

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25

STATE OF FLORIDA  
DIVISION OF ADMINISTRATIVE HEARINGS

FILED 7/24/2019  
DOCUMENT NO. 05939-2019  
FPSC - COMMISSION CLERK

PEOPLES GAS SYSTEM,  
  
Petitioner,

vs. Case No. 18-4422

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

RESPONDENTS.

\_\_\_\_\_ /

VOLUME 6  
PAGES 717 - 816

PROCEEDINGS: FINAL HEARING  
BEFORE: E. GARY EARLY  
Administrative Law Judge  
DATE: June 26, 2019  
TIME: Commenced at 1:30 p.m.  
LOCATION: DIVISION OF ADMINISTRATIVE  
HEARINGS  
1230 APALACHEE PARKWAY  
Tallahassee, Florida  
REPORTED BY: DANA W. REEVES  
Notary Public in and for  
the State of Florida  
at Large

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

1 APPEARANCES:

2 FOR THE PETITIONER:  
3 ANDREW M. BROWN, ESQ.  
4 THOMAS FARRIOR, ESQ.  
5 Macfarlane Ferguson & McMullen  
6 Suite 2000  
7 201 North Franklin Street  
8 Tampa, Florida 33602

9 FRANK C. KRUPPENBACHER, ESQ.  
10 Frank Kruppenbacher, P.A.  
11 9064 Great Heron Circle  
12 Orlando, FL 32836

13 FOR RESPONDENT CITY OF LEESBURG:

14 JON C. MOYLE, ESQ.  
15 KAREN ANN PUTNAL, ESQ.  
16 IAN WALDICK, ESQ.  
17 Moyle Law Firm, P.A.  
18 118 North Gadsden Street  
19 Tallahassee, Florida 32301

20 FOR RESPONDENT SOUTH SUMTER GAS COMPANY:

21 JOHN LESLIE WHARTON, ESQ.  
22 Dean Law Firm  
23 Suite 815  
24 215 South Monroe Street  
25 Tallahassee, Florida 32301

FLOYD SELF, ESQ.  
Berger Singerman, LLP  
Suite 301  
313 North Monroe Street  
Tallahassee, Florida 32301

21  
22  
23  
24  
25

1	INDEX TO WITNESSES	
2	WITNESS	PAGE
3	DAVID DISMUKES	
4	DIRECT EXAMINATION BY MR. MOYLE	722
5	CROSS EXAMINATION BY MR. BROWN	761
6	REDIRECT EXAMINATION BY MR. MOYLE	776
7	RYAN MCCABE	
8	DIRECT EXAMINATION BY MR. WHARTON	789
9	CROSS EXAMINATION BY MR. KRUPPENBACHER	801
10	REDIRECT EXAMINATION MR. WHARTON	806
11	MATTHEW LOVO	
12	DIRECT EXAMINATION BY MR. WHARTON	806
13	CROSS EXAMINATION BY MR. BROWN	814
14		
15		
16		
17		
18		
19		
20		
21		
22		
23		
24		
25		

1	INDEX TO EXHIBITS		
2	FOR COL:		
3	NO.	DESCRIPTION	PAGE
4			
5	COL 9	As identified on the record	760
6			
7			
8			
9			
10			
11			
12			
13			
14			
15			
16			
17			
18			
19			
20			
21			
22			
23			
24			
25			

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25

P R O C E E D I N G S

MR. MOYLE: We would call David Dismukes to the stand, Your Honor.

THE COURT: All right. Mr. Dismukes, raise your right hand.

Whereupon,

DAVID DISMUKES

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

THE WITNESS: Yes, sir.

THE COURT: Your full name.

THE WITNESS: David E. Dismukes.

THE COURT: All right be seated.

DIRECT EXAMINATION

BY MR. MOYLE:

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

A David E. Dismukes, D-I-S-M-U-K-E-S. Business address is 5800 1 Perkins Place Drive, Suite 5F, Baton Rouge, Louisiana 70838.

Q Who hired you to provide expert testimony in this case?

A City of Leesburg.

Q Would you tell the Court about where you are

1 working now and in what capacity? And it may be two  
2 answers to that question.

3 A Yeah. So today I'm appearing as a consultant.  
4 I'm a consulting economist with the Acadia Consulting  
5 Group, it's a consulting firm that specializes in  
6 utility and energy matters, and we work all around the  
7 country in about 27, 28 states, representing usually  
8 consumer interests, attorney generals, consumer  
9 councils, other types of groups that represent  
10 customers.

11 Q And you also have another job, is that right?

12 A Yeah. I'm also a tenured faculty member at  
13 Louisiana State University. I wear a couple of  
14 different hats there. One of my primary  
15 responsibilities is running our center for energy  
16 studies, which is a energy-related research institute  
17 that was formed in the early 1990 -- early 1980's --  
18 excuse me. I have a staff of about 40. I have about a  
19 two-to-four-million-dollar budget depending on what year  
20 and what grant projects we have going on. It's an  
21 interdisciplinary staff, it includes research associates  
22 and faculty members. There are also a number of  
23 different disciplines that includes things like College  
24 of Engineering, Economics, a variety of other  
25 disciplines. I'm also a full professor in the College

1 of the Coast and Environment in the Department of  
2 Environmental Sciences where I teach courses on energy  
3 and the environment. I also supervise graduate  
4 students, Ph.D. dissertation and Ph.D. candidates and  
5 master's candidates.

6 Q Tell the Court about your educational  
7 background.

8 A I hold M.S. and Ph.D. degrees in Economics  
9 from Florida State University.

10 Q And with respect to your professional  
11 background, could you just narratively describe for the  
12 Court your professional background?

13 A Yes. I've been working in utilities and  
14 energy for the past 31 years as a professional  
15 economist. I started my career working in private  
16 consulting. I had an economic consulting firm here in  
17 Tallahassee. I worked there for about four years or so.  
18 I was on the Florida Public Service Commission staff for  
19 about three years. I did a little private consulting  
20 for about a year between there and left Tallahassee and  
21 took a faculty position at LSU in 1995 and I've been  
22 there ever since.

23 Q And what did you do on the PSC staff for three  
24 years?

25 A A bunch of different things. I was primarily

1 a number cruncher. I was an economist and I did a lot  
2 of our forecasting work, statistical analysis, when I  
3 was on the Commission looking at things like load  
4 forecast, natural demand to cap forecast, any kind of  
5 information, economic forecast, anything that was  
6 forecasting. I think in the early 1990's was a time  
7 period where I think Commission started moving towards  
8 forecasting test years as a way -- as opposed to  
9 historic test years and started a new initiative in  
10 finding staff that had some kind of expertise in  
11 forecasting, and I got hired during that time period.

12 Q Have you testified as an expert before?

13 A Yes, I have. I've been -- I've been asked to  
14 testify, prefiled expert witness testimony, or reports  
15 for affidavits, close to 200 times.

16 Q Have you never not been accepted as an expert  
17 in those situations you mentioned?

18 A No, sir.

19 MR. MOYLE: Your Honor, I would like to tender  
20 Mr. Dismukes as an expert in economics, statistics  
21 and regulatory policy.

22 MR. BROWN: Your Honor, my only objection was  
23 if he's never been tendered -- in his disclosure,  
24 there was nothing about economics or statistics.  
25 And in his deposition, he gave no economic or



1            statistic -- they did talk about he would talk  
2            about the economics of the dispute, but he's really  
3            wasn't an expert on statistics.

4            THE COURT: All right.

5            MR. BROWN: And I don't know if he's going to  
6            be getting -- how much he's going to be getting  
7            into that, but --

8            MR. MOYLE: I thought we did talk about  
9            economics and disclosed it.

10           MR. BROWN: He said he would talk about the  
11           economics -- or talk about economic and regulatory  
12           issues -- I take that back. Statistics, I would  
13           have an issue on.

