

1 BEFORE THE
2 FLORIDA PUBLIC SERVICE COMMISSION

3
4
5 FILED 5/29/2018
6 DOCUMENT NO. 03926-2018
7 FPSC - COMMISSION CLERK

8 In the Matter of:

9 DOCKET NO. 20170141-SU

10 APPLICATION FOR INCREASE IN
11 WASTEWATER RATES IN MONROE
12 COUNTY BY K W RESORT
13 UTILITIES CORP.

14 /
15 VOLUME 5
16 PAGES 755 through 879

17 PROCEEDINGS: HEARING
18 COMMISSIONERS
19 PARTICIPATING: COMMISSIONER DONALD J. POLMANN
COMMISSIONER GARY F. CLARK
COMMISSIONER ANDREW G. FAY
20 DATE: Wednesday, May 16, 2018
21 TIME: Commenced: 6:13 p.m.
Concluded: 8:16 p.m.
22 PLACE: Tortuga Ballroom
DoubleTree by Hilton Grand Resort
Key West
3990 S. Roosevelt Boulevard
Key West, Florida
23 REPORTED BY: ANDREA KOMARIDIS
Court Reporter
24 APPEARANCES: (As heretofore noted.)
25
PREMIER REPORTING
114 W. 5TH AVENUE
TALLAHASSEE, FLORIDA
(850) 894-0828

1	I N D E X	
2	WITNESSES	
3	NAME :	PAGE NO.
4	DEBORAH SWAIN	
5	Examination by Mr. Friedman	758
	Prefiled rebuttal testimony inserted	760
6	Examination by Mr. Sayler	797
	Examination by Mr. Wright	834
7	Examination by Ms. Crawford	850
	Examination by Mr. Friedman	870
8		
9		
10		
11		
12		
13		
14		
15		
16		
17		
18		
19		
20		
21		
22		
23		
24		
25		

1	EXHIBITS		
2	NUMBER:	ID	ADMITTED
3	54 through 60 - (as identified on the Comprehensive Exhibit List)		873
4	132 - Excerpt from "Principles of Public Utility Rates" by James Bonbright	799	
5	133 - Trial Balance Excel File	850	877
6	134 - Escrow Agreement	850	877
7	135 - Staff's Interrogatory No. 83	850	877
8			
9			
10			
11			
12			
13			
14			
15			
16			
17			
18			
19			
20			
21			
22			
23			
24			
25			

1 PROCEEDING S

2 (Transcript follows in sequence from
3 Volume 4.)

4 COMMISSIONER POLMANN: Okay. I have on my
5 list to bring back in rebuttal, Ms. Swain.

6 MR. SMITH: That is correct.

7 COMMISSIONER POLMANN: Q
8 EXAMINATION

9 BY MR. FRIEDMAN:

10 Q Ms. Swain, would you please state your name.

11 A Yes, Deborah Swain, vice president of Milian,
12 Swain & Associates, Miami.

13 Q Ms. Swain, did you cause to be prepared
14 rebuttal testimony and exhibits in this proceeding?

15 A Yes, I did.

16 Q And do you have any changes to your testimony
17 or exhibits?

18 A I do have a couple changes to my exhibits, a
19 couple of corrections. I don't have revised exhibits.
20 I just have a couple of corrections. Do you want me to
21 go through those now?

22 Q Yes, please.

23 A Okay. So, the first is -- in my testimony,
24 Pages 9 through 12, I go through a very-detailed
25 explanation of an adjustment that needs to be made to

1 accumulated depreciation and depreciation expense.

2 And in my Exhibit DDS-2, I incorporated all of
3 my adjustments. And this was for informational
4 purposes, but I realized, subsequently, that I neglected
5 to include the adjustments I referred to on Pages 9 to
6 12 in my rebuttal testimony.

7 And the -- there's one other -- I just
8 discovered it last night. It's just a title on my
9 Exhibit DDS-8. It's got the wrong title on it. It
10 says, "Stipulated audit finding one and COA adjustment
11 booked by the utility," and that's not what it is at
12 all. It should say "List of rebuttal adjustments." And
13 that pertains to both Pages 1 and 2 of DDS-8.

14 **Q And other than the corrections you just
15 mentioned, if I asked you the questions in your prefilled
16 rebuttal testimony, would your responses be the same?**

17 A Yes.

18 MR. FRIEDMAN: Thank you. I would ask that
19 Ms. Swain's rebuttal testimony be inserted into the
20 record as though read.

21 COMMISSIONER POLMANN: At this time, we'll
22 enter into the record Ms. Swain's prefilled rebuttal
23 testimony, with the corrections noted.

24 (Prefiled rebuttal testimony entered into the
25 record as though read.)

1 **Q.** **Please state your, name profession and address.**

2 A. My name is Deborah D. Swain. I am Vice President of Milian, Swain & Associates, Inc.
3 and head up the firm's finance, accounting and management team. My business address is
4 2015 SW 32nd Ave., Suite 110, Miami, Florida 33145.

5 **Q.** **Have you presented direct testimony is this case.**

6 A. Yes, I have.

7 **Q.** **What is the purpose of your rebuttal testimony?**

8 A. The purpose of my rebuttal testimony is to present information to refute some of the issues
9 and arguments presented by Florida Public Service Commission witness Marisa Glover,
10 Office of Public Counsel witnesses Helmuth Schultz and Andrew Woodcock, and Monroe
11 County witnesses Terry Deason and Jeffrey Small.

12 **Q.** **Are you sponsoring any exhibits?**

13 A. Yes, I am sponsoring the following exhibits: Exhibit DDS-2, select updated schedules from
14 MFR Volume I; Exhibit DDS-3. Stipulated Audit Finding 1 and COA booked by the
15 Utility; Exhibit DDS-4, Table 1-1 from the 2014 Audit Report; Exhibit DDS-5, 2017 asset
16 detail for pumping equipment; Exhibit DDS-6, current prime rate as published by the Wall
17 Street Journal; DDS-7, Interest Paid on FPSC Escrow Account; and DDS-8, a list of my
18 adjustments.

19 **Q.** **Were these Exhibits prepared by you and your staff?**

20 A. Yes they were, using information provided by KWRU staff or consultants.

21 **Q.** **What issues will you be addressing in your testimony?**

22 A. I address each witness one at a time, and cover the following issues:

23 FPSC Witness Marisa Glover

24 • Audit Report

25 OPC Witness Schultz

- 1 • Working Capital
 - 2 • Accumulated Depreciation and Depreciation Expense
 - 3 • Plant Retirements
 - 4 • New Office Cost
 - 5 • Five-Year Average for Certain Expenses
 - 6 • Proforma Benefits
 - 7 • Hurricane Irma Costs
 - 8 • Extraordinary Event Costs
 - 9 • Capital Structure

10 OPC Witness Woodcock

- Adjustment to Proforma Plant

County Witness Small

- The appropriateness of projected test year billing units
 - The calculation of projected test year billing units

15 County Witness Deason

- ## 16 • Matching Principle

AUDIT FINDINGS

19 Q. Do you agree with the findings in the Audit Report prepared by FPSC Witness Marisa
20 Glover?

21 A. I agree with Audit Finding 4 and Audit Finding 5, but disagree with Findings 1, 2 and 3.

22

23 FPSC AUDIT FINDING 1

24 Q. Please explain why you are not in agreement with Finding 1.

25 A. Audit Finding 1 makes additional adjustments to plant, accumulated depreciation and

1 depreciation expense for commission ordered adjustment allegedly not made by KWRU
2 from the prior case.

3 Audit Finding 1 in the prior case, Docket No. 150071-SU, found numerous corrections to
4 entries recorded to utility plant accounts. KWRU filed a response to that finding on
5 November 19, 2015. In the Order No PSC-16-0123-PAA-SU, the Commission agreed with
6 the utility's objections, stating "In response to Audit Finding No. 1, the Utility disagreed
7 with the removal of \$160,823 from plant and provided explanations and support for the
8 inclusion of multiple transactions that occurred during 2007, 2008, and 2009. We agree
9 with the Utility's explanations and the appropriate corresponding adjustments to increase
10 plant and accumulated depreciation by \$160,823 and \$45,676 respectively shall be made."
11 Although the PAA was protested, the Final Order reflects that all parties stipulated to
12 adjusted Finding No. 1, and included a table identical to the table in the PAA order that
13 reflects the agreed to amounts as they pertained to rate base (with the exception of
14 working capital). The stipulation was \$817,240.

15 Table 1-1: 13-Month Average Adjustment

16 Although the level of detail regarding the calculations behind the stipulated amounts are not
17 contained in the final order, it is appropriate to refer to the PAA Order to find those details.
18 The pertinent issue is that the utility objected to adjustments included in the associated audit
19 report in the amount of \$160,823, and the resulting amount was incorporated into the final
20 order.

21 It appears that not all of the individual items included in that total of \$160,823 were
22 considered in the audit report in this case. For example, the first line item detailed on page
23 6, Account 361 Collection Sewers, indicates that the utility should have made an adjustment
24 of \$140,054 but only made an adjustment of \$124,296. My Exhibit DDS-3 shows the
25 detail of the adjustments argued by KWRU in Docket 15071-SU, the resulting

1 stipulated Finding 1, the adjustment booked by the utility. It then shows the 2017
2 Finding 1 amount Witness Glover said was booked compared to what she claimed was
3 actually booked. By reviewing my Exhibit, it is apparent that not all of the amounts and
4 adjustments in that 2017 Audit Report are correct. It is also apparent that although
5 KWRU booked all of the adjustments, the adjustments were not necessarily to the
6 account determined in the audit for the last case. In some cases it is because the
7 adjustment made by KWRU was to the account where the error actually resided, but in
8 some cases, the entry was to the incorrect account. Exhibit DDS-4 is Table 1-1 which
9 provides the detail extracted from the 2014 Audit Report for Audit Finding 1.

10 **Q. What adjustments, if any, should be made to Finding 1?**

11 A. Finding 1 should be reversed in its entirety.

12

13 FPSC AUDIT FINDING 2

14 **Q. Please explain why you are not in agreement with Finding 2.**

15 A. Audit Finding 2 states that "Typically interest bearing accounts, such as these, are excluded
16 from working capital unless the associated interest income is also included above the line in
17 Revenues. The Utility did not include any interest income in revenues for this rate case.
18 Therefore, average working capital should be decreased by \$20,160."

19 However, the utility did include the income from deposits paid during the test year, as
20 interest paid is a credit on the invoice for service from the provider. KWRU recorded only
21 the net amount of the invoice as an expense on its books, having the same net effect as
22 recording the interest as income.

23

24 FPSC AUDIT FINDING 3

25 **Q. Please explain why you are not in agreement with Finding 3.**

1 A. Audit Finding 3 recommends an increase of \$20,789 in test year revenues based upon a
2 review of billing registers and billing history reports. Of that total adjustment, \$9,982 is due
3 to a difference between the miscellaneous revenues in the MFRs and the amount reported
4 on the utility's RAF report. However, \$9,623 of that is MCDC revenues that were incurred
5 in the prior period (June 2016), and on the company books in June 2016, but inadvertently
6 omitted from the RAF report as of June 30, 2016. This amount was included in the
7 December 31, 2016 return. This amount, \$9,623 should not be an adjustment to test year
8 revenues. Next, after reviewing the audit workpapers, I do not agree with the adjustment of
9 \$10,807 for measured residential (522.1) and commercial revenues (522.2) as it appears that
10 no adjustments and/or credits to customer bills were considered.

11

12 WORKING CAPITAL

13 **Q. Do you agree with OPC Witness Schultz' adjustment to cash in the calculation of
14 Working Capital included in Rate Base?**

15 A. No. I do not agree with him that the utility has accumulated a significant amount of cash
16 that is not readily needed to operate the Company on a daily basis. During the test year the
17 utility was unable to meet its financial obligations on two occasions during the months of
18 July and August 2016. In July 2016, the utility was unable to cover the costs of construction
19 requiring a loan transfer in the amount of \$681,780 into its capital account. Additionally
20 during the month of August 2016 the utility had to rely on capital contributions in the
21 amount of \$530,000 to cover construction costs. The utility relied on capital contributions
22 and draws from long term debt to cover its normal operating costs and construction costs
23 during the test year.

24 Furthermore, in the last rate case, OPC claimed that the \$877,289 of cash included in
25 KWRU's requested working capital was excessive, and in Order No. PSC-16-0123-PAA-

1 SU, Commission reduced the amount allowed in working capital by \$559,311. However, it
 2 is obvious that this assertion was inaccurate, the amount was not excessive, and in fact has
 3 continued and even slightly increased through the current test period.

4 KWRU has continued to struggle to obtain the cash needed for their operations and the
 5 sizable capital program they have in place. It is unfair to arbitrarily reduce cash because it
 6 is "not needed" when this is just not the case. The appropriate amount includable in working
 7 capital so that the utility can meet its financial obligations is \$911,826.

8 **Q. Do you agree with OPC Witness Schultz' that the 13-month average for deferred rate
 9 case expense for the last rate case is overstated?**

10 A. Yes, I agree with him that the 13-month average for deferred rate case expense for the last
 11 rate case on Schedule A-18 Page 2 of 2 is overstated and that the correct 13-month average
 12 less amortization should be \$408,931. I do not agree with the calculation of his
 13 recommended adjustment that working capital should be decreased by \$29,055. Omitted
 14 from Witness Schultz calculation is the Utility's adjustment on Schedule A-3 Page 2 of 2
 15 Line 14 adjusting working capital for 6 months amortization in the amount of \$(53,853). As
 16 agreed, the 13-month average for deferred rate case expense as presented in Witness
 17 Schultz' testimony should only be adjusted for two months amortization, therefore working
 18 capital should be increased by \$24,798, as calculated below.

19 2015 Deferred Rate Case Expense OPC Balance - 13-month Average	\$ 408,946
20 2015 Deferred Rate Case Expense MFR Schedule A-18 - 13-month Average	\$ 438,001
21 Schedule A-3 Page 2 of 2 Line 14 Working Capital Adjustment for Unamortized	
22 rate case expense	<u>\$ (53,853)</u>
23 Deferred Rate Case Expense included in Working Capital	<u>\$ 384,148</u>
24 Working Capital Adjustment (additional)	<u>\$ 24,798</u>

25 **Q. Do you agree with Witness Schultz that Working Capital should exclude the "FPSC
 26 Escrow Funds"?**

27 A. No, I do not agree that working capital should be decreased by the 13-month average

1 balance of \$282,123 in the FPSC Escrow Account. Funds in this account represented
2 43.94% of all utility revenues collected per Order No. PSC-16-0123-PAA-SU deposited
3 into an interest bearing trust account as required. These funds were earned by KWRU and
4 were not refunded. As such, they are properly attributable to working capital. The
5 approximately .5% annual interest is nominal and the utility is willing to include the \$1,689
6 of interest paid on the account in utility income, and include the FPSC Escrow Account in
7 working capital. It should be noted that the utility paid more interest than the amount
8 earned in refunds to customers. I have provided the report of interest paid on the FPSC
9 Escrow Account in DDS-7.

10

11 **PROFORMA PLANT**12 **Q. Do you agree with Witness Schultz that the actual cost of the service truck with the**
13 **crane should be used instead of the original estimated cost?**14 A. Yes, I do. As KWRU Witness Johnson testifies, the actual cost is different than the original
15 estimate, and the \$65,105 actual cost should be used instead.16 **Q. Do you agree with Witness Schultz that the actual cost of the sand-sifter should be**
17 **used instead of the original estimated cost?**

18 A. Yes, I do. The \$43,110 actual cost should be used instead.

19 **Q. Do you agree with Witness Schultz that the cost of the new office building should be**
20 **excluded?**21 A. No. Although he has no objection to KWRU's request for a new office building, he
22 recommends that no cost be allowed.23 **Q. What is Witness Schultz' objection?**24 A. First, he objects to the cost of the new office, stating that it is too high. He explained that he
25 did an online review of construction costs, comparing the requested cost of KWRUs office

1 to prices he found in Broward, Miami and West Palm Beach. As the utility has explained
2 consistently, the cost of virtually everything in the Keys is higher than elsewhere. Materials,
3 supplies and labor all must be brought in from the mainland. It does not take much to
4 speculate that the cost after the hurricane is even higher. Resources are scarce, and
5 comparisons in other areas of the state or the country are irrelevant.

6 **Q. To what else does Witness Schultz object with respect to the new office?**

7 A. He objects to the lack of competitive bids, however Witness Johnson explains that this is
8 incorrect.

9 **Q. What is your recommendation about the cost and inclusion of a new office?**

10 A. The cost which is supported by Chris Johnson and Robert Pabian should be included, and
11 consideration for the difficulty in negotiating and securing a contractor for the work should
12 be recognized.

13 **Q. Do you agree with Witness Schultz that the actual cost of other proforma plant
14 additions that he notes from OPC Witness Woodcock's testimony should be used
15 instead of the original estimated cost?**

16 A. Yes, I do. As Witness Johnson testifies, where the actual cost is different than the original
17 estimate, the actual cost should be used instead. However, it should be noted that Witness
18 Johnson supports different actual costs than Witness Woodcock. I recommend adjustments
19 to the MFRs to the extent that Witness Johnson has supported.

20

21 **ACCUMULATED DEPRECIATION AND DEPRECIATION EXPENSE**

22 **Q. Do you agree that any adjustments to the proforma capital costs should include
23 adjustments to the associated accumulated depreciation and depreciation expense?**

24 A. Yes. The calculation of proforma accumulated depreciation and depreciation expense
25 should be based on the final allowed proforma capital costs.

1 **Q. Is Witness Schultz correct that the worksheet provided by KWRU titled "Plant
2 Additions" does not match the trial balance?**

3 A. He is correct, which is why the utility corrected the MFRs, showing the adjustment on MFR
4 Schedule A-3, page 1 of 2. He then goes on to describe how this discrepancy was not
5 properly considered when KWRU annualized depreciation for this plant. Again he is
6 correct. However, his adjustment is inaccurate.

