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 1 BEFORE THE

 FLORIDA PUBLIC SERVICE COMMISSION

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 3 DOCKET NO. 060262-WS

 4 In the Matter of:

 5 APPLICATION FOR INCREASE IN WATER AND

 WASTEWATER RATES IN PASCO COUNTY BY

 6 LABRADOR UTILITIES, INC.

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 14 PROCEEDINGS: AGENDA CONFERENCE

 ITEM NO. 9

 15

 BEFORE: CHAIRMAN LISA POLAK EDGAR

 16 COMMISSIONER MATTHEW M. CARTER, II

 COMMISSIONER KATRINA J. TEW

 17

 DATE: Tuesday, January 23, 2007

 18

 PLACE: Betty Easley Conference Center

 19 Room 148

 4075 Esplanade Way

 20 Tallahassee, Florida

 21 REPORTED BY: LINDA BOLES, CRR, RPR

 Official Commission Reporter

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 1 PARTICIPATING:

 2 MARTIN S. FRIEDMAN, ESQUIRE, JOHN WILLIAMS and FRANK

 3 SEIDMAN, representing Labrador Utilities, Inc.

 4 STEPHEN C. REILLY, ESQUIRE, representing the

 5 Citizens of the State of Florida.

 6 RALPH JAEGER, ESQUIRE, TIFFANY JOYCE, JENNIE LINGO

 7 and GERALD EDWARDS, representing the Florida Public Service

 8 Commission Staff.

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

 2 CHAIRMAN EDGAR: We are going to go back on the

 3 record and begin our next item, which is Item 9.

 4 MS. JOYCE: Good morning. Tiffany Joyce, Commission

 5 staff. Item 9 is staff's recommendation on rate increase by

 6 Labrador Utilities, Inc. Staff is recommending to deny a final

 7 rate increase, a refund of interim revenues and a show cause

 8 issue for failure to comply with a Commission order.

 9 We have Mr. Friedman and Mr. Williams on behalf of

 10 the utility, we have Mr. Reilly and Ms. Merchant on behalf of

 11 OPC, and staff is available to answer questions you may have.

 12 CHAIRMAN EDGAR: Thank you.

 13 Mr. Friedman.

 14 MR. FRIEDMAN: Thank you. Martin Friedman, law firm

 15 of Rose, Sundstrom & Bentley representing Labrador. And also

 16 with me is John Williams and Frank Seidman in the back.

 17 I want to address the show cause issue, and then I'm

 18 going to have Mr. Williams address the remaining issues. The

 19 show cause issue involves the meter replacements, and the

 20 intent of the prior order was to make sure that we had meters

 21 that were accurately reflecting what the flow was. And so you

 22 could see in the staff recommendation the large number of

 23 meters that were inaccurate that had to be replaced.

 24 What I take exception to is that the company met the

 25 intent of that order, which is to have working meters on all

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 1 the lots where there are people. The meters that were not

 2 installed in, quote, a timely manner were meters that were on

 3 vacant lots. The other exception I take is the staff seemed to

 4 say that we should be testing, we should have tested the new

 5 meters we put in, which, which seems a bit extreme to buy a new

 6 meter that's been tested at the factory, put it in and then

 7 test it again. I don't think that's the intent of what that,

 8 what that order said. When the order said test the meters, I

 9 think that implicitly is if we thought the meter should be

 10 replaced, that we just went ahead and replaced it. And we did

 11 that to a substantial number of meters that we just didn't even

 12 test. We just replaced them with new meters. And we think

 13 that complies with the intent of the order. And so although we

 14 may not have strictly complied with testing every meter, we

 15 complied with the intent of the order, which is to make sure

 16 that we now have working meters on all of the active

 17 connections.

 18 The ones that we didn't meet the timing on were the

 19 ones that were vacant lots. I mean, you know, it doesn't have

 20 anything to do with anything. They've now all -- even the ones

 21 on the vacant lots have been replaced or tested. But to say

 22 that we should be penalized because we didn't meet all the

 23 testing on lots on vacant, on vacant lots that don't have

 24 customers attached to them I think, I think is being a bit,

 25 being a bit extreme.