14           THE COURT: All right. I'm reviewing from the  
15           prehearing stipulation description of Mr. Dismukes'  
16           testimony and it indicated he would offer opinion  
17           testimony in economic and regulatory issues. I'm  
18           not so sure that statistics is so divergent from  
19           economics that there would be considered different  
20           things. It may be a good issue for cross if we do  
21           get into something that's more statistical than  
22           economic, but based on the description in the joint  
23           prehearing stipulation -- and that's your objection  
24           is failure to disclose?

25           MR. BROWN: Statistical.

1 THE COURT: All right. Mr. Wharton, anything?

2 MR. WHARTON: No.

3 THE COURT: All right. I'll receive him as an  
4 expert in economics and regulatory policy  
5 consistent with the description of the prehearing  
6 statement.

7 BY MR. MOYLE:

8 Q Mr. Dismukes, what were you asked to do in  
9 this case in the alleged territorial dispute between PGS  
10 and the City of Leesburg?

11 A I was asked to look at the disputed territory  
12 and to offer an opinion on who was a better-suited  
13 utility, the City versus Peoples Gas, to provide  
14 services and the things that are questioned in this  
15 proceeding.

16 THE COURT: Can you bring that in? You're a  
17 little bit soft-spoken and people in the back --

18 THE WITNESS: How is that?

19 MR. MOYLE: If you need to move that chair,  
20 you know, to be able to not have to spin your head  
21 so much. Just make yourself comfortable.

22 BY MR. MOYLE:

23 Q So tell the Judge what you did, what steps did  
24 you undertake in your review?

25 A So the first thing I did was look at the

1 statutes and the Commission's rules to see what types of  
2 information are required or relevant to ascertaining  
3 matters, territorial disputes. And so I looked at  
4 what's being discussed in this proceeding already, the  
5 Commission's rules relative to territorial disputes for  
6 natural gas utilities and the issues that are identified  
7 in that rule. There's kind of check -- I would argue  
8 that in reviewing, this was kind of a checklist  
9 associated with the kinds of information that is  
10 supposed to be considered.

11           And what I did was go through each of those  
12 points and think about what kind of publicly-available  
13 information is out there that would be important for the  
14 Commission to review in terms of making a decision with  
15 regard to this particular issue. So looking at the  
16 capabilities of each area versus -- which is the first  
17 part in Subsection A and what kind of information is  
18 relevant towards making a decision, what kind of  
19 empirical information, what kind of statistics are  
20 relevant in looking at those kinds of questions and  
21 identifying those and providing some charts and data on  
22 that and going through each of these points, and where  
23 there's publicly-available information, trying to  
24 formulate a set of exhibits and analyses that I think  
25 should help inform the Commission in terms of making a

1 decision on this.

2 Q And what I'm going to do, I think, you have a  
3 table of contents in your report. The first thing, the  
4 summary of your opinion in the recommendations. At a  
5 very, very high level, I don't want to be redundant on  
6 it --

7 MR. MOYLE: I don't know if you prefer it in  
8 the beginning or the end, Your Honor, with respect  
9 to the summary of opinion and recommendations,  
10 but --

11 THE COURT: However you want to lay it out.

12 BY MR. MOYLE:

13 Q All right. Why don't you give a summary of  
14 your opinion and recommendations as an overview at this  
15 point and then we'll walk through that.

16 MR. BROWN: Your Honor, before he does that, a  
17 couple of the sections he's channeling and  
18 referring to Mr. McGee, and so I don't want him to  
19 be a conduit for getting Mr. McGee's opinions in.  
20 Those are in. So if he wants to just talk about  
21 what his conclusions are, that would be my  
22 objection, if he's going to get into --

23 THE COURT: Is this is a particular exhibit  
24 number to look at? You may have said it.

25 MR. MOYLE: He has a report. It's Exhibit No.

1           9.

2                   THE COURT: All right.

3                   MR. MOYLE: And my plan, Your Honor, is to go  
4 through those exhibits attached to that. I'll  
5 start with --

6                   THE COURT: Yeah, just to the extent I think,  
7 Mr. Brown, hear -- I want to hear your opinions.  
8 To the extent that Mr. McGee may have provided  
9 information, that's not what I want to hear.

10                  THE WITNESS: All right. Can I go ahead, Mr.  
11 Moyle?

12                  MR. MOYLE: Yes.

13                  THE WITNESS: So my opinion is that the City  
14 ought to be able to continue to serve the customers  
15 in the disputed area. I think they're just broadly  
16 prepared -- there are some benefits associated with  
17 that from an economics and operational perspective.

18                   I think generally from an economics  
19 perspective, if you look at some of the big  
20 pictures, statistics, there are some benefits  
21 associated with costs that I think proves to the  
22 City relative to PGS.

23                   There are some benefits associated with  
24 finance that I think are beneficial to the City as  
25 opposed to PGS. And if you look at rate trends and

1 kind of comparative rates, there are certain  
2 benefits associated with the City compared to PGS.

3 Operationally, and I'm not talking about gas  
4 operations, per se, but just kind of some other  
5 factors that I've looked at in this, would be the  
6 fact that there appear to be benefits associated  
7 with the safety performance of the two entities.

8 And, again, I'm relying, Your Honor, on some  
9 of the analysis my colleague Mr. McGee did in terms  
10 of the leak performance pipeline replacement leak  
11 trend analyses that had been done, or available on  
12 the PHMSA data.

13 There are also benefits, I think, in terms of  
14 the City's ability to provide gas service and  
15 having redundant opportunities to provide gas  
16 service through that system. There are also some  
17 benefits associated with customer choice. This is  
18 an outcome that's been negotiated between a willing  
19 buyer and willing seller in terms of the contract,  
20 this PSA that they have, and those seem to be  
21 benefits, as well. And so I think you can kind  
22 look at the calculus, in terms of the checklist,  
23 leans in favor of the City.

24 BY MR. MOYLE:

25 Q So let's go through the exhibits to your

1 report, if we could. I think that will be a somewhat  
2 efficient way to walk through the information in your  
3 report by talking about the exhibits. DED-1, map of The  
4 Villages community development districts. What were you  
5 doing here?

6 A So these are in the back of my report after my  
7 resume. I start with one and continue on.

8 Before I do that, I do want to put some  
9 context on these exhibits and how I developed them. As  
10 I mentioned earlier, these statistics and various  
11 different analyses I put together all come from  
12 publicly-available information. I've listed those in  
13 the report. Generally they come from things like U.S.  
14 Department of Energy. Some of the demographic  
15 information comes from the University of Florida,  
16 various different reports from the Public Service  
17 Commission. And a variety of other types of public  
18 documents are widely available. So there's nothing here  
19 generally, with the exception of maybe the map, that is  
20 confidential information.

21 The first thing I did was look at a map of The  
22 Villages development and that's provided --

23 Q Let me just stop you. You said confidential  
24 information. I think you meant that's everything that's  
25 public information except the map, is that right?

1           A     Yes.

2           Q     Because the map's not confidential.

3           A     Okay. I'm sorry. I didn't know that. So,  
4     yeah. No. There's nothing here that's confidential.  
5     It's all easily downloadable, verifiable. And that was  
6     part of my goal was to create information that could be  
7     easily checked and replicated.

8           Q     So the first exhibit, DED-1, is just sort of  
9     an overview of something you got off the internet for  
10    The Villages that attempts to orient the finder of fact  
11    as to the area, is that right?

12          A     Yeah, this puts some perspective in when I was  
13    preparing my analysis and where The Villages has been  
14    and where it's kind of going and this disputed area that  
15    is in question here in this proceeding.