7 **Q. Please explain the adjustments you would make.**

8 A. I would make the following adjustments:

9 (1) KWRU made an annualization adjustment to Accumulated Depreciation for one-half
10 year, as if no depreciation had been recorded. Upon review, I have found that this is
11 incorrect. KWRU had recorded accumulated depreciation on all plant added after January
12 2017 for six months, and this is what is included in the MFRs. No annualization adjustment
13 to accumulated depreciation should have been made.

14 (2) When KWRU made the entry in March 2017 to record the completion of the AWT
15 plant, the entire amount was recorded to 354.4 Structures and Improvements, which has a
16 30-year life. Of that amount recorded, \$1,769,864 should not have been recorded to that
17 account. This balance should have been charged to the accounts below. This correction
18 should result in an adjustment to accumulated depreciation.

19 The correction to plant, as shown in the MFRs on Schedule A-3, page 1 of 2, lines 4-6 and
20 lines 20-22, is as below:

21	354.4 Structures and Improvements	(1,769,868)	(30-year life)
22	364.2 Flow Measuring Devices	78,652	(5-year life)
23	380.4 Treatment & Disposal Equipment	1,591,112	(18-year life)
24	381.4 Plant Sewers	100,100	(35-year life)

25 The accumulated depreciation impact of these corrections to plant additions is as below,

1 with a one-half year convention.

2	354.4 Structures and improvements	(29,498)
3	364.2 Flow Measuring Devices	7,865
4	380.4 Treatment & Disposal Equipment	44,198
5	381.4 Plant Sewers	<u>1,430</u>
6	Total (additional accumulated depreciation required)	23,995

7

8 (3) The adjustment made by KWRU on the MFRs to annualize depreciation expense was
 9 incorrect. The adjustment assumed that expense commenced the month after the plant was
 10 added. However, in fact, depreciation started in January. The adjustment to increase
 11 depreciation by \$185,311 should have only been \$125,074, per the "Plant Additions"
 12 worksheet.

13 (4) The correction to the plant accounts described above requires an adjustment to
 14 depreciation expense as it did to accumulated depreciation. This correction is as follows,
 15 using a full year of depreciation expense

16	354.4 Structures and improvements	(58,996)
17	364.2 Flow Measuring Devices	15,730
18	380.4 Treatment & Disposal Equipment	88,396
19	381.4 Plant Sewers	<u>2,860</u>
20	Total	47,990

21 **Q. Please summarize these four adjustments.**

22 A. I would summarize as follows:

		<u>Accumulated Depreciation</u>		<u>Depreciation Expense</u>	
		(1)	(2)	(3)	(4)
24	Correction reference	(1)	(2)	(3)	(4)
25	354.4 Structures & Improvements	(63,736)	(29,498)	(31,868)	(58,996)
26	360.2 Collection Sewer Force	(3,839)		(640)	

1	364.2 Flow Measuring Devices	(7,865)	7,865	(3,933)	15,730
2	371.3 Pumping Equipment	(764)		(284)	
3	375.6 Reuse Trans/Dist	(2,358)		(393)	
4	380.4 Treatment & Disposal Equipment	(44,951)	44,198	(22,405)	88,396
5	381.4 Plant Sewers	(1,430)	1,430	(715)	2,860
6	390.7 Office Furniture	<u>(132)</u>		1	
7		<u>(125,074)</u>	<u>23,995</u>	<u>(60,237)</u>	<u>47,990</u>

8 Total additional adjustment

9 Accumulated Depreciation: $(\$125,074) + 23,995 = \underline{\$101,079}$

10 Depreciation Expense: $(\$60,237) + 47,990 = \underline{\$12,247}$

11

12 RETIREMENTS

13 **Q. Do you agree with OPC Witness Schultz' adjustments to retire several assets,
including the chlorine contact chamber, lift station, generator, and the office?**

14 A. I agree that the chlorine contact chamber and the lift station should be retired, since we have
15 included proforma plant to replace those items.

16 **Q. Do you agree with the retirement entries he recommends?**

17 A. Since the chlorine contact chamber and the lift station were constructed many years ago, we
18 are unable to find the original cost of those specific assets. In that case, it is consistent with
19 Commission policy to assume an original value of 75% of the replacement cost without
20 better or more reliable information. However, in looking at the adjustments he recommends,
21 and the balance in the specific accounts, I do not agree with the adjustments he makes.

22 **Q. With what do you disagree?**

23 A. Lift stations: His adjustment to retire lift stations is a reduction to account 354.3 of \$92,715.
24 However the balance in that account before the proforma adjustment is only \$875, the cost
25 of a fence installed in 2003. KWRU estimates that the lift station was installed in the mid-

1 1980s. The account with additions in the 1980s is account 3713 Pumping Equipment, with a
2 total addition of \$163,052 in 1984. The next addition to that account was not until 2003, so
3 this lift station is most likely included in that 1984 line item. The only other assets added in
4 the 1980s were 3534 Land (1985), 3544 Structures (1985), 3602 Force Mains (1986), 3612
5 Gravity Lines (1986), 3804 "Oxidation Lagoon" (1986), 3894 Misc Equipment (1984), and
6 3937 Tools (1984).

7 **Q. Why is this significant?**

8 A. Most importantly, account number 3713 only has a 18-year life and that particular line item
9 is no longer being depreciated. With the exception of account 3612 Gravity Mains (45 year
10 life), all assets added in those categories in the 1980s are also fully depreciated, and the
11 company is no longer depreciating them.

12 **Q. What is your recommendation pertaining to lift stations?**

13 A. Based on my review of the asset schedules, I believe that Lift Station 2A was included in
14 the account 3713 Pumping Equipment. Since we cannot trace the original cost of the lift
15 station, the utility should follow Commission policy and retire 75% of the replacement cost.
16 This is \$109,795 (\$146,393 x 75%), reducing account 3713 and accumulated depreciation
17 by that amount. However, no adjustment to depreciation expense is needed as the asset is
18 fully depreciated, and has not been depreciated since June 2002. The asset details to which I
19 am referring were provided in response to OPC 1st Request for POD #12 and attached to
20 my rebuttal testimony as Exhibit DDS-5.

21 **Q. Do you agree with the retirement of the chlorine contact chamber?**

22 Although KWRU estimates that the two original chlorine contact chambers were
23 constructed in 1994 and 1996, a review of that same asset detail shows that the only
24 additions to plant in that year were to accounts 3602 Force Mains, and 3804 Treatment and
25 Disposal Equipment. In 1997 there was also an addition to 3804 Treatment and Disposal

1 Equipment. It would be consistent with the records to presume that the two contact
2 chambers are included in the balance for account 3804. However, the depreciation life of
3 3804 is 15 years. The additions to 3804 from 1997 and earlier were fully depreciated, and
4 there is no depreciation expense in the MFRs for those assets. The next addition to that
5 account is not until the year 2000 for the installation of a pond liner. As is consistent with
6 Commission policy, it would be appropriate to reduce account 3804 and accumulated
7 depreciation by \$832,470 ($\$1,109,960 \times 75\%$) but no adjustment to depreciation expense is
8 appropriate.

9 **Q. Do you agree with Witness Schultz that the office which is being replaced should be
10 retired?**

11 A. Yes, I do. Although Witness Schultz did not propose an adjustment, it was because he was
12 not including the new office. A review of the asset detail indicates that the current office
13 was purchased in 2002, is included in the account 3544 Structures and Improvements, the
14 cost was \$44,450, and is being depreciated over 30 years. In addition, in that same account,
15 there was a charge for relocating the office trailer \$20,064, and for office trailer electrical of
16 \$4,461 in 2003. The appropriate adjustment is to reduce account 3544 Structures and
17 Improvements, and accumulated depreciation by \$68,975 ($\$44,450+20,064+4,461$). It is
18 also appropriate to remove the associated depreciation expense included in the MFRs by
19 \$2,299, which is \$68,975 divided by 30 years.

20 **Q. Do you agree that the generator which is being replaced should be retired?**

21 A. Yes, I do. However, the amount and account he used for the retirement adjustments is
22 incorrect. Per the asset detail schedule, the Kohler Generator was purchased in December
23 2005 at a cost of \$75,682, plus various installation costs totaling \$34,541, and additions in
24 2012 of \$18,034, all recorded in account 3554 Power Generated Equipment, which has a 20
25 year life for depreciation. The correct retirement adjustment would be a reduction to 3554

1 Power Generated Equipment and accumulated depreciation for the total including
2 installation of \$128,257, and a reduction to annual depreciation expense of \$6,413 which is
3 \$128,257 divided by 20 years.

4

5 **PHONE SYSTEM**

6 **Q. Do you agree that a redundant phone system should be excluded from rates?**

7 A. No. Apparently it is not possible for Mr. Schultz to contemplate the enormous impact on
8 customers when a telephone system fails after a catastrophic event. Like millions of
9 customers in all of south Florida, KWRU was completely without telephone service for
10 days. KWRU provides vital service to its customers, and cannot fail to provide that service.
11 What Mr. Johnson has stated in his testimony is that the SCADA system is controlled over
12 the internet. KWRUs internet service was through its telephone service provider. It is not
13 surprising that Mr. Johnson is installing a redundant system to this vital service to ensure
14 that the wastewater system is operational as quickly as possible in after a hurricane.

15 **Q. Is a redundant phone system only needed in event of a hurricane?**

16 A. No. The failure of the telephone and internet systems as a result of the hurricane simply
17 highlighted the fragility of these systems. Redundancy is in place for the electrical system
18 and now KWRU will put in place redundancy for the communication systems. The Florida
19 Keys suffer a particular vulnerability due to their geography. The communication system
20 infrastructure serving the keys are installed adjacent to the length of US Highway 1. Any
21 disruption of service along that span results in service disruption. The utility's SCADA
22 system relies on the communication system to provide the information, including alerting
23 on-call personnel in event of a system failure. Without an operational communication
24 system, the Utility will not receive an alert for an emergency condition, and the
25 consequences can be catastrophic, as testified by Witness Johnson. In my own experience

1 communicating with KWRU in this rate case, KWRU staff has had to field calls using
2 cellular phones, as KWRU's lines were down, on multiple occasions.

3

4 **PENSION PLAN**

5 **Q. Do you agree with Witness Schultz' testimony regarding the pension expense?**

6 A. I do not agree with his adjustment to pension expense. KWRU has implemented a
7 traditional pension plan in response to difficulties with retaining employees. He even
8 characterized this traditional pension plan as "gold- plated".

9 First, as supported by Witness Johnson's rebuttal testimony, KWRU found that the pension
10 plan was a key factor in its ability to retain staff. This is primarily because the previous
11 plan, a 401k, allowed employees to take 100% of the funds paid in by the Company at the
12 time the employee left through a rollover to an IRA, in other words, vesting immediately.
13 The traditional pension plan builds in a vesting schedule that encourages employees to
14 remain with the company in order to vest.

15 Second, as Witness Johnson testifies, and as KWRU has explained, employees have left for
16 other employment due, in part, to the pension plan. Considering that other employers are
17 offering traditional pension plans, this would dispel the claim that this pension plan is
18 somehow excessive.

19 And finally, several years ago, my own company added a traditional pension plan to our
20 benefits package in addition to a 401k. We did this for the same reason as KWRU – to
21 establish a competitive benefit package and retain employees – in our case, professional
22 engineers. The advantage is that it encourages employees to stay with the company, or they
23 will not vest in the plan, unlike with payments by the company to the 401k plan which are
24 vested immediately.

25 **Q. Can you explain how you calculated the pension expense?**

1 A. Yes. I want to first point out that I have revised the original incremental cost of the new
 2 pension plan. In the MFRs I made an adjustment of \$10,141 to add 1% of salary as the
 3 additional cost of the pension plan. However, in response to discovery requests, we
 4 determined that this number did not incorporate the full incremental additional cost.
 5 As explained by KWRU in its Response #123 to OPC's 5th set of Interrogatories, and
 6 further explained by Witness Johnson, the total incremental cost of implementing a
 7 traditional pension plan included within the test year will be higher than the \$10,141
 8 included in the original pro forma adjustment. The amount that should be included is
 9 \$35,768, calculated as 5% of annualized November salaries plus an expectation of
 10 overtime, administration and setup costs, minus \$18,001 included in the test year.

11	Salaries and wages, adjusted as described above	\$ 971,380
12	Company contribution of 5%	\$48,569
13	Administration & setup costs	5,200
14	Less test year amount paid	<u>(\$18,001)</u>
15	Estimated incremental pension expense	\$35,768

16 I have incorporated this number into my revised MFR Schedules included in Exhibit
 17 DDS-2.

18

19 BAD DEBT EXPENSE

20 **Q. Do you agree that KWRU's bad debt expense for an unpaid employee loan should be
 21 disallowed?**

22 A. While I understand Witness Schultz' arguments for removing that cost, I disagree with his
 23 conclusion. The expense incurred should have more correctly been charged to employee
 24 costs rather than bad debt expense. Schultz' first argument is that because KWRU did not
 25 pursue collection of the sum owed, it should not become a burden to the ratepayer. He is not

1 arguing that the loan should not have been made. In his analysis, he should have considered
2 the cost of pursuing collection through a law firm and collection company as an offset to the
3 potential payment. He also claims that this is a non-recurring cost, however there is no
4 indication that this is non-recurring, or that if it is, that some similar cost won't be incurred
5 in the company's continuous effort to attract and maintain its employees.

6

7 **HURRICANE IRMA COSTS**

8 **Q. Witness Schultz identifies certain hurricane costs that were duplicated in KWRU's
9 filing. Can you please go over them, and tell us what you found?**

10 A. Yes. Witness Shultz found two charges to Information Technology Solutions for \$142.50
11 and \$1,722.50 that appear to be duplicated. After reviewing the information provided, I
12 agree that the two charges from Information Technology Solutions in the amounts of
13 \$142.50 and \$1,722.50 are duplicates and should be removed.

14 He also identified a charge of \$2,899 to Nearshore Electric to set up the electrical in the
15 temporary office trailer, in addition to \$6,000 for utility installation costs. I agree that the
16 charge from Nearshore Electric in the amount of \$2,899 should be removed.

17 There is also a charge from Sunbelt Rentals for \$1,940.41 in addition to six months of rental
18 expense for the tow behind generator, finding that this one charge was a duplicate.
19 However, I do not agree that the \$1,940.41 charge from Sunbelt Rentals should be removed.
20 So far the Utility has paid a total of \$13,582.87 for seven months rental expense. Rental of
21 the tow behind generator is expected to continue for an additional 4 months until the
22 purchased unit will be delivered. I have also updated the cost associated with the rental of
23 the large generator for a total of \$147,419 as it will also continue for 11 months.

24 Therefore, our requested hurricane costs should be increased by an additional \$57,095,
25 amortized over 4 years for an increase of \$14,274 to O&M costs. Finally, Witness Schultz

1 finds that 6 charges labeled Paychex Overtime totaling \$7,440.27 are a duplicate of a
2 separate line item on Schedule B-3 to amortize the hurricane overtime. However, there is
3 only one adjustment included on the B-3 for costs associated with Hurricane Irma, and this
4 is not a duplicate. Furthermore, these costs were incurred as a direct result of the hurricane,
5 which took place after the test year, and is therefore not otherwise included in the MFRs.

6 **Q. Do you agree with Witness Schultz' contention that any insurance proceeds paid to
7 compensate for damage caused by Hurricane Irma should be used to reduce the
8 amount requested by KWRU?**

9 A. Yes, I do. In February 2018, KWRU received a payment of \$ \$19,393 as compensation for
10 damages sustained from the hurricane. That payment should be used to reduce the deferred
11 hurricane expense amount we are including in working capital, and amortizing over four
12 years.

13 Q. **Do you agree that the cost associated with Hurricane Irma should be amortized over
14 five years, not four?**

15 A. No, as testified to by Witness Chris Johnson, hurricane cost should be amortized over four
16 years, not five. KWRU has determined that the anticipated average occurrence of impact
17 from a hurricane is four years.

18

19 ADVERTISING EXPENSE

20 Q. **Do you agree with Witness Schultz' recommendation that the most appropriate
21 method for estimating advertising expense is a five-year average?**

22 A. No, I do not agree with his recommendation that the most appropriate method for
23 estimating advertising expense is a five-year average. Considering the newly
24 constructed plant, and the resulting change in operations, including virtually all

1 operating and maintenance conditions, it is inappropriate to do look-back to analyze
2 current conditions for most expenses.

3 Rule 25-30.437 F.A.C. states that the includable operations and maintenance cost in an
4 application for rate increase is the total test year expense. Rule 25-30.433(8), F.A.C.
5 states that non-recurring expenses shall be amortized over a five-year period.
6 Advertising expenses, as indicated in Witness Schultz testimony, is an annual expense
7 incurred by the Utility. It is not a non-recurring expense and therefore the includable
8 amount is the total test year actual expense.

9 **Q. Do you agree with the use of the Annual Reports to calculate a 5-year average?**

10 A. No. I do not agree with Witness Schultz' calculating the 5-year average based on
11 information from the Annual Reports. Information found in the Utility's Annual
12 Reports are compiled on a December 31 basis while the test year is June 30, 2017. The
13 period for any calculated average should be from July through June. By using this
14 method, he is excluding six months of the test year in his average. This is particularly
15 pertinent in the case of advertising expense, where \$0 was incurred between January -
16 June 2016, and the entire \$1,376 in 2016 was incurred from July - December 2016.
17 Another \$4,256 was incurred in the period January - June 2017, and the total for the test
18 year was \$5,803. The results of an average were significantly skewed since the amount
19 used by Witness Schultz for the fifth year of his 5-year average was the \$1,376 incurred
20 in late 2016.

21

22 **MATERIALS AND SUPPLIES**

23 **Q. Do you agree with Witness Schultz' recommendation that the most appropriate
24 method for estimating materials and supplies expense is a five-year average?**

1 A, No, I do not agree with his recommendation that the most appropriate method
2 for estimating materials and supplies expenses is a five-year average. Considering the
3 newly constructed .350 MGD plant, and the resulting change in operations, including
4 virtually all operating and maintenance conditions, it is inappropriate to do look-back to
5 analyze current conditions for most expenses, and particularly for materials and
6 supplies.