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 1 And I would suggest to you that the utility has

 2 complied with the requirements of that prior order and a show

 3 cause is not necessary. And I'm going to ask John Williams to

 4 address the remaining issues. Thank you.

 5 MR. WILLIAMS: The company is very disappointed that

 6 the staff recommendation is to deny this rate increase and to

 7 require a refund of the interim rates that were granted last

 8 July. We certainly acknowledge that many water meters were

 9 changed out during and after the test year and that the

 10 wastewater flow meter at the treatment plant was moved and

 11 replaced. These changes were required because of poor planning

 12 and lack of maintenance over the years by the developer of the

 13 neighborhood who owned the utility prior to the acquisition of

 14 the system by Utilities, Inc., in mid-2002.

 15 As staff has indicated, metered rates were first

 16 implemented in early 2005 at the conclusion of the last rate

 17 case. Prior to that rate case the rates were extremely low

 18 flat rates that were established by the developer who operated

 19 the utility for many years below the PSC radar screen without a

 20 PSC certificate of authorization. Those noncompensatory flat

 21 rates were established without PSC approval.

 22 Subsequent to Utilities, Inc.'s, acquisition of the

 23 Labrador system, the utility has been working to bring the

 24 system into regulatory compliance with PSC, as well as the

 25 environmental regulatory agencies. The utility is currently

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 1 meeting all state and federal standards. However, we

 2 acknowledge there is still more work to be done to improve the

 3 aesthetics of the water, the hardness that the customers raised

 4 at the customer meeting, and to perhaps exceed current drinking

 5 water standards in an attempt to meet customer satisfaction

 6 levels as expressed at the customer meeting.

 7 We filed this rate case because the water system was

 8 losing money and the wastewater system was not earning a

 9 reasonable return on investment. This was confirmed by the

 10 Commission auditors when they published the audit report. It

 11 was also acknowledged by the staff when they recommended

 12 interim rates at the beginning of the case.

 13 We do acknowledge there are problems with the test

 14 year consumption data due to the problems we inherited from the

 15 prior owner; however, we do not believe that these problems

 16 justify the complete denial of the needed rate relief. We

 17 believe that the Commission staff can and should make whatever

 18 conservative adjustment they believe is appropriate to

 19 consumption data and to move forward to allow the company the

 20 needed revenue increase. To do otherwise will send the wrong

 21 message to the owners of this company and to other companies

 22 when there continues to be a much needed capital investment to

 23 meet regulatory requirements and provide quality water service.

 24 MR. FRIEDMAN: And one, one suggestion I think, as

 25 Ms. Merchant said, and if you don't like that argument, let me

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 1 give you another one.

 2 One of the, one of the problems that the staff has is

 3 they don't like the 2005 data, they don't like the 2006 data,

 4 and so what they're saying is basically come back when 2007 is

 5 done. Now the company is losing money, as the auditors have

 6 acknowledged, and yet now the staff recommendation would have

 7 the company have to wait until '08 to file a rate case. And

 8 you wouldn't get interim rates probably until sometime, you'd

 9 have to wait until '07 closed out, you'd probably talk about

 10 July or so of '08 before you would, before you would have any,

 11 any of the revenue that the auditors have acknowledged the

 12 company is, is entitled to.

 13 And so one of the, one of the suggestions that I have

 14 floated around that apparently has not been grasped or embraced

 15 wholeheartedly by anybody other than myself, and that is to

 16 keep the docket open. I mean, keep the interim rates going.

 17 Keep -- if the staff really believes that we need to wait until

 18 2007 and use that consumption data, let's keep the status quo,

 19 let's keep the interim rates in effect, and we will file the

 20 correct information or refile the MFRs based upon what the

 21 company looks like in, in, in a 2007 test year. That, that,

 22 that protects the customers. If we're wrong, the customers

 23 will get a refund with interest. Otherwise, the company will

 24 continue to bleed for two and a half years without any way to

 25 get that revenue that the auditors have acknowledged the

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 1 company is entitled to.