16          Q     Is there anything else that you take away from  
17    the map, Exhibit 1?

18          A     No, I think just, you know, broadly speaking  
19    that the pattern of growth that you see in this area,  
20    and it's been spoken about earlier in the hearing so I  
21    won't belabor it, has been moving southward and  
22    southeasterly from Ocala and kind of moving its way  
23    down. Those are important trends to look at when you're  
24    thinking about lining up the areas and information about  
25    the territorial dispute in this proceeding.



1           Q     Exhibit 2, behind you, I'm assuming it shows  
2     that southeastern movement growth pattern, behind you,  
3     the big map?

4           A     Oh, I'm sorry. No, I don't think -- that one  
5     does. Yeah. Yeah. I'm sorry. Thank you.

6           Q     So, Mr. Dismukes, I just want to walk  
7     through -- step through these exhibits. What is Exhibit  
8     2 and what is it attempting to convey?

9           A     So Subpart B of the Commission's rule for  
10    natural gas utility territorial disputes talks about the  
11    Commission considering the nature of the disputed area  
12    and types of utilities seeking to serve at the degree of  
13    urbanization of the area, its proximity to other urban  
14    areas, and present reasonably foreseeable future  
15    requirements in those areas.

16                    So I started to think about, you know, what  
17    would be required in this area. A map is certainly a  
18    good thing. So I started with looking at a map of the  
19    area. The second big area that I thought would be  
20    important in terms of understanding the disposition of  
21    the area is looking at its customer and sales base to  
22    see if there are any appreciable differences in customer  
23    makeup of the two utilities and the use-per-customer  
24    trends of the two utilities, and then how those looked  
25    on a forward-going basis on both the business as usual,

1 as well as kind of a territorial dispute customer  
2 question.

3           The first exhibit I did was -- in terms of  
4 that data is DED-2 that looks at the sale composition,  
5 customer composition of the two utilities, the two pie  
6 charts. City of Leesburg is on the left. Peoples Gas  
7 is on the right. And you can see that both are, from a  
8 pie chart perspective, are similarly comparable.  
9 Potential customers make up a majority of that pie, the  
10 smaller shares of industrial and commercial customers.  
11 So if you look at the two customers, two groups of  
12 utilities, they're pretty comparable of customer  
13 composition.

14           Q     So on this one, it's comparable, is that your  
15 conclusion?

16           A     Yes, sir.

17           Q     Okay. What does DED-3 reflect?

18           A     So DED-3, again, continues on with another  
19 analysis of usage trends. I focused primarily on  
20 residential because it is 96, 97 percent of the overall  
21 sales mix. So I really focused primarily on those  
22 trends since they drive both systems. You'll see two  
23 charts here, one with a light bar, one with a darker  
24 bar. The light bar is the City of Leesburg. The darker  
25 bar is Peoples. You can see the trends in

1 use-per-customers. Those are the terms of use for each  
2 customer on a per-customer basis, kind of your average  
3 annual use. And you see those trends have been going  
4 down for both utilities. The City is a little lower  
5 use-per-customer basis than Peoples. They're both kind  
6 of seeing these downward trends. That's not uncommon in  
7 gas industry these days given the increased efficiency  
8 activities, applying standard changes, technological  
9 changes that are seen in the industry. So they move  
10 down use-per-customer and efficiencies at the end-use  
11 level and residential level.

12 I've also just kind of dash-lined the breaks  
13 that historical trend and forecast. The Commission's  
14 rule talks about not only trends, but the forecast of  
15 where these areas should be in the future and where  
16 they're anticipated to be in the future. So I've  
17 developed two forecasts on the use-per-customer basis  
18 for the City and Peoples with and without disputed areas  
19 and those customers. And those are simply, you know,  
20 the projections based on 14,000 customers in that area  
21 times kind of understanding, anticipating  
22 use-per-customer in those areas.

23 Q And what conclusion does the Exhibit 3 lead  
24 you to?

25 A They're both relatively comparable.

1 Use-per-customer is following similar trends for both.  
2 City's a little lower. There's nothing in this chart  
3 that would make me think they'd be creating any  
4 challenges in term of the City of Leesburg providing  
5 any -- to provide service in this area that creates any  
6 kind of uneconomic complication, or any other kinds of  
7 problems associated with development and infrastructure  
8 for this area. But the same would be true for Peoples.  
9 They're both relatively close. They have similar  
10 situated usage trends. So it's a bit of a kind of even  
11 match in the category.

12 Q All right. Let's talk about DED-4, titled  
13 sales forecast comparison.

14 A Right. So we move from kind of customer  
15 composition, use-per-customer. This last section, I  
16 would say, that's in the overall usage trends analysis  
17 is looking at the total use, that is the total  
18 decatherms or MCS or MUTU's of volumetric sales that  
19 have been made on Peoples system, as well as Leesburg.  
20 This is looking both at a historic and a projected  
21 basis. I've looked at -- you've got about two rows  
22 under Peoples Gas and two rows under -- two blocks of  
23 rows under Leesburg, as well. And those are looking at  
24 the sales trends in the historic period and then the  
25 sales with disputed area, and then those trends without

1       disputed area.

2                   So you can see the relative impact that those  
3       sales would have on the overall systems of the two  
4       utilities. You can see that for Peoples Gas those --  
5       without the disputed area, their sales have been falling  
6       relatively low. This is a five-year average. Both  
7       trend -- you see those have been trending downwards at a  
8       pretty high rate. That would -- if Peoples Gas would be  
9       serving these areas that are in dispute, that would help  
10      dampen -- tamp down on some of that decreasing use on a  
11      total system basis.

12                  However, for the City -- for the City you can  
13      see that without the bottom, without the disputed area,  
14      they're also seeing declining trends, not quite as  
15      rapidly as Peoples, but still pretty meaningful, but you  
16      would see significant growth over that time period, not  
17      always swapping out the decreasing, but actually  
18      increasing over time if you would add those customers.  
19      So this is a big growth opportunity for the City itself  
20      and it would substantially increase the sales for  
21      customers in this area.

22                  Q       The next exhibit, DED-5, populations of Lake  
23      and Sumter Counties.

24                  A       Right.

25                  Q       What is that and why did you do it?

1           A     Yeah.  So the next set of exhibits that I did  
2 were to look at socioeconomic and trends and forecasts.  
3 Again, to primarily kind of look at where the potential  
4 customer differences may be.  These are trends that  
5 often drive usage.  So I thought they would be relevant  
6 in terms of looking at the disputed areas and kind of  
7 relative differences between the two utilities.  So I've  
8 looked at about three primary big issues here,  
9 population, population growth, household size and  
10 income.

11           Q     So, just to be clear, that's five, six and  
12 seven?

13           A     Five, six and seven and eight.  Five and six  
14 look at -- five is actually just a cross-section of the  
15 population trends and kind of -- I've got kind of a  
16 three-area breakout here.  Looking at Sumter County,  
17 Lake County, where the City is located, and then all the  
18 counties collectively associated with PGS and where they  
19 serve.

20                     You can see the median is around 350,000 per  
21 county for the counties that are served collectively by  
22 Peoples Gas.  That's pretty comparable to the number for  
23 Lake County, but it certainly is substantially larger  
24 for Sumter County, and I'll talk about that a little bit  
25 more later.  A lot of that, I think, has to do with kind

1 of the density of people in that area right now. But  
2 there are some differences there. Again, I don't see  
3 anything that would be meaningfully changed, I think,  
4 the City's ability to serve these customers from these  
5 trends, but they are worth noting that it is a small --  
6 it is a smaller county.

7 DED-6 is kind of accompanying that. And,  
8 again, what I tried to do here is look at the trends  
9 plus the projections per rule designation, and I looked  
10 at population trends for those same three areas that  
11 have been provided by the University of Florida. You  
12 can kind of see where the expected growth is for those  
13 areas on a percentage basis. And you see while Sumter  
14 is smaller, it is one that's anticipated to see  
15 significant growth in the future relative to those  
16 collective counties that, the company's -- the Peoples  
17 Gas I'll generally refer to as the company's  
18 customers -- and Lake County, as well.