7 Rule 25-30.437 F.A.C. states that the includable operations and maintenance cost in an
8 application for rate increase is the total test year expense. Rule 25-30.433(8), F.A.C.
9 states that non-recurring expenses shall be amortized over a five-year period. Materials
10 and supplies, as indicated in Witness Schultz testimony, is an annual expense incurred
11 by the Utility. It is not a non-recurring expense, and therefore the includable amount is
12 the total test year actual expense. Averaging expense completely fails to recognize
13 increasing trends as conditions change.

14 **Q. Do you agree with the use of the Annual Reports to calculate a 5-year average?**

15 No. I do not agree with Witness Schultz' calculating the 5-year average based on
16 information from the Annual Reports. Information found in the Utility's Annual
17 Reports are compiled on a December 31 basis while the test year is June 30, 2017. The
18 period for any calculated average should be from July through June.

19 Finally, KWRUs detailed general ledger accounts are in much greater detail than the
20 summary accounts listed in the annual reports and in the MFRs. While reviewing the
21 amounts recorded in materials and supplies based upon the testimony of Witness
22 Schultz, I discovered that the accounts included in materials and supplies in the MFRs
23 is not consistent with the accounts used in the Annual Reports nor the prior MFRs. For
24 that reason, an adjustment must be made to categorize the detailed accounts correctly

1 and consistently with all prior years. The details of the individual accounts totaled for
 2 materials and supplies in the MFRs was provided in OPC's 1st request for production of
 3 documents, number 12, in this docket, as subsequently revised on 2/21/2018 as
 4 document # 0165-2018, and attached hereto as Exhibit DDS-2.

5 Below are the individual detailed accounts included in materials and supplies in the
 6 MFRs, and the account that should have been used:

		<u>MFRs</u>	recommended
		Account	
9	7180510	Supplies	22,518.99
10	7200510	Equipment & Supplies	9,497.08
11	7200820	Office Supplies	10,734.70
12	7360110	Emergency Repairs	684.40
13	7360200	Vacuum Stn Repairs & Maint	10,180.64
14	7360330	Vacuum Collection System	2,429.94
15	7360410	Lift Stations-Cleaning	2,263.89
16	7360420	Lift Station Repair & Maint	5,076.27
17	7360430	Pumps & Panels Repairs & Maint	2,749.08
18	7360520	Equipment Repair & Maint	3,997.53
19	7360530	Filter Beds	26.86
20	7360540	Generator Maintenance	3,815.84
21	7360600	Grounds and Office Maint	2,849.24
22	7360610	Plant Repair or Maintenance	<u>9,216.11</u>
23		Total	86,040.57

24 This would result in a reduction of \$43,290 to account 720 Materials and Supplies and
 25 an increase in the same amount to Account 736 Contractual Services Other. The
 26 resulting total would be as below:

1

		<u>per MFRs</u>	<u>adjustment</u>	<u>adjusted total</u>	<u>Schultz average</u>
3	Account 720	\$86,041	(\$43,290)	\$42,751	\$37,566
4	Account 736	\$0	\$43,290	\$43,290	N/A

5 It is pertinent to point out here that Witness Schultz did not perform a historical analysis
 6 on account 736 which went from \$45,054 allowed in the 2014 test year rate case to \$0
 7 in our 2017 MFRs.

8 To make the impact of the re-assignment of the detailed accounts above, I have
 9 included revised MFR schedules B-6 and B-8 as Exhibits DDS-2

10

11 CONTRACTUAL SERVICES - ENGINEERING

12 **Q. Do you agree with Witness Schultz' recommendation that the most appropriate
 13 method for estimating contractual services-engineering expense is a five-year
 14 average?**

15 No. I do not agree with his recommendation that the most appropriate method for
 16 estimating contractual services - engineering expenses is a five-year average.
 17 Considering the newly constructed .350 MGD plant and the resulting change in
 18 operations, including virtually all operating and maintenance conditions, it is
 19 inappropriate to do look-back to analyze current conditions for most expenses,
 20 including engineering services. Rule 25-30.437 F.A.C. states that the includable
 21 operations and maintenance cost in an application for rate increase is the total test year
 22 expense. Rule 25-30.433(8), F.A.C. states that non-recurring expenses shall be
 23 amortized over a five-year period. Contractual services - engineering, as indicated in
 24 Witness Schultz' testimony, is an annual expense incurred by the Utility. It is not a non-

1 recurring expense and therefore the includable amount is the total test year actual
2 expense.

3 **Q. Do you agree with the use of the Annual Reports to calculate a 5-year average?**

4 A. No. I do not agree with Witness Schultz' calculating the 5-year average based on
5 information from the Annual Reports. Information found in the Utility's Annual
6 Reports are compiled on a December 31 basis while the test year is June 30, 2017. The
7 period for any calculated average should be from July through June.

8 **Q. Do you agree that the cost included in Contractual Services - Engineering to renew the
9 DEP permit should be amortized over 5-years?**

10 A. Yes, the cost of obtaining or renewing a permit should be amortized over the life of the
11 permit. However, the unamortized balance should be included in working capital.

12 **Q. Do you agree that the cost included in Contractual Services - Engineering associated
13 with plant projects should be capitalized?**

14 A. Yes, the cost of engineering associated with plant projects should have been capitalized
15 to those plant projects.

16

17 WORKERS' COMPENSATION INSURANCE

18 **Q. Do you agree that only the test year amount workers' compensation should be the
19 allowed?**

20 A. No. The cost of those employees for workers' compensation is 4.4% as KWRU provided in
21 its response to Citizens' Interrogatory No. 61. Witness Schultz does not present an
22 argument against the calculation. He asserts that since the number of employees has not
23 increased, the cost should not increase. However, as I have discussed, the number of
24 employees has increased, as KWRU had projected in its proforma expense adjustment, and
25 therefore the expense should increase.

1 **EQUIPMENT RENTAL EXPENSE**

2 **Q. Do you agree with Witness Schultz' recommendation that the most appropriate
3 method for estimating equipment rental expense is a five-year average?**

4 A. No. I do not agree with Witness Schultz' recommendation that the most appropriate
5 method for estimating rental of equipment expense is a five-year average. Rule 25-
6 30.437 F.A.C. states that the includable operations and maintenance cost in an
7 application for rate increase is the total test year expense. Rule 25-30.433(8), F.A.C.
8 states that non-recurring expenses shall be amortized over a five-year period.
9 Equipment rental expense, as indicated in Witness Schultz testimony is not a non-
10 recurring expense and therefore the includable amount is the total test year actual
11 expense.

12 **Q. Do you agree with Witness Schultz' recommendation that the entire test year
13 expense should be removed?**

14 A. No. In his testimony Witness Schultz calculated a 5-year average expense of \$656 for
15 rental of equipment then recommended removing the entire test year expense of \$1,479.
16 I do not agree with the recommended adjustment to remove the entire test year expense
17 of \$1,479 as it is unreasonable to assume that there will be no future equipment rental
18 expense since the Utility has purchased a service truck with crane. On the contrary,
19 there will continue to be other ongoing equipment rental needs. The utility's equipment
20 rental expense is certainly not limited to the crane truck, and there are certain projects
21 which will require a crane apparatus with capabilities beyond the service truck with
22 crane, as testified to by Chris Johnson.

23 **Q. Do you agree with the use of the Annual Reports to calculate a 5-year average?**

1 A. No. I do not agree with Witness Schultz' calculating the 5-year average based on
2 information from the Annual Reports. Information found in the Utility's Annual
3 Reports are compiled on a December 31 basis while the test year is June 30, 2017. The
4 period for any calculated average should from July through June.

5

6 EMPLOYEE TRAINING

7 **Q. Do you agree with Witness Schultz' recommendation that the most appropriate
8 method for estimating employee training expense is a four-year average?**

9 A. No. I do not agree with Witness Schultz' recommendation that the most appropriate
10 method for estimating employee training expense is a four-year average. Rule 25-
11 30.437 F.A.C. states that the includable operations and maintenance cost in an
12 application for rate increase is the total test year expense. Rule 25-30.433(8), F.A.C.
13 states that non-recurring expenses shall be amortized over a five-year period. Employee
14 training expense, as indicated in Witness Schultz' testimony is not a non-recurring
15 expense and therefore the includable amount is the total test year actual expense.
16 Furthermore, Witness Schultz uses a historical calendar years for his analysis, which
17 exclude one-half of the entire test year. He performs no analysis to determine the cause
18 for an increase in training over time, and ignores that the test year amount is actually
19 lower than the 2016 calendar year amount.

20

21 BENEFIT EXPENSES AND PAYROLL TAXES

22 **Q. Do you agree that an adjustment to employee benefits and payroll taxes is warranted
23 if salaries and wages are adjusted?**

24 A. Yes. Since employee benefits and payroll taxes are a function of salaries and wages, it is

1 appropriate to adjust them proportionately, whether salaries and wages are increased or
2 reduced. Since I do not support a reduction in salaries and wages, I of course do not support
3 a reduction in benefits and payroll taxes.

4

5 RATE CASE EXPENSE

6 **Q. Have you reviewed Witness Schultz' testimony regarding rate case expense?**

7 A. Yes, I have. He observes that the Utility has not provided updated actual and estimated cost
8 information for completion of the case. We have provided that several times, most recently
9 in response to #63 of Staff's Third Interrogatories. I have included the updated rate case
10 expense in Schedule B-10 of my Exhibit DDS-2 consistent with the information provided in
11 that response. As is customary, KWRU will continue to provide copies of actual invoices
12 and estimates for completion as appropriate during the duration of the rate case.

13 It's worthwhile also pointing out that Witness Schultz notes that Smith Hawks and
14 Friedman and Friedman's hourly rates are very high, and "significantly higher in this case
15 than in KWRU's last rate case in Docket No. 20150071-SU." However, Friedman and
16 Friedman's hourly rate is \$370 per hour, compared to \$360 three years ago in that prior
17 Docket. Smith Hawks was \$350 per hour three years ago, compared to \$347.50 average rate
18 charged in this case. As of the date of this testimony, over 87% of the attorney hours billed
19 by Smith Hawks were billed by Nick Batty at a rate of \$275.00 per hour. KWRU has tasked
20 the lowest cost attorney on its legal team to respond to the voluminous discovery
21 propounded in this docket, which represents the bulk of the time expended. The Smith
22 Hawks average attorney rate to date is less than \$300.00

23

24 CAPITAL STRUCTURE / COST OF CAPITAL

25 **Q. Do you agree with Witness Schultz' testimony regarding the appropriate capital**

1 **structure and the cost of the various components?**

2 A. I do not agree with his assessment of Common Equity, where he expresses concern about a
3 difference in Common Equity between a workpapers provided, and Schedules A-19 and D-
4 2 of the MFRs. There are a couple of reasons. The first reason is a common accounting
5 practice, whereby current earnings are closed to retained earnings once a year at the
6 company's fiscal year end. As the company closes it books on December 31, and the test
7 year end is June 30, the company's balance sheet does not include a closing of the current
8 earnings against retained earnings except for the month December 31, 2016. "BS_Trial
9 Balance" includes no current earnings on the schedule showing total equity. On "BalSheet
10 Acct_PerAR" we included a line called "Net Income" in the calculation of common equity.

11

12 **PRO FORMA PLANT ADDTIONS**

13 Q. **Do you have any specific observations about the adjustments recommended by OPC
14 Witness Andrew Woodcock?**

15 A. Yes, although the specifics regarding individual proforma projects are addresses by Witness
16 Johnson, I did note that in his testimony, Witness Woodcock stated, "It is my opinion that,
17 of the \$129,763.75 included in Mr. Johnson's testimony, \$122,557.50 is associated with the
18 rehabilitation of the WWTP and should be included in rate base. The remaining \$7,205.75
19 should not be included." These costs he seeks to exclude were incurred in November 2016
20 and June 2017, which is during the test year, and if not capitalized, he should have added it
21 to Contractual Services - Engineering.

22

23 **ADDITIONAL REVENUES AND CIAC FOR POST-TEST YEAR CUSTOMERS**

24 Q. **Have you reviewed the testimony of Monroe County Witness J. Terry Deason?**

25 A. Yes, I have. Witness Deason's testimony proposes including additional revenues from

1 future possible customers as an adjustment to test year revenues, thereby reducing the
2 overall increase required by the Utility. He also proposed including contributions in aid of
3 construction (CIAC) from those future customers as a reduction to rate base. He explains
4 the Commission's authorization to do so, cites prior case justifying the use of a projected
5 test year (PSC-01-2511-PAA-WS), explains the "matching principle" as it applies to rate
6 cases, and argues that the conditions in this case warrant such treatment.

7 **Q. Do you agree with his proposal?**

8 A. No, I do not. I will address each of his points separately.

9 Commission Policy on Selection of a Test Year

10 Witness Deason first quotes Rule 25-30.430(1), FAC, which establishes the Commission
11 authority to approve the test year requested by the water or sewer utility prior to an
12 application for a general rate case.

13 **Q. What is the significance of this Rule?**

14 A. The significance to me of this Rule is that pursuant to the Rule, the Utility requested a
15 historical test year of twelve months ended June 30, 2017, and the Commission accepted
16 that test year. The utility relied on the Commission's acceptance of the proposed test year
17 when it then prepared its application for a rate increase.

18 **Q. Does Witness Deason agree that the historical test year accepted by the Commission is
19 appropriate?**

20 A. No, Witness Deason looks to a Commission Order from 1986 for Martin Downs Utilities,
21 Inc., where the Commission found that a projected test year was appropriate. However, as
22 he quoted from that order, "...Based upon historical data we anticipate Martin Downs will
23 continue to experience a rapid growth of demand for its services. Therefore, we believe a
24 projected test year is appropriate in this case."

25 **Q. Are the conditions in the case consistent with the Martin Downs case?**

1 A. No, not at all. In that case the Commission stated that the reason a projected test year was
2 appropriate was that they anticipated continued rapid growth. However, there is nothing in
3 KWRU's filing that would conclude that the Utility anticipates experiencing rapid growth.
4 On the contrary, the Utility has filed its case using the same non-used and useful percentage
5 approved by the Commission in its final order, Order No. PSC-17-0091-FOF-SU.

6 Q. Does Witness Deason present any other justification for the use of a projected test
7 year?

8 A. When asked, "Does the Commission have a preference for projected versus historic test
9 years", he answered that the Commission primarily relies on projected test years for electric
10 utilities. He then quoted a Supreme Court Case pertaining to a telephone company from
11 1983, which states, among other things, that projected test years may be effective in
12 minimizing regulatory lag.

13 Q. Do you agree that the treatment by the Commission in electric and telephone cases
14 should be consistent with respect to the use of projected test years?

15 A. It would only be appropriate if other issues were also treated consistently between electric
16 and telephone, and water and sewer. Without arguing the appropriateness of consistent
17 treatment among a number of issues, the bottom line is that few water and wastewater cases
18 brought before the Commission use projected test years.

19 Q. Do you agree, however, that a projected test year may be effective in minimizing
20 regulatory lag?

21 A. Whether a projected test year may be effective is irrelevant in this case, because the filing is
22 based on a historic test year. And regardless of whether a case is filed using a projected or
23 historic test year, there are some causes of regulatory lag that neither addresses. In any rate
24 application, the historical period is reflected. Inevitably, it shows that in the past year the
25 utility has not achieved its authorized return on equity and in most cases has experienced a

1 loss. This loss will never be recovered, no matter what the test year is. Projecting is not
2 going to solve this type of regulatory lag. In most of the cases I have filed, the rate
3 application is filed approximately six months after completion of the historical period.
4 During that time, the loss which precipitated the need for a rate increase has continued. The
5 best the utility can hope for is to have interim rates approved quickly, but the incurred
6 losses are never recovered for that period of time. No projection is going to ever make that
7 utility whole. Furthermore, a projected test year incorporates projected billing units, which
8 alone will result in a lower per unit rate, reducing even further the opportunity to fully
9 recover.

10 **Q. Does Witness Deason cite any other water and sewer cases that use a projected test
11 year?**

12 A. Yes, he describes that in a staff assisted rate case from 2001, Burkim Enterprises, Inc.,
13 Commission Order No. PSC-01-2511-PAA-WS, stated that a projected test year was used
14 "Because the utility is growing at an exceptionally high rate (29 connections per year), rates
15 based on historical data alone will be significantly different than rates based on current or
16 even future conditions..."

17 **Q. Does Witness Deason correlate the "rapid growth" or "exceptionally high rate" of
18 growth to the conditions at KWRU?**

19 A. No, he doesn't. What he says is that the inclusion of proforma plant and expense (alone)
20 necessitate the inclusion of revenues from future customers.

21 **Q. Is he recommending the use of a projected test year?**

22 A. No, not at all. On the contrary he states that the County has no objection to the selected test
23 year, "per se". Rather, the only projection he recommends is to revenues and CIAC.

24 **Q. What other argument does Witness Deason present to justify the inclusion of revenues
25 from future customers?**

1 A. He provides an accounting definition of the matching principle, and states that this principle
2 in the regulatory arena, "...requires that the utility's rates be set using the utility's costs,
3 investments, revenues, and sales units from the same time period, and that they be
4 representative of the time period in which the new rates will be in effect." Witness Deason
5 then goes on to say that whenever investment is made "to serve a growing customer base or
6 growing customer demands for service, or both..." that additional revenues from future
7 customers should be used.

8 **Q. What do you find wrong with this argument?**

9 A. First, when asked in his testimony, "If there is credible evidence that the gallonage of
10 wastewater treated and billed by KWRU is likely to be greater during the time that rates
11 will be in effect, should the Commission take that evidence into account when setting
12 KWRU's rates in this case," he answers, "If the amount of wastewater treated and billed by
13 KWRU is to be higher during this extended period, the rates should be based on such
14 greater usage." He presents no evidence, nor claim, that the amount of wastewater treated
15 and billed will be higher.

16 **Q. Do you agree that the conditions in this case are similar to the prior KWRU case, test
17 year December 31, 2014?**

18 A. No. Witness Deason uses that case to show that the basis of the adjustments made by the
19 Commission to address the passage of time was the use of the matching principle.