 2 And I would suggest, as John mentioned, just because

 3 you can't -- just because we don't have adequate billing

 4 determinants doesn't mean you don't give somebody a rate

 5 increase. If they're entitled to a rate increase, you figure

 6 out a way to do it. We've done it before, we did it before in

 7 this case before we had billing determinants, we did the best

 8 guess we could at that time. Unfortunately it didn't result in

 9 adequate rates, which is why we're back here so soon. And so

 10 maybe the, the way to -- and the staff is concerned, well, you

 11 know, what happens if we don't do it right this time and you're

 12 back again next year? And maybe the way to, to allay that fear

 13 is to keep the status quo, keep the interim rates in effect,

 14 and let's refile based on 2007 meter reading data, which will

 15 give the staff a level of comfort, I think, that they have

 16 sufficient data to give -- to do it right. And so that would

 17 be my suggestion. An alternative would be to remain -- keep

 18 the interim rates in effect and, and deal with it in 2007, and

 19 I think that's a satisfactory compromise. Thank you.

 20 CHAIRMAN EDGAR: Mr. Reilly.

 21 MR. REILLY: Yes. The Office of Public Counsel

 22 supports 100 percent everything that staff has done in this

 23 recommendation. In response to some of the comments made by

 24 the utility, it was suggested that the blame be pointed to the

 25 old owners. But you must remember that Utilities, Inc., has

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 1 owned this utility since 2002, so there's been many, many years

 2 where this problem could have been addressed.

 3 I don't believe we can really -- with this -- they

 4 also suggested that they're underearning. I think staff has

 5 made a very articulate argument that there's really -- with the

 6 data we have, you can't really know for sure whether they're

 7 overearning, underearning or anything, nor can we even

 8 establish their right to the interim, which is why I think that

 9 the alternative suggestion made by the utility should also be

 10 rejected.

 11 He made reference to Ms. Merchant's attempt at

 12 alternative recommendations. I hope that the utility receives

 13 the same result that we did on our alternative recommendation.

 14 I would like to point out that the customer response

 15 to this rate increase has been like no other I've ever seen in

 16 my 20 years of being with the Office of Public Counsel. They

 17 absolutely packed that room. It was not just the numbers but

 18 the fervor, the outrage expressed is nothing like I've ever

 19 seen. And I think it has to do -- I'm going to set aside the

 20 legal arguments -- but the practical arguments, they just

 21 underwent, in fact it just came into effect in '05, this, you

 22 know, $101,000 and 183 percent increase in water and $195,000

 23 and 151 percent increase in wastewater. They got hit with this

 24 tremendous increase. And from their perspective the quality of

 25 service has actually gone down instead of improved. Not so

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 1 much -- and it really had a lot to do with the wastewater

 2 plant. And for reasons that we haven't fully explored, the

 3 odor problem has become worse and, of course, the flow problems

 4 and the meter reading problems just continued unabated.

 5 I think it's important to know that inaccurate meter

 6 readings and consumption levels were such a concern in the last

 7 case, that's why the Commission ordered them to do all this

 8 meter replacement.

 9 Despite this large increase, the meter reading

 10 problem, the problem with inaccurate levels of consumption

 11 which is seriously flawed data for both water and wastewater

 12 continued unabated all through, through 2005 and 2006. As late

 13 as May 2006 the RV park meter was replaced because it was

 14 defective. As late as October 30, '06, the utility still could

 15 not explain the, quote, unquote, erratic and high unaccounted

 16 for water. And as late as November 7 the utility still did not

 17 know the level of meter readings. So this totally flawed,

 18 hopelessly flawed data went all the way on through 2006, and I

 19 think it left staff with no choice. There was no way they

 20 could come to you with a recommendation concerning this rate

 21 increase given this flawed data. And it is not something

 22 that's, that the company has not been aware of, you know, since

 23 it owned the utility way back in 2002.