19 Q You trailed off on the end there.

20 A I'm sorry. Lake County, as well.

21 Q And this is an information item in terms of  
22 just showing the population. It's not a  
23 compare-contrast with respect to --

24 A Well, there is in the sense that you look at  
25 collectively Peoples and -- versus Lake and Sumter

1 County and the area in dispute in Sumter County and Lake  
2 County where the City currently serves in Peoples. You  
3 can see that Peoples in Lake County are somewhat kind of  
4 comparable, but you have a faster growth rate with  
5 regards to the area that -- to the county that has the  
6 disputed area.

7 Q All right. Let's talk DED-8.

8 A DED -- no, let's talk -- I'm sorry. I think  
9 we skipped DED-7.

10 Q We skipped seven. Thank you.

11 THE COURT: He'd like to talk about something  
12 else.

13 BY MR. MOYLE:

14 Q Let's talk about seven.

15 A Sorry.

16 THE COURT: I'm very good at picking up  
17 subtleties. It's a gift.

18 THE WITNESS: So, again, I've kind of broken  
19 out the areas into Lake, Sumter, and Peoples  
20 counties and you can see that, again, Lake and  
21 Peoples are somewhat similar, relatively comparable  
22 percentages in two-person households. So if you  
23 look at this, you look at the percent of one-person  
24 households, two-person households, three-persons  
25 households or four, you can see that the pie is



1 heavily skewed in Sumter County towards those  
2 two-person households, smaller than the average  
3 that we see in the other two pies.

4 BY MR. MOYLE:

5 Q Exhibit 8.

6 A Exhibit 8 is looking at income distribution,  
7 again, for these three areas. And you see relative  
8 comparable trends that we discussed earlier on the  
9 demographics. A little bit different because the sizes  
10 are a little bit larger for the counties, but you can  
11 see those breakouts are actually somewhat comparable.

12 There is census-designated information on  
13 household data that comes from -- that you can collect  
14 and look at over this kind of four-year period for The  
15 Villages because it is CDP, so I did include that in the  
16 last column so that you could look at the distribution  
17 and the Commission could have a feel for the  
18 distribution kind of in those areas, too.

19 THE COURT: What is CDP?

20 THE WITNESS: Census designated place. And  
21 this is -- one of the things to keep in mind about  
22 this is that -- and you can see the distribution  
23 actually on the chart in eight. One thing to keep  
24 in mind is The Villages as a CDP is one of the --  
25 has been historically one of the fastest-growing

1 CDP's in the country for many, many years, I think  
2 down to around ten, but for many years I think it  
3 was around one or two. It's one of the fastest  
4 growing areas. So while it is small in that area,  
5 it is certainly rapidly growing. And, again, you  
6 can see those kind of cluster. And those bars are  
7 all kind of generally familiar -- generally similar  
8 in the income tab there.

9 So, again, you know, the take-away on all of  
10 this that I don't see any big differences between  
11 the two that would send off any alarms in terms of  
12 the ability to serve or that might have  
13 implications for the changes in usage trends on an  
14 ongoing basis.

15 BY MR. MOYLE:

16 Q With respect to the growth you talked about in  
17 Sumter, do you notice that in any way related to The  
18 Villages developments?

19 A Right. I think that The Villages have a lot  
20 to do with it. The CDP is for The Villages and that's  
21 why it's rapidly growing. Those developments are very  
22 successful and just selling relatively quickly. People  
23 are moving into those areas. It's a very popular place  
24 to be.

25 Q What's Exhibit 9?

1           A       So one of the other areas that has been  
2 identified in the Commission's rule is -- it's about  
3 kind of switching gears out of kind of characterization  
4 in the area -- well, actually, we're still in an area.  
5 One of the explicit requirements in here is also degree  
6 of urbanization and so there are measures that the  
7 census has on the urbanization.

8                       So I was looking at a measure that might help  
9 with these rules. And so you've got distribution of  
10 counties here and looking at them in terms of where they  
11 stand relative to the statewide averages, and you can  
12 see that the percentages of Sumter and Lake County are a  
13 little bit low in terms of being more rural or less  
14 urban than Peoples. So Peoples is a little bit above  
15 average in terms of the degree of urbanization and the  
16 other two counties are little bit below that. Another  
17 thing, though, I think is important to keep in mind that  
18 was highlighted in Mr. McGee's report --

19                      MR. BROWN: Your Honor, he's talking about Mr.  
20 McGee's report here. They're trying to bring that  
21 in.

22                      THE COURT: Well, it sounds as though he's  
23 beginning to -- getting a little afield. So if you  
24 could let it be your --

25                      THE WITNESS: Okay. Fine.

1 THE COURT: So I'll sustain.

2 BY MR. MOYLE:

3 Q So continue with your answer with respect to  
4 urbanization. You know, don't -- Mr. McGee said  
5 something about that, just keep moving past what Mr.  
6 McGee said, but just talk about urbanization and what  
7 your analysis showed in that respect, if you would.

8 MR. BROWN: Your Honor, again, I think he's  
9 just quoting Mr. McGee's analysis.

10 MR. MOYLE: Well, I'm not -- I'm working off  
11 the exhibits. I don't know --

12 THE COURT: I think he's just asking -- you  
13 prepared these exhibits?

14 THE WITNESS: Yes, I did. This is my  
15 analysis.

16 THE COURT: I think you can ask him on cross  
17 where he derived this information from.

18 BY MR. MOYLE:

19 Q You can answer. The question is urbanization.  
20 It's a criteria in the rule. What did you do with  
21 respect to analyzing urbanization and what conclusions,  
22 if any, did you reach with respect to The Villages,  
23 vis-a-vis, Leesburg?

24 A While there -- while this area is more rural  
25 than it is urban, there are huge differences here that

1 again would create concern. I would say from an  
2 energy-usage perspective, it would make it difficult for  
3 the City to serve these customers in question in these  
4 rural areas.

5 Q In the rule or with respect to the area in  
6 dispute, do you have an understanding the area that  
7 that's -- The Villages as an urban area, do you not?

8 A It is.

9 MR. BROWN: Leading.

10 THE COURT: Overruled.

11 THE WITNESS: And I think increasingly as  
12 time -- as time progresses, the way the census  
13 looks at urban areas will likely make Sumter County  
14 increasingly more and more urban because it's  
15 clusters of -- it's usually areas that's 50,000 and  
16 greater, but include concentrated clusters in the  
17 10-to-50,000 range and as these areas start to get  
18 closer together and more dense, you're going to  
19 start seeing those statistics start to move more  
20 towards the urban-type configuration than a rural  
21 type of configuration.

22 And if you look right now, from my  
23 understanding, though, the company's -- not  
24 company's, but the City's gas system itself it's my  
25 understanding that the -- look at the density of

1 service lines or the lines that connect customer  
2 relative to the number of mains, the actual density  
3 of that system is higher for the City than it  
4 actually is for all of PGS' service territories and  
5 I think there's something like 25 mains -- 25  
6 service lines per mile of main for company and  
7 somewhere around 45, 48 service lines per mile of  
8 main for the City of Leesburg. So while these  
9 overall broad graphic trends may suggest one thing,  
10 you look at the nature of the two systems, there's  
11 certainly a lot more service lines per mile of main  
12 for the City there than there is for company's.

13 BY MR. MOYLE:

14 Q All right. And is that in terms of your  
15 analysis benefit the City or PGS?

16 A I think if you look at it from the gas  
17 distribution system perspective, there is a benefit  
18 there. The demographics are certainly a little bit  
19 different broadly, but when you look at it from the  
20 company's -- from the City's existing gas system, it's  
21 pretty -- it has some differences relative to the  
22 population that I think with both tie them to the  
23 Commission.