20 **Q. What conditions were different between this case and that case?**

21 A. First, in that case, the Final Order was more than two years after the end of the test year. As
22 time went on, more and more actual data was available from which to evaluate for possible
23 adjustments. This case will have a final order within 14 months of the end of the test year.
24 Second, the proforma plant and expense adjustments proposed by KWRU in that case were
25 in a large part due to customer growth which is not true in the instant case.

1 **Q. What final arguments do you have to Witness Deason's testimony?**

2 A. I will summarize point by point:

3 1. Water and Sewer utilities are not treated consistently with electric and telephone
4 utilities as it applies to the use of projected versus historical test years.

5 2. In the two water/sewer cases cited, Martin Downs and Burkim, the rationale for the use
6 of a projected test year was continued rapid growth and extraordinarily high growth,
7 neither of which apply in this case.

8 3. Even if the two cases above did apply, Witness Deason is not proposing the use of a
9 projected test year, and is only proposing the inclusion of revenues and CIAC from
10 future customers.

11 4. His claim that proforma plant and proforma expenses are related to customer growth is
12 inaccurate. I reviewed KWRU Witness Johnson's testimony and found that none of the
13 proforma adjustment - neither expenses nor capital costs, is related to growth.

14 5. It is inappropriate to use the matching principle as justification for the addition of
15 revenues and CIAC from future customers, giving no consideration to the impact those
16 customers have on other components included in the MFRs.

17 **Q. Have you reviewed the testimony of Monroe County Witness Jeffrey Small?**

18 A. Yes, I have.

19 **Q. Can you describe the issues raised by Witness Small and address each?**

20 A. First, he calculates the revenues that may be derived from future customer using the
21 projected billing determinants identified in the testimony provided by Monroe County Witness
22 Kevin G. Wilson, P.E. However, he also goes on to claim that future billing determinants must be
23 used so that resulting rates are fair, and this is consistent with the "matching principle".

24 **Q. Do you agree with Witness Small argument regarding the appropriateness of using
25 revenues from future customers?**

1 A. No, as I stated in my argument with County Witness Deason's testimony, this is not the
2 appropriate use of the matching principle in that it only incorporates two factors, it is not
3 the appropriate conditions to apply the matching principle in that the proforma adjustments
4 are unrelated to future growth.

5 **Q. Do you have any further arguments to the inclusion of revenues from future
6 customers?**

7 A. Yes. If for some reason the Commission decides it is appropriate to include future revenues,
8 they need to consider and include all of the additional costs associated with providing
9 service to those additional customers. This is particularly critical since KWRU's MFRs do
10 not include any future cost of providing service to future customers. As testified by
11 Witness Johnson, the EDU calculations performed by Witness Kevin Wilson which
12 underlie the reductions proposed by Witness Small are unsupported, just as his projections
13 in the prior rate case were proven incorrect in actuality. KWRU has consistently
14 underestimated costs, and there is no basis to accept the calculations prepared by Kevin
15 Wilson.

16 **Q. Are there any adjustments to the MFRs you would make to recognize future
17 conditions in this case?**

18 A. Yes, of course. First I would revise any of the proforma adjustments made in the case to
19 reflect additional information that has come to light. This is commonly done, and
20 appropriate. I have identified some in my testimony, and Witness Johnson has provided
21 several as well. These adjustments should be made whether they are increases or decreases.
22 Additionally, changes come to light after filing the rate case that should be incorporated
23 into the MFRs, One such example is the increase in debt cost as a result of the increase in
24 the Fed prime rate to 4.75% on March 22, 2018. Exhibit DDS-6 shows the current prime
25 rate and effective date published by the Wall Street Journal. Since KWRU's long term debt

1 is tied to the prime rate, the cost of long debt should be adjusted. Although there is
2 expectation that there will be additional adjustments to the prime rate this year, I am
3 recommending an adjustment for only the increase effective last month. The impact is to
4 increase KWRU's long term debt interest rate from 4.75% to 5.25%, and increases the
5 overall rate of return to 7.7%.

6 **Q. What is the impact of the adjustments you have made to the MFRs?**

7 A. I have provided the impact of this and all of the other adjustments I have made in my
8 Exhibit DDS-2, which includes revisions to MFR Schedules A-2, A-3, B-2, B-3, B-6, B-10,
9 B-14, D-1, D-6 and E-1, and DDS-8, which lists the adjustments contained in those
10 schedules.

11 **Q. The Utility provided revised schedules after the MFRs were complete. Can you
12 explain the revisions?**

13 A. An adjustment was made to increase personal property taxes. The Utility adjusted property
14 taxes to account for pro forma plant additions net of accumulation depreciation but did not
15 make an adjustment for net plant of \$2,297,429 added during January through June 2017
16 that was not included in the payment of property tax in November 2016. At a millage rate of
17 9.4797 the MFRs were revised to reflect an increase of \$21,779 to property tax expense.
18 The Utility revised the B-6 and B-8 to correct a data entry error. During discovery, the
19 Utility realized that in the month of February, the monthly amounts from the GL were
20 uploaded onto the wrong rows on the B-6 which then flowed to the B-8. While the total
21 O&M expenses for the test year was correct, the annual amounts for the following accounts
22 were incorrect:

23 711 Sludge Removal Expense

24 715 Purchased Power

25 718 Chemicals

1 720 Materials and Supplies
2 735 Contractual Services - Testing
3 742 Rental of Equipment
4 770 Bad Debt Expense
5 775 Miscellaneous Expense

6 The corrected amounts were provided in a series of Interrogatories, and the B-6 and B-8
7 were revised to reflect the correct annual amounts.

8 The Utility also revised the B-10 schedule to include unamortized rate case expenses from
9 the prior rate case.

10 **Q. Does that conclude your rebuttal testimony?**

11 A. Yes, it does.

1 BY MR. FRIEDMAN:

2 Q Ms. Swain, could you give us a brief summary
3 of your rebuttal testimony, please.

4 A Sure. First of all, the purpose of my
5 rebuttal testimony is primarily to respond to the
6 testimony of Staff Witness Glover, OPC Witnesses Schultz
7 and Woodcock, and County Witness Deason.

8 First, I explain that audit finding one in the
9 audit was inaccurate. The company did make all the
10 Commission-ordered adjustments as required. We agreed
11 that several of the adjustments may have been made to
12 incorrect accounts, but in total, they were all made.

13 With respect to OPC Witness Schultz, I
14 disagree with his characterization of cash included a
15 working capital as excessive. KWRU struggles to obtain
16 cash to meet its complications.

17 I also disagree with his determination that
18 the utility refund escrow account should be excluded
19 from working capital. It was a cash non-investment
20 account, earning nominal interest. And it was
21 ultimately predominantly allowed to be kept by the
22 utility.

23 Witness Schultz identifies pro forma projects,
24 which would result in retirements. I agree that the
25 retirements are appropriate and provide correct

1 retirement amounts in my testimony and exhibits.

2 In response to Witness Schultz's
3 characterization of KWRU's pension plan as gold-plated,
4 I disagree and explain my own personal experience with
5 my company where we now both have -- we have both a
6 401(k) and what we call a traditional or cash-balance
7 pension plan to help retain employees in a very
8 competitive market.

9 Finally, I've objected to his use of a five-
10 year average for several expense categories, which don't
11 even include the full test year as averaging.

12 Furthermore, by averaging, he disregards changes in
13 circumstances and conditions that caused the test-year
14 revenues to be higher. In response to the -- and
15 expenses to be higher. Excuse me.

16 In response to County Witness Deason, I object
17 to the selective inclusion of post-test-year CIAC and
18 revenues. First, there is no basis to go outside the
19 test year, particularly since the pro forma adjustments
20 to the test year are unrelated to growth. We did not
21 request any adjustments to an expenses -- any expenses
22 or rate base related to any potential growth.

23 So, including only potential increases of
24 revenues and CIAC without including increases to
25 expenses is not a true application of the so-called

1 matching theory.

2 To be appropriate pro forma adjustment to a
3 historical test year, the adjustments must be known and
4 measurable. The County witness' testimony does not meet
5 the -- that standard.

6 Finally, I provide exhibits which include
7 corrections in known-and- -- and-measurable changes to
8 pro forma adjustments that I described in my rebuttal
9 testimony consistent Mr. Johnson's rebuttal testimony,
10 which you'll hear shortly, including the updated costs
11 of debt to finance the pro forma projects.

12 MR. FRIEDMAN: Thank you.

13 Mr. Polmann, I tender the witness for
14 examination.

15 COMMISSIONER POLMANN: Public Counsel, are you
16 up first?

17 MR. SAYLER: Yes, sir. Yes -- yes, sir. Can
18 you hear me?

19 COMMISSIONER POLMANN: I can hear you.

20 MR. SAYLER: All right.

21 EXAMINATION

22 BY MR. SAYLER:

23 Q Good afternoon, and -- evening. Welcome back.
24 Would you turn to Page 9 of your direct
25 testimony.

1 A My -- my direct testimony?

2 Q **Rebuttal testimony. I apologize. Long couple**
3 **of days.**

4 A Okay.

5 Q **You made -- you made a correction to your --**
6 **this page of your testimony; is that right?**

7 A No, I -- I didn't correct the page. What I
8 did was I -- I said that I -- I go through all of these
9 corrections, which are correct, but I didn't incorporate
10 them into my DDS-2. I inadvertently omitted them.

11 Q **Okay. Do you see where it says, on Lines 12**
12 **and 13, "No annualization adjustment to accumulated**
13 **depreciation should have been made"? Do you see that?**

14 A Yes.

15 Q **And would you agree that it would be**
16 **consistent -- if you do that, you agree that it would be**
17 **consistent to annualize accumulated depreciation for the**
18 **full year?**

19 A I'm sorry. Say that again?

20 Q I'm sorry. Let me -- let me --

21 A I didn't follow that.

22 Q **You would agree that the utility has**
23 **annualized plant and depreciation expense for a full**
24 **year, correct?**

25 A Yes.

1 Q All right. And you would agree that it should
2 also annualize accumulated depreciation for a full year,
3 correct?

4 A Correct. My -- and my testimony is just that
5 I -- I did that so no adjustment was necessary.

6 Q Okay. Please turn to Page 5 your rebuttal
7 testimony.

8 A Okay.

9 Q Would you agree that working capital is a
10 measurement of cash required to fund day-to-day
11 operations?

12 A Yes.

13 MR. SAYLER: Okay. And would you please refer
14 to the exhibit that I passed out -- Commissioner
15 Polmann, we would like to have it marked as
16 Exhibit 132, excerpt, "Principles of Public Utility
17 Rates," by Bonbright.

18 COMMISSIONER POLMANN: We will mark as
19 Exhibit 132 an excerpt from "Principles of Public
20 Utility Rates" by James Bonbright. There is a
21 cover page -- well, within the document, there's --
22 appears to be cover page. It looks like a book and
23 one attached page from what appears to be a book.

24 (Whereupon, Exhibit No. 132 marked for
25 identification.)

1 BY MR. SAYLER:

2 Q Would you take a moment and familiarize
3 yourself with this exhibit, Ms. Swain?

4 A What did you just ask me? I'm sorry.

5 Q Would you please take a look at --

6 A Oh.

7 Q Working on the internal page, starting at
8 Page 242 over to 243 -- would you look at the section
9 titled "Working Capital," and just skim that over?

10 A Okay. (Examining document.) Okay.

11 Q All right. And on the right-hand page, under
12 "Methods of Computation," the first sentence says:
13 Utility companies, just as other businesses, have day-
14 to-day expenses, which have to be met and as -- as a
15 result, they are required to have a source of funds,
16 working capital, in order to pay those obligations.

17 Do you see that?

18 A Yes, I do.

19 Q And you agree with that definition of "working
20 capital."

21 A Yes.

22 Q All right. And the next sentence says,
23 "Working capital for regulating utilities, supplied by
24 investors, ratepayers, and other resources" -- is that
25 correct?

1 A Correct.

2 Q And the portion of working capital provided by
3 the investors -- the utility earns a return upon that
4 portion that's in working capital, correct?

5 A That's right.

6 Q And that's because working capital is a
7 component of rate base, correct?

8 A Correct.

9 Q So, the larger the working capital and rate
10 base, the more of a return the utility could earn on --

11 A Yes.

12 Q Okay. Now, isn't it true that you believe a
13 customer deposit should be included in working capital?

14 A The cash in the bank that was paid by
15 customers for their deposits should be included in
16 working capital. It's just a cash account.

17 Q Okay. And those customer deposits should be
18 part of the capital structure, correct?

19 A The -- right. The debit is the cash account;
20 the credit is the -- is the customer's deposit that's in
21 the capital structure.

22 Q All right. And why are customer deposits
23 included in the capital structure?

24 A They are a source of -- they're considered a
25 debt of the utility that had -- that carries a cost and,

1 as such, is -- rather than being a reduction of working
2 capital, it's a component of debt in the capital
3 structure.

4 Q Okay. And you would agree that debt included
5 in the capital structure is one of the sources of funds
6 used for operations in capital expenditures, correct?

7 A It's -- yes.

8 Q And you would agree that debt is not included
9 in the working-capital calculation, correct?

10 A That's right.

11 Q Now, when it comes to the amortization of the
12 Hurricane Irma expenses this utility is seeking to
13 recover from the customers, you argue it should be over
14 four years; Mr. Schultz over five years.

15 Where does that amortization show up? Is it
16 part of working capital?

17 A No, it's a -- well, yes, it is. It's a -- now
18 that I say that, the amortization, itself, is an
19 expense.

20 Q Uh-huh.

21 A The unamortized portion -- give me a moment.

22 The unamortized portion is included in work -- is in
23 addition to working capital because it's a deferred
24 debit. I just wanted to check that I actually included
25 it there.

1 Q Now, as an amort- -- when you amortize the
2 Hurricane Irma expense -- say, hypothetically, it's a
3 hundred thousand. If you amortize it over five years,
4 the utility would receive 20,000 a year as an expense,
5 correct?

6 A Right.

7 Q And amortized over four years, it would be a
8 \$25,000 a year as an expense, correct?

9 A Yeah. Yes.

10 Q And that would be -- either expense, whether
11 four or five years, is recovered from the customers.

12 A Correct.

13 Q All right. Would you please turn to Page 6 of
14 your rebuttal where you agree with Mr. Schultz on
15 deferred rate-case expense.

16 A Okay.

17 Q And do you agree with Mr. Schultz that
18 deferred rate-case expense should be held to the full
19 amount of previous- -- previously-allowed expense with
20 some further adjustments?

21 A It should be held to the previous -- the
22 previously-allowed amount.

23 Q Okay. And are you aware that it is the
24 Commission's practice to limit deferred rate-case
25 expense included in working capital to one-half of the

1 utility's total rate-case expense associated with its
2 prior rate case?

3 A Yes, I am.

4 Q And you believe the Commission should follow
5 that in this case?

6 A I'm -- I'm proposing that they not. And I
7 don't expect that they will change their practice.

8 (Laughter.)

9 Q Sounds like we have a stipulation maybe.

10 Would you please turn to Page 33 and 34 in
11 your rebuttal testimony.

12 A Okay.

13 Q And here, you discuss recognizing future
14 conditions in this case. When you say "future
15 conditions," you mean things that occurred after the
16 test year, correct?

17 A Yes. Known-and-measurable changes that are --
18 become known during the rate case.

19 Q And you would agree that things that the
20 utility says are known and measurable are sometimes in
21 dispute; meaning, it's a matter of opinion whether it's
22 actually known and measurable or the amount, correct?

23 A Yes, of course.

24 Q And based upon your testimony here, is it your
25 testimony that it is okay for a utility to continue

1 **updating this rate case with new information all along**
2 **the process?**

3 A It's the Commission practice. And this one, I
4 strongly support to incorporate known-and-measurable
5 changes that take place after the test year. And my
6 testimony pertains to a change in the debt rate.

7 Nearly half of the rate base is financed by
8 debt, and that debt is tied with prime. So, I explain
9 here that when the prime rate increased a half a
10 percent, the debt ratio increased because that's known
11 and measurable. There's documentation that that exists.

12 Q **Certainly. And we will get to some questions**
13 **about that --**

14 A Okay.

15 Q **-- in a little bit.**

16 **You would agree that a proposed agency-action**
17 **rate case -- you participated in those in the past,**
18 **correct?**

19 A Yes.

20 Q **And there are no testimony or exhibits filed**
21 **in those types of cases, correct?**

22 A Correct.

23 Q **And you would agree that it's common for the**
24 **utility, through staff data request, to provide new**
25 **information up until a certain point, and that's -- that**

1 that incorporated into the staff's recommendation,
2 correct?

3 A Yes.

4 Q And do you participate, ever, in staff-
5 assisted rate cases?

6 A I have, yes.

7 Q And same -- same line of question there. It's
8 common for information to be updated all the way up
9 until the staff's recommendation is final, correct?

10 A Yes.

11 Q And you're familiar with the difference
12 between a proposed agency-action rate case, staff-
13 assisted rate case -- those two types of proceedings --
14 you're -- you're familiar with how they're different
15 from the one we're in here today, correct?

16 A Oh, yeah. Yes.

17 Q This one is much-more formal, you would agree,
18 correct?

19 A Yes, and not very common in the water and
20 sewer industry.

21 Q Right. And in this, you've prefilled sworn
22 testimony to support those MFRs, correct?

23 A Yes, I did.

24 Q So, would it be your testimony that it's okay
25 for a utility to continue updating new information all

1 **along the process, even at the eve of or during the**
2 **hearing in a formal rate case, like the one we're having**
3 **here today?**

4 A I think the door is open. And a great example
5 of that is rate-case expense. That's commonly done.
6 The door is open for providing that information. It's
7 to the benefit of all parties that that be as accurate
8 as possible. So, yes, I -- I think so. And you see it
9 particularly in a pro forma case.

10 Q **And you would agree that rate-case expense has**
11 **its own statutory provision that requires that it be**
12 **amortized over a certain term of years and that would**
13 **lead to the rates, correct?**

14 A Yes, but that doesn't -- doesn't establish a
15 different rule with respect to gathering information, I
16 don't believe.