 24 So we, we would argue that, that legally speaking the

 25 staff is completely on point. It is, in fact, not the staff's

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 1 burden. It is the company's burden to prove its entitlement,

 2 that that burden has, in no way can be, can be satisfied

 3 because of this flawed data. Setting rates on flawed data

 4 would be neither fair nor reasonable for the customers or the

 5 utility really as articulated by the staff, and, therefore, the

 6 staff's recommendation to deny this final revenue increase is

 7 absolutely proper under these circumstances and we support them

 8 100 percent. Thank you.

 9 CHAIRMAN EDGAR: Thank you, Mr. Reilly.

 10 Staff.

 11 MS. LINGO: Thank you, Madam Chairman. Good morning,

 12 Commissioners. I'm Jennie Lingo with staff.

 13 Backing up for a moment, Mr. Williams and

 14 Mr. Friedman have both suggested that we just make adjustments

 15 to the billing data and move forward because the utility is

 16 losing money and the audit was evidence that, that the utility

 17 was losing money.

 18 The audit, the audit is a limited scope audit. It's

 19 an internal document that's really to be used only by staff and

 20 it's really for no other purpose than that. In order for the

 21 audit to rise to a level that meets generally accepted

 22 accounting standards there would be much more work needed to be

 23 done. So an audit just sort of helps staff get an idea of

 24 what's going on, but it in no way is a determining factor as to

 25 whether or not a utility is or is not losing money.

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 1 With regard to adjusting the billing data,

 2 Commissioners, the ratemaking process is really two major

 3 components. One component is a calculation of the revenue

 4 requirement phase. And then the other component is once you've

 5 calculated the revenue requirement based on billing data, you

 6 then design rates and, you then design and calculate the rates.

 7 But the bad billing data, we would like to point out,

 8 affects not just the rate design and rates portion, it also

 9 tremendously affects the revenue requirement portion; and that

 10 staff, because of the bad billing data, is unable to calculate

 11 the appropriate used and useful percentage, the appropriate

 12 unaccounted for water or the excessive infiltration and inflow.

 13 And any questions in that regard I would like to ask you to

 14 direct to Mr. Williams -- to Mr. Edwards.

 15 And then, Commissioners, in the rate design and rates

 16 phase, certainly the, the bad billing data renders us

 17 completely unable to determine how many gallons were sold

 18 during the test year, so we are unable to calculate with any

 19 measure of comfort what the appropriate rate should be.

 20 In order to adjust, in order to adjust the data,

 21 Commissioners, it really needs to be something that we know is

 22 a problem and that we can measure. And if we can measure it,

 23 we can make the adjustment. Knowing that there's a problem is

 24 the easy part in this case. We know there's a problem.

 25 In the 2007 test year, the utility replaced

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 1 approximately 16 percent of its meters. In addition, the meter

 2 at the RV park, which is a six-inch meter which represents

 3 approximately 8 percent of its total flow, it was replaced and,

 4 it was replaced in mid-2006. So one could certainly assume

 5 that it was defective all during the, all during the test year.

 6 With, with all of that said, there's no way for us to

 7 know how long the meter, how long each of the meters that were

 8 defective were in fact defective and the magnitude of the

 9 errors of each of those meters. So adjusting the data is just

 10 impossible.

 11 Getting back to whether or not -- backing up a

 12 moment, Commissioners, and I apologize -- whether or not the

 13 utility is losing money or not. Because the test year billing

 14 determinant data especially with regards to test year gallons

 15 sold is so problematic, we're unable to determine whether the

 16 current rates are, in fact, compensatory or not or

 17 noncompensatory. And if they're noncompensatory, by what

 18 magnitude they are. And, again, getting back to determining

 19 the appropriate number of test year gallons with all of the

 20 meters that were defective during the test year, there's no way

 21 for us to know and look into our crystal ball and figure out

 22 how to make any sort of adjustment. That's why we're

 23 recommending that 2005 data is really irreparably flawed and

 24 should not be used.

 25 In 2006 the utility has also made reference to the

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 1 fact that we recommended the 2006 data also not be used. As I

 2 mentioned earlier, the utility replaced a large six-inch meter

 3 in mid-2006. Again, Commissioners, this represents

 4 approximately 8 percent of the total flows for the -- total

 5 gallons sold for the utility, in addition to the other meters

 6 that were replaced during 2006 and was defective, we, we

 7 believe that all of this is indicative of, of the continuing

 8 problem in 2006.