24 Q Exhibit 10, looks to be a credit rating --

25 MR. BROWN: Objection, Your Honor. We have

1 stipulated in our pre-suit stip that issues the  
2 cost of capital and amortization and depreciation  
3 are not applicable to this dispute.

4 THE COURT: All right. How does this apply,  
5 Mr. Moyle, as something other than one of those  
6 topics?

7 MR. MOYLE: Well, you may have --

8 THE COURT: The credit rating --

9 MR. MOYLE: -- well I think one of the  
10 criteria in the rule relates to analysis of  
11 financial capabilities, and so I think that was  
12 related to that. So the financial capabilities are  
13 beyond just your capital cost. There is -- there  
14 is, you know, a variety of areas arguably with  
15 respect to financial abilities.

16 THE COURT: Where is that in the prehearing  
17 stip?

18 MR. BROWN: On Page 11, Your Honor, Section F,  
19 the 5th.

20 MR. MOYLE: And I --

21 THE COURT: How do bond ratings affect  
22 something other than capital and amortization and  
23 depreciation?

24 MR. MOYLE: Well, I would think in terms of,  
25 you know, the ability of the City to be a good

1 provider, you know. Who was it -- Detroit filed  
2 bankruptcy --

3 THE COURT: I'll sustain the objection.  
4 That's not going to -- this is case is going to  
5 live and die in fact that that's not a -- if that's  
6 not an issue, then it's probably going to be a  
7 problem for -- if it's going to make an adverse  
8 ruling on it. I'm not favorable to either party if  
9 it's not an issue. So that's the situation and  
10 it's not anything for me to consider.

11 MR. MOYLE: And I --

12 THE COURT: We'll move beyond 10.

13 MR. MOYLE: What is 11?

14 MR. BROWN: Same thing, Your Honor. If we go  
15 to the report, the issue, the topic of financial  
16 capabilities includes DED-10, DED-11 and those two,  
17 10 and 11.

18 THE COURT: Well, this goes into -- I mean, I  
19 agree with the debt service and the capital  
20 contribution. It does have some operating revenue.  
21 I mean, there's fairly limited information that I  
22 think doesn't fall within that stipulation and I'll  
23 listen to that, but I don't need to know about  
24 the -- any issues that would be subsumed into the  
25 stipulation. It looks like that top line is



1           probably fair game, the top cluster.

2                   MR. MOYLE:  When I entered into the  
3           stipulation, I thought I was taking care of the  
4           ninety million dollars as a capital cost.  Well,  
5           anyway --

6  BY MR. MOYLE:

7           Q     Go ahead, Mr. Dismukes, if you just tell the  
8           Judge, if you would, what this is depicting, but don't  
9           get into the bond issues.

10          A     Yeah, I can't say anything -- anything without  
11          that.

12          Q     The operating revenues --

13          A     Yeah, there they are.  They speak for  
14          themselves.  I can't say anymore than that.

15          Q     Okay.  How about the next exhibit, 12?

16          A     So the next area gets into issues related to  
17          the Commission's requirements for looking at costs.  
18          Part C broadly states, the cost of each utility to  
19          provide natural gas service to disputed area presently  
20          and in the future, which includes but is not limited to,  
21          and it has an itemized list of nine different things.

22                   So the first thing I started off with was  
23          looking at rates for the respective utilities as a broad  
24          measure, kind of costs.  When you think of utilities as  
25          being cost-of-service regulated, then rates and prices

1 reflect costs. So what are the big picture trends in  
2 terms of rates with respective utilities and where  
3 they've been over time and how do the two utilities  
4 compare.

5 So there are a number of exhibits -- a number  
6 of pages with exhibits, but Exhibit 12, look it in  
7 comparison with City of Leesburg, just in general, so  
8 that the Commission can get a feel for how Leesburg  
9 stacks up relative to other municipal utilities, and  
10 there's a chart of that on page two. It gives you a  
11 feel for the fact that the City of Leesburg, relative to  
12 other municipal utilities as a low-cost provider, and  
13 has historically been a pretty low-cost provider, if you  
14 look at the trends on page three.

15 So page one gives you kind of the  
16 cross-section in terms of the actual numbers for each of  
17 the cities on a cost-per-MCM basis. The second page  
18 gives you a cross-section for the years 2017 to see  
19 where that measurement is.

20 THE COURT: What page?

21 THE WITNESS: Two. And then page three, if  
22 you're kind of interpreting these, it just looks at  
23 that time trend based on the City as the light bar,  
24 and then everybody else is averaged up so you can  
25 get them all in one graph, and you see where they

1 stand relative to those other municipal utilities.

2 BY MR. MOYLE:

3 Q So what are these exhibits showing? What is  
4 the bottom line of these exhibits?

5 A Bottom line of these is that City has been,  
6 particularly in the last three years, a relatively  
7 rate-competitive utility compared to other municipals in  
8 the area.

9 Q And then with respect to a comparison of that  
10 to PGS, did you engage in that? And, if so, what did  
11 you find?

12 A Yeah. So that is provided on the next chart  
13 on DED-13, and it compares the City of Leesburg relative  
14 to the investor-owned natural gas utilities in Florida.  
15 And you can see that they compare pretty favorably.  
16 They're, again, three pages here. The first gives you  
17 the actual core data ranking at the bottom. And the  
18 second page compares Leesburg to all of the  
19 investor-owned utilities and you can see, particularly  
20 over the last several years from '14 forward, that light  
21 bar has been trending down, whereas the darker bar has  
22 been trending flat to up a little bit, particularly in  
23 the last two years. So that differential between the  
24 city and investor-owned utilities broadly is getting  
25 wider.

1                   And then the last page of that, page three,  
2 the light bar again is the City of Leesburg. The dark  
3 bar is Peoples. This is just isolated to Peoples. And  
4 you can see a comparable trend, particularly in those  
5 last three years and the kind of separation of the two  
6 rate trends.

7           Q       So, with respect to the conclusion, would this  
8 be one that favors my client?

9           A       This is something that would, obviously I  
10 mentioned earlier in the summary of my recommendations,  
11 I think leans in favor of the City relative to serving  
12 its existing customers in the disputed area.

13          Q       What's the next exhibit?

14          A       The next exhibit, again the Commission's rules  
15 ask for -- I think it's actual as well as projected  
16 information, so I've tried to extrapolate a trend and to  
17 see the trends have been kind of upwards for the  
18 investor for Peoples, as well as downward for the last  
19 several years for Peoples -- for the City. And so I  
20 would anticipate these trends to continue, particularly  
21 based on other factors that I know about that are going  
22 on in the utility industry and some discussions that  
23 I've had with the City. I anticipate we'll continue to  
24 see comparable trends like that.

25          Q       And that's 14 that you're talking about?

1           A     Yes, sir.

2           Q     All right.  And the take-away there is these  
3 are trends line that you --

4           A     Right.  The take-away on this is if you look  
5 specifically at the City relative to Peoples Gas, it has  
6 very -- it's very good rates and is anticipated to  
7 continue in a very good rate relative to Peoples.

8           Q     So is that one that favors my client?

9           A     It is one that I think advantages the City in  
10 this determination.

11          Q     How about the next exhibit?  It's No. 15, net  
12 distribution plant.  What is that and why did you look  
13 at that?

14          A     Yeah.  So, the Commission's rule starts off  
15 with kind of just broad cost of service.  I thought it  
16 would be important to start with the aggregate rates.  
17 And then the next thing I wanted to do was try to go  
18 through and look at some of these individual costs  
19 overall.