17 Q **You would agree that, when a utility files its**
18 **case, it is in control about what it includes or**
19 **excludes from its MFRs, correct? For the most part.**

20 A The -- that we control it? No, I think it's
21 pretty well-prescribed -- when we prepare MFRs, it's
22 straight from what the requirements are, pulling things
23 from the company's books. So, I'm not sure if you're
24 talking about something specific that might be within
25 our control.

1 Q **Certainly. Let me rephrase my question. When**
2 **you prepare your MFRs, you have an idea of what your**
3 **expenses are for the test year, as well as what your pro**
4 **forma expenses are in the case, correct?**

5 A Yes, we would -- we would have those prepared
6 by the -- before we filed a rate case.

7 Q **And same thing for the pro forma plant**
8 **additions, correct?**

9 A Correct.

10 Q **All right. So, that's your first shot at your**
11 **case, correct?**

12 A Yes.

13 Q **And that information is within your or the**
14 **utility's control, right?**

15 A Yes, from the -- from the best information
16 that we have on that day. And it's -- it's tough with
17 pro forma because you use the best information you have.
18 And as time goes on, your bidding, entering into
19 contracts, construction started, that type of thing --
20 it -- it changes.

21 Q **Certainly.**

22 **Question for you: When it comes to rate-case**
23 **expense, that is largely outside the control of the**
24 **utility; you would agree, correct? Meaning, the utility**
25 **does not know how many discovery questions staff and**

1 **intervenors will serve upon it, correct?**

2 A Right. So, are you asking me if it's out of
3 the control or within the control?

4 Q **Let me rephrase. The utility estimates rate-**
5 **case expense in its MFRs, correct?**

6 A Correct.

7 Q **And you testified earlier that it's common**
8 **that the Commission allow updating your rate-case**
9 **expense all throughout the process, correct?**

10 A That's correct.

11 Q **And you would agree that the utility has no**
12 **idea how many questions any intervenor or staff will ask**
13 **it, correct?**

14 A That's right.

15 Q **And rate-case expense is often largely driven**
16 **by the amount of questions that staff or intervenors or**
17 **combined ask the utility, correct?**

18 A Yes. We have a general idea, just from our
19 experience. Most of the rate-case expense is all
20 consultants and outside legal services. And we have a
21 fairly-good idea of what's going to go into it, but --
22 but you're right, there's always the possibility it's
23 going to be something quite a bit different.

24 I think in the last case I did, UIF, we ended
25 up coming in less in total than what we originally

1 estimated.

2 Q Okay. And just to be absolutely crystal clear
3 for the record -- so, when it comes to preparing
4 everything in this rate case, with the exception of the
5 rate-case expense, the utility -- it's pretty much
6 within the utility's control when they prefiled their
7 testimony and exhibits --

8 A I don't see any distinction between the
9 estimating of rate-case expense and the preparation of
10 pro forma estimates. Both are -- are based upon the
11 best available information, the experience of the
12 persons putting the estimates together.

13 And as time goes on, it actually -- we get --
14 now, enter into the actual realm. And we're not any
15 longer just estimating. So, we update with actual
16 information, known-and-measurable information. I don't
17 see a distinction.

18 Q Okay. So, in this case, did KW update its
19 revenues with new customers or any new flows that the
20 utility has found out about since the filing of its rate
21 case?

22 A What -- what's the question?

23 Q Sorry. Let me strike that.

24 If any additional revenues from new -- from
25 customers were provided or received by the utility, was

1 **the utility's MFRs updated to account for those
2 additional revenues? Yes or no.**

3 A If -- I'm sorry. I'm not following your
4 question.

5 Q **Have you reflected additional revenues for new
6 customers?**

7 A No.

8 Q **Or new flows?**

9 A No.

10 Q Okay. Thank you.

11 **But you revised your MFRs schedules to reflect
12 changes in expenses both upwards and downwards, correct?**

13 A Yes, but I didn't make any changes associated
14 with customer growth, none -- none of the changes are
15 related to customer growth.

16 Q **Would you agree that updating pro forma -- or
17 costs, expenses, pro forma costs, pro forma plant,
18 without reflecting added revenues from new customers or
19 additional customer flows -- would you agree that is
20 one-sided and does not reflect how things have changed
21 since the test year? Yes or no.**

22 A No, absolutely not.

23 Q **All right. So, let me ask you a hypothetical.
24 We've established that you believe it's okay for a
25 utility to add new evidence or new cost information**

1 **outside the test year that increases the revenue
2 requirement, even if it's on or during the hearing,
3 correct?**

4 A Correct.

5 Q So, if it's -- continuing on with a
6 hypothetical. So, if it's fair for the utility to do
7 that, wouldn't it also be fair for the intervenors to
8 introduce new information at the same time that would
9 reduce the revenue requirement?

10 A If -- if they were somehow related to each
11 other, and in this case, they're not. None of the
12 expenses are associated with those future customers;
13 none of the pro forma is associated with those future
14 customers.

15 So, it's a very-one-sided -- it's the
16 converse. It's very-one-sided to go outside the test
17 year, now include the revenues from future customers,
18 when what we're presenting doesn't included any costs
19 associated with those future customers.

20 Q **But you would say that those potential future
21 customers are measurable, correct?**

22 A To the extent that they've taken place by now,
23 they are measurable.

24 Q **And in your deposition on this topic -- and
25 I'm not asking for any type of legal opinion -- you -- I**

1 believe you testified you didn't know if such updating
2 at the eve of or during a hearing, either by the utility
3 or the intervenors, would be permitted; is that correct?
4 Legally speaking.

5 A Where -- where do I say that?

6 Q It was on Page 77 of your deposition, if you
7 happen to have that.

8 A Oh, my deposition.

9 Q Yes.

10 A I'm sorry.

11 Q Sorry. Do you recall that line of questioning
12 from your deposition? If not, I'll move on.

13 A No. No, I -- I don't.

14 Q Okay.

15 A I have my deposition, I think -- no, I don't
16 have it.

17 Q Okay. I will move on.

18 Please turn to Page 16 of your rebuttal where
19 you discuss pension expense.

20 A Okay.

21 Q And in your rebuttal, you make the calculation
22 based on 5 percent of salaries and wages; is that
23 correct?

24 A Yes.

25 Q All right. And were you here yesterday when

1 **Mr. Johnson was cross-examined with the profit-sharing
2 plan of the utility?**

3 A Yes.

4 Q All right. And you heard the extensive
5 discussion on that, correct?

6 A I did.

7 Q All right. Now, did you take into any
8 consideration that that 5-percent contribution was
9 voluntary, not mandatory?

10 A It -- I know the plan documents say that the
11 utility can -- or the -- the pension holder can
12 terminate --

13 Q Uh-huh.

14 A -- but IRS is not going to allow it. It is
15 not -- it is not, in the true sense of the word,
16 voluntary. There is an obligation by the utility to
17 continue to meet the -- all these documents are filed
18 with the IRS. So, they have to go ahead and do that.

19 Q All right. Now -- but you would agree that
20 the IRS rules allow for a company to terminate the
21 pension as long as you comply with both the IRS rules
22 and the pension agreement, correct?

23 A And the --

24 Q Yes --

25 A Yes.

1 Q **Okay.**

2 A But the risk is that the -- the tax deduction
3 that the company has taken all prior years is -- is
4 reversed.

5 Q **Okay. Would you turn to Page 16 of your**
6 **rebuttal.**

7 A Okay.

8 Q **Here, it's related to bad-debt expense.**

9 A Okay.

10 Q **Is the cost that is being included in the**
11 **company's request the cost of writing off a loan made to**
12 **a former employee who left the company?**

13 A That is included in the expense and the MFRs.

14 Q **Okay. Do you know if that is a common,**
15 **everyday occurrence for a utility?**

16 A No, I -- I -- I don't think it's a common,
17 everyday occurrence. Just looking at the circumstances
18 in this case, I felt it's a bad-debt expense, a
19 legitimate bad-debt expense.

20 Q **All right. Now, is it reasonable to assume**
21 **that KW will make another loan to an employee and that**
22 **employee will also leave without paying off the loan?**

23 A I think that the utility will probably
24 reconsider making a loan of that magnitude, but I
25 haven't talked to them about it.

1 Q Okay. So, you don't think it's reasonable
2 **that they will do that again; make the same mistake**
3 **twice?**

4 A I think -- well, I wouldn't call it a mistake.
5 I think that, considering the circumstances, they were
6 desperately trying to hire employees. They were
7 offering up-front payment to entice them to actually
8 take the job. It didn't work out that way. The guy
9 left. They were left holding the bag.

10 I don't know, in the future, if they're in a
11 similar situation, if that's going to be required to
12 entice an employee and -- but perhaps, they put more-
13 restrictive wording in the agreement, et cetera, to make
14 it a little easier for them. So, I don't know.

15 Q Okay. To your knowledge, the other utilities
16 you work with -- when they have a bad debt, do they turn
17 it over to a collection agency?

18 A Not generally. The -- and most bad debt, of
19 course, we're talking about customer payments. And most
20 are not turned over to a collection agency. There is an
21 attempt to collect and they're written off.

22 Q And when they're written off, that's paid for
23 by the rest of the general body of the ratepayers,
24 right?

25 A Yes, that's right. It's included in bad-debt

1 expense.

2 Q But if they did submit it to a collection
3 agency and the collection agency were to collect,
4 where -- would those revenues be reported as an offset
5 due to that bad-debt expense or somewhere else?

6 A The -- then, only the portion that's not
7 collected would be written off, but it's not a general
8 practice to turn over customer accounts in collection
9 agencies unless it's, you know, a really-sizeable amount
10 or a significant customer.

11 Q All right. Let's move to your DDS-8. I'm
12 going to have some questions about this -- excuse me,
13 not DDS-8, DDS-6.

14 A Okay.

15 Q All right. And when it comes to your
16 testimony -- and you already discussed how prime rate
17 has increased, correct?

18 A Yes.

19 Q And the only thing in your testimony showing
20 the -- that prime rate had increased is this DDS-6; is
21 that correct?

22 A Yes, that's right.

23 Q And this is a -- what is this exhibit? It's a
24 screenshot from a website?

25 A Yeah, it is. It's a screenshot from the Wall

1 Street Journal to show what the current prime rate was
2 on that day.

3 **Q** Did you find the screenshot or was it given to
4 you by somebody else?

5 **A** No, that -- I did.

6 **Q** **You did?**

7 **A** Yes, I did.

8 **Q** How do you know -- how -- how do you
9 authenticate this document?

10 **A** It's got the -- it's got the web URL on the
11 top of it --

12 **Q** **Okay.**

13 **A** -- so you can see where I got it from.

14 I -- it's not the only place that I -- that I
15 looked. As a matter of fact, actually, there's a couple
16 of pages. One is the Wall Street Journal and the other
17 one is a site called fedprimerate.com. And that has the
18 history.

19 **Q** Where do you have -- where are you
20 referencing -- is this your testimony?

21 **A** Unless I have the wrong -- the wrong document,
22 my -- what I have in my book is -- hold on a second.
23 Let me see.

24 **Q** I have a one-page document, screenshot from
25 the Wall Street Journal, that discusses what's supposed

1 **to be --**

2 A Okay. So, the second page I'm referring to --
3 I'm sorry. I didn't -- it's not part of my exhibit.
4 It's just additional information that I had pulled. It
5 was consistent with the Wall Street Journal document.

6 Q **All right. And would you look at DDS-2,**
7 **Page 12 of 13?**

8 A Which -- which schedule is that?

9 Q **Your DDS-2.**

10 A Right.

11 Q **Oh, the MFR schedule is your Schedule D6**
12 **revised?**

13 A B6?

14 Q **Delta Six.**

15 A D- -- (examining document). Okay.

16 Q Okay. And Line 1 and 2 references something
17 **called BB&T prime plus 0.5 percent. Do you see that?**

18 A Yes, .5 percent.

19 Q **And this is related to debt that's been**
20 **reflected in the capital structure, correct?**

21 A Yes.

22 Q **All right. So, you have your testimony. You**
23 **have this DDS-2 and you have this screenshot from DDS-6,**
24 **correct?**

25 A Yes.

1 Q All right. Do you have any documents from the
2 bank that show that the rate has, in fact, increased?

3 A No. I've reviewed the terms of the loan,
4 which are the .5 percent. That's why I put that on that
5 schedule, but I -- I haven't seen payments that the
6 company has made as a result of that increase.

7 Q So, you don't know if the payments have
8 increased; is that correct? You assume it has, but you
9 don't know.

10 A Right, I have not -- I haven't seen the actual
11 payment.

12 Q All right. So, you have not provided any
13 proof from BB&T, the lender, that the interest rate and
14 loan payments have increased; is that correct?

15 A I haven't -- I haven't provided any proof that
16 it has increased, other than --

17 Q Your testimony --

18 A Other than my testimony that that's what the
19 terms are and this is what the rate is.

20 Q All right. And you did not attach the two
21 loans agreements to either your direct or rebuttal
22 testimony, is that correct, reflecting that prime plus
23 .5 percent?

24 A That's correct. And this is the same debt
25 that was in effect in the last rate case. This is not a

1 different debt document.

2 Q But to your knowledge, are those loan
3 agreements in the record of this case? I've reviewed
4 all the discovery responses and I haven't seen them,
5 myself.

6 A I -- I don't know. I didn't provide them.
7 I'm under the impression that there was a request for
8 production and that it was provided. I think, in my
9 direct testimony, when I was being cross-examined, I was
10 being provided something and asked if I was the one that
11 provided it and I said, no, I think Mr. Johnson must
12 have. So, I think that was the loan document.

13 Q You think, but you do not know.

14 A I'm -- I'm really stretching my memory here.
15 It was just yesterday. It just seems like it was last
16 week, but --

17 COMMISSIONER POLMANN: Ms. Swain, that was a
18 yes-or-no question.

19 THE WITNESS: That was a -- I'm not positive,
20 but I believe so.

21 BY MR. SAYLER:

22 Q Okay. Backing up a moment to the pension --
23 or excuse me -- profit-sharing plan. Do you know what
24 the IRS requires as proof of contribution for a profit-
25 sharing plan, which is what the utility has instituted?

1 A You mean in the -- in the way of reporting?

2 Q **Do you know what the IRS regulation is, what**
3 **it requires? Can you identify that IRS regulation or**
4 **are you --**

5 A No. No, not --

6 Q **Are you speculating that the IRS has something**
7 **about profit-sharing plans?**

8 A No, I -- I am -- as I mentioned in my
9 testimony, my own company has a -- has a similar plan.

10 Q **Not the same plan.**

11 A Correct, but it's still under the same
12 guidelines. It's a cash-balance plan, defined benefit
13 plan. And I'm not the administrator. We hire, at -- at
14 a pretty penny, you know, an administrator to administer
15 it, but I am the person from the company that deals with
16 the administrator and ensures that the -- that the
17 reporting requirements for the IRS are met by my
18 company, provided to them. So, I have a business
19 knowledge of it.

20 Q **All right. Let's go back to your DDS- -- your**
21 **rebuttal Exhibit DDS-2. Just -- we'll start off with**
22 **Page 1 of 13, which is a normal page.**

23 **Let's turn to Page 2 of your exhibit. Are you**
24 **there?**

25 A Yes.

1 **Q** What is the yellow highlighting? Is that a
2 **signal that this is where that MFR has been revised?**

3 **A** Yes. Because there's so many numbers on these
4 schedules, I highlighted the numbers that changed.

5 **Q** And did you highlight all the numbers that
6 **changed?**

7 **A** I -- it was my intention to. I -- I believe
8 that this represents all the numbers that changed.

9 **Q** And you believe these are the changes that you
10 think this Commission should consider for this utility
11 when setting --

12 **A** Yes.

13 **Q** -- rates.

14 **A** Yes, correct.

15 **Q** And in your direct, I asked you about the
16 process of generating MFRs. How is that different from
17 generating revised MFR schedules?

18 **A** I started with the extensive spreadsheet that
19 I used for the original MFRs, and then went to the input
20 locations on each -- on each page and did whatever
21 calculations needed to be done and put it in there.

22 **Q** Would it be fair to say you added the new
23 number to those various fields and it updated throughout
24 the schedule?

25 **A** Yes, it's not as easy as pushing a button or

1 putting in a number, but yes.

2 Q So, after inputting those -- it made changes
3 and then you went through and tried to highlight those
4 changes, correct?

5 A Correct.

6 Q And you would agree that some of these revised
7 MFR pages were provided in February, before the
8 intervenors filed testimony, correct?

9 A You're referring to my DDS-2?

10 Q Let me -- a factual question. You would agree
11 that the utility filed with the Commission revised MFR
12 page -- pages sometime in February.

13 A Yes. Yes, you're right.

14 Q And that was filed with a motion asking this
15 Commission to approve those changes, correct?

16 A Yes, to allow those pages to be inserted.

17 Q Do you know if the motion was filed in your
18 rebuttal to allow the approval of these changes?

19 A No, but as I mentioned in my summary, these
20 are really provided for informational purposes so that
21 one can follow along with the impact of what I'm
22 including in my rebuttal testimony.

23 Q Okay. And other than the changes that you
24 previously -- or your counsel previously provided, you
25 would agree that most of the changes that you're

1 reflecting here in DDS-2 took place after the
2 intervenors filed their testimony, correct?

3 A Yes.

4 Q And you would agree that the changes in your
5 rebuttal testimony and MFR has affected the revenue
6 requirement, correct?

7 A I -- I -- yes, it re- -- it affected the
8 calculation of the revenue requirement, but not -- to
9 the extent that it was higher than the original request,
10 it didn't change what the utility was requesting for
11 revenues.

12 Q Okay. Would you turn to revised Schedule B2
13 on Page 5 of 13. Are you there?

14 A Okay.

15 Q All right. And I do -- do you happen to have
16 a copy of the pre-hearing order? If not, I have one --

17 A I don't.

18 Q I have one that's nicely tabbed.

19 A Okay.

20 Q All right. Would you turn to the first tab,
21 which is Page 5 of the pre-hearing order. Are you
22 there?

23 A Yes, I'm there.

24 Q By the way, do you happen to have a copy of
25 your direct testimony as well?

1 A Yes, I do.

2 Q Keep your finger with your revised B2 and your
3 original -- turn to your original B2, if you don't mind.
4 I apologize for the gym- -- finger gymnastics.