 9 In addition, in November of 2006 the utility

 10 submitted to staff a comparison of data of gallons sold between

 11 2005 and 2006. And it summarized its comparison by saying

 12 because 2006 data in terms of gallons sold is within 1 percent

 13 of 2005, it, it should be an indication to you that really 2005

 14 data is okay and let's just go ahead and move forward; that

 15 making us refile, for example, using 2006 data would serve no

 16 useful purpose.

 17 Commissioners, we very strongly believe, we've laid

 18 out very strong arguments in our recommendation as to why 2005

 19 data is flawed. If 2006 data is within 1 percent of 2005 data,

 20 it doesn't prove up the voracity of the 2005 data. Instead, it

 21 just proves that the 2006 data is equally as flawed as the

 22 2005. That's, that's our recommendation, Commissioners, that

 23 the 2005 and 2006 data are both irreparably flawed and can't be

 24 used for ratemaking.

 25 MR. FRIEDMAN: May I make one comment in response?

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 1 CHAIRMAN EDGAR: Yes, you may.

 2 MR. FRIEDMAN: And I will make it brief.

 3 Two -- the first thing is Mr. Reilly mentioned that

 4 gigantic percentage that the rates went up in the last case,

 5 and I think to put that in perspective you need to understand

 6 the starting point. The starting point in that last case was

 7 $4.50 for water service, period. All the water they wanted,

 8 $4.50. $10.50 for sewer, period, flat rate. So when you look

 9 at percentages, it distorts what the actual increase really

 10 was. I mean, the increase in dollars was not significant. It

 11 was getting them to a point where they should have been. They

 12 just got used to paying almost nothing for water and sewer for

 13 a long time, and I think that sometimes when that happens that

 14 customers think they have some entitlement to continuing to get

 15 low rates. And what we're trying to do in these proceedings is

 16 to get them to a point where they're charged compensatory

 17 rates. And I disagree with, except for maybe the limited

 18 process of used and useful which Mr. Seidman is going to

 19 address, I disagree that the inaccurate meter readings, even if

 20 they are inaccurate, has any impact on being able to determine

 21 a revenue requirement. We think that there's sufficient

 22 information to determine a revenue requirement, that, in fact,

 23 the company is losing money. And I'm going to ask Mr. Seidman

 24 to address the comments that staff made regarding used and

 25 useful. Thank you.

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 1 MR. SEIDMAN: Well, that's sort of an indication of

 2 what I'm going to talk about.

 3 The first thing I want to talk about is that was a

 4 really strong indictment of your auditing department. If I

 5 were to take Ms. Lingo's suggestions and representations at

 6 hand, I'd say close it down, you're wasting our money. If all

 7 you're getting out of your audit department is some idea of

 8 what the accounting situation is in a utility, it's not worth

 9 it. But if you've been through an audit by this Commission,

 10 you know that the audit is very, very, very strong and complete

 11 and it goes into -- especially with regard to water and sewer

 12 companies. It goes into every invoice, every expense, every

 13 capital expenditure, all of the capital components, cost of

 14 capital components. It's very, very complete.

 15 I suggest to you that the Commission has sufficient

 16 information to determine whether or not this utility is

 17 entitled to a rate increase. The alleged flaws that are

 18 discussed all have to do with the side of the issue with regard

 19 to determining how to collect the revenue requirement that the

 20 utility is entitled to, how to distribute those revenue

 21 requirements over the customers. If we had no information on

 22 flows at all, which was the case for years in the utility, we

 23 could still make a flat rate determination because we know how

 24 many customers there are. But we do have some information on

 25 the flows and we know there are flaws in them. I mean, there's

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 1 no denying that. But this is a result of the fact that this is

 2 an ongoing thing to take a utility from a point where it had no

 3 metering done for purposes of billing, meters sitting in the

 4 ground for years unattended, replacing them, testing them,

 5 whatever has to be done, doing it over a long period of time,

 6 longer than the Commission staff wanted, but over a long period

 7 of time because we have a customer base here that is not there

 8 all year-round and there's no sense going ahead and replacing

 9 and testing meters at locations when the customers are not

 10 there because you have no flows with which to test.