20                    When I look at this rule, and as I interpret  
21 what the Commission is looking at, I think it's probably  
22 an important distinction to keep in mind, is there's  
23 kind of two costs that need to be considered when we're  
24 looking at an issue like this and, I guess, what are  
25 distinguishing it from.  And that is, what are the

1 embedded costs associated with essentially providing  
2 service. That is, what are the costs that are on the  
3 books right now and how are they kind of translated into  
4 rates.

5 And the other thing is, what are the  
6 incremental costs of serving a particular area. I think  
7 a lot of this gets at that incremental cost.

8 And in doing my analysis, there weren't a lot  
9 of publicly-available incremental costs on, you know,  
10 what is the incremental cost of a new footer, main.  
11 What is the incremental cost of a new service line, et  
12 cetera, et cetera. But I did have some information on  
13 kind of the embedded costs, the costs that are on the  
14 books between the two, and these showed relationships  
15 that I think are really close.

16 I've itemized these out for the plant service  
17 for the respective types of categories that are itemized  
18 in the Subparts 1 to -- many of them are in there, not  
19 all of them are, from one to nine. And I was trying to  
20 get as close to possible to many of these issues that  
21 are here and identify, particularly five through eight.

22 You see the breakouts between mains and you  
23 can divide that by customer. So you've got the City of  
24 Leesburg about six million dollars in main investment  
25 costs right now on the books. That's about \$500 -- \$556

1 per customer, whereas Peoples Gas is a little bit  
2 higher, 1,300. You can look at the cost for services.  
3 Again, the City's embedded costs run a little lower than  
4 the company's. Metering cost, ongoing.

5 So on a per-customer-basis are a little lower  
6 for the City than they are for the company. The same is  
7 true for regulators, for measuring stations. And for  
8 other equipment, it's higher. It's 29. That's a  
9 relatively smaller category though, that's the only way  
10 to cost basis that isn't really going to shift the  
11 overall average of these numbers in a big way.

12 Q So what was your conclusion and who does it  
13 favor?

14 A Well, in this instance, at least those costs  
15 that are on the books, are lower on a per-customer basis  
16 for the City than for Peoples Gas.

17 Q So that would favor them?

18 A Yes.

19 MR. MOYLE: All right, Your Honor -- you  
20 are -- been living in Louisiana and your cadence is  
21 quick. Are you okay, court reporter?

22 THE COURT: As long as she's okay. I've told  
23 people this before, I can not really be in the room  
24 as long as she is. This hearing ought to turn out  
25 the same.

1 (Laughter.)

2 BY MR. MOYLE:

3 Q All right. Mr. Dismukes, what's the next  
4 exhibit demonstrating?

5 A So the next one is I did have some limited  
6 amount of cost information to look at these incremental  
7 costs. I was provided some information by the City and  
8 there was some provided -- information provided early on  
9 in the deposition of Mr. Stout. He provided testimony  
10 earlier in this proceeding, and I tried to compare those  
11 two costs on an incremental cost basis for more recent  
12 construction projects. The cost on mains on a per-foot  
13 basis is about \$7.28 for the City versus 8.44 for  
14 Peoples Gas on mains. So it benefits the City relative  
15 to Peoples Gas on this particular issue. On service  
16 lines, the service lines per customer are a little  
17 higher for the City than they are for Peoples Gas. And  
18 the metering costs are lower for the City than Peoples  
19 Gas.

20 Q So did you reach a conclusion with respect to  
21 how this category comes out and who it benefits?

22 A Again, this is generally favorable to the City  
23 with the exception of perhaps the service line cost.  
24 It's my understanding that those probably are a little  
25 higher because the City has historically put in, until



1 most recently, a lot of steel pipe as opposed to PE and  
2 plastic pipes, so that probably has a lot to do with the  
3 differences in the cost. It's my understanding on a  
4 forward-going basis they're going to be moving forward  
5 closer to plastic so they should be driving that  
6 incremental average down.

7 Q All right. And Exhibit No. 17, what is that  
8 exhibit?

9 A So 17 was the last thing that I looked at and  
10 they were customer service performance metrics. There  
11 really isn't a lot of information here. I do this to  
12 try to be more complete. In this instance, both  
13 utilities have prepared good customer performance.  
14 Peoples has very good performance relative to its peers.  
15 I can't compare this to municipal utilities, because  
16 municipal utilities, as we've heard earlier, are not  
17 regulated by the Commission, particularly with regards  
18 to customer service on that for natural gas. And so  
19 they're comparable statistics here to really look at  
20 that, but it is worth noting the fairness, that the  
21 company is relatively good in terms of service quality.

22 However, I still would say that just based on  
23 my experience and discussion with the City, there is a  
24 lot of -- because it is a smaller system, there's a lot  
25 of customer responsiveness at a more local level. I

1 think you heard some testimony earlier that I won't  
2 belabor that --

3 MR. BROWN: I think you're getting into stuff  
4 Mr. Garcia covered already.

5 THE COURT: Sounds like you're about to wrap  
6 up.

7 THE WITNESS: I am.

8 THE COURT: Why don't you just finish it.

9 THE WITNESS: And I -- but, yeah, I would just  
10 say it's close because there's a lot more locality  
11 and I think more local to some of its customer  
12 service there that the City provides relative to  
13 the company.

14 BY MR. MOYLE:

15 Q And with respect to the information you talked  
16 about, that's in your report, most of it?

17 A Yeah. So the report really, in terms of the  
18 text, just outlines and discusses and explains these  
19 exhibits, much like I've been doing up here right now.

20 Q Okay. Did your report in any way talk about  
21 environmental aspects of natural gas usage? And, if so,  
22 what is your view with respect to environmental issues  
23 related to natural gas?

24 A I did briefly. I mean, the company provides  
25 energy efficiency services per Commission rules. So

1 they do have offerings, I think that has been discussed  
2 earlier, in terms of some of the rebates for developers.  
3 The City also is supporting more natural gas use. I  
4 think the big take-away I would say in all of this is  
5 that the concern I would have from a territorial dispute  
6 perspective is the large potential that if the City is  
7 not allowed to continue to serve these customers, there  
8 is a high probability they would fuel switch back to  
9 electricity, and I don't think that would be a positive  
10 net or efficiency outcome, given the kind of efficiency  
11 gains associated with gas relative to electricity.

12 MR. MOYLE: Can I have a minute, Your Honor?

13 THE COURT: Yes, sir.

14 MR. MOYLE: Your Honor, I'd like to move the  
15 exhibit in, the City Exhibit 9, if it's not already  
16 in.

17 THE COURT: It's not. Mr. Brown.

18 MR. BROWN: I object. It's hearsay. I think  
19 we talked about this earlier, but I'll renew my  
20 objection.

21 THE COURT: All right. Mr. Wharton?

22 MR. WHARTON: No. No objection.

23 THE COURT: The report standing alone would be  
24 hearsay, but we've got the witness right here who's  
25 just testified as to the items in it. He's

1           indicated his testimony, essentially, adopted his  
2           testimony, his report. So it's probably best for  
3           dealing on cross. So overrule the objection. I  
4           will receive Leesburg Exhibit 9 and all  
5           attachments.

6                     (Whereupon, City of Leesburg Exhibit No. 9 was  
7           entered into evidence.)

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

10                    THE COURT: Mr. Wharton.

11                    MR. WHARTON: No questions.

12                    THE COURT: Mr. Brown.

13                                     CROSS EXAMINATION

14           BY MR. BROWN:

15                    Q     Good afternoon, sir.

16                    A     Good afternoon.

17                    Q     Good to see you again. Let me just reiterate,  
18           we've been talking about this earlier, but you are here  
19           as a policy expert?

20                    A     Economics and policy. Yes, sir.

21                    Q     So you're offering your opinions as what the  
22           policy should be in this case?

23                    A     I am offering my opinions on the economic  
24           information that supports or helps inform the Commission  
25           relative to its rules, which themselves are the policies

1 for evaluating territorial disputes.