5 A Somehow or other, I went right to the spot.

6 Okay.

7 Q All right. You would agree that the utility,
8 in its basic position, says, "KWRU is entitled to annual
9 revenues in the amount of \$3,682,216, including
10 amortization of current rate-case expense." Do you see
11 that?

12 A Yes.

13 Q And would you please look at Footnote 2.
14 Would you read that for me?

15 A Yes. It says, "While KWRU contends it is
16 entitled to revenue in the amount of 3,761,710, it has
17 agreed it is limited to 3,682,216, as requested in the
18 initial MFRs."

19 Q All right. Would you please look at your
20 initial direct testimony, B2 schedule, and tell me what
21 the revenue requirement is from your direct testimony?

22 A 3,682,216.

23 Q All right. And those match, correct?

24 A Yes, they do.

25 Q And would you look at your rebuttal revised

1 Schedule B2?

2 A Okay.

3 Q What is your revised revenue requirement?

4 A My B2 is 3,773,783.

5 Q Excuse me. Would you read that --

6 3-million- -- what?

7 A Am I looking at the wrong schedule? Yeah.

8 I -- I have 3,773,783.

9 Q I -- the copy I have from your direct or --
10 rebuttal testimony says 3,761,000- --

11 A Great. I'm looking at the wrong thing.

12 Sorry.

13 Q \$3,761,710. Are you there on that schedule?

14 A I'm going to get there right now. I'm sorry.

15 I'll -- I'll look at the electronic version.

16 (Examining document.) Yes, you're right.

17 My -- I'm looking at the wrong thing. The correct
18 number in my DDS-2, on Schedule B2 revised, is
19 3,761,710.

20 Q So, you would agree that KWRU knew that its
21 changes in rebuttal increased its overall revenue
22 requirement, correct?

23 A Yes.

24 Q Would you please turn to the next pink tab on
25 Page 21 of the pre-hearing order, Issue 34?

1 A Okay.

2 Q Issue 34 says, "What is the appropriate
3 revenue requirement." And would you please read KWRU's
4 position?

5 A The position in the pre-hearing is 3,761,710,
6 which matches the DDS-2. That's the calculated --
7 recalculated revenue requirement, but was not intended
8 to represent what the utility is requesting.

9 Q You would agree it says, "What is the
10 appropriate revenue requirement," correct?

11 A Yes, and -- and the answer is in error.

12 Q Is in where?

13 A In error.

14 Q Oh, in -- which answer is in error?

15 A The 3,761,710 should have said -- I mean, to
16 make it abundantly clear that it's requesting what we're
17 asking, should have said 3,682,216.

18 Q But you would agree it doesn't say that,
19 correct?

20 A Yes.

21 Q All right. Would you please turn to the E1
22 schedule on your revised MFRs and also find your direct
23 testimony in the E1 schedule?

24 MR. FRIEDMAN: Commissioner Polmann, we've
25 already stipulated that the company is going to

1 limit its revenues to those that it sought in its
2 original MFRs, which means the E schedule rates
3 would be the same as those in the MFRs.

4 I don't think this line of questioning has any
5 probative value, in light of that stipulation.

6 COMMISSIONER POLMANN: Mr. Sayler, do you
7 intend to continue --

8 MR. SAYLER: I just have a couple more
9 questions.

10 COMMISSIONER POLMANN: -- examining the
11 3,761,710?

12 MR. SAYLER: No, actually, I'm not, so -- may
13 I proceed?

14 COMMISSIONER POLMANN: Yes, I'm -- I'm noting
15 Mr. Friedman's objection.

16 MR. SAYLER: Certainly.

17 BY MR. SAYLER:

18 Q **When you compare your E1 from your direct to**
19 **your E1 in revised, do you see that there's a**
20 **difference?**

21 A Yes.

22 Q **And earlier, you said that you tried to**
23 **highlight all the changes in your DDS-2 with yellow**
24 **highlighter; is that correct?**

25 A Yes, that's right.

1 Q And in Column 4, did you do any highlighting
2 there to show the changes?

3 A No, I didn't, but every number changed.

4 Q Okay. Would you, in the pre-hearing order,
5 turn to the next page.

6 COMMISSIONER POLMANN: Could you identify the
7 page number, please?

8 MR. SAYLER: Page 22, Issue 36: What are the
9 appropriate rates -- rate structure and rates for
10 wastewater service.

11 MR. FRIEDMAN: Commissioner Polmann, this is
12 the same line of questioning we just talked about.
13 We've already stipulated we're not seeking any
14 difference in revenue or rates than were in the
15 original MFRs. And he's just pulling up things
16 that we have already agreed we weren't asking for.

17 If the -- if the pre-hearing order is
18 erroneous, then -- they're errors, they're errors.
19 We've corrected it a dozen times in the last two
20 days we've been here. They don't seem to get it.

21 MR. SAYLER: This is the first time I've asked
22 questions about the pre-hearing order. And this is
23 the position of the company that was not revised at
24 the pre-hearing conference three weeks ago.

25 MR. FRIEDMAN: It was certainly revised at

1 this hearing, at the beginning of the hearing, when
2 he raised the same issue. We made it abundantly
3 clear, during the direct examination of Ms. Swain,
4 that we were not requesting any revenues in excess
5 of what the original application had, nor rates in
6 excess of what was in the original application.

7 MR. SAYLER: I would object to that
8 characterization.

9 COMMISSIONER POLMANN: I -- I understand that
10 point.

11 Mr. Sayler, I'm -- I'm trying to understand
12 your purpose proceeding that is distinctly
13 different from his objection, and I'll allow you to
14 proceed --

15 MR. SAYLER: Well, I --

16 COMMISSIONER POLMANN: -- noting
17 Mr. Friedman's objection, but let's see if you can
18 go someplace that he's not going to object to,
19 other than identifying -- continuing to turn pages
20 and looking for yellow highlights.

21 BY MR. SAYLER:

22 Q So, maybe the -- maybe the question is for
23 **Mr. Friedman.** Sorry. Well -- so, Ms. Swain, you've
24 heard your Counsel speak that Issue 36 is not the
25 **correct position?**

1 A Yes.

2 Q So, it should be your E1 from your direct
3 testimony?

4 A Correct.

5 Q So, from what you understand, KWR does not
6 believe this is the appropriate structure in rate base
7 for the proposed revenue requirement?

8 MR. FRIEDMAN: Asked and answered.

9 MR. SAYLER: I did not ask that question.

10 COMMISSIONER POLMANN: Proceed, Mr. Sayler.

11 THE WITNESS: Would you ask that again,
12 please?

13 COMMISSIONER POLMANN: Yeah, you -- you didn't
14 get an answer. Try to ask it in a yes-no fashion,
15 and she can elaborate.

16 BY MR. SAYLER:

17 Q You would agree, after what Mr. Friedman has
18 said, that the appropriate rate structure in rates
19 should be based upon your direct testimony, correct?

20 A Yes.

21 MR. SAYLER: I do have a question for
22 Ms. Swain on the KWRU profit-sharing plan and trust
23 document. I will provide her a full copy. It was
24 put into the record previously under Mr. Johnson's
25 direct testimony. I'm trying to get the exhibit

1 number. It was Exhibit No. 117.

2 COMMISSIONER POLMANN: That's what I have.

3 BY MR. SAYLER:

4 Q All right. Where in the profit-sharing plan
5 of KWRU does it state that it is a defined benefit plan?

6 A The --

7 Q If you can, point me to a page.

8 A I don't -- I don't know. I've not looked at
9 this document. I don't know that it -- that it uses
10 that term out- -- terminology on the plan.

11 Q But you would agree that defined benefit
12 plan -- that terminology is -- has a very specific
13 meaning, correct?

14 A Yes.

15 MR. SAYLER: All right. No further questions.

16 COMMISSIONER POLMANN: Thank you, Mr. Sayler.

17 Monroe County.

18 MR. WRIGHT: Thank you, Commissioner. I -- I
19 would like to ask for a few minutes. I need to
20 tend to something personal, and I need to get my --
21 my potential cross-exhibits organized and delivered
22 to the staff.

23 COMMISSIONER POLMANN: Okay. We had
24 Mr. Sayler here for 50 minutes. We can take a
25 five-minute break, but -- you're going -- you're

1 going to need to be five minutes.

2 MR. WRIGHT: I strive for efficiency. Thank
3 you.

4 COMMISSIONER POLMANN: Five minutes. We're in
5 recess five minutes to help Mr. Wright.

6 (Brief recess.)

7 COMMISSIONER POLMANN: Mr. Wright, you're up.

8 MR. WRIGHT: Thank you, Commissioner.

9 Just to be clear, and so that you will know
10 what I'm up to here, I do have a number of
11 remaining cross-examination exhibits. Some of them
12 may be relevant to Ms. Swain's cross or, depending
13 on her answers to predicate questions, they may not
14 be.

15 If not, they will be offered in my cross-
16 examination of Mr. Johnson. That is why we haven't
17 handed any of them out because it may be that I
18 don't have any further cross exhibits for
19 Ms. Swain. Okay?

20 COMMISSIONER POLMANN: (Nodding head
21 affirmatively.)

22 MR. WRIGHT: Thank you.

EXAMINATION

24 BY MR. WRIGHT:

25 Q I fear that it is evening, now, Ms. Swain.

1 **Good evening, to you.**

2 A Good evening.

3 Q I have a few questions that come out of other
4 things, so I'll start with those and then go through my
5 prepared questions.

6 My first question relates to your updated
7 Schedule A3 in -- MFR Schedule A3 in DDS-2. It's your
8 pro forma plant table.

9 A Okay.

10 Q Are you aware of the document that came in on
11 cross-examination of Mr. Johnson, called "Additional
12 Work Agreement"? It's a contract between the County and
13 KWRU for the installation of about \$600,000 worth of
14 connections to the vacuum system on --

15 A No.

16 Q -- Stock Island.

17 A I -- I was here, but no, I'm not familiar with
18 that.

19 Q Okay. Are you -- are you familiar with any of
20 that work that's -- that's contemplated by that
21 agreement?

22 A No, other than just I've heard a little bit,
23 but no.

24 Q Is any of -- is any of the plant cost
25 associated with that work included in your A3?

1 A No.

2 Q If the County does pay -- pay for it -- I
3 think the number is \$566,000 or something like that --
4 would you expect that that would be booked as CIAC at
5 the time?

6 A Yes, I would.

7 Q Thank you.

8 I'm not sure if this was in your summary or if
9 it was in your response to questions by Mr. Sayler, but
10 I understood you to make a statement very early in your
11 time on the stand that -- that you argued that expenses
12 in usage not related to growth shouldn't be included
13 in -- in setting rates. Did you say something like
14 that?

15 A What I said is that we did not include any
16 expenses associated with growth outside the test year in
17 our pro forma expenses.

18 Q But you included a whole lot of expenses
19 outside the test year in --

20 A Yeah.

21 Q In your revenue requirement, correct?

22 A Yes, but they weren't related to growth.

23 Q Well, I understand that's your testimony.

24 Isn't it true that all of the company's costs
25 that are incurred in the time the new rates are going to

1 **be in effect will serve whatever usage there is during**
2 **that time?**

3 A No. No. The -- the -- the expenses may
4 increase in 2018, associated with customers that might
5 have been added in 2018.

6 Q **Isn't it true that the company's costs, all**
7 **the company's expenditures in 2018 or 2019, will serve**
8 **the customers using the company's service during 2018 or**
9 **2019?**

10 A Yes. Yes, that's correct.

11 Q **When do you expect new rates to go into**
12 **effect, coming out of this case?**

13 A Late summer, I think --

14 Q **Yeah.**

15 A This year.

16 Q **It's not -- it's not a critical point, but can**
17 **we agree, just for -- for subject of conversation, that**
18 **it will apply to bills that customers will receive on or**
19 **after September 1st of this year?**

20 A Probably so.

21 Q **Do you believe that the usage in the period**
22 **September 2018 until August of 2019 will be the same as**
23 **it was in the period July 2016 to June of 2017?**

24 A It would be remarkable if it were the same
25 number.

1 Q And same question: Will you agree that the
2 actual costs in the period September '18 through
3 August '19 will likely be different than the costs in
4 the period July '16 through June '17?

5 A Most likely, sure.

6 Q Thank you.

7 We had -- we had a nice conversation yesterday
8 about your changes to your MFRs. I have a few
9 follow-ups relative to the -- your MFRs in your rebuttal
10 testimony.

11 On Page 8 of your rebuttal testimony, Line 10,
12 you make the statement: The cost, which is supported by
13 Chris Johnson and Robert Pabian should be included the
14 company's allowable costs, correct?

15 A Correct.

16 Q Was the total cost -- and that's the cost for
17 the new office building, correct?

18 A That's right.

19 Q And was the total cost for the new office
20 building included in your direct testimony?

21 A I believe it was.

22 Q And I'll add to that, or in your original
23 MFRs, and you can answer it that way.

24 A I -- yes, I believe it was.

25 Q Your rebuttal testimony added some hurricane

1 **costs that were not included in your original testimony,**
2 **correct?**

3 A Yes, that's right.

4 Q **Would including those additional hurricane**
5 **costs result in changes to any of KWRU's MFRs?**

6 A Yes.

7 Q **The -- some of the B schedules?**

8 A Yes, they would. They were -- it would affect
9 the miscellaneous expenses, and it would also affect the
10 working capital.

11 Q **If you can recall right now, were those --**
12 **specifically, the hurricane costs -- increases reflected**
13 **in your revised B schedules submitted as D- -- as part**
14 **of DDS-2?**

15 A Yes.

16 Q **Did you include the updated fed prime rate in**
17 **the updated MFRs?**

18 A Yes, I did.

19 Q **Do I -- I think I have it right that in your**
20 **Exhibit DDS-2 it includes ten updated MFR schedules,**
21 **correct?**

22 A I believe that's right.

23 Q **Thank you.**

24 **Other than all the changes that we discussed**
25 **yesterday, are there any other adjustments or**

1 **corrections recommended in your rebuttal testimony that**
2 **would result in changes to your MFR schedules that are**
3 **not reflected in either DDS-1 or DDS-2?**

4 A I -- yes, the -- the correction that I
5 indicated at the start of my rebuttal testimony, related
6 to the -- my testimony on Pages 9 through 12 where I go
7 into great detail on annualization of accumulated
8 depreciation and depreciation expense, and I just
9 neglected to include those in the DDS-2 schedules.

10 Q **Didn't we talk about those yesterday?**

11 A Yes. So, in addition, no, no others --

12 Q **Okay. Yeah. I tried to preface my question**
13 **by asking: Other than the changes that we discussed**
14 **yesterday to all the schedules that we went through**
15 **yesterday --**

16 A Okay.

17 Q **-- are there any others affected by your**
18 **rebuttal testimony?**

19 A Not that I'm aware of, no.

20 Q **Thank you.**

21 **Starting on Page 14 of your rebuttal**
22 **testimony, continuing on to Page 15, you talk about**
23 **KWRU's data system, correct?**

24 A Yes.

25 Q **And this is in relation to the -- the phone**

1 **system for which the company seeks a cost allowance?**

2 A Yes.

3 Q **Isn't it true that, at your deposition, you**
4 **didn't know what the acronym SCADA stands for?**

5 A I'm not good with acronyms, that's correct.

6 Q **Do you know what it stands for, this evening?**

7 A I heard Mr. Schultz say it, and I still don't
8 remember what it is. I know what it is. I don't know
9 what the acronym --

10 Q **You don't consider yourself an expert in SCADA**
11 **systems, do you?**

12 A No -- no, I don't. I have some familiarity,
13 but I'm not -- I'm not an expert.

14 Q **You don't know which treatment or collection**
15 **facilities at KWRU the KWRU's SCADA system controls or**
16 **collects data from, do you?**

17 A That's right, I don't know the extent of it
18 and its usage.

19 Q **Okay. Have you reviewed KWRU's current FDEP**
20 **permit to operate the wastewater treatment plant?**

21 A Not recently.

22 Q **Do you --**

23 A I have seen it. I -- I just haven't seen it
24 recently.

25 Q **Do you know whether that permit requires a**

1 **redundant phone system to support the SCADA system?**

2 A I would say, without looking at it, that it's
3 unlikely that it would require a redundant phone system.

4 Q **I did phrase my question: Do you know whether**
5 **it does. Is the answer to that question, "I don't**
6 **know," with the explanation you just gave?**

7 A Yes, I don't know, followed by explanation.

8 Q **Thank you very much.**

9 **Do you know whether the applicable FDEP rules**
10 **require a redundant phone system for the SCADA systems**
11 **at wastewater treatment plants?**

12 A I don't know for certain, but I don't believe
13 they do.

14 Q **Thank you.**

15 **This is a follow-up question you had in**
16 **discussion with Mr. Sayler regarding the profit-sharing**
17 **plan.**

18 **Did you testify that the profit-sharing**
19 **plan -- did you testify that IRS regulations applicable**
20 **to profit-sharing plans of the species utilized by KWRU**
21 **require contributions by the company?**

22 A No. What -- what, I believe, I said -- what I
23 intended is that, in addition to any stated requirements
24 in the plan, that IRS has its other set of reporting
25 requirements that aren't necessarily included in the

1 plan documents. And those -- those reporting
2 requirements also -- there's also established
3 regulations that deal with determination of the plan
4 above and beyond what the plan documents say.

5 Q **But those reporting requirements do not relate**
6 **to mandatory employer contributions, do they?**

7 A No. The reporting requirements don't, but the
8 IRS regulations do deal with very strict requirements if
9 there's going to be changes to the original plan
10 documents or a suspension of the plan or a termination
11 of the plan.

12 Q **Do any of those requirements require that an**
13 **employer make a contribution to the profit-sharing plan**
14 **of the species that we're talking about here?**

15 A Yes, the company would be required to make
16 those contributions, unless the plan has changed and
17 approval for IRS is obtained. And that approval is not
18 a given. It's difficult when there is a price tag
19 associated with it.

20 Q **Does the -- does the company's profit-sharing**
21 **plan require it to make contributions in a manner that**
22 **is enforceable by the IRS or any other agency?**

23 A Yes, it has to meet IRS guidelines.

24 Q **I don't believe that quite answered the**
25 **question that I asked or I didn't ask the question I**

1 meant to. The question I attempted to ask is: Does the
2 company's profit-sharing plan require the employer,
3 KWRU, to make contributions. Let's go -- let's stop at
4 that point, Question 1.

5 A Okay. I haven't read it, but I heard the
6 testimony yesterday that -- that there is a termination
7 clause in the plan documents that allows the company to
8 terminate the plan. And I don't know if there's any
9 mandatory payment requirements. I didn't -- haven't
10 reviewed that.

11 Q Thank you.

12 I -- I may or may not be able to ask
13 Mr. Johnson these questions, so I want to ask her in
14 case he says, oh, you should have asked Ms. Swain. If
15 KWRU does recover additional insurance payments for the
16 damage to the build- -- office building, how -- how
17 would you propose that those payments would be treated,
18 for accounting purposes?

19 A The -- the cost, currently, to the extent that
20 there's new construction or rehabilitation that's
21 capitalizable taking place -- that would offset that.
22 To the extent that it's an item that we've included in
23 the deferred hurricane expense, it -- it would -- it
24 would reduce that deferred debit.

25 Q Is there anything wrong, from an accounting or

1 **GAAP-requirements perspective, with treating the**
2 **additional \$55,000 sought by the company as a**
3 **receivable?**

4 A Yes. You would not record a receivable for
5 something that you are not expecting that you're going
6 to be able to collect. There has to be some high level
7 of certainty.

8 Q Thank you.

9 Continuing on Hurricane Irma, briefly, at
10 Page 18 of your testimony, you made the statement, "KWRU
11 has determined that the anticipated average occurrence
12 of impact from a hurricane is four years," correct?

13 A Yes.

14 Q Did you play any role in making that
15 determination?

16 A I had a number of conversations where this was
17 told to me. And it seemed reasonable to me since I also
18 live in South Florida, but I did not play a role in --
19 in making that determination.

20 Q Did you do any personal analysis of hurricane
21 frequency in the Keys or South Florida to come up with
22 the four-year value?

23 A No, I did not.

24 Q Have you ever supported a projected test year
25 in a water or wastewater utility rate case?

1 A Yes.

2 Q **More than once?**

3 A Once, under the Public Service Commission, and
4 numerous under county jurisdictions.

5 Q **Thank you.**

6 **Do you agree that rates paid by customers of**
7 **any utility should reflect the costs incurred to serve**
8 **them during the time that the rates are in effect?**

9 A Yes, and to elaborate on that, that is the
10 purpose of a -- of establishing a test period.

11 Q **This is a very similar, but slightly different**
12 **question: Do you agree that the rates paid by customers**
13 **of any utility should be based on the costs incurred and**
14 **units of sales made by the utility during the time that**
15 **the rates are in effect?**

16 A Yes, and the same -- same elaboration on that
17 is that, as established by the test period.

18 Q **I think that, like myself, you've been here**
19 **for this whole proceeding, correct?**

20 A Yes, I have.

21 Q **Do you -- I bet you recall the exchanges I had**
22 **with Mr. Johnson yesterday afternoon about a \$17-million**
23 **difference in consumption and -- and meter closed**
24 **that -- actually an adjustment of \$17 million that he**
25 **made based on his understanding of the difference**

1 **between closed during the test year and closed starting**
2 **May of last year?**

3 A You're talking about Stock Island Apartments?

4 Q **What -- what he calls Stock Island Apartments,**
5 **yes.**

6 A Yes, I -- I remember that.

7 Q **Thanks.**

8 **And you -- do you believe that it's**
9 **appropriate for him to remove the 17 million gallons**
10 **from the test-year consumption as being not**
11 **representative of the time period that rates will be in**
12 **effect?**

13 A I -- yes, we -- we had the information and --
14 and feel that, since it was a permanent change, that
15 that should be reflected.

16 Q **Isn't it also, then, appropriate to include**
17 **additional gallonage of usage or wastewater treatment**
18 **service from new users?**

19 A No. No, not -- it's not the same thing. One
20 is a -- a complete change in existing customers' usage
21 pattern and the other is future customers unrelated to
22 expenses that we've got included in the rate case.

23 Q **Won't the Public Service Commission make the**
24 **determination as to what -- what usage is appropriate**
25 **for use in setting rates?**

1 A Yes, and they'll listen to all the testimony
2 and look at all the exhibits and make that
3 determination.

4 Q Page 33 of your testimony, you provided
5 limited rebuttal, I think, of Mr. Wilson's testimony.
6 You made the statement, "As testified by Witness
7 Johnson, the EDU calculations performed by Witness Kevin
8 Wilson, which underlie the reductions proposed by
9 Witness Small, are unsupported, just as his projections
10 in the prior rate case were proven incorrect, in
11 actuality." Are you with me?

12 A Yes.

13 Q Exactly what projections in the prior rate
14 case were proven incorrect, in actuality?

15 A The -- in the last rate case, the billing
16 determinants were projected and that, in all class of
17 customer and reuse, in particular, and when compared,
18 they did not match what took place, in actuality.

19 Q Well, the fact that they were different than
20 what took place in actuality shouldn't surprise anyone,
21 should it?

22 A No, it shouldn't. And I -- therein lies the
23 problem with projections.

24 Q Did you independently analyze any of the
25 specific projections that Mr. Wilson made as compared to

1 **what happened in actuality for any of the specific
2 developments discussed in his -- in his 2016 testimony?**

3 A I didn't look at the specifics. I looked at
4 the totals.

5 Q **Thanks.**

6 **Were the company's projections off as well?**

7 A No, actually --

8 Q **Would -- was --**

9 A Pretty darn close. The -- unfortunately.

10 MR. WRIGHT: One -- one moment, please.

11 Commissioner Polmann and Ms. Swain, you will
12 be happy to know that that concludes my cross-
13 examination.

14 COMMISSIONER POLMANN: Hard to make me happy,
15 but thanks for trying.

16 Staff?

17 MS. CRAWFORD: Staff does have some limited
18 cross. We're going to be distributing three
19 exhibits. I don't anticipate it will take more
20 than 15 minutes, depending on how extensive the
21 answers are -- 15, not 50, one-five.

22 COMMISSIONER POLMANN: Whatever time you need,
23 as long as it's not too much.

24 MS. CRAWFORD: And if we could go ahead and
25 have the exhibits marked, the first has a

1 description for "Trial Balance Excel File."

2 COMMISSIONER POLMANN: I have No. 133.

3 MS. CRAWFORD: For the second, it's got a
4 short title, "Escrow Agreement."

5 COMMISSIONER POLMANN: 134, escrow agreement.

6 MS. CRAWFORD: And for the third, Staff's
7 Interrogatory No. 83, please.

8 COMMISSIONER POLMANN: 135.

9 MS. CRAWFORD: Thank you.

10 (Whereupon, Exhibit Nos. 133, 134 and 135 were
11 marked for identification.)

12 EXAMINATION

13 BY MS. CRAWFORD:

14 Q Good evening, Ms. Swain. How are you?

15 A Good.

16 Q There's been a lot of discussion and -- and
17 you just acknowledged to Mr. Wright in -- as part of his
18 questioning, that you've been in there throughout pretty
19 much the whole hearing, correct?

20 A Yes.

21 Q And so, you've heard a lot of discussion about
22 growth and what growth is appropriate to be taken into
23 account in this rate proceeding --

24 A Yes.

25 Q -- correct?

1 And to the extent that growth is going to be
2 considered outside of the test-year period, basically
3 that would involve revenues associated with growth --
4 growth essentially needing to be projected or imputed,
5 correct?

6 A Yes.

7 Q Okay. Would you also agree, in that case,
8 that the associated expenses should be imputed as well?

9 A Are you asking me if I think that we should go
10 outside the test year and impute expenses and revenues
11 or just the --

12 Q Not at all. Just as a hypothetical, should
13 growth be imputed in the stock and should the expenses
14 associated with that also be imputed?

15 A Yes.

16 Q Okay. You're familiar with the reports that
17 are required of water and wastewater utilities, required
18 by the Florida Public Service Commission, correct?

19 A Yes, that's correct.

20 Q And is it correct that those are generally
21 used as a surveillance mechanism?

22 A Yes.

23 Q And -- and that would help identify, for staff
24 as well as for the utility, if the utility is over-
25 earning or under-earning?

1 A Yes, that's right.

2 Q So, if, as a result of the rates that are
3 approved for a utility at a given time, if they are
4 over- or under-earning, one would reasonably expect that
5 could be monitored through the earnings-surveillance-
6 report function of the annual reports.

7 A Yes, that's right.

8 Q Okay. If I could have you look at exhibit
9 that's been identified as 133, please, the trial balance
10 Excel file.

11 A Okay.

12 Q And I believe this document will look familiar
13 to you. I think it was provided to you in your
14 deposition?

15 A I don't recall --

16 Q Okay.

17 A -- seeing it, but --

18 Q Would you accept, subject to check, that this
19 is a response to the discovery provided by Mr. Johnson
20 in this docket? You see that it's labeled as trial
21 balance?

22 A Yes, it looks familiar to me.

23 Q Okay.

24 A Let me -- from a standpoint of interrogatory
25 responses.

1 Q I will just say, subject to check, that this
2 is an item you were referred to in your deposition and
3 you were asked some questions on.

4 A All right.

5 Q Some are going to be the same.

6 A Okay.

7 Q So, you didn't prepare this exhibit, correct?

8 A This is a -- this is actually a -- a work
9 paper that I use and -- in the development of the MFRs.
10 So, I would have been the one that provided this.

11 Q Oh, okay. Okay.

12 And help me understand how this exhibit would
13 relate to the various schedules in your MFRs?

14 A The -- the A- -- 18 and A19 schedules would --
15 which are the detail balance schedules by account, would
16 have been pulled from -- from the monthly trial balance.

17 So, the balance-sheet items would have --
18 would have gone over to that A17 and A19 and, then,
19 ultimately A- -- or A18 and A19, which would have, then,
20 gone to A17, which was the working capital, and
21 ultimately to A3 and A1, which are the rate-base
22 schedules.

23 Q Okay. If I could refer you, on this exhibit,
24 to Line 6. And you'll see it's listed as BB&T operating
25 account?

1 A Right.

2 Q **Can you explain the primary function of that**
3 **account to me, please?**

4 A This is the main checking account for the
5 utility.

6 Q **And is this used in day-to-day operations or**
7 **for some other purpose?**

8 A It's -- it's used for everything. Generally,
9 the funds in the other cash accounts are put into that
10 account to -- to cover -- like, there's a separate
11 account called a capital account. The money would be
12 sent over to the -- to the operating account to write
13 checks. So, it -- it is the main checking account.
14 Money is coming from other places to fund it.

15 Q **And would it be correct to say that it is**
16 **primarily used for expenditures related to day-to-day**
17 **operations?**

18 A Yeah, and everything else.

19 Q **Okay.**

20 A Capital as well.

21 Q **All right. If I can refer you next, please,**
22 **to Line 11.**

23 A Okay.

24 Q **And you'll see BB&T PSC escrow account.**

25 A Yes.

1 Q **Can you tell me the purpose of that account,**
2 **please.**

3 A That was the account the utility set up to --
4 to -- to hold the -- the portion of the rate increase in
5 the last case that was subject to refund.

6 Q **Okay. And just for clarity, is it correct**
7 **that that account reflects the PAA rates that were**
8 **implemented by the utility after the protest?**

9 A Yes.

10 Q **Okay. And that refund took place, correct?**

11 A Yes, it did.

12 Q **Those were refunded pursuant to the**
13 **Commission's order?**

14 A Yes.

15 Q **And do you know when that refund was complete?**

16 A I think that the -- the final checks were
17 still being written pretty close to the end of the test
18 year to customers that had left the service area. So, I
19 would say May or June, but I'm not sure. Mr. Johnson
20 could tell you the exact date.

21 Q **I'm sorry. You said Mr. Johnson?**

22 A Yeah.

23 Q **Okay. Thank you.**

24 **If I could next refer you -- put that one**
25 **aside for now. And if you could, just take a quick look**

1 **at Exhibit 134 for me, please.**

2 A Okay.

3 Q **You'll see it's a multipage docket. And, in**
4 **particular, I would like to refer you to the second**
5 **page. The top of that page, you see the -- the title,**
6 **"Escrow agreement."**

7 A Okay.

8 Q **And does this document look familiar to you?**
9 **Is this the escrow account that you -- is this the**
10 **agreement that relates to the escrow account you were**
11 **just referring to?**

12 A Yes. I haven't seen this before, but yes,
13 that's -- this would be what this is. Yeah.

14 Q **Could I trouble you to read the very last**
15 **line, full sentence, on that page, please?**

16 A The -- the No. 4?

17 Q **Yes, the last full sentence in No. 4.**

18 A Okay. "No withdrawals of function occur
19 without the prior approval of the Commission through the
20 Office of Commission clerk."

21 Q **So, based on the language there, and based on**
22 **your understanding and experience with the escrow**
23 **account, is it correct that the utility could not access**
24 **the funds in the account without the prior approval of**
25 **the Commission?**

1 A That's correct.

2 Q Okay. And I'm going to refer you back to the
3 first exhibit, 133, please.

4 A Okay.

5 Q Specifically, Line 10, you'll see there that
6 it's captioned "BB&T Capital Account"?

7 A Right.

8 Q Uh-huh. What is this account used for,
9 please?

10 A The -- the company set up a separate account,
11 separate cash account, to, in particular, set aside
12 money for the capital expenditures.

13 Q Is the main purpose of this account to fund --
14 okay. So, the main purpose of the account is to fund
15 ongoing capital projects, correct?

16 A Correct. That's right.

17 Q Okay. So, it's not typically used for day-to-
18 day operations?

19 A That's right. To the extent -- just to
20 clarify -- that in KWRU's case, because of the volume of
21 capital projects they have, that is day-to-day
22 operations.

23 Q For money that was transferred to this account
24 during the test year -- that was accomplished through
25 equity infusions and long-term debt?

1 A Predominantly, yes. Yes.

2 Q Is it correct that the -- I'm sorry. Let
3 me -- let me walk back just a minute and refer you to
4 Exhibit 135, please. And just for clarity --

5 MR. WRIGHT: Commissioner, this is -- we
6 object to this exhibit. It's part of the discovery
7 responses that were served late, out of time.

8 That's all I need to say. Just preserving the
9 objection for the record. Thank you.

10 COMMISSIONER POLMANN: Objection noted.

11 MS. CRAWFORD: Thank you.

12 BY MS. CRAWFORD:

13 Q And this was a response provided by the
14 utility responding to staff's Interrogatory No. 83.
15 Have you seen this item before? Are you familiar with
16 it?

17 A Yes.

18 Q Did you sponsor it?

19 A I -- it was a collaborative response. I don't
20 believe I'm a sponsor. I'm not sure.

21 Q Okay. But you are familiar with it.

22 A Yes.

23 Q And you -- you agree with the response that's
24 reflected there, currently?

25 A Yes.

1 Q Okay. And so, it is correct that the pro
2 forma additions that are discussed there and that relate
3 to the MFR Schedule A3 have been funded by equity
4 capital?

5 A The pro forma additions that -- that have been
6 expended already were funded by equity capital.

7 Q And those equity infusions are reflected in
8 the equity balance, included in the utility's capital
9 structure, correct?

10 A Yes.

11 Q Okay. How would you quantify the expenses,
12 outside of the test year, associated with growth, going
13 back to that first couple of questions I asked you? In
14 other words, Monroe County -- you've heard their
15 witnesses suggest that that might be appropriate.

16 A Yes.

17 Q If that were to be ordered by Commission, in
18 your mind, what would be the appropriate way to quantify
19 those expenses that are outside of the test year,
20 associated with growth?

21 A It really would require a very-detailed
22 analysis of each and every expenditure, considering --
23 and each expense line item, and consider a whole host of
24 factors, including what the actual expenditures are to
25 date and, using that information, try to do a

1 determination basis for a projection for the -- for
2 whatever period of time.

3 And I'll -- and I -- I know I was asked this
4 question in the last rate case and I cautioned because
5 everybody just wanted to take the numbers and annualize
6 them, but that is a real disservice to the utility,
7 potentially, or to the customers, potentially, to simply
8 do an annualization.

9 The utility operations are -- and activity is
10 very cyclical. It's not what's taken place since --
11 from July 1st to today is not necessary -- necessarily
12 reflective of what's going to happen in the next three
13 months.

14 So, there's not a simple answer to that. It
15 requires a real in-depth analysis of each line item.

16 MS. CRAWFORD: Thank you. I have no more
17 questions.

18 COMMISSIONER POLMANN: Thank you,
19 Ms. Crawford.

20 Commissioners?

21 Commissioner Fay.

22 COMMISSIONER FAY: Thank you, Mr. Chairman.

23 Thank you, Ms. Swain, for being here late. It
24 seems like we're about to lose power. So,
25 hopefully we'll get through this.

1 You just commented that the potential
2 annualization of the expenses could be a disservice
3 to the utility or the customers. Can you explain
4 how it would be a disservice to the customers?

5 THE WITNESS: Well, we could annualize -- the
6 expenses for the rest of the year could be lower
7 than just a simple -- you know, than what -- it
8 could go either way, is what -- is my point. We
9 could overestimate or we could underestimate. So,
10 someone could be harmed by -- by a simple
11 annualization.

12 What we want to do is come up with the
13 closest, best information we could. And it would
14 require quite a -- quite an effort.

15 COMMISSIONER FAY: And I don't -- I don't
16 know -- intentionally, I don't look at a lot of
17 spreadsheets, but is that likely to happen? Is
18 that -- is that a possible scenario?

19 THE WITNESS: That the customers would --
20 COMMISSIONER FAY: That it would be lower,
21 yeah.

22 THE WITNESS: That it would be lower? I don't
23 know the circumstances. So -- so, there is parts
24 of the year where the costs are lower and parts
25 when it's higher. So, it could be that the next

1 three months are actually lower than the first nine
2 months. So, I -- I don't know. I'm saying it
3 could -- it could go either way.

4 COMMISSIONER FAY: Okay. Great.

5 And one question -- so, I think this was
6 Exhibit 133. Yeah. Do you mind turning to that
7 real quick? You mentioned Line 6 was the main
8 operating account for the utility, correct?

9 THE WITNESS: Yes.

10 COMMISSIONER FAY: Is there anything in
11 particular, as it relates to February 2017 to
12 March 2017, that would create a \$200,000 difference
13 in that account?

14 THE WITNESS: Between --

15 COMMISSIONER FAY: So, "J" and "K."

16 THE WITNESS: Yeah.

17 COMMISSIONER FAY: "J" and "K."

18 THE WITNESS: It's really hard when you're
19 looking at just the last month of each month -- I
20 mean, the last day of each month. I went back
21 and -- back and looked and, in all the cash
22 accounts, there is a million dollars, on average, a
23 month going in and out of these accounts.

24 So, you're getting a picture on the very last
25 day. It could be anything. It could be that they

1 had another equity infusion five days earlier and
2 they spent some of it. So, it's -- it -- it could
3 absolutely be anything.

4 The one real predictable thing was when the --
5 when the last rate case was finalized and the
6 utility could start taking funds out of the -- out
7 of the escrow account. And that took place -- if
8 you look at it, that also took place in March.

9 So, if you look at Line 11, the balance went
10 down from 678,000 down to 130 in the escrow
11 account. So, I would guess that that's where some
12 of it went, was -- that's part of the reason why
13 that balance went up in the cash account.

14 COMMISSIONER FAY: I appreciate that. I also
15 appreciate when you expect my next question. So,
16 thank you for that answer.

17 That's all I have, Mr. Chairman.

18 COMMISSIONER POLMANN: Thank you,
19 Commissioner, Fay.

20 Ms. Swain, based on your understanding --
21 well, first of all, I understand that you've been
22 involved in a variety of discussions and so forth
23 across a pretty-broad spectrum with the utility.

24 So, based on the understanding you've gathered
25 from that variety of discussions, does the utility

1 believe that inflow wastewater flows, incoming
2 wastewater flows to the treatment plant will
3 increase in the future?

4 THE WITNESS: Yes. Yes, and that will
5 increase costs.

6 COMMISSIONER POLMANN: So, to your
7 understanding, what explanation does the utility
8 put forth for those expected increases? What's the
9 reason that the future inflow to the treatment
10 plant is going to increase?

11 THE WITNESS: Well, I -- I just heard about a
12 \$600,000 project that's -- that's planned sometime
13 in the future. I don't know when it is --

14 COMMISSIONER POLMANN: Okay. But I'm -- I'm
15 asking: Do you have an understanding of what the
16 utility's reason for the anticipated increase was?

17 THE WITNESS: There's a lot of factors. It's
18 not a simple answer, but in the last rate case, the
19 pro forma adjustment we requested was a substantial
20 increase in the size of the plant to handle
21 additional flows. And so, from that, I would say
22 that they have information that there will be --
23 there will be growth because that additional plant
24 was needed.

25 COMMISSIONER POLMANN: So, the fundamental

1 reason for anticipating increase in flow, as to
2 your understanding, is related to growth; is that
3 your testimony?

4 THE WITNESS: Yes, I mean, there's other
5 factors, I&I, but we don't have a I&I problem,
6 really. So, it would be -- it would most likely be
7 growth.

8 COMMISSIONER POLMANN: Okay. In your
9 testimony, as -- as I've heard it, both in -- in
10 direct and rebuttal, you've repeatedly referred to
11 the concept of known-and-measurable.

12 THE WITNESS: Right.

13 COMMISSIONER POLMANN: And that that's an
14 important, if not critical, issue.

15 And can you please explain to us that concept,
16 known-and-measurable, as it relates to historical
17 versus contemporary and prospective in the future?
18 I'm trying to understand --

19 THE WITNESS: Okay.

20 COMMISSIONER POLMANN: -- that known-and-
21 measurable -- I can see it in historical data.
22 I'm -- I'm struggling a little bit with the
23 contemporary circumstance. And I don't understand
24 that in the future.

25 THE WITNESS: Okay. In -- and -- and great

1 question. Known-and-measurable is what's happened
2 today and -- or up until today, the day that we're
3 talking. So, in the regulatory context,
4 particularly for water and sewer, known-and-
5 measurable is a -- is a policy the Commission has
6 adopted for determining whether expenditures should
7 be included that are outside of the test year. And
8 that -- and that has been the -- the goal and --
9 and the -- the way that they've implemented that
10 concept.

11 So, for example, if the utility came with a
12 new expense today and said, this is changed
13 significantly, the order will state, we're going to
14 go ahead and allow it because it's known and
15 measurable.

16 And I don't mean every expense in the world,
17 but if the company had projected that the electric
18 expense was going to increase \$1200 and, now, we
19 found out that it was \$1259 because we've got the
20 bill, then the Commission would allow that and say,
21 because it's known and measurable.

22 In the future, no, it's not known and
23 measurable. And that's the problem with the --
24 with the projections. There's not -- there's not a
25 mechanism and it's not a Commission practice to

1 look at -- look and do future projections that are
2 not known and measurable.

3 It puts us in this position with the pro forma
4 adjustments that we've made that's exactly why
5 we're trying to get it more and more tied down as
6 we sign contracts, as expenses are incurred. Now,
7 it's known and measurable. When we filed, it
8 wasn't. It was a pro forma, an estimate.

9 COMMISSIONER POLMANN: Is it your
10 understanding, when you're -- when you're building
11 or expanding a wastewater treatment facility, that
12 you don't build it to meet today's needs?

13 THE WITNESS: That's right. And -- and that's
14 what happened with the expansion the utility had
15 already completed. They --

16 COMMISSIONER POLMANN: So --

17 THE WITNESS: Yes.

18 COMMISSIONER POLMANN: So, what would be an
19 appropriate way -- what size do you build for?

20 THE WITNESS: The -- and I'm --

21 COMMISSIONER POLMANN: In -- in terms of
22 trying --

23 THE WITNESS: -- not an engineer.

24 COMMISSIONER POLMANN: -- to estimate the
25 costs and so forth.

1 THE WITNESS: Right.

2 COMMISSIONER POLMANN: I mean, that's the
3 point of -- of speaking -- asking you the
4 question --

5 THE WITNESS: Yes.

6 COMMISSIONER POLMANN: -- is it comes back to
7 the costs.

8 THE WITNESS: The costs. There's a -- there's
9 a lot -- again, a lot of factors. And I -- I see
10 it differently among different utilities. The
11 bottom line is, when you --

12 COMMISSIONER POLMANN: This one.

13 THE WITNESS: Yes. When a utility reaches
14 80-percent capacity, they are required to start
15 planning for an expansion. What size? It needs to
16 be a consideration of the -- the cost of
17 different options.

18 So, when -- in a package plant -- maybe they
19 only need a hundred thousand gallons, but it only
20 cost another 25 percent to put in 300,000 gallons.
21 So, they'll go ahead and make a decision, based on
22 economic factors as well as what their foreseeable
23 needs are, and go ahead and expand to what looks
24 like the best, most-efficient, and yet economical,
25 sizing.

1 COMMISSIONER POLMANN: So, the point is that
2 there's an obligation to plan for the next
3 expansion. And that relates to growth and future
4 need, but I think your testimony is that there's no
5 way to know that. So, the known-and-measurable
6 aspect of that decision and process does not apply;
7 is that correct?

8 THE WITNESS: It's not known and measurable
9 because it hasn't happened. The -- the utility, at
10 the time that they planned the expansion -- they
11 had knowledge of development plans and talked to
12 Monroe County, talked to the developers to see and
13 they -- and where additional sewers were being
14 added throughout the -- throughout the area that
15 they were going to be providing service to. So,
16 they looked at all those when they sized it.

17 But those are all projections. And some have
18 happened and some have not happened, but it's
19 certainly not known and measurable if it hasn't
20 happened. And by hasn't happened, sometimes it's a
21 contract signed or shell on the ground or a request
22 for service and a commitment.

23 COMMISSIONER POLMANN: So, is it possible that
24 a capital project would be oversized because the
25 development has not occurred? Is that -- is that

1 possible?

2 THE WITNESS: Yes, and that's -- and if you --
3 in the MFR, something that's a little bit different
4 in water and sewer cases is non-used and useful.
5 The wastewater treatment plant is only 71.5 percent
6 used and useful because the rest of it is needed
7 for growth beyond five years from now. And so,
8 that's -- that's how that's contemplated in the --
9 in the regulatory and revenue-requirement scenario.

10 COMMISSIONER POLMANN: Thank you.

11 Redirect?

12 FURTHER EXAMINATION

13 BY MR. FRIEDMAN:

14 Q Ms. Swain, was it your understanding that the
15 escrow agreement was to secure the repayment of the PAA
16 rates?

17 A Yes.

18 Q All right. And are you familiar with any
19 other methodologies that the Commission is allowed to
20 utilize to secure a refund of PAA or interim rates?

21 A Yeah, it's corporate undertaking, corporate
22 bond

23 Q Or regular insurance-type company bond as
24 well --

35 A Or -- or -- right, or insurance bond

1 Q So, if the company wanted to take this money
2 out of this escrow account and put it in their operating
3 account, all they would have had to do was get a bond,
4 correct?

5 A There's probably some sort of communication
6 with the Commission required, but yes.

7 Q And then, that money would -- where would that
8 money -- which account would that money go into if that
9 occurred?

10 A That --

11 Q Just go into that operating account you talked
12 about?

13 A It would have gone into the operating account
14 or the capital account to help pay for the capital
15 expenditures and probably would have reduced the equity
16 infusion that was necessary.

17 Q It would have been cash available for --

18 A For anything --

19 Q -- capital projects and --

20 A Yes.

21 MR. FRIEDMAN: That's all -- I'm -- I do --

22 COMMISSIONER POLMANN: Exhibits.

23 MR. FRIEDMAN: No, I do -- I just want to
24 mention -- I don't have any more questions of her,
25 and I would like to move her exhibits into

1 evidence.

2 I did want to note that, in response to OPC's
3 second POD, which is Exhibit 94 that was stipulated
4 to, a copy of the BB- -- BB&T note is in there.

5 So -- so, I think Public Counsel was saying they've
6 never seen it. I just wanted to -- the record to
7 reflect that it is, in fact, in the exhibit that
8 everybody stipulated to.

9 MR. SAYLER: Which hearing exhibit?

10 MR. FRIEDMAN: 94.

11 MR. SAYLER: 94 -- in response to which
12 question?

13 MR. SMITH: 17 and 18.

14 MR. SAYLER: No. 17 and 18?

15 MS. CRAWFORD: 18.

16 MR. FRIEDMAN: And I would like to move her
17 exhibits in.

18 MR. SAYLER: All right.

19 COMMISSIONER POLMANN: We have prefiled
20 rebuttal Exhibits DDS-2 through DDS-8. Is that
21 what we're referring to, Mr. Friedman? Previously
22 identified in the comprehensive exhibit list as 54
23 through 60.

24 MR. FRIEDMAN: 54 through -- yes, sir, thank
25 you.

1 COMMISSIONER POLMANN: Okay. We will move
2 those into the record at this time.

3 (Whereupon, Exhibit Nos. 54 through 60
4 admitted into evidence.)

5 MR. SAYLER: Public Counsel would move
6 Exhibit 132.

7 MR. FRIEDMAN: I object to Exhibit 132.

8 COMMISSIONER POLMANN: Okay. Public Counsel
9 is -- requested to move Exhibit 132 that is the
10 excerpt from the book.

11 MR. SAYLER: Yes, sir.

12 COMMISSIONER POLMANN: And KWRU has objected.

13 MR. FRIEDMAN: And my objection is this --
14 it's a simple one: The portion that Counsel asked
15 that Ms. Swain quote from is in the bottom right-
16 hand corner where it talks about methods of
17 computation.

18 And if you look at the sentence at the very
19 end, it -- it discusses other things and -- and,
20 obviously, the same discussion goes somewhere else,
21 into some other page of the document. And we've
22 got no idea how those other pages of the document
23 may affect this.

24 For instance, it says: To determine working
25 capital in a retail rate case, a utility may

1 consider cash working capital -- (indicating).

2 COMMISSIONER POLMANN: So, your assertion is
3 that this is somehow incomplete or out of context.

4 Ms. Helton?

5 MR. FRIEDMAN: We don't know. It is an
6 incomplete is what I'm saying.

7 COMMISSIONER POLMANN: That's what I'm saying:
8 It's incomplete.

9 Ms. Helton?

10 MS. HELTON: If Mr. Sayler were to give us the
11 whole section on working capital, would that work
12 for you, Mr. Friedman?

13 MR. FRIEDMAN: Well, it doesn't do me much
14 good now because I can't ask any questions about
15 it.

16 MS. CRAWFORD: Dr. Polmann, another
17 possibility is -- the witness spoke to that
18 particular line that was at issue and, perhaps,
19 Counsel might consider whether her comments on the
20 record are sufficient, without the need for the
21 exhibit, but I would have to leave that to OPC
22 Counsel.

23 MS. HELTON: And -- and if I could make one
24 note, too -- I think there's more than one version
25 or edition of Bonbright's book. And so, Mr. Sayler

1 did not include which edition we're using. So, in
2 the future, that might be something to note as
3 well.

4 COMMISSIONER POLMANN: Mr. Sayler, is it -- do
5 you feel it's necessary to enter that as an
6 exhibit, having identified the book by title and
7 page number?

8 MR. SAYLER: In the interest of moving things
9 along, I will note that Mr. Friedman didn't object
10 to the incomplete exhibit at the time of cross
11 when, generally, parties object to the introduction
12 of cross-examination exhibits.

13 But since Ms. Swain attested to the portions
14 of this exhibit that I asked her about, then, I'm
15 happy not to move this into the record. So, I'm --

16 COMMISSIONER POLMANN: You're -- you're
17 willing to not move it into the record.

18 MR. SAYLER: Yes.

19 COMMISSIONER POLMANN: Okay. So --

20 MR. SAYLER: So, I un-move this exhibit into
21 the record.

22 COMMISSIONER POLMANN: It will -- we withdraw
23 that exhibit request on Exhibit No. 132. We'll put
24 that aside.

25 MS. CRAWFORD: And then, staff --

1 COMMISSIONER POLMANN: Staff Exhibits.

2 MS. CRAWFORD: -- would request entry of 133,

3 134, 135, please.

4 MR. WRIGHT: And please note our ob- --

5 continuing objection to 135, for all the reasons

6 previously discussed. Thank you.

7 COMMISSIONER POLMANN: That was on 135 you

8 raised that objection --

9 MR. WRIGHT: 135, yes, sir.

10 COMMISSIONER POLMANN: -- what was

11 identified --

12 MR. WRIGHT: I did raise --

13 COMMISSIONER POLMANN: You just -- I'm just

14 acknowledging that you did.

15 MR. WRIGHT: Oh, thank you very much.

16 COMMISSIONER POLMANN: Okay. Did I move 1- --

17 wait a minute. Did we move 54 through 60 into the

18 record? We did that.

19 MS. CRAWFORD: Yes, sir.

20 MS. HELTON: Yes.

21 COMMISSIONER POLMANN: Okay. So, those that

22 were identified during live testimony -- that was

23 132 with -- was put aside.

24 MS. CRAWFORD: Correct.

25 COMMISSIONER POLMANN: 133, 134, 135, Crawford

1 by staff, which were identified, we will now move
2 into the record.

3 MS. CRAWFORD: Again, recognizing the standing
4 objection.

5 COMMISSIONER POLMANN: Yes.

6 MS. CRAWFORD: Thank you.

7 COMMISSIONER POLMANN: Acknowledging the
8 objected -- objection noted by Mr. Wright on behalf
9 of the County.

10 MR. WRIGHT: Thank you, again.

11 (Whereupon, Exhibit Nos. 133, 134, and 135
12 were admitted into the record.)

13 COMMISSIONER POLMANN: Okay. Mr. Friedman?

14 MR. FRIEDMAN: Yes, sir. I -- yes, I think
15 that concludes all of her testimony. We would ask
16 that she be excused.

17 COMMISSIONER POLMANN: Ms. Swain, you are
18 excused. Thank you for your testimony. Safe
19 travels.

20 We have remaining witnesses on rebuttal,
21 Mr. Johnson, and then we have additional work on
22 surrebuttal. Mr. Castle and -- I'm sorry. Not
23 true.

24 MS. HELTON: Woodcock and Schultz.

25 COMMISSIONER POLMANN: Mr. Woodcock and

1 Mr. Schultz.

2 I think we're done. Everybody is tired. I'm
3 tired. Some of us are hungry. We will stand
4 down -- we will be in recess until 9:30 tomorrow.

5 So, we're off the record.

6 (Transcript continues in sequence in Volume
7 6.)

8

9

10

11

12

13

14

15

16

17

18

19

20

21

22

23

24

25

1 CERTIFICATE OF REPORTER

2 STATE OF FLORIDA)
3 COUNTY OF LEON)4 I, ANDREA KOMARIDIS, Court Reporter, do hereby
5 certify that the foregoing proceeding was heard at the
6 time and place herein stated.7 IT IS FURTHER CERTIFIED that I
8 stenographically reported the said proceedings; that the
9 same has been transcribed under my direct supervision;
10 and that this transcript constitutes a true
11 transcription of my notes of said proceedings.12 I FURTHER CERTIFY that I am not a relative,
13 employee, attorney or counsel of any of the parties, nor
14 am I a relative or employee of any of the parties'
15 attorney or counsel connected with the action, nor am I
16 financially interested in the action.17 DATED THIS 29th day of May, 2018.
1819
20
2122 ANDREA KOMARIDIS
23 NOTARY PUBLIC
24 COMMISSION #GG060963
25 EXPIRES February 9, 2021