 11 So we know that those problems exist. But yet even

 12 with those problems there the staff was able to come up with a

 13 rate in the last rate case with much less information than it

 14 has now. And I still contend that a design could be done, and

 15 I don't agree with the fact that 2006, the fact that 2006 is

 16 within 1 percent of 2005 is an indictment of 2006, that that's

 17 just a conclusion. I think there's enough information there to

 18 go ahead and to produce a rate. There certainly is enough

 19 information to determine whether or not we're entitled to a

 20 rate increase. There's enough information, I believe, to

 21 produce a rate. And you have the ability and you have the

 22 responsibility to monitor the income that comes in under those

 23 rates and determine whether or not they're effective. And in

 24 the meantime after that, you know, if you want regular

 25 reporting, that's fine. We can see how those flow values,

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 1 meter readings true-up over the year. But in the meantime, if

 2 you do nothing, as Mr. Friedman has indicated, you've left the,

 3 you've left the utility with, with lost income that could not

 4 possibly be made up. If you, if you do it the way we're

 5 suggesting it, you protect both sides in this case. Thank you.

 6 CHAIRMAN EDGAR: Thank you, Mr. Seidman. And I will

 7 say that I have a high degree of confidence in both the

 8 thoroughness and the detail of the audits that are done by our

 9 staff.

 10 Ms. Lingo, would you like to, to make comment?

 11 MS. LINGO: Yes, ma'am. Perhaps I didn't phrase

 12 correctly wording that was in a brief from this Commission in

 13 the Southern States rate case, a case that when it was appealed

 14 to the 1st DCA using this brief was affirmed per curiam. The

 15 audit itself disclaims such use in that it represents an

 16 internal accounting report prepared after performing a limited

 17 scope audit, and I'm going to go on and paraphrase. Additional

 18 work would have to be performed to satisfy generally accepted

 19 accounting standards. The audit merely indicates staff's

 20 belief, subject to stated exceptions based on sampling, that

 21 the utility's books and records were maintained in compliance

 22 with Commission directives. By its terms the audit does not

 23 attempt to justify the rate increase.

 24 So, again, getting back to the audit justifying the

 25 rate increase, that's not necessarily true. And certainly in

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 1 this case we would believe it doesn't because of the poor

 2 billing data.

 3 CHAIRMAN EDGAR: Commissioners? Commissioner Tew.

 4 COMMISSIONER TEW: I have a few questions and some

 5 comments, if that's okay, Chairman. Thank you.

 6 This is for the utility. I have several questions

 7 about the meter testing and I'll just shoot them all out and

 8 then I'll let you respond.

 9 The first one is, you know, isn't it prudent utility

 10 practice to test even new meters to make sure they work

 11 properly? And I guess a subpart of that is didn't the order

 12 require testing of all meters, whether they were new -- and I

 13 don't think it addressed age, but you can speak to that.

 14 Secondly, if the meters on the vacant lots didn't

 15 really mean anything, why did you ever test them? And then,

 16 third, I've been curious as I read through this, and I've been

 17 following this case a while, as to why your company didn't seek

 18 some sort of relief of the testing requirements. I noted that

 19 there was at least one letter mentioned in the staff

 20 recommendation, but I'm curious as to why, if, as you suggest,

 21 you met the intent of the PSC's requirement, why didn't you

 22 file something and, and state such and ask for some kind of

 23 relief from that order requirement? And then I have some

 24 comments after that.

 25 MR. FRIEDMAN: I hope I got all these down. If I

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 1 don't, I'm sure you'll let me know.

 2 I don't think it's routine practice for utilities to

 3 test new, out-of-the-box meters. I don't -- unless somebody

 4 can tell me otherwise, none of -- I don't know that any of our

 5 clients, and we represent a lot of water and sewer utilities,

 6 test out-of-the-box meters. I think that testing is done at

 7 the factory and I think the utilities have found that testing

 8 has been reliable.

 9 The replacing the meters on the lots, why did we do

 10 that if it didn't make any difference? We did them last

 11 because eventually somebody is going to move into that house

 12 and those meters do need to be reliable. So -- and the order

 13 did require us to do that. My point is, was, was that we were

 14 late on replacing those meters, and it has nothing to do with

 15 the problem of the, of the billing determinant issue.

 16 As far as the extension of time, I was not personally

 17 involved in that. The company directly dealt with staff. My

 18 understanding is there was an informal -- I don't think they

 19 filed a motion with the Commission to amend the order to do

 20 that. I do believe that the staff and the company agreed

 21 informally that they would extend that time, and I think that

 22 part of the reason for that was the fact that this is a very

 23 seasonal customer base and, as a result, a lot of customers

 24 aren't there. And to test the meter you need to have a water

 25 source on the other side of the meter, and so I think that was

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 1 probably the reason why it needed to go into the winter season

 2 to do that.

 3 What did I miss?

 4 COMMISSIONER TEW: I think that was it. Now that he

 5 has responded, I'd like to ask staff especially with regard to,

 6 you know, informal discussions. Was that your understanding,

 7 that, that you had an agreement that the utility would be

 8 filing information later than what was required in the order?

 9 MR. EDWARDS: Commissioner, Gerald Edwards, staff.

 10 It was my understanding that they would have approximately 150

 11 customers that were going to be unavailable at the time for

 12 testing the meters, so they were going to have to test them at

 13 a later date. So, yes, I believe it was an informal decision

 14 between staff and the utility.

 15 MR. JAEGER: Commissioner, to add to that, I think it

 16 was on June 15th was the letter, and the expiration -- you

 17 know, they were supposed to have everything tested by June 30th

 18 of 2005. And in that letter they did indicate, I think, what

 19 we euphemistically call snowbirds had turned off and gone north

 20 and so they were going to have to go until November. And so we

 21 understood that in November they would get it done, and I don't

 22 think -- I wasn't a part of the case, I wasn't there and I

 23 didn't have the discussions, but it was the understanding in

 24 the letter that November was when they were going to get it

 25 done.

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 1 Then next June, a year later from the first letter,

 2 we get something saying we did it as of May 2006, which was

 3 11 months past the due date. And so that's where we said,

 4 well, a five- or six-month extension we probably, you know, we

 5 weren't going to be too concerned, but without anything further

 6 they just all the sudden said we completed it in May of 2006,

 7 11 months later, without getting any extension or without any

 8 motion or any request for a variance or difference. And I'm

 9 not really sure about the spirit of the deal, whether they've

 10 tested all the meters and these 100 meters that were, I think

 11 there was like, there were some meters that are on vacant lots

 12 and all that. And mainly what we're going on, they just -- it

 13 wasn't until a year after the due date that they said they had

 14 accomplished everything.

 15 MR. EDWARDS: Commissioner Tew, to further discuss

 16 the meter testing, we received a meter report June 23rd, 2006,

 17 it was dated June 23rd, 2006. And in that report it was

 18 supposed to have the information regarding the number of meters

 19 which were tested, the degree of error and if they replaced

 20 them. And basically the report stated that they had 19 meters

 21 reading slow, 126 meters reading fast, and they tested a total

 22 of 800 meters. The test dates ranged from 2000 to 2002, which

 23 this meant that they tested the meters well before they were

 24 even actually required to by the PSC. So, therefore, staff

 25 questioned the report itself. It had to be an error also.

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 1 So I received a second report, and in that report the

 2 data stated that the meter, that they had 16 meters reading

 3 slow, 93 meters reading fast, 515 meters total tested, tested

 4 totally, and the dates on that was 2004 to 2005.

 5 Okay. I contacted them, staff contacted them about

 6 that error. I received a third report. And that one, it has

 7 the same numbers as the first report, but the difference was

 8 the test dates. The test dates tested from 2004 to 2006.

 9 Now regarding the six-inch meter that they put in for

 10 the park, just looking at the data in that, in those, all three

 11 reports, it states that the six-inch meter that Ms. Lingo

 12 referred to was replaced, the first report stated it was

 13 replaced 5/9/2002. The second report says, meter not tested

 14 and not replaced. The third report says that the meter was

 15 replaced 5/10/2006. So as you can see -- and they have

 16 admitted there are a lot of errors in this data, and the data

 17 flows are very important. They're important to the utility

 18 because it's revenues, it's reported to our sister utilities --

 19 sister agencies simply because those data flows reflect whether

 20 or not, for example, water, whether or not they're going to

 21 allow you and the percentage of water that they're going to

 22 allow you to take out of our aquifer. And for us these numbers

 23 are very important to determine to set rates.

 24 COMMISSIONER TEW: One comment. I think the

 25 attorneys sitting by Mr. Edwards are starting to rub off on

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 1 him. But anyway, thank you for that.

 2 I would concede that there are some mitigating

 3 factors with regard to the meters, but I also know that in

 4 Issue 4 on the show cause issue that it's $500 that's

 5 associated with the meter testing concerns that staff has. And

 6 it sounds like there are definitely some issues there that we

 7 hope the utility is going to address and we won't see this in

 8 the future. So that resolves my, that resolves my concerns

 9 there.

 10 But I did want to address one other thing that

 11 Mr. Williams had, had touched on for the company. And I'll

 12 just say that John and I in his prior role have had several

 13 discussions about the benefits of economies of scale and scope

 14 of larger, more established utilities acquiring smaller private

 15 utilities. And I generally accept that as true still, but I

 16 have to tell you I don't think that staff's rec runs counter to

 17 that philosophy, and I think that the rec that they've provided

 18 to us today were a product of the utility's actions. And,

 19 frankly, I suggest that your company start addressing the many

 20 concerns of the customers. I have to echo some of the things

 21 Mr. Reilly said. I, of course, wasn't in attendance, as you

 22 all know, at the customer meeting. But I've heard from

 23 several, several customers of this utility, and I have to say

 24 that they are very articulate concerns, varied concerns, and

 25 they certainly got my attention. So I'm hoping that you will

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 1 all work on that. And, John, I think that you can help with

 2 that and hope that you will. And I think that you also need to

 3 do a better job of addressing the concerns of the Commission,

 4 and I think that that is the basis for having the show cause

 5 issue here, I think that having repeated problems getting the

 6 information we need to deal with these cases. So that's all,

 7 Commissioners, but I am in support of the staff rec.

 8 CHAIRMAN EDGAR: I was going to say it almost sounded

 9 like there was a motion in there, but -- Commissioner Carter.

 10 COMMISSIONER CARTER: I move staff's recommendations

 11 in this item.

 12 COMMISSIONER TEW: Second.

 13 CHAIRMAN EDGAR: All in favor of the motion, say aye.

 14 (Unanimous affirmative vote.)

 15 Opposed? Show it adopted.

 16 (Agenda Item 9 concluded.)

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 FLORIDA PUBLIC SERVICE COMMISSION

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 1 STATE OF FLORIDA )

 : CERTIFICATE OF REPORTER

 2 COUNTY OF LEON )

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 4 I, LINDA BOLES, CRR, RPR, Official Commission

 Reporter, do hereby certify that the foregoing proceeding was

 5 heard at the time and place herein stated.

 6 IT IS FURTHER CERTIFIED that I stenographically

 reported the said proceedings; that the same has been

 7 transcribed under my direct supervision; and that this

 transcript constitutes a true transcription of my notes of said

 8 proceedings.

 9 I FURTHER CERTIFY that I am not a relative, employee,

 attorney or counsel of any of the parties, nor am I a relative

 10 or employee of any of the parties' attorneys or counsel

 connected with the action, nor am I financially interested in

 11 the action.

 12 DATED THIS \_\_\_\_\_\_\_ day of January, 2007.

 13

 14 \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

 LINDA BOLES, RPR, CRR

 15 FPSC Official Commission Reporter

 (850) 413-6734

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 FLORIDA PUBLIC SERVICE COMMISSION