. I'm
3 not sure exactly how it was phrased.

4 He said, "In fact, two of them are DQ, which
5 means disqualification as comparables for appraisal
6 purposes."

7 Q Okay. Do you have your Audit Work Paper
8 17-7, which is included somewhere within your audit
9 work paper exhibit here today? Do you have that
10 handy?

11 A Yes.

12 Q Would you agree with me that on that page
13 you quote Mr. Sapp as saying, quote, "Wait a minute.
14 Wait a minute. Sales to governmental entities are DQ,
15 which means disqualified as they are sales to
16 governmental authorities and not true arm's length
17 sales. They are never considered by county
18 appraisers. I'm surprised that Chuck, Charles Spano,
19 used these sales in the appraisal. I am sure he knows
20 better than that." Is that a correct quote?

21 A All right. These are --

22 Q Would you please answer the question before
23 you elaborate?

24 A No.

25 Q That is not a correct quote on Audit Work

1 Paper 17-7?

2 A That's correct. These are not quotes.

3 Q So what is it doing in your audit work
4 paper?

5 A Audit work papers, these are my notes of my
6 courthouse review. Before I made a direct quote and
7 included it in my audit report, I went over them in
8 detail with Mr. Sapp.

9 Q Mr. Dodrill --

10 A These are my own personnel notes.

11 Q Mr. Dodrill, they are offered as an exhibit
12 in this case, are they not?

13 A Yes.

14 Q Would you turn to Page 86 of your
15 deposition?

16 A Yes.

17 Q On Line 22, after me reading that exact
18 quote to you in your deposition, I asked you, "Is that
19 a correct quote?" What was your answer, sir, on Line
20 23?

21 A "That was very good, yes."

22 Q Going back to Page 40 of 40 on your Audit
23 Exception No. 1, do you quote Mr. Sapp as saying,
24 quote, "You don't have to be an appraiser to see that
25 these are not comparable pieces of property." Is that

1 correct?

2 A Yes.

3 Q And on the following page, if I may
4 paraphrase because it's somewhat lengthy, but is it
5 fair to say that Mr. Sapp said if you want to see a
6 real comparable piece of property, there's something
7 2/10 of a mile down the road that just sold for a heck
8 of a lot less than this RIB site. Is that a fair
9 summary of that statement?

10 A That is -- I'm not sure that he would have
11 said "a heck of a lot less," but I think that is a
12 fair paraphrase, yes.

13 Q And, in fact, that parcel 2/10 of a mile
14 away is the parcel that you used in your development
15 of trended historical costs; is that correct?

16 A That's correct.

17 Q And that's come to be known to all of us in
18 this proceeding in the prehearing part as the Con-Cor
19 parcel; is that right?

20 A That's correct.

21 Q Okay. So Mr. Sapp made some disparaging
22 comments about two of the comparable sales used in
23 Mr. Spano's appraisal of the RIB site, correct?

24 A I would not say disparaging. He said for
25 his purposes, county appraisal purposes, they are

1 often classified as DQ parcels.

2 Q Well, he also said from that quote that is
3 in your exhibit that he's surprised that Chuck Spano
4 used these sales in the appraisal, I'm sure he knows
5 better than that. Wouldn't you say that that's
6 disparaging those?

7 A I wouldn't say disparaging; he was just
8 surprised.

9 Q Okay. And the other part of his statement
10 is that Con-Cor was a more comparable sale.

11 A Yes.

12 Q Now, in using the Con-Cor site in your
13 development of historical trended costs, did you
14 review the appraisal of the Con-Cor parcel?

15 A No, I did not.

16 Q In preparing your development of historical
17 trended costs to replace the independent appraisal,
18 did you review the appraisal done for the two sales
19 that Mr. Sapp said were DQ? And those would be the
20 school site and the jail site.

21 A No, I did not.

22 Q Okay. And, in fact, you apply the same
23 logic to the 19 -- to the spray field site that is the
24 subject of Audit Disclosure No. 1, don't you?

25 A Yes, I applied the same index because the

1 same parcel of land was included, the same parent
2 parcel of land was the base point of my index.

3 Q Did you review the appraisal for the spray
4 field site?

5 A No, I did not.

6 Q Now, as the beginning point of your
7 development of historical trended costs, you used a
8 parcel that was purchased from Lehigh Cement by Ray
9 Florida in 1968, didn't you?

10 A It was Lehigh Portland Concrete, and it was
11 purchased by Ray Florida. It's an ITT corporation --
12 or was. I'm not sure.

13 Q And that was in 1968?

14 A I believe that's the year, yes.

15 Q And how many acres was in that parcel?

16 A A considerable number of acres, maybe
17 13,000. I'm not certain. I could look in my records.
18 Let me find out.

19 Q Subject to check, 12,777?

20 A That's fine, yes.

21 Q Okay. And how many acres are in the Con-Cor
22 site?

23 A Around 695, 700 acres, yes.

24 Q And you base that on what information, sir,
25 as to how many acres were in the Con-Cor Site?

1 A Those were documents provided to me by --

2 Q Mr. Guy Sapp?

3 A No, it was by -- someone in his office.

4 Q Did you actually examine the survey?

5 A No, I did not.

6 Q Did you talk to the purchasers of that site?

7 A No, I accepted that document at face value.

8 Q Of the 13,000, give-or-take, acres in the
9 1968 purchase from Lehigh -- let's call it Lehigh
10 Cement -- what was the net developable land included
11 in that parcel, do you know?

12 A No, I do not.

13 Q Okay. In the 1996 purchase by Con-Cor,
14 which we've said is about 700 -- 677 acres -- what was
15 the net developable land in that purchase? Do you
16 know, sir?

17 A No, I do not. It was said to have contained
18 some developable and some undevelopable portions.
19 That's it.

20 Q Have you been on that site?

21 A I've been around it, yes.

22 Q Have you been on it?

23 A No.

24 Q Had you been on the RIB site, say, in 1990
25 when it was evaluated?

1 A No.

2 Q If you would turn to Page 85 of your
3 deposition transcript, please?

4 A All right.

5 Q Now, Mr. Dodrill, do you recall that I asked
6 you at that deposition at that time, "What evidence do
7 you have that would show that Palm Coast in 1990, 1991
8 paid more than an arm's length purchase price in
9 1990/91?" Do you recall me asking you that question?

10 A Yes.

11 Q And what was your answer, sir, on Line 9?

12 A "I don't have any direct evidence..."

13 Q "Of that"?

14 A "Of that."

15 Q And right after that I asked you, "What
16 evidence do you have that would show that Palm Coast
17 paid more than an arm's length price in 1985 in the
18 purchase of the spray field." And I asked you, "Would
19 your answer be the same?" And you said?

20 A Correct.

21 Q Would you turn to Page 91 of the deposition,
22 please? Do you recall that we engaged in a rather
23 extensive discussion of the Department of Revenue rule
24 from which Mr. Sapp drew his reference to DQ?

25 A Yes.

1 Q All right. And I asked you at that
2 deposition, "And this rule goes to requirements for
3 record keeping by county appraisals" -- and it should
4 be by county appraisers -- "as far as what is required
5 and what isn't required for certain types of parcels;
6 isn't that right?" What was your answer, sir, Lines 7
7 and 8?

8 A "I think I'm getting into an area a little
9 beyond my expertise."

10 Q Please continue with that statement, sir.

11 A "I'm going to rely on Mr. Sapp's expertise."

12 MR. SCHIEFELBEIN: Commissioners, I have no
13 further questions at this time. Thank you for your
14 indulgence.

15 COMMISSIONER DEASON: We are going to take a
16 10-minute recess.

17 (Brief recess.)

18 - - - - -

19 COMMISSIONER DEASON: Let me ask everyone to
20 take their place. Call the hearing back to order at
21 this time.

22 MR. SCHIEFELBEIN: Commissioner, I don't
23 recall, did we identify that USOA excerpt as
24 Exhibit 32?

25 COMMISSIONER DEASON: We did not identify it

1 but we can if that's your desire.

2 **MR. SCHIEFELBEIN:** I'd appreciate it. That
3 was an oversight.

4 **COMMISSIONER DEASON:** It will be identified
5 as Exhibit 32. And we'll just call that sewer -- go
6 ahead and tell me what you want to call it.

7 **MR. SCHIEFELBEIN:** USOA Excerpts. Thank
8 you.

9 (Exhibit No. 32 marked for identification.)

10 **CROSS EXAMINATION**

11 **BY MR. HADEED:**

12 **Q** Mr. Dodrill, my name is Al Hadeed. I'm the
13 County attorney for Flagler County.

14 My first question is as I read the materials
15 that you've submitted, my understanding -- and I want
16 you to correct me if I'm incorrect -- my understanding
17 is that you have concluded that the parcels that Palm
18 Coast Utility Corporation is utilizing for these
19 effluent disposal purposes as coming from a common
20 root of ownership, the ITT corporate family. Am I
21 understanding your analysis correctly?

22 **A** That's correct.

23 **Q** That's fine. I just wanted a yes or no.
24 You can explain if you wish.

25 **A** Yes, that is correct. And the Uniform

1 System of Accounts defines a person as an individual
2 or corporation, a partnership, an association, joint
3 stock company, business trust or organized group of
4 persons whether incorporated or not. And my point is
5 that this is an affiliated group, the ITT affiliated
6 group of corporations. The one person who bought the
7 land originally and who is, through Palm Coast Utility
8 Company, putting it to utility service.

9 Q So that it comes from a common root of
10 ownership?

11 A That's correct.

12 Q Mr. Dodrill, there's been some reference to
13 the Con-Cor transaction. And again my understanding
14 from analyzing the information, is it correct for me
15 to assume that the Con-Cor transaction was used by you
16 only to corroborate your indexing methodology?

17 A That's correct. The Con-Cor property was
18 out of the same parent parcel that the RIB site land
19 was sold from.

20 Back in '68 when Ray Florida bought the
21 Lehigh Portland Concrete, they bought the land that is
22 almost -- they bought a large portion of the land
23 which almost identifies with Mr. Spano's neighborhood
24 for the RIB site. And the Con-Cor property was sold
25 out of that neighborhood.

1 **MR. HADEED:** Thank you. I don't have any
2 further questions.

3 **COMMISSIONER DEASON:** Mr. Reilly.

4 **MR. REILLY:** Just a couple of questions.

5 **CROSS EXAMINATION**

6 **BY MR. REILLY:**

7 **Q** In reponse to a question posed by
8 Mr. Schiefelbein, he asked you would you equate an
9 oxidation pond with a RIB site. And it seems as
10 though you hesitated a while and said, "Yes, maybe."
11 And I'm just wondering as a follow-up to that, are you
12 aware that, in fact, an oxidation pond is a treatment
13 process used in the wastewater treatment plant and the
14 RIB site is used for effluent disposal?

15 **COMMISSIONER DEASON:** Wait before you answer
16 the question. There's an objection.

17 **MR. SCHIEFELBEIN:** Yes, I object to the
18 question. It misrepresents what Mr. Dodrill's answer
19 was to that question.

20 **MR. REILLY:** Could we have that read back?
21 I mean that was my recollection of his answer.

22 **MR. SCHIEFELBEIN:** My recollection of his
23 answer was "yes." Not "yes maybe" but "yes." It
24 doesn't --

25 **MR. REILLY:** Can we --

1 **COMMISSIONER DEASON:** Is it essential that
2 we go back and look at that? The record will speak
3 for itslef when we read the transcripts.

4 **Q** **(By Mr. Reilly)** My question is following up
5 on this issue on oxidation pond or RIB site, are you
6 aware that an oxidation pond is actually part of the
7 treatment process as opposed to effluent disposal?
8 Are you aware of that, yes or no.

9 **A** Yes, I am and -- yes. And let me add the
10 RIB site is a new technology, and it is actually a
11 built or a constructed item on the land, which by
12 itself, is useless for the Utility. But the RIB site
13 itself -- and I think it falls under the category as
14 an improvement of a permanent character to the land.
15 And I'm reading this out of the Uniform System of
16 Accounts plant accounting instruction. And if you'd
17 like we can put this in the record.

18 **Q** I have no objection. (Laughter) If it
19 would illuminate your answer. Let me just -- (Hands
20 document to Counsel.)

21 **A** At the beginning of the Uniform System of
22 Accounts they have accounting instructions. And
23 Accounting Instruction No. 25, under "Utility Plant -
24 Structures and Improvements," indicates that any
25 improvements of a permanent character on or to the

1 land should be included in this account.

2 MR. REILLY: I think with that explanation I
3 don't know that we really need to introduce this as an
4 exhibit.

5 That concludes our questions. Thank you.

6 COMMISSIONER DEASON: Mr. Melson.

7 MR. MELSON: I've got just a couple.

8 CROSS EXAMINATION

9 BY MR. MELSON:

10 Q Mr. Dodrill, I'm Rick Melson representing
11 the Dunes.

12 At Page 4 of your testimony beginning at
13 Line 2 you refer to Audit Disclosure No. 2 regarding
14 an agreement for Dunes to accept 600,000 gallons per
15 day of effluent from Palm Coast and to provide certain
16 wet weather storage.

17 Would you agree that that description
18 relates to an interim agreement that expired on March
19 31, 1995?

20 A That's correct.

21 Q And there's a different agreement in place
22 today?

23 A That's correct.

24 Q Let's turn to your exhibit, if we could.

25 Page 28 of 40.

1 A All right. I have it.

2 Q Okay. On that page in the third paragraph
3 you state that the Utilities develop an effluent
4 storage tank and a RIB necessary to provide effluent
5 reuse water for irrigation purposes. Is that
6 statement based on any independent engineering
7 analysis you performed, or was that just based on what
8 you were told by utility personnel during your site
9 visit?

10 A During the course of the audit we try to go
11 on a plant tour and at that time the company employees
12 drive us around -- in this case they were driving us
13 around over top of the RIB site and explained to us
14 exactly what I have in here, yes.

15 **MR. MELSON:** Okay. I've got no further
16 questions. Thank you.

17 **COMMISSIONER DEASON:** Redirect.

18 **MR. EDMONDS:** I just have a couple of
19 questions.

20 **REDIRECT EXAMINATION**

21 **BY MR. EDMONDS:**

22 Q If you could turn to Audit Exception No. 2,
23 Page 19 of 40, in RFD-1,

24 A I'm sorry, what was that again? RFD --

25 Q RFD-1, Page 19 of 40.

1 A Yes, I have it.

2 Q Okay. And regarding Audit Exception No. 2
3 Mr. Schiefelbein asked you a series of questions
4 linking your opinion that certain costs should be
5 reclassified to the account structures and
6 improvements. And my question is did you do any work
7 subsequent to your deposition to support that opinion?

8 A Yes, I did.

9 **MR. SCHIEFELBEIN:** Excuse me. I'm going to
10 object. In the 12 years that I have been at this I
11 think that the Commission has gone to great lengths to
12 prevent trial by ambush. We have prefiled discovery.
13 We have prefiled testimony. We have discovery process
14 after that. And I don't think that this is proper.

15 **WITNESS DODRILL:** I have copies of my work.

16 **COMMISSIONER DEASON:** Hold on just a second.

17 Mr. Edmonds.

18 **MR. EDMONDS:** I'm just trying to get out the
19 most accurate information from this witness regarding
20 his opinion and recommendation to Audit Exception
21 No. 2.

22 **MR. SCHIEFELBEIN:** Public Counsel has gone
23 to some effort to -- when subsequent information came
24 to their attention, they prefiled supplemental
25 testimony on Friday, then, of course, today we had a

1 situation where they had new information again and
2 changes to their testimony which led to us
3 rescheduling a witness for further examination in
4 Tallahassee.

5 I think this -- apparently here no effort
6 has been made to advise anyone of this and apparently
7 we're about to have something sprung on us. Perhaps
8 we need to hear what it is and perhaps we're going to
9 need to see Mr. Dodrill in Tallahassee as well.

10 **MR. REILLY:** There's a little bit of
11 inconsistency. A DEP witness stands up here and
12 throws in some new numbers, and on the day of the
13 hearing changes major used and useful adjustments
14 under Staff's recommendation. We had about 14 seconds
15 to absorb all of this. And the impact of those
16 changes made by DEP and the Staff on those used and
17 useful numbers was of tremendous magnitude compared to
18 the little miniscule effect that our little adjustment
19 was making.

20 **MR. SCHIEFELBEIN:** I wasn't impugning Public
21 Counsel and the DEP witness is not my witness.

22 **MR. REILLY:** Let me finish Mr. Schiefelbein.

23 As I recall, Mr. Schiefelbein was asking
24 questions of Mr. Dodrill. He tried to expand on it.
25 The Commissioner said, "No, this is more properly left

1 for cross." And it just appears to me that this is
2 the time of the hearing -- redirect, I'm sorry, and it
3 just seems that this is the time for that redirect
4 that you invited him to do. That's my only comment.

5 **COMMISSIONER DEASON:** Mr. Schiefelbein, you
6 may conclude.

7 **MR. SCHIEFELBEIN:** First of all, we have not
8 sprung anything on anyone. We are the passenger on
9 this ride here as new things come to light. Now, I'm
10 objecting to this line of questioning as to work that
11 he has done subsequent to his deposition that has not
12 been disclosed to us; that has not been made the
13 subject of supplemental testimony. I think it's
14 improper and I didn't need to belabor it further than
15 that.

16 **COMMISSIONER DEASON:** Well, I think you've
17 opened the door on cross examination. I believe it's
18 proper redirect and I'll allow the question.

19 **WITNESS DODRILL:** My response, during the
20 deposition that I went through on the 7th by
21 Mr. Schiefelbein, he asked me questions about
22 percentages of items that mapped into the structures
23 and improvements item list. Each plant account has a
24 list after it of items like examples. Examples of
25 things that fit into that account.

1 And I noticed during -- I noticed during my
2 deposition that I was really fumbling around trying to
3 find -- it was in response to a question by
4 Mr. Schiefelbein about how much of a percentage would
5 map into the account. And I talked about 30% of the
6 cost of that contract was for fill dirt that the
7 Utility had to bring in to make the RIB site useful
8 for a utility storage or disposal. And so I was
9 fumbling around. And when I returned to my office I
10 sat down and I did a complete mapping. And what I
11 have is an example of the items that did map into --
12 mapped from the construction contract into the items
13 list of these structures and improvements account.

14 And Mr. Schiefelbein has passed out the
15 account description for structures and improvements.
16 And based on these things that Wayne has passed out,
17 the items listed on the left hand of my analysis --

18 **MR. EDMONDS:** Mr. Dodrill, let me ask you
19 this: Are you referring to what has been marked as
20 Exhibit 32?

21 **COMMISSIONER DEASON:** Yes, that's
22 Exhibit 32.

23 **WITNESS DODRILL:** Yes.

24 **Q (By Mr. Edmonds)** And how much of these
25 reclassifications were you able to map out?

1 **A** I went from the construction contract by ITT
2 Construction Company and mapped 98.4% of all of the
3 dollars into the structures and improvements account
4 item list. And that was made up of fill, piping,
5 landscaping, grading and clearing, fencing which we
6 talked about, roadways, disposal of excavated
7 material, permits, concretes and culverts. These were
8 all improvements made to the land before Palm Coast
9 could utilize the RIB site.

10 **MR. EDMONDS:** Thank you. That's all I have.

11 **COMMISSIONER DEASON:** Exhibits. Staff do
12 you move Exhibit 30?

13 **MR. EDMONDS:** Yes. Thank you.

14 **MR. SCHIEFELBEIN:** I object. Is Exhibit 30
15 the composite exhibit of Mr. Dodrill's?

16 **COMMISSIONER DEASON:** Yes. Exhibit 30 is
17 the exhibits attached to his prefiled testimony,
18 composite exhibit.

19 **MR. SCHIEFELBEIN:** Commissioners, in the
20 interest of expediting where I could, I deferred my
21 voir dire, as far as underlying facts and inferences
22 and so forth, to the main body of cross examination.

23 Putting the lack of candor of this witness
24 aside as evidenced in the cross examination, I think
25 it is very clear that Mr. Dodrill has not made any

1 sort of a showing that he has a sufficient knowledge
2 of the underlying facts and data to support his
3 conclusion.

4 He testified that he had -- although he had
5 followed the advice and counsel of Mr. Sapp to
6 disqualify or discredit two of the comparables in the
7 appraisal of the RIB site, he hadn't read them.

8 He testified that he had never read the
9 appraisal of the Con-Cor site, although this is an
10 integral part of his calculation. He testified that
11 he had not reviewed the appraisal for the 1985 spray
12 field. He has certainly demonstrated, I believe, a
13 total lack of expertise in these areas. I think it
14 would be totally improper to admit his exhibits
15 insofar as they relate to Audit Exception No. 1, which
16 is the RIB site and Audit Disclosure No. 1, which is
17 the spray field. And for those reasons we would ask
18 that those portions of his audit report and the work
19 papers, which I believe is RFD-2, the lengthy work
20 papers in support of those two items, as well as all
21 references to them in his prefiled testimony be
22 stricken from this record.

23 **COMMISSIONER DEASON:** Mr. Edmonds.

24 **MR. EDMONDS:** May I have a moment please?

25 **COMMISSIONER DEASON:** Mr. Hadeed.

1 **MR. HADEED:** Yes, Chairman and members of
2 the Commission, the testimony and analysis of
3 Mr. Dodrill is not an appraisal of the property in a
4 MAI sense, a Master of Appraisal Institute sense. He
5 has, as I understand your process and from reading
6 these records, he has utilized a methodology. You may
7 find that methodology based on all of the facts is not
8 appropriate but his opinions go to a particular
9 methodology they have -- "they" meaning the Utility
10 has an alternative methodology, that is to use a MAI
11 appraisal. So he is not testifying about a MAI
12 appraisal. He is not making, that is, an MAI
13 appraisal. He has developed a methodology.

14 Second, I tried to clarify, and thought I
15 had, the role of the real estate information relative
16 to the Con-Cor property. You've heard it referred to
17 as the Con-Cor property. That was used by
18 Mr. Dodrill, as I understood from reading the
19 documents and as he confirmed with my examination, as
20 data that corroborated a conclusion that he had
21 reached using an indexing methodology. Thank you.

22 **MR. SCHIEFELBEIN:** May I respond?

23 **COMMISSIONER DEASON:** Let's give Mr. Edmonds
24 a chance to respond, and then you can respond to both
25 of their responses.

1 **MR. EDMONDS:** Mr. Dodrill, as Staff auditor
2 in this case reviewed certain facts in the appraisals.
3 He found what he believed to be some questions or
4 concerns. And part of that was through Mr. Sapp's
5 comments. And Mr. Dodrill, through his experience and
6 opinion, believed that the appraisal seemed high.
7 What he then did was present an alternative valuation
8 for related-party transaction, and I believe that his
9 testimony and his exhibits speak for themselves. And
10 should be admitted.

11 **COMMISSIONER DEASON:** I believe Mr. Reilly
12 wants to say something and then you can respond.
13 Mr. Schiefelbein.

14 **MR. REILLY:** I believe this evidence should
15 not be thrown out. I believe that to do so would set
16 a very terrible precedent to this Commission. I don't
17 believe you would like to set the precedent that your
18 auditors, who are going out and trying to determine
19 the rate base treatment of these various plant
20 additions, and that the basis to these various plant
21 additions should be scrutinized and that there should
22 be a qualification that these auditors must be MAI
23 appraisers to do this sanity check.

24 I think that you have yet to hear from
25 Mr. Sapp and Mr. Spano, and I think that the

1 Commission is well within their expertise to go
2 forward with the evidence that's presented by those
3 people and weigh this, as you said, and give the
4 weight that each person's testimony deserves. But to
5 disqualify before you've even heard from these other
6 witnesses on the basis that your auditors had
7 educational experience of actually doing MAI
8 appraisals, I think, would set a very bad precedent
9 that would tie the hands of your Staff to bring you
10 questions that you're going to need in future cases.

11 **COMMISSIONER DEASON:** Mr. Schiefelbein.

12 **MR. SCHIEFELBEIN:** Thank you. First of all,
13 if I may respond to some of my colleagues comments.

14 I don't believe that a Staff auditor
15 occupies any special status in legal proceedings or
16 proceedings before this Commission. I think they have
17 to rise and fall on their own merits. I think the
18 evidentiary law is very clear that an opinion
19 testimony of a lay witness is only admissible if the
20 opinions expressed do not require a special knowledge,
21 skill, experience or training. Mr. Dodrill has none
22 of those.

23 Mr. Edmunds here indicated that Mr. Dodrill
24 testified that he examined appraisals and -- well,
25 it's not correct. Mr. Dodrill has only reviewed, if

1 at all, the appraisal for the RIB site. His testimony
2 was that he had never even reviewed the appraisal of
3 the spray field. He's looked at one appraisal and
4 drawn conclusions from that. Certainly it is not my
5 suggestion that your Staff auditors to render help on
6 these issues be a MAI appraiser. But I do think that
7 in order for them to sponsor opinions as an expert,
8 that they have to show a sufficient basis for that
9 opinion. And the law is quite clear, 90.705(2) among
10 others, says that if the party establishes prima facie
11 evidence, that the expert does not have a sufficient
12 basis for the opinion. The opinions and inference
13 evenss of the expert are inadmissible unless the party
14 offering the testimony establishes the underlying
15 facts or data.

16 Now, in my opinion Mr. Dodrill's testimony
17 on land values are irrelevant. Relevant evidence is
18 evidence tending to prove or disprove a material fact.
19 I don't think Mr. Dodrill has given us any relevant
20 evidence on which you can base any finding on the
21 value of the RIB site and the spray field. I,
22 therefore, ask that that inadmissible evidence be
23 stricken or not received into the record. Thank you.

24 **COMMISSIONER DEASON:** I'm going to overrule
25 the objection. I want to make the record clear that

1 by making that ruling I'm not declaring any special
2 status for Staff auditors. They do have a role. They
3 do have a job, but they have to present evidence upon
4 which they have reasonable knowledge and experience.
5 And I think in this case that's what Mr. Dodrill is
6 doing. He is not a lay witness for purposes of what
7 he is doing, and that is trying to make a rate base
8 determination that is resulting from a affiliated
9 transaction. I think that his evidence is not
10 inadmissible. I think his evidence will be given the
11 weight it deserves along with the other evidence which
12 will be taken from other witnesses concerning
13 appraisal of real property. For those reasons the
14 objection is denied. Therefore, Exhibit No. 30 is
15 admitted. Other exhibits.

16 **MR. SCHIEFELBEIN:** Exhibit 32, please.

17 **COMMISSIONER DEASON:** Without objection
18 Exhibit 32 is admitted. That was a late-filed
19 deposition exhibit.

20 **MR. SCHIEFELBEIN:** Yes, it is. I apologize.
21 And I would move Exhibit 31 into evidence as well.

22 **COMMISSIONER DEASON:** Without objection 31
23 is received. Thank you, Mr. Dodrill. Staff you may
24 call your next witness.

25 (Exhibit Nos. 30 and 31 received in

1 evidence.)

2 **MR. EDMONDS:** Mr. Sapp.

3 **MR. EDMONDS:** May we excuse Mr. Dodrill?

4 **COMMISSIONER DEASON:** Yes.

5 (Witness Dodrill excused.)

6 - - - - -

7 **COMMISSIONER DEASON:** Call the hearing back
8 to order. Mr. Edmonds.

9 **MR. EDMONDS:** Thank you.

10 Have you been sworn in, sir?

11 **WITNESS SAPP:** Not today.

12 **COMMISSIONER DEASON:** Have you been sworn at
13 today?

14 **WITNESS SAPP:** Yes, I have, sir. I'm the
15 county property appraiser.

16 **COMMISSIONER DEASON:** Will you please stand
17 and raise your right hand?

18 (Witness sworn)

19

20

21

22

23

24

25

1 **GUY W. SAPP**

2 was called as a witness on behalf of the Staff of the
3 Florida Public Service Commission and, having been
4 duly sworn, testified as follows:

5 **DIRECT EXAMINATION**

6 **BY MR. EDMONDS:**

7 Q Would you please state your name and
8 business address for the record?

9 A I'm Guy W. Sapp. I'm the Flagler County
10 appraiser, Post Office Box 936, Bunnell, Florida
11 32110.

12 Q And did you prefile testimony in this case
13 consisting of two pages?

14 A Yes.

15 Q Do you have any changes or corrections to
16 make to that testimony at this time?

17 A No.

18 Q If I were to ask you the same questions
19 today would your testimony be the same?

20 A Yes.

21 Q Mr. Chairman, may have Mr. Sapp's testimony
22 inserted into the record as though read?

23 **MR. SCHIEFELBEIN:** Commissioners, I object.
24 I would like an opportunity to first engage in voir
25 dire of this witness.

1 **COMMISSIONER DEASON:** Please proceed.

2 **MR. SCHIEFELBEIN:** If I first may ask a
3 question through you to Staff counsel.

4 Is Mr. Sapp being offered as an expert
5 witness? And while they're thinking about that, if I
6 could draw your attention on the first page of his
7 prefiled testimony, it doesn't say that. It does ask,
8 on Line 18, "Have you presented expert testimony
9 before," which leads me to believe he might be being
10 offered as an expert.

11 **MR. EDMONDS:** He is being offered as an
12 expert witness in the area of property appraisal.

13 **MR. SCHIEFELBEIN:** Okay. Then if I may.

14 **COMMISSIONER DEASON:** Please proceed.

15 **VOIR DIRE EXAMINATION**

16 **BY MR. SCHIEFELBEIN:**

17 Q Good afternoon, Mr. Sapp.

18 A Hello.

19 Q You are the property appraiser for Flagler
20 County?

21 A Yes.

22 Q And in that capacity you perform -- have
23 responsibility in the area of ad valorem property tax
24 matters?

25 A Yes, tangible personal property and real

1 property.

2 Q For ad valorem purpose, tax purposes?

3 A Yes.

4 Q And in that capacity, you do, I think
5 something that you called, you or your office, I
6 think, said you perform something called mass
7 appraisals?

8 A Yes, sir. We do 69 thousand appraisals
9 every year.

10 Q And -- gosh, how many is that a week?

11 A It's more like how many a minute.

12 Q That is a different sort of an appraisal
13 than the type of appraisal that's at issue in this
14 case, isn't it?

15 A Yes.

16 Q What Mr. Spano, for example, performs is
17 something I think you called a fee appraiser?

18 A Yes.

19 Q Okay. Have you ever performed an
20 independent appraisal of real estate for purposes of
21 determining value for purchase?

22 A No.

23 **MR. SCHIEFELBEIN:** Commissioners, I wonder,
24 then, based on Staff's description of what this
25 witness is being offered as an expert in, how that can

1 be.

2 **MR. EDMONDS:** I would suggest that
3 Mr. Schiefelbein look at Mr. Sapp's testimony under
4 the purpose of his testimony.

5 **MR. SCHIEFELBEIN:** Well, I'd be glad to do
6 that.

7 Well, that says he is here to -- in its
8 entirety, that says to support the comments I made to
9 Mr. Dodrill. So is he an expert in making comments to
10 Mr. Dodrill?

11 **COMMISSIONER DEASON:** Mr. Schiefelbein, I
12 believe he's here to verify and authenticate that
13 those were the comments that he made and that he
14 thinks that those comments that he made are accurate
15 in his opinion. That's the way I read the testimony.
16 Is that an inaccurate reading of the testimony
17 Mr. --

18 **MR. EDMONDS:** No, it is not.

19 **COMMISSIONER DEASON:** That is the purpose of
20 his testimony in this proceeding; is that correct?

21 **MR. EDMONDS:** That is correct.

22 **MR. SCHIEFELBEIN:** I don't understand how --
23 and I apologize, I really don't understand how that
24 ties to offering him as an expert in the area of land
25 appraisals.

1 **COMMISSIONER DEASON:** Mr. Edmonds.

2 **MR. EDMONDS:** The comments that Mr. Sapp is
3 here to verify and support are regarding property
4 appraisal for which Mr. Sapp is an expert.

5 **MR. SCHIEFELBEIN:** Well, we would concede in
6 a heartbeat that Mr. Sapp is an expert in the area of
7 ad valorem property tax mass appraisals, which he has
8 indicated his office performs 69 thousand of those a
9 year. He's also testified that it's an entirely
10 different thing than a fee appraisal which is what
11 this proceeding is all about. This is not about
12 evaluation of property for ad valorem tax purposes.

13 If he's offered as a lay witness to support
14 comments that he made to Mr. Dodrill, that's entirely
15 different thing and I have no business taking up your
16 time with voir dire, but that's not what he's being
17 offered as.

18 **COMMISSIONER DEASON:** Mr. Edmonds, clarify
19 for the record exactly why this witness is being
20 sponsored and the purpose of his testimony and his
21 status as an expert, and if he is an expert, exactly
22 what he is an expert in.

23 **MR. EDMONDS:** The reason that Mr. Sapp is
24 being offered as a witness is because certain comments
25 Mr. Sapp made to Mr. Dodrill were quoted in the Staff

1 audit as I think we all know. These comments were one
2 of several pieces of information received by
3 Mr. Dodrill, and Staff believed it would be important
4 to have Mr. Sapp support his statements so that we
5 would avoid any concerns about hearsay.

6 **COMMISSIONER DEASON:** Well, if that is the
7 reason, what difference does it make as to whether he
8 is an expert in any particular type of land appraisal,
9 whether it be ad valorem appraisal or whether it be
10 some type of a market appraisal?

11 **MR. EDMONDS:** It doesn't.

12 **COMMISSIONER DEASON:** Mr. Hadeed.

13 **MR. HADEED:** Mr. Chairman and Commission, I
14 don't know if I can help you on this, but --

15 **COMMISSIONER DEASON:** I think your
16 microphone -- hold on just a second. Let's get your
17 microphone on.

18 **MR. SCHIEFELBEIN:** If I may Commissioners,
19 the Staff sounds like they are not offering him now as
20 an expert. So I don't know if we need to go down the
21 row to hear why he out to be one.

22 **COMMISSIONER DEASON:** Well, I just want to
23 make sure that the record is clear and if the parties
24 have something to add, I'm going to give them that
25 opportunity.

1 **MR. HADEED:** In Mr. Dodrill's written
2 reports and in his testimony, he relied upon the
3 specialized knowledge of this individual, Mr. Sapp,
4 the elected constitutional office of property
5 appraiser. And I presume that the reason why he was
6 put on the witness list, as I perceived it and in
7 reading this, was that he was going to validate that
8 underlying body of information that Mr. Dodrill relied
9 upon in part for his analysis.

10 **COMMISSIONER KIESLING:** Well, I'm very
11 confused, then, because the prefiled direct testimony
12 only asks two questions of any substance to this
13 witness. One of them is what were the comments that
14 he made to Mr. Dodrill and for what purpose were they
15 made, and the second one is does he agree with the
16 presentation of his comments in Mr. Dodrill's reports?
17 I mean, those are just fact questions. Those aren't
18 expert questions.

19 **MR. HADEED:** Correct, Commissioner Kiesling.
20 There was an extensive deposition of the appraiser
21 relative to the underlying facts that relate to that
22 specialized knowledge that he has.

23 **COMMISSIONER KIESLING:** Well -- but that's
24 not what's being present here. I mean, I don't have
25 that deposition. All I have is two questions of

1 substance, what did you say and why did you say it,
2 and did Mr. Dodrill write it down right?

3 **MR. HADEED:** I'm sorry, my comment was only
4 that it was within the understanding of the parties in
5 terms of the deposition and how this case has evolved
6 that that was the function. I'm just telling you what
7 my understanding is as an attorney representing a
8 party in the case.

9 **MR. REILLY:** Can I confuse this just a
10 little further, if we are not hopeless shape.

11 It's my understanding that Mr. Sapp did
12 express opinions to Mr. Dodrill concerning more
13 comparable properties and that that opinion was
14 expressed to him, and it had some influence over
15 Mr. Dodrill in developing his recommendation to this
16 Commission. We have a man here and we are going to
17 try to hopefully get to him and ask him some questions
18 who has 14 or plus years' worth of experience of
19 knowing all these property transactions which have
20 occurred in this county and the dock stamps associated
21 with them. He's probably one of the most
22 knowledgeable men of what land values are, taking
23 aside the issue of tax evaluation. It's going through
24 his office. He is -- it's going through the court
25 records. He is saying what property is being sold for

1 day after day after day. And it just seems a terrible
2 shame if we can't have an opportunity to have
3 questioning on this issue.

4 So I had understood that he was being
5 offered. Now, I'm not speaking for Staff, but because
6 of his unique expertise in land sales in Flagler
7 County, which you can hardly find anyone more
8 qualified to speak, that he offered a particular
9 sales. It seemed far more comparable than some of
10 those used in the MAI appraisal. And how can we test
11 Mr. Spano on one side and some of these other
12 appraisals on the other if we are going to strip away
13 this other evidence?

14 I just hope the Commission will take in all
15 the evidence and not be restrictive. And we are here.
16 That's why we are here. It would be a shame to come
17 all the way down to Flagler County and then excuse
18 this man from expressing what would be his expert
19 testimony, and so I urge you not to grant the request
20 of the utility to silence Mr. Sapp.

21 **COMMISSIONER DEASON:** Mr. Schiefelbein, you
22 may conclude.

23 **MR. SCHIEFELBEIN:** Well, if I might, I would
24 prefer to hear for what purpose from Staff, because if
25 he's being offered as a layperson in this particular

1 area for certain purposes, then we don't need to go
2 through this, and I can ask questions accordingly as
3 an educated layman, as far as what he thinks about
4 these things.

5 And I think Staff was on the verge before we
6 marched down the table, perhaps, of clarifying that.

7 **COMMISSIONER DEASON:** Mr. Edmonds, you need
8 further clarification.

9 **MR. EDMONDS:** I think it's been expressed
10 that Mr. Dodrill to some extent relied on Mr. Sapp's
11 expertise in reaching his opinions in the Staff audit.
12 Whether we need to qualify Mr. Sapp as an expert for
13 the purpose of his direct prefiled testimony is
14 another question. I would note that the Utility, in
15 its rebuttal testimony, Mr. Spano's rebuttal
16 testimony, rebuts Mr. Sapp. But I'm not so sure that
17 it goes to the two statements that are made in
18 Mr. Sapp's direct testimony as much as it goes to
19 underlying facts regarding those statements.

20 **COMMISSIONER DEASON:** Well, that could be a
21 subject of another motion to strike or whatever as
22 being not responsive to direct testimony.

23 But back to the matter that's in fronts of
24 us right now, and I'm going to make a ruling.

25 I'm going to deny the motion. This

1 testimony is going to stand. It's going to be
2 inserted in the record. The testimony speaks for
3 itself as plain and it's simple and it's verifying
4 what took place in a conversation. This man does have
5 credentials, though. And whatever those credentials
6 stand for, that's what they stand for. And I'm not
7 making a ruling whether he is or is not an expert
8 because it's not necessary for what -- the purpose of
9 this precise direct testimony, those two questions
10 which Commissioner Kiesling indicated, it does not
11 make a difference.

12 The objection is overruled. The testimony,
13 the prefiled testimony, all two pages of it, is being
14 inserted into the record.

15 **MR. SCHIEFELBEIN:** Commissioner, I have
16 further voir dire as far as his underlying opinions
17 and inferences which I am entitled to do.

18 **COMMISSIONER DEASON:** I apologize. I had no
19 idea you had more voir dire. Please proceed.

20 **MR. SCHIEFELBEIN:** Well, Commissioners I'm
21 certainly not attempting to alienate you.

22 **COMMISSIONER DEASON:** You are not alienating
23 me. That's fine. I sincerely apologize. I did not
24 know that there was more voir dire.

25 **MR. SCHIEFELBEIN:** It seems that --

1 **COMMISSIONER KIESLING:** May I inquire?

2 **MR. SCHIEFELBEIN:** Yes. Yes, ma'am.

3 **COMMISSIONER KIESLING:** What is there to
4 voir dire if he is simply testifying about what he
5 said and why he said it?

6 **MR. SCHIEFELBEIN:** If we had a ruling that
7 indicated that he is not being accepted as an expert
8 witness in this area, I couldn't agree with you more.
9 But I don't think that that's the ruling. I think the
10 ruling is we are not going to decide today whether he
11 is an expert in this area or not.

12 **COMMISSIONER DEASON:** The ruling is that
13 it's not relevant as to whether this testimony, all
14 two pages of it, is going to be presented by this
15 witness as to whether he is or is not an expert.
16 That's the reason for that ruling.

17 And if you find it necessary, I encourage
18 you to please proceed.

19 **Q** (By Mr. Schiefelbein) Mr. Sapp, are you
20 here as an expert, in your mind, in the area of land
21 appraisal?

22 **A** Yes.

23 **Q** Okay. Fair enough. I think you were here
24 during the examination of Mr. Dodrill; is that
25 correct?

1 A Yes.

2 Q Okay. And do you recall that there was some
3 discussion of your criticism of Mr. Chuck Spano's
4 appraisal that he ought to know better in using
5 disqualified sales in his appraisal of the 1990 RIB
6 site?

7 A You have to understand that Chuck Spano is a
8 close friends of mine and so is Peter Gagney
9 (phonetic). This is sort of interfamily, you might
10 say, because I have great respect for both of those
11 appraisers and I can probably say a little bit more
12 about them than some stranger could.

13 Q Okay. Now you -- as part of your criticism
14 of Mr. Spano's appraisal of the RIB site, you did
15 indicated that he should know better than to use
16 disqualified sales; is that correct?

17 A I think that was probably -- I was misquoted
18 somewhat on that. Now, I probably said that Chuck
19 should have looked at those sales a little closer, or
20 Peter. Peter, I believe, did the leg work. I think I
21 probably said Peter should have looked at those sales
22 a little closer.

23 Q So, Mr. Dodrill's exhibits -- quote of your
24 statement is incorrect?

25 A It's very close to what I said. I certainly

1 can't remember back that far. I can't remember last
2 Monday.

3 **MR. REILLY:** Could we clarify one thing
4 here? Are we getting into cross examination now or we
5 voir diring? What are we doing?

6 **MR. SCHIEFELBEIN:** I am conducting voir
7 dire.

8 **MR. REILLY:** Okay.

9 **MR. SCHIEFELBEIN:** I'm trying to first of
10 all establish what this man said and I think -- before
11 I can voir dire.

12 **Q** (By Mr. Schiefelbein) So he should have
13 known better. Now the two disqualified sales are what
14 we've called the jail site and the school site?

15 **A** Yes.

16 **Q** Okay. Do you know better?

17 **A** Yes, I do.

18 **Q** Okay. Did you review the appraisal for the
19 county jail site?

20 **A** No, I did not. I reviewed the sales.

21 **Q** For ad valorem tax purposes?

22 **A** As sales to see whether they were qualified
23 sales.

24 **Q** Under the Department of Revenue rule?

25 **A** Under any appraisal rule. You know, it's

1 not just that rule. It's not that narrow.

2 Q Did you testify -- do you have your
3 deposition transcript with you, sir?

4 A No, I don't?

5 MR. SCHIEFELBEIN: Would you please provide
6 it to him? (Witness provided copy.)

7 BY MR. SCHIEFELBEIN:

8 Q Okay. Would you turn -- I don't know if
9 I've already told you this or not, but would you turn
10 to Pages 5 and 6 of that?

11 MR. SCHIEFELBEIN: Commissioners, please
12 bear with me.

13 Q (By Mr. Schiefelbein) Did you testify at
14 your deposition that you didn't know a great deal
15 about the appraisal of the jail site?

16 A I didn't know anything about the jail site
17 appraisal. In fact, I thought Hamilton did it.

18 Q You didn't know that Mr. Spano had also --
19 did an appraisal for that site, did you?

20 A I found out that day, the day of the
21 deposition.

22 Q At the deposition were you familiar with the
23 comparable sales used in the appraisal of the jail
24 site?

25 A On the day of the deposition?

1 Q Yes, sir?

2 A Yes.

3 Q You remembered the comparable sales used in
4 the jail site?

5 A No, the RIB site. I didn't remember
6 anything about the jail site. I knew nothing about
7 the jail site appraisal. I'm sorry.

8 Q Now, the other leg of this is you are quoted
9 as saying, and I paraphrase, if you want a good
10 comparable for the RIB site, look at the Con-Cor site.
11 Is that a fair summary?

12 A That is a fair summary.

13 Q Okay. Have you reviewed the Con-Cor
14 appraisal?

15 A No, I haven't looked at the Con-Cor
16 appraisal, just the sale itself.

17 Q We are talking the RIB site that was
18 appraised in 1990, you had not inspected the RIB site
19 back in 1990, had you?

20 A No, I didn't.

21 **MR. SCHIEFELBEIN:** Commissioners, Mr. Sapp
22 has an expert opinion that our independent appraiser
23 should have known better in using disqualified sales,
24 that he has just testified he has not reviewed the
25 appraisal for and doesn't no a great about them. He's

1 also testified that if you want a real good
2 comparable, use Con-Cor. He hadn't read that
3 appraisal, and he hadn't inspected the RIB site back
4 when it was valued. I would suggest that this expert
5 opinion is inadmissible because he has not shown an
6 adequate understanding of the underlying facts to make
7 such an opinion.

8 **COMMISSIONER DEASON:** You don't need to say
9 anything, the objection is being overruled. This
10 testimony is going to be inserted into the record.
11 The questions that you raise are certainly valid cross
12 examination and can be considered in the weight of the
13 evidence that this witness is giving -- in the
14 evidence this witness is giving. For those reasons,
15 the testimony will be allowed and it will be inserted
16 into the record.

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DIRECT TESTIMONY OF GUY W. SAPP

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2 | Q. Please state your name and business address.

3 | A. My name is Guy W. Sapp and my business address is P.O. Box 936, Bunnell,
4 | Florida, 32110.

5 | Q. By whom are you presently employed and in what capacity?

6 | A. I am employed by Flagler County as the Flagler County Property
7 | Appraiser.

8 | Q. Please describe your educational and professional background and
9 | experience.

10 | A. Briefly, in 1972 I fulfilled all the requirements to be a Certified
11 | Florida Property Appraiser. I was the Chief Deputy Property Appraiser in
12 | Putnam County for 6 years. I was then Chief Deputy Property Appraiser in
13 | Flagler County for 18 years before being elected as County Property Appraiser
14 | in 1992.

15 | Q. Please describe your current duties and responsibilities.

16 | A. I am an elected Constitutional officer of the state of Florida with all
17 | the duties required of the County Property Appraiser.

18 | Q. Have you presented expert testimony before?

19 | A. Yes, I have presented expert witness testimony in various Circuit
20 | Courts.

21 | Q. What is the purpose of your testimony today?

22 | A. To support the comments I made to the FPSC staff auditor Robert Dodrill.

23 | Q. What were the comments and for what purpose were they made?

24 | A. Mr. Dodrill was in the Flagler County Property Appraiser's office
25 | reviewing records and we began discussing his work. During the course of our

1 | discussion we discussed the comparables used in an appraisal for Palm Coast.
2 | I commented that two of the comparables are disqualified as comparables for
3 | county appraisal purposes because they are sales to governmental authorities.
4 | In addition, I provided copies of the paperwork of a recent sale of property
5 | by ITT that was a true third-party sale with a negotiated price.

6 | Q. Have you read the audit report written by Robert Dodrill issued by the
7 | Florida Public Service Commission in this rate case?

8 | A. Yes.

9 | Q. Do you agree with the presentation of your comments in Mr. Dodrill's
10 | audit report, those comments under the heading "Flagler County Appraiser"?

11 | A. Yes.

12 | Q. Does this conclude your testimony?

13 | A. Yes, it does.

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1 Is the witness available for cross
2 examination?

3 **MR. EDMONDS:** Yes, he is.

4 **COMMISSIONER DEASON:** Okay.

5 Mr. Schiefelbein.

6 **MR. SCHIEFELBEIN:** Thank you.

7 **CROSS EXAMINATION**

8 **BY MR. SCHIEFELBEIN:**

9 **Q** In talking about the disqualified sales in
10 relation to the RIB site, we are talking about the
11 jail site and the school site, correct?

12 **A** Yes.

13 **Q** And you disqualified or your office
14 disqualified them under Department of Revenue Rule
15 12D8.01?

16 **A** I disqualified them because they were too
17 high relative to the other sales in the area. I was
18 allowed to do that because of 12D8.

19 **MR. SCHIEFELBEIN:** Commissioners, we are
20 distributing a copy of Department of Revenue Rule
21 12D8.01.

22 **Q** (By Mr. Schiefelbein) And while we are
23 doing that, Mr. Sapp, if would you turn to Page 9 of
24 your deposition transcript.

25 Now, if you would turn to Line 4 of that

1 deposition, I asked you then, "Do you make those
2 determinations of whether a transaction is DQ or
3 disqualified under Department of Revenue Rule
4 12D8.011?" And your answer, sir, was?

5 A Yes.

6 Q And do I have before you a copy of that
7 rule?

8 A Yes.

9 MR. SCHIEFELBEIN: Okay. Could we have that
10 marked as an exhibit, please?

11 COMMISSIONER DEASON: Yes, Exhibit 33.

12 (Exhibit No. 33 marked for identification.)

13 Q (By Mr. Schiefelbein) All right. Now, the
14 jail site, as you may recall, was virtually identical
15 acreage as to that included in the RIB site. Is that
16 fair?

17 A That's fair.

18 Q Okay. Would you turn to Page 24 of your
19 deposition? Now, although they are practically
20 identical acreage, there are certain aspects of them
21 that you felt were not comparable?

22 A I don't understand that question.

23 Q I'm apologize. I'm comparing the jail site
24 and the RIB site. And there are certain opinions that
25 you have as to why these two sites, other than their

1 acreage or size, why they may not be comparable. Is
2 that correct?

3 A Yes.

4 Q Okay. And on Line 21 of Page 24 of your
5 deposition, I said, "That means that you have to look
6 deeper to determine whether it really is comparable."

7 A That's right.

8 Q Okay. And you testified, "Right, and in
9 looking deeper I couldn't find anything with that at
10 that price." Is that correct?

11 A That's true.

12 Q In looking deeper. But you testified just a
13 few minutes ago that you had not reviewed the
14 appraisal for the jail site?

15 A I didn't review the appraisal, I reviewed
16 the sale. Now, the sale is the culmination of an
17 appraisal. An appraisal really doesn't mean a lot
18 about the price of a piece of property. An appraisal,
19 you can come in with a \$200,000 appraisal and the
20 property will sell for 100,000. So the appraisal,
21 it's just an indicator. The sale is the final word.

22 Q These sales are really disqualified under
23 the rule because they were sales to governmental
24 entities. Isn't that correct?

25 A No, that's not corrects. I never said that

1 anywhere in this deposition, you said that.

2 Q You testified a few minutes ago that you
3 made the DQ determination under the Department of
4 Revenue rule; is that correct?

5 A I made it because I was allowed to make that
6 disqualification. I'm allowed to make it if I find
7 that there are no other sales in that area that high,
8 so I disqualified it. In fact, one of your
9 comparables, the \$14,000-an-acre school sale, even
10 your appraiser disqualified it. That is a
11 governmental sale. There was almost a grand jury
12 hearing because of that sale, it was so high.

13 Q Now, you testified at your deposition that
14 the government pays more than a normal citizen would
15 for real property. Is that your belief?

16 A Generally, they do.

17 Q Okay. And in your deposition you testified
18 as an example that the Water Management District buys,
19 quote, "swampland at quite a high price the public
20 wouldn't pay and that's why it's DQed." Is that
21 right?

22 A In many cases. In every case that we've
23 seen, the St. Johns River Water Management has paid
24 more than we felt like the market would bring.

25 Q You testified at your deposition that you

1 don't know the requirements, the statutory
2 requirements on public purchases; is that correct?

3 A I do not know the requirements.

4 Q You don't deal in public funds, do you, sir?

5 A No, I do not.

6 MR. EDMONDS: Could I ask you where you are
7 in your reference to the deposition transcript,
8 please?

9 MR. SCHIEFELBEIN: For which statement?

10 MR. EDMONDS: All of like the past three
11 questions maybe.

12 MR. SCHIEFELBEIN: "Government pays more
13 than a citizen would," Page 28; "Water Management
14 District buys swampland at quite a high price the
15 public wouldn't pay," Page 8; "Does not know
16 requirements in public purchases; "I don't deal in
17 public funds," Page 31.

18 MR. EDMONDS: Thank you.

19 Q (By Mr. Schiefelbein) Are you familiar,
20 sir, with the DEP -- excuse me. With the Florida
21 statutes governing purchases, land purchases by the
22 Department of Environmental Protection?

23 A No.

24 Q Are you familiar, sir, with the statutes
25 governing acquisition of lands by the Water Management

1 District?

2 A No.

3 Q Do you agree that a larger parcel has a
4 lower per acre price, all things being equal?

5 A Generally.

6 Q How about if a 13,000-acre parcel were
7 compared to a 80-acre parcel?

8 A That wouldn't be comparable.

9 Q Would it be fair to say that there's not
10 enough appraisal wrenches in the world to twist that
11 down to where it would be equal?

12 A That's perfect. I think I said that.

13 Q How about the Con-Cor parcel? You've
14 testified that that is a real comparable, haven't you?

15 A Yes.

16 Q To the RIB site. I apologize.

17 Okay. And that is -- the Con-Cor site is
18 two-tenths of a mile down the road from the RIB site.

19 A True.

20 Q Okay. How many acres is the Con-Cor site?
21 Do you know?

22 A I don't know.

23 Q At your deposition did you know?

24 A I think I had it written down, and I don't
25 have any notes now. But if you tell me how many it

1 is, I bet I could tell you if you are right or wrong.

2 Q Well, do you recall if there was testimony
3 that the Con-Cor parcel was about nine times as large
4 as the RIB parcel?

5 A I remember that, okay. That's fine. It was
6 a large parcel, yes. It was about nine times as
7 large. I remember saying that.

8 Q Do you have any knowledge of the net
9 developable versus nondevelopable land in the Con-Cor
10 parcel?

11 A No, I don't know as far as development goes.
12 It's an old coquina pit and it has two lakes on it,
13 and it's a beautiful piece of property. I think we
14 all agreed it was just gorgeous.

15 Q It's got two lakes on it, doesn't it?

16 A Yes.

17 Q They are pretty large?

18 A Yes.

19 Q Okay. Did Mr. Spano have the benefit of the
20 Con-Cor sale to use in his appraisal of the RIB site?

21 A No.

22 Q And why is that?

23 A Because that sale didn't occur until about
24 five years after his appraisal.

25 Q Is it fair to say that you have to take the

1 comparables available during the time period of the
2 appraisal?

3 A Yes.

4 Q You testified that the Con-Cor parcel is a
5 prime location, didn't you?

6 A Yes.

7 Q Is it close to the interstate?

8 A Yes.

9 Q Schools?

10 A Yes.

11 Q Good location in relation to Palm Coast and
12 Flagler Beach?

13 A Yes.

14 Q Is that also true of the RIB site?

15 A Yes. Yes, it is.

16 Q Mr. Sapp, did you review Mr. Dodrill's
17 calculation of the evaluation of the RIB site?

18 A I glanced at it.

19 Q Is every accountant a frustrated appraiser?

20 A I believe I said that, didn't I?

21 Q Is it fair to say that you don't know
22 anything about Mr. Dodrill's calculation?

23 A No, I don't.

24 MR. SCHIEFELBEIN: Commissioners, if I could
25 have a minute.

1 Thank you.

2 COMMISSIONER DEASON: Mr. Hadeed.

3 MR. HADEED: Thank you, Mr. Chairman.

4 CROSS EXAMINATION

5 BY MR. HADEED:

6 Q Mr. Sapp, for a particular parcel, is the
7 appraisal more or less important than the actual sale
8 in terms of accurately ascertaining value?

9 A The sale itself is important because that's
10 why you have comparable sales. Just as you have in
11 the appraisal for the RIB site. They used the sales.
12 They didn't use the appraisals.

13 Q Would your statement about -- would your
14 statement be as applicable if the appraisal is
15 governmentally derived?

16 A It would depend on that sale. If it's
17 governmentally derived, sometimes it's a good sale.
18 And sometimes you can actually use a governmental
19 sale. But generally speaking, I wouldn't use one.
20 I'd have to look around and see the other sales in
21 that area.

22 You understand a government sale is just one
23 sale. We may have 50 sales.

24 Q In examining that governmental sale, would
25 it be material to you to know what the governmental

1 appraisal was that led to that sale?

2 A No, it wouldn't mean anything to me.

3 Q So, therefore, is it fair for me to assume
4 that how the Water Management District or any other
5 governmental body conducts its appraisals is
6 irrelevant to your assessment of the sale of that
7 particular parcel?

8 A It is irrelevant. The sale itself is the
9 governing factor.

10 Q Your office, the office of property
11 appraiser, is it a independent constitutional office?

12 A Yes.

13 Q You are separate and independent from all
14 other elements of local government?

15 A Yes.

16 Q Are you the only office within local
17 government that has to tabulate land sale
18 transactions?

19 A Yes.

20 Q In that context, is it your experience that
21 beautiful lakes and beautiful property contribute to
22 the sale price of a parcel?

23 A Yes.

24 Q There has been discussion or question and
25 answer relative to your critique of the appraisal that

1 was concluded by Mr. Gagney (phonetic) and Mr. Spano,
2 who signed them. Can you tell us what your problems
3 are with that appraisal?

4 A This is an opinion type thing. And
5 understand what I say --

6 Q I'm sorry, what's an opinion type thing?

7 A In other words, my problems are my opinion
8 of their comparables are different than their opinion
9 of their comparables. I feel like they used two
10 comparables that they had to adjust the acreage. In
11 other words, they were actually larger sales, and they
12 reduced them down. In other words, I think one was a
13 15-acre sale, and they reduced it down to nine acres
14 and then put a price per acre on it, but they decided
15 not to use it in the appraisal.

16 The next one was reduced from 30 acres down
17 to 20 acres and an abstracted value was placed on it,
18 which is not -- this is what you use if you are
19 desperate for sales.

20 The third sale was the school sale and it
21 was so high they discarded that. Then there was the
22 jail sale. That's the last sale. That's the sale
23 that they hung their hat on. And that's the sale that
24 I couldn't go along with because the jail sale was
25 about \$7,000 an acre. One year before the jail sale,

1 there was 15 acres adjoining that that sold for 2,500.
2 And the jail sold for 7000, thereabouts, and one
3 year's difference. And the difference was one was an
4 individual sale, one was a sale to a governmental
5 body. And I couldn't go with that sale next to it.
6 So I disqualified the jail because I had a sale right
7 next to it for 2,100. Then I had five other sales
8 from 15 up to 75 acres, all under \$3,000, all the same
9 year that these comparables were. So I'm looking at
10 their comparables which were the four highest
11 comparables sold in those years.

12 So I took an average, and my average came
13 out to about \$2,300 to \$2,400. And my assessment on
14 the property out there is about \$2,300, \$2,400 now.
15 It has been for years.

16 Q These other sales that you've identified
17 from your records, is there anything that
18 distinguishes them as group from the comparables that
19 Mr. Spano and Mr. Gagney have identified?

20 A Yes. But, now, it's going to be a little
21 hard for me to describe this with my hands. I have a
22 map -- it's a big map. It's easily seen, and it will
23 probably cut a lot of time off of this if anybody is
24 interested in time. If I could introduce that map, I
25 think that would -- what I'm going to show you is

1 Mr. Spano's comps on there, where they are.

2 Q Would your explanation of these comparables
3 be aided by your being able to point out where they
4 sit on a map?

5 A Oh, yes. Well, the map of Mr. Spano's,
6 that's already in the evidence here. It's in there,
7 but it's very small, you can't see it. I've got it
8 very large. You can see where they are, and you can
9 see where mine are. That's all there is.

10 Q Do you have that with you?

11 A Yes, I do.

12 We may have to both hold this up. That's
13 why I brought a tall girl. (Laughter)

14 Q Mr. Sapp, wait to speak until you have the
15 microphone there, please, for the benefit of the court
16 reporter?

17 A Thank you very much. Come this way a little
18 bit, they may be as nearsighted as me.

19 I have four circles here. One inch equals a
20 mile. Here's the subject property. Mr. Spano's
21 comparables were about three miles here, say three
22 miles there, three and-a-half miles there and six
23 miles to the jail. Okay? That's his comparables.
24 All four of these comparables were on a state highway.
25 They fronted on a state highway, every single one of

1 them except the jail site; it fronted on a county road
2 and State Road 11. So that's those comps. Now, I
3 want you to look at those three. They are very close
4 together, but we have a school site; we have a
5 commercial subdivision cite; we have 15 acres that was
6 reduced to nine by abstracting and a jail site.

7 Now, this little red thing that you see
8 right there, that's the 15 acres that sold next to the
9 jail. That 15 acres sold -- well, the jail sold for
10 7,700.

11 Let's look at what I think should have been
12 used. Here is the same map, the same comps, the same
13 subject. Now, you look at this. It looks like Custer
14 has been surrounded by these sales.

15 Now here's a sale, this was the highest
16 sale. This was as coral pit, and it was 25 acres,
17 \$6,000 an acre. Here is 15 acres, \$2,900 an acre; 44
18 acres at \$2,500 an acre; 35 acres at \$2,800 an acre.
19 And here is the sale that I think was most comparable.
20 It's right up the road. It's the same distance. It's
21 right here. And it was 73 acres at \$2,168.

22 Now, there's not a sale in there except this
23 pit and they dug it out. That's the only one that was
24 over \$3,000. Everything else was under three. That's
25 why I valued all that property at \$2,500, 2,400 and

1 \$2,300 an acre.

2 Now, if you put these three together, these
3 are all the sales. The ones in the red are
4 Mr. Spano's. The ones in the green are mine. Now,
5 these two sales here are sales way out in the woods.
6 One is to St. Johns River Water Management and the
7 county. And this is a sale of -- that sale right
8 there is a pasture sale. But these are the sales that
9 we found that were 15 acres and up. And I felt like
10 that would be all right because Chuck used about the
11 same size sales.

12 But that's why I did that. That's why I
13 didn't want to use the jail sale. Nothing came up to
14 \$7,000 that I could find.

15 **MR. HADEED:** Mr. Chairman, Commissioners, I
16 don't have any further questions of Mr. Sapp, but if
17 we could mark those graphical representations as a
18 composite.

19 **COMMISSIONER DEASON:** Well, Mr. Sapp may not
20 want to give up his maps.

21 **MR. HADEED:** I'm sorry. You are correct. I
22 did not ask.

23 **WITNESS SAPP:** You are welcome to them,
24 Commissioner, and I have little thing that goes with
25 them that shows the book and page and the price per

1 acre and the number of acres and who was the grantee
2 and the grantor.

3 Q (By Mr. Hadeed) Excuse me. When you say,
4 Mr. Sapp, "book and page," what are you referring to?

5 A The official records that it's recorded in.

6 Q And that is the ledger that records all
7 deeds?

8 A Yes.

9 MR. HADEED: Thank you, sir.

10 COMMISSIONER DEASON: That will be
11 identified as -- all the maps plus the description
12 page accompanying the maps will be identified as
13 Composite Exhibit 33.

14 MR. SCHIEFELBEIN: Will we be provided with
15 copies of these maps or copies of any of this
16 information?

17 COMMISSIONER DEASON: I'm simply identifying
18 it at this point. I would think that whoever wants
19 the maps admitted into the record, that they are going
20 to have the responsibility of making copies of that
21 and distributing to all parties. If nobody moves it
22 in the record, well, there's no problem.

23 MR. EDMONDS: Excuse me. Commissioner
24 Deason, did you identify that as exhibit -- what
25 exhibit number did you give that?

1 **COMMISSIONER DEASON:** I'm sorry. 34.

2 **MR. EDMONDS:** Thank you.

3 **MR. HADEED:** Short title, "Property
4 Appraisers Comparable Maps."

5 **COMMISSIONER DEASON:** That's fine.

6 (Exhibit No. 34 marked for identification.)

7 **COMMISSIONER DEASON:** Do you have any
8 further questions?

9 **MR. HADEED:** No. No, Mr. Chairman, thank
10 you.

11 **COMMISSIONER DEASON:** Mr. Reilly.

12 **MR. REILLY:** I had only one question. I
13 think it's been adequately covered, but maybe it
14 wouldn't hurt to emphasize it a little bit more.

15 **CROSS EXAMINATION**

16 **BY MR. REILLY:**

17 **Q** What is the best indication of market value,
18 an appraisal or an actual arm's length consummated
19 sale?

20 **A** The sale.

21 **MR. REILLY:** Thank you.

22 **MR. MELSON:** No questions.

23 **MR. REILLY:** You do that better than
24 anybody.

25 **COMMISSIONER DEASON:** Bless you.

1 Redirect?

2 MR. EDMONDS: No redirect.

3 COMMISSIONER DEASON: Exhibits.

4 MR. SCHIEFELBEIN: Commissioners, am I
5 entitled to ask questions about this coincidental line
6 of questioning between the county attorney and the
7 county appraiser.

8 COMMISSIONER DEASON: I've given you the
9 privilege of recross, and I'll afford you that
10 privilege now.

11 MR. SCHIEFELBEIN: May I have something to
12 work off of regarding that map? Was there a summary
13 sheet or something that I can look at while I ask
14 these questions?

15 WITNESS SAPP: I believe there is.

16 MR. SCHIEFELBEIN: Commissioner, if I could
17 have a minute?

18 COMMISSIONER DEASON: Surely.

19 CROSS EXAMINATION

20 BY MR. SCHIEFELBEIN:

21 Q I beg your pardon. If this seems like
22 discovery I typically don't do at hearings, but, Mr.
23 Sapp, you have been busy.

24 The Smith to Patterson conveyance in August
25 of 1989, on what do you base your information there

1 that you present in this property appraiser
2 comparables document?

3 A I don't understand.

4 Q What did you look at to determine the price
5 per acre?

6 A We had two ways to do that that we do.

7 Q Which way did you use it?

8 A We used both. We looked at the documentary
9 stamps and then there is a form that is filed called
10 DR-219. It's a confidential form, and it swears on
11 there what the sales price was. It's either done by
12 the grantee or the grantor, and shows whether any
13 personal property was included in the sale, whether
14 there was anything unusual in the transaction.

15 Q So you looked at the dock stamps and you
16 looked at the affidavit?

17 A DR-219.

18 MR. SCHIEFELBEIN: Ma'am, thank you very
19 much, but you don't need to stand there. (Addressing
20 woman holding map behind witness.)

21 WITNESS SAPP: Thank you. I didn't realize
22 that you were doing that or would have let you know
23 first. I can probably remember where they are.

24 MR. SCHIEFELBEIN: If you want to lay them
25 out before the witness, I have no objection to that.

1 Q (By Mr. Schiefelbein) Was that the extent
2 of your inquiry on the Con-Cor site as well? Did you
3 look at the dock stamps and the affidavit that was
4 filed?

5 A When I made the comment about the Con-Cor
6 site, all I saw was the sales amount that we put on
7 the map. I'm sure if we left it as a comparable, they
8 checked the DR-219. I don't check all of these. I
9 have some people in the office --

10 Q Have you read Mr. Spano's rebuttal testimony
11 to that?

12 A Yes, I think I read some of that.

13 Q Was the per acre purchase price, did that
14 indicate that the per acre purchase price that you
15 claimed was paid for Con-Cor was actually the purchase
16 price paid?

17 A It would seem so.

18 Q Well, Mr. Spano's testimony will speak for
19 itself. Is that the same source of information for
20 each of these sales, that you looked at the dock
21 stamps and affidavit filed?

22 A Yes, we do. That's the common practice.
23 We're not allowed the luxury of visiting every buyer,
24 every seller, every broker. We would have somewhere
25 in the neighborhood of 10,000 people working in that

1 office.

2 Q Did you review the appraisals for any of
3 these?

4 A No.

5 Q Thank you.

6 MR. SCHIEFELBEIN: Nothing further.

7 COMMISSIONER DEASON: Redirect.

8 MR. EDMONDS: None. Thank you.

9 CHAIRMAN DEASON: Exhibits.

10 MR. HADEED: Exhibit 34.

11 COMMISSIONER DEASON: Are you going to take
12 it upon yourself to provide copies to all parties?

13 MR. HADEED: Yes.

14 COMMISSIONER DEASON: Any objection to
15 Exhibit 34? Exhibit 34 is admitted.

16 (Exhibit No. 34 received in evidence.)

17 MR. HADEED: Could we have permission to
18 withdraw it from the record in order to make those
19 copies and then to return the original to the
20 Commission?

21 COMMISSIONER DEASON: Sure.

22 MR. MELSON: Dunes does not need a copy.

23 COMMISSIONER DEASON: One copy you don't
24 have to make.

25 WITNESS SAPP: Since I'm going to make the

1 copies, how many do you want?

2 **MR. HADEED:** 14.

3 **COMMISSIONER DEASON:** You don't need to make
4 a copy for me. I will refer to Staff's. Three
5 copies.

6 **WITNESS SAPP:** That's great. Let me count.
7 There's seven.

8 **COMMISSIONER DEASON:** Seven sounds fine.

9 **MR. SCHIEFELBEIN:** I would move Exhibit 33.

10 **COMMISSIONER DEASON:** Just a second. When
11 do you plan to have those copies, Mr. Hadeed?

12 **UNIDENTIFIED SPEAKER:** He can tell me when I
13 need the copies. I'm on vacation so I have to have
14 somebody else do them.

15 **MR. HADEED:** I have to look to you,
16 Mr. Appraiser. When do you think you can have them --

17 **WITNESS SAPP:** I can have them tomorrow
18 afternoon. That's plenty soon enough.

19 **MR. HADEED:** Thank you.

20 **COMMISSIONER DEASON:** Okay. That's
21 Exhibit 34. Exhibit 33.

22 **MR. SCHIEFELBEIN:** I'd move it.

23 **COMMISSIONER DEASON:** Without objection.
24 Exhibit 33 admitted. We need to make an assessment as
25 to where we are. We need to insert the testimony of a

1 Staff witness.

2 (Exhibit No. 33 received in evidence.)

3 **WITNESS SAPP:** Are you just going to leave
4 me here or can I go?

5 **COMMISSIONER DEASON:** Your excused. Thank
6 you very much.

7 (Witness Sapp excused.)

8 - - - - -

9 **COMMISSIONER DEASON:** The testimony of
10 Blanca Rodriguez, all parties have agreed to have that
11 testimony stipulated into the record; is that correct.

12 **MR. EDMONDS:** That's correct.

13 **COMMISSIONER DEASON:** So that prefiled
14 testimony is being inserted into the record and cross
15 examination waived. Are there exhibits to that
16 testimony?

17 **MR. EDMONDS:** Yes, there are.

18 **COMMISSIONER DEASON:** We need to identify
19 those exhibits as well.

20 **MR. EDMONDS:** One exhibit, it's been
21 attached to her testimony as BRR-1.

22 **COMMISSIONER DEASON:** That will be
23 identified as Exhibit 35. And I assume you're moving
24 that into the record. Without objection that exhibit
25 is admitted.

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MR. EDMONDS: Thank you.

(Exhibit No. 35 marked for identification
and received in evidence.)

DIRECT TESTIMONY OF BLANCA R. RODRIGUEZ

1 |
2 | Q. Please state your name and business address.

3 | A. My name is Blanca Rodriguez and my business address is 7825 Baymeadows
4 | Way, Suite B-200, Jacksonville, FL, 32257.

5 | Q. Please state a brief description of your educational background and
6 | experience.

7 | A. I am an environmental manager and supervise the Drinking Water Section.
8 | I have a Bachelor of Science degree in Chemical Engineering and 20 years
9 | experience in the engineering field, 12 years of which was an engineer in the
10 | Potable Water Section with the Florida Department of Environmental Protection.

11 | Q. By whom are you presently employed?

12 | A. I am employed by the Florida Department of Environmental Protection
13 | (FDEP).

14 | Q. How long have you been employed with the Department of Environmental
15 | Protection and in what capacity?

16 | A. I have been employed by the FDEP during the last 12 years as an
17 | engineer. At this time, I am an environmental manager supervising the
18 | Drinking Water Section.

19 | Q. What are your general responsibilities at the Department of
20 | Environmental Protection?

21 | A. In addition to supervising 11 people in my section, I am responsible for
22 | the permitting, compliance and enforcement activities for the Public Water
23 | Systems in the FDEP's Northeast District.

24 | Q. Are you familiar with Palm Coast Utility Corporation's water system in
25 | Flagler County?

1 A. Yes.

2 Q. Does the utility have a current construction permit from the Department
3 of Environmental Protection?

4 A. Yes.

5 Q. Please state the issuance date and the expiration date of the
6 construction permit.

7 A. Permit number WC-18-184431 was issued on December 14, 1990 and expired
8 on December 14, 1991. This permit was for construction of water treatment
9 plant number two, the membrane softening plant.

10 Q. Is the plant in compliance with its permit?

11 A. Yes.

12 Q. Are the utility's treatment facilities and distribution system
13 sufficient to serve its present customers?

14 A. Yes.

15 Q. Does the utility maintain the required 20 psi minimum pressure
16 throughout the distribution system?

17 A. Yes. The pressure during the last sanitary survey on June 17, 1994 was
18 65 psig. A copy of this survey is provided in Exhibit BRR-1.

19 Q. Does the utility have an adequate auxiliary power source in the event
20 of a power outage?

21 A. Yes. Auxiliary power is available to operate the complete plant.

22 Q. Are the utility's water wells located in compliance with Rule
23 62-555.312, Florida Administrative Code?

24 A. Yes.

25 Q. Does the utility have certified operators as required by Rule 61E12-41,

1 Florida Administrative Code?

2 A. Yes.

3 Q. Has the utility established a cross-connection control program in
4 accordance with Rule 62-555.360, Florida Administrative Code?

5 A. Yes.

6 Q. Is the overall maintenance of the treatment plant and distribution
7 facilities satisfactory?

8 A. Yes. No deficiencies were noted during the last sanitary survey.

9 Q. Does the water produced by the utility meet the State and Federal
10 maximum contaminant levels for primary and secondary water quality standards?

11 A. Yes. The water quality meets the standards set forth in Chapter 62-550,
12 Florida Administrative Code.

13 Q. Does the utility monitor the organic contaminants listed in Rule
14 62-550.410, Florida Administrative Code?

15 A. Yes. The last analysis was performed on November 9, 1993 and all of the
16 chemical parameters were below detectable level (BDL).

17 Q. Do recent chemical analyses of raw and finished water, when compared to
18 regulations, suggest the need for additional treatment?

19 A. No.

20 Q. Does the utility maintain the required chlorine residual or its
21 equivalent throughout the distribution system?

22 A. Yes. Flushing is needed in some areas of the distribution system in
23 order to maintain the required chlorine residual.

24 Q. Are the plant and distribution systems in compliance with all the other
25 provisions of Title 62, Florida Administrative Code, not previously mentioned?

1 A. Yes.

2 Q. Does the utility have a permit to discharge the concentrate from the
3 membrane softening treatment plant?

4 A. Yes. Our Industrial Wastewater Section issued a permit to discharge the
5 concentrate.

6 Q. Please state the issuance date and the expiration date of the permit.

7 A. Permit number FL0042838 was issued on July 3, 1991 and the expiration
8 date is June 30, 1996.

9 Q. Please explain how the utility disposes the concentrate from the
10 membrane softening water plant.

11 A. The utility disposes the concentrate using a surface water discharge to
12 the Royal Palm Waterway.

13 Q. Has Palm Coast Utility Corporation been the subject of any Department
14 of Environmental Protection enforcement action within the past two years?

15 A. No.

16 Q. Do you have anything further to add?

17 A. Yes. Water treatment plant number one received the DEP Water Treatment
18 Operation Award in 1995 for their effective operation and maintenance program
19 and their commitment to maintaining and protecting the drinking water quality
20 and treatment facilities.

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1 **COMMISSIONER DEASON:** According to my list
2 of witnesses that concludes all direct testimony, and
3 the only remaining testimony is rebuttal and the cross
4 examination of Mr. Bidby, which has been delayed.

5 **MR. GATLIN:** That's my understanding.

6 **COMMISSIONER DEASON:** We have reserved the
7 19th of July to conclude this hearing in Tallahassee.
8 We cannot -- due to prior commitments and prehearing
9 conferences and things of that nature, the hearing
10 cannot begin until 11 a.m. Which means that we're
11 definitely going to have to conclude on that date
12 because I don't know when we're going to find another
13 day.

14 It seems to me that's ample time, but I need
15 to ask the parties if that period of time is going to
16 be sufficient to conclude all of the rebuttal
17 testimony and the cross examination of Mr. Bidby?

18 **MR. REILLY:** Since Mr. Spano is right here
19 in this community, is there any chance that we could
20 dispose of that witness and then he wouldn't have to
21 come up to Tallahassee? Mr. Seidman is in
22 Tallahassee.

23 **MR. GATLIN:** No, we want him Tallahassee.

24 **MR. REILLY:** We just had the testimony of
25 Mr. Sapp just framing this issue. This hearing,

1 unless it's being adjourned, it would be sure helpful
2 to have these witnesses talking about the same issue
3 right at the same time.

4 **COMMISSIONER DEASON:** The problem is it is a
5 quarter until 6, and it's late in the day. It's been
6 a long hard day, and I don't want to threaten
7 Commission overload here.

8 I think we've reached a responsibility where
9 we've reached a good breaking point, and I understand
10 the Company has no objection to having Mr. Spano
11 appear in Tallahassee, in fact prefers to have the
12 witness appear in Tallahassee; is that correct?

13 **MR. GATLIN:** We need him with us and I guess
14 it would be better for him to testify in Tallahassee,
15 too.

16 **COMMISSIONER DEASON:** If you desire to have
17 him here to minimize travel expenses and all of that,
18 it's possible we can go ahead and take him this
19 evening.

20 **MR. GATLIN:** I would think it would take
21 quite a while. I would not propose it.

22 **COMMISSIONER DEASON:** Let's make that
23 assessment. How much cross examination do we have for
24 Mr. Spano? County? I know it's a rough estimate.
25 And it depends on the answers.

1 **MR. HADEED:** About 30 minutes.

2 **MR. REILLY:** And we have no questions.

3 We've yielded to Mr. Hadeed to ask questions on the
4 subject. And I'm making this point because of the
5 rate case expense issue. It's my client that's going
6 to be paying for his trip up there, not PCUC.

7 **MR. MELSON:** We'll have no questions.

8 **MS. REYES:** Staff would have approximately
9 30 to 45 minutes worth.

10 **COMMISSIONER DEASON:** Then we have redirect
11 after that. I think it's best to take Mr. Spano in
12 Tallahassee.

13 Now, let's go ahead and review the other
14 witnesses. Cross examination for Mr. Seidman on
15 rebuttal.

16 **MR. HADEED:** Minutes.

17 **COMMISSIONER DEASON:** Just minutes, not
18 hours. Mr. Reilly.

19 **MR. REILLY:** We have a fair amount of
20 questions for Mr. Seidman and Mr. Guastella but it's
21 not hours.

22 **COMMISSIONER DEASON:** My only concern is we
23 have got to conclude this hearing on the 19th, and if
24 we can't well then we're going to take Mr. Spano here
25 because I don't know when we would be able to conclude

1 this hearing if we do not do it on the 19th.

2 Mr. Melson.

3 **MR. MELSON:** I anticipate no more than 15
4 minutes for all of the remaining witnesses combined.

5 **COMMISSIONER DEASON:** Staff.

6 **MS. REYES:** Probably about ten minutes for
7 Mr. Seidman.

8 **COMMISSIONER DEASON:** And Mr. Guastella?

9 **MS. REYES:** Probably less than 30 minutes I
10 would think.

11 **COMMISSIONER DEASON:** Okay. Mr. Gatlin, do
12 you have an estimate for Mr. Bidy?

13 **MR. GATLIN:** 15.

14 **COMMISSIONER DEASON:** I think we can
15 conclude the hearing on the 19th without going any
16 further this evening.

17 Is there anything that needs to come before
18 the Commission before we adjourn the hearing, this
19 segment of the hearing?

20 **MR. HADEED:** Just to say, Chairman and
21 Commissioners, on behalf of Flagler County, as your
22 host county we very much appreciate the Commission
23 being here and spending the time and listening to the
24 citizen testimony and accomodating the local interest.
25 Thank you very much.

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STATE OF FLORIDA)

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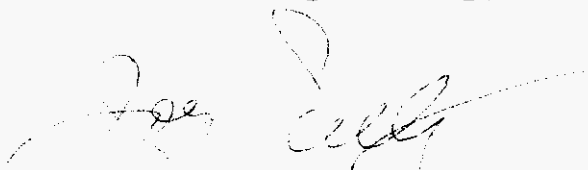
COUNTY OF LEON)

We, JOY KELLY, CSR, RPR, Chief, Bureau of Reporting and ROWENA NASH HACKNEY, Bureau of Reporting Official Commission Reporters,

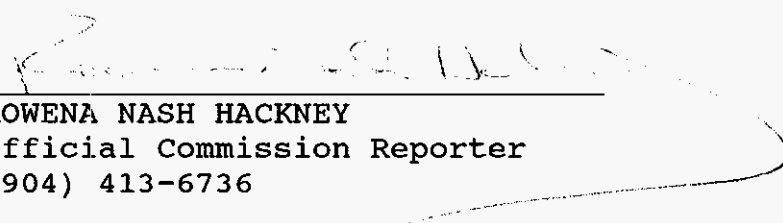
DO HEREBY CERTIFY that the Hearingin Docket No. 951056-WS was heard by the Florida Public Service Commission at the time and place herein stated; it is further

CERTIFIED that we stenographically reported the said proceedings; that the same has been transcribed under our direct supervision; and that this transcript, consisting of 763 pages, inclusive of Volumes 1 through 6, constitutes a true transcription of our notes of said proceedings.

DATED this 17th day of July, 1996.



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