2 Q Let me start by just briefly addressing the  
3 projected gas usage and make sure I have this right.  
4 You believe that from the years 2017 to 2022, Leesburg  
5 is going to have to obtain 49 percent more gas than it  
6 was providing in 2017, correct?

7 A That's correct.

8 Q All right. What I want to do is do it a  
9 little differently. I want to just go through your  
10 report and we can kind of incorporate the various  
11 exhibits as we go.

12 A Okay.

13 Q So let's go to page eight of your report, and  
14 this is the section on customer similarities, and let's  
15 actually go to Paragraph 30 in your report -- well, let  
16 me back up. Section B, customer and sales similarities  
17 covers DED-2, DED-3, DED-4, correct?

18 A Yes, sir.

19 Q All right. And if we go to Paragraph 30 of  
20 that report, which is where you had one of your  
21 conclusions, on Page 10, you say that the probability  
22 that stranded under-utilized -- or uneconomic  
23 infrastructure will arise if the disputed area is served  
24 by the City as opposed to PGS is small. So there's  
25 really no difference there, correct?

1           A     Correct.

2           Q     And if we go to the next paragraph on 31, this  
3 significant growth will make it unlikely that any  
4 uneconomic duplication of facilities or stranded natural  
5 gas utility investment will arise in the disputed area.  
6 That would be true whether Peoples serves it or if  
7 Leesburg serves it, correct?

8           A     Yes, sir.

9           Q     All right. We're going to come back to  
10 stranded investment in a minute. Let's go now to  
11 Section C, socioeconomic trends and forecast. And that  
12 includes DED 5 and 6 and 7 and 8.

13          A     Correct.

14          Q     All right. And if we get to that, some of  
15 your conclusions in that section -- let's go to  
16 Paragraph 46 -- I'm sorry. Let's go back to 42, a  
17 little further up on page 14, and it talks about the  
18 continued growth in the disputed area will ensure the  
19 City's current customers, as well as those associated  
20 with the future development in the disputed area, will  
21 be protected from any uneconomic or inefficient  
22 investment. That would be true if Peoples served, as  
23 well as Leesburg, correct?

24          A     Correct.

25          Q     And if we go to 42 -- I'm sorry. I just did

1 42. If we go to Paragraph 49, and where you talk about  
2 the conclusion, the last sentence, thus the public  
3 interest is estimated to be better served by allowing  
4 the City to provide natural gas service to the disputed  
5 area as opposed to PGS. That would also be true if PGS  
6 was serving in the area?

7 A Correct. They're relatively close.

8 Q Okay. So, so far -- all right. And then  
9 we're skipping financial capabilities because of our  
10 stipulation. So let us go to Section 5, the rate  
11 comparison. And you've done this --

12 THE COURT: And it's not financial. That's  
13 pretty broad. It's capital amortization  
14 depreciation that's the subject of the stipulation.

15 MR. BROWN: Yeah, I understand.

16 THE COURT: Okay.

17 BY MR. BROWN:

18 Q And that really covered Exhibits 10 and 11  
19 dealing with MUNI's and all that. So I'm going to skip  
20 over that. And then we get to rate comparison Section  
21 5 -- let me go back. Yeah, let's go to that, Section 5,  
22 the rate comparison. Now, in this case, the customers  
23 for The Villages' developments are all paying the  
24 Peoples rates?

25 A That's correct.

1           Q     And so whether the City's got a better rate or  
2 Peoples got a better rate doesn't matter because they're  
3 all paying the Peoples rate?

4           A     The Peoples rate will be paid by The Villages'  
5 customers, yes, sir.

6           Q     They're not going to be paying the Leesburg,  
7 rate?

8           A     That's right.

9           Q     So regardless of which rate you feel is better  
10 doesn't really have any application to this particular  
11 case because we know that there -- they don't have a  
12 choice to be paying the Leesburg rate under either  
13 scenario?

14           MR. MOYLE: I'm going to object to the extent  
15 it calls for a legal conclusion.

16           THE COURT: Overruled.

17           THE WITNESS: Yes. The Villages customers  
18 will be paying PGS rate.

19 BY MR. BROWN:

20           Q     So all of this Section 5 about all the rate  
21 comparison is really irrelevant to this dispute, would  
22 you agree?

23           MR. MOYLE: Same objection.

24           THE WITNESS: No, I wouldn't.

25 BY MR. BROWN:



1           Q     Well, you've got all these comparisons about  
2 the rates and the rates compared to other municipalities  
3 and everything else --

4           THE COURT:   Explain to me why it wouldn't.

5           THE WITNESS:   Why it wouldn't?   Because if you  
6 look at the Commission's rules, it doesn't -- and  
7 the reason why I've used the rate comparison, as  
8 I've mentioned earlier, as a proxy is it's a cost  
9 to serve.   And the Commission's rule says what are  
10 the costs of service for the two utilities.   And so  
11 the prices are using aggregate to provide the  
12 information that would be responsive to what  
13 Commission's rules are.   If you look at what's  
14 enumerated explicitly in those rules, you want to  
15 make a broad comparison.   The cost of service  
16 utilities, looking at the rates is a great starting  
17 point, and that's why I provided that information.

18 BY MR. BROWN:

19           Q     Well, that's assuming there's two utilities  
20 potentially serving a customer and there are two rates  
21 that are the -- that one utility charges one rate, one  
22 utility charges the other rate, right?

23           A     No.   I mean, I don't see that in the rule.

24           Q     Well, but that's presumably what's going to  
25 be -- that's presumably what typically happens in a

1 territorial dispute is you have one utility that wants  
2 to serve and you have another utility that wants to  
3 serve, correct?

4 A That's right.

5 Q And in typical fashion it is either -- the  
6 customers are either going to be paying the rates of one  
7 Utility A or the other Utility B, correct?

8 A That's correct.

9 Q But, in this case, whether Peoples -- whether  
10 Utility A Peoples serves or Utility B Leesburg serves,  
11 they're still paying the Utility A rate?

12 A So this analysis isn't designed to examine  
13 who's paying what. It's designed to be an aggregate  
14 measure of cost of service per Commission's rule and  
15 trying to be responsive to that rule and the information  
16 that the Commission asks for in understanding the  
17 territorial dispute. I'm not trying to ascertain -- it  
18 doesn't say what are customers going to pay in the rule.  
19 It says, what's the cost of service. The utilities are  
20 cost-of-service regulated, and looking at their rates is  
21 a great aggregate starting point in terms of figuring  
22 out what the relative differences are in cost of  
23 service.

24 Q Right, but if it doesn't have a reflection on  
25 what the rates are going to be for the customers, it's

1 really not that significant, is it?

2 A I think it's significant for the reasons I've  
3 just said two or three times.

4 Q All right. Let's go to Section 6, and that's  
5 talking about the capped nature of the agreement. And I  
6 think that's DED -- or, no -- I don't think there is one  
7 in there.

8 A No. There is no exhibit associated with that.

9 Q All right. And, again, you would say that  
10 that's significant despite the fact that the people  
11 involved are going to be paying the same rate?

12 A I think this gets more to your issue that  
13 you're discussing earlier. What are the customers going  
14 to be paying, so I included this information in there.

15 Q So for Section 6 then, we can agree that  
16 that's identical? It doesn't favor one side or the  
17 other because it's going to be the Peoples rates either  
18 way?

19 A Yes, sir.

20 Q All right. Now, let's go next to the unit  
21 investment cost comparisons. And I think what you said  
22 is that you included embedded costs into this, correct?

23 A Well, I provided an analysis, yes, sir,  
24 included in with the cost.

25 Q But what -- the regulations for territorial

1 dispute don't talk about embedded cost, do they?

2 A They don't distinguish or differentiate  
3 between the two. And, as I mentioned earlier, in my  
4 direct examination, I provided that information to kind  
5 of fill out the record to have some contextual  
6 information for the Court and the Commission on the  
7 embedded versus --

8 Q Well -- and, in fact, it doesn't really talk  
9 about embedded costs at all, does it?

10 A As I said before, it doesn't differentiate  
11 between the two.

12 Q Right -- well, okay. And then you said that  
13 the incremental costs in this case are essentially  
14 identical?

15 A They're relatively close. I think the City's  
16 a little bit lower than PGS, particularly on the mains  
17 cost on a linear-foot basis.

18 Q And so the incremental costs you're talking  
19 about are what it generally costs the City to put in a  
20 main versus what Peoples costs for the main?

21 A Yes. In this discussion and some of  
22 vernacular that's been flying around, it's the spaghetti  
23 lines.

24 Q All right. You've not tried to analyze what  
25 the incremental cost is for Leesburg versus Peoples to

1 serve the customers in the areas that we've been talking  
2 about, have you?

3 A At the time I prepared this report, I did not  
4 have any of that information.

5 Q Okay. But today you've heard -- well, you've  
6 been here the last couple days. You've heard testimony,  
7 haven't you?

8 A Yes, sir, I have.

9 Q All right. And so you've heard testimony that  
10 Leesburg had to put in lines up 501, and on 468,  
11 correct?

12 A It's my understanding that the City has  
13 developed on lines 468, as well as coming up 501.

14 Q And those lines were developed, as you put it,  
15 because that was the only way that Leesburg could get to  
16 the area in question to provide service, correct?

17 A I don't know that I would agree with that.

18 Q Well, if the closest gas line was here down on  
19 the line going to the prison, and the developments are  
20 up bracketing 468, how else was Leesburg going to get  
21 gas there if they didn't build a line on either 501 or  
22 on 44 to 468?

23 A So you're saying, or? I thought you mean the  
24 Commission and 468.

25 Q All right. Let's call it, and. They've got

1 to -- somehow they got to build lines to get up there,  
2 don't they?

3 A One line's got to get built.

4 Q At least one of them has got to get built  
5 right?

6 A Right.

7 Q And, in fact, the testimony you heard was  
8 essentially they need both of them in here, correct?

9 A No, I wouldn't agree. That's not my  
10 understanding.

11 Q All right. Well, the testimony is that to put  
12 both of them in, they've spent roughly close to two  
13 million dollars, correct?

14 A My understanding is that the lines in total  
15 are around two million.

16 Q Okay. Now, that's spending another  
17 130,000-some dollars on the automated readers -- meter  
18 reading system, correct?

19 A Yes, sir.

20 Q Now, you heard the testimony -- what you've  
21 heard is that Peoples can serve these areas that are  
22 adjacent to 468 a lot cheaper than two million dollars.  
23 Would you agree?

24 A It's my understanding that those line costs  
25 is -- it's the company's position that it's cheaper than

1 two million dollars, yes.

2 Q And it's around \$10,000?

3 A I believe that was the testimony earlier,  
4 yeah.

5 Q And you have no reason to disagree with that,  
6 do you?

7 A On the cost?

8 Q Yeah.

9 A No.

10 Q Okay. So right away, that would be an  
11 incremental cost that is far higher for Leesburg than it  
12 would be -- that Peoples doesn't have to do, correct?

13 A No, I wouldn't agree that both of those lines  
14 would need to be developed to do that whole 14,000  
15 customers. Maybe one of them would, like the 501 line.

16 Q Well, whether you believe it's necessary  
17 and -- the fact is, they have built them both, correct?

18 MR. MOYLE: Let me object. I mean, he's  
19 asking him -- he's been here, he's heard testimony  
20 and --

21 THE COURT: I think it's getting a little  
22 argumentative. I think he's given you what he  
23 understands is the issue. May not agree with it,  
24 but I think you've gotten his answer.

25 BY MR. BROWN:

1 Q Let me just -- nonetheless, whether you think  
2 they need them both, they built the second line?

3 A Yes, they built the line.

4 Q Okay. And you heard Dr. Durham's testimony  
5 that over a 30-year period, assuming 2,000 homes a year,  
6 that Leesburg will be paying in excess of ninety million  
7 dollars over and above what it would cost Peoples to  
8 serve -- to put those lines in, in the developments,  
9 correct?

10 A I am aware that Dr. Durham has estimated that  
11 payment of 90 million dollars.

12 Q And you've not done any analysis on what it  
13 would actually -- what it would cost based on the  
14 agreement, correct?

15 A I am generally familiar. I mean, I've worked  
16 with those number that Dr. Durham provided.

17 Q And you don't disagree with them certainly  
18 from a mathematical computation perspective?

19 A No, I don't -- the math is fine. I mean, he's  
20 added it up. And, as I mentioned in my deposition, that  
21 you -- you know, some of the assumptions that he used  
22 are a little bit questionable and can change that  
23 number, but -- in a pretty considerable fashion. Even  
24 if he didn't -- the appropriate number here -- it's  
25 funny when people in energy -- people talk about big



1 numbers in the energy business. The more relevant the  
2 number to look at is the rate-of-return you get on the  
3 investment. I think even if you accept all of Dr.  
4 Durham's numbers as they are on face value, and some are  
5 around 10, 27 percent return. I think he testified to  
6 that earlier, that to me doesn't sound like an  
7 outrageous rate-of-return for -- particularly when you  
8 consider the risk that's associated with the developers  
9 that are putting in these lines, so --

10 Q Well, whether you think that's a good return  
11 or not, the rules don't say that you look at what the  
12 return is by -- for the investment to resolve a  
13 territorial dispute, do they?

14 A Rules -- the rules do talk about cost of  
15 capital.

16 Q They talk about cost of capital, which we've  
17 stipulated out for this particular case, but in terms of  
18 determining -- in other words, you don't get to say,  
19 well, if The Villages is receiving an extra 90 million  
20 dollars, that's okay because it's a reasonable  
21 rate-of-return, that's not -- the rules don't account  
22 for that, do they?

23 A Yeah, they do. They look across the capital  
24 at the two respective utilities to see what those  
25 differentials are. And I don't know how to answer this

1 question without talking about cost of capital, and I  
2 don't know that we can have this discussion in a  
3 meaningful fashion if we don't talk about it.

4 Q Well, can you agree that if Dr. Durham's  
5 numbers are correct, over a 30-year period, it's going  
6 to be 90 million dollars more paid to The Villages than  
7 Peoples would spend to put in the same infrastructure?

8 A I can agree Dr. Durham did the math correctly,  
9 as we've established in my deposition, but, as I  
10 mentioned before, I think you've taken a lot of apples  
11 and oranges comparisons and I don't think you allow for  
12 a return on investment for this. On a percentage basis  
13 it's outrageous, given the risk factors that are  
14 associated with this development and the risk factors  
15 that SSGC would be assuming by putting this  
16 infrastructure in place on the City's map.

17 Q Well, did you hear his testimony that the city  
18 decided to do it -- to bond off this amount, it would  
19 cost them only three-and-a-half percent?

20 A That's irrelevant. The City isn't financing  
21 this. They've got into an arrangement and that's not  
22 accurate, because if you were to go and finance this for  
23 the City, you'd eat up this line of credit. It would  
24 change its credit rating. It would change its cost of  
25 capital. It would change and create increased cost for

1 the City. So you can't look at an analysis like that.  
2 It's not financially appropriate.

3 MR. BROWN: I have no further questions, Your  
4 Honor.

5 MR. MOYLE: I have just a few on redirect.

6 REDIRECT EXAMINATION

7 BY MR. MOYLE:

8 Q You were asked some questions about Dr.  
9 Durham, his analysis and what he concluded and the  
10 ninety million dollars. Would you care to comment on  
11 that further if you would, please?

12 A Yeah, I mean -- Your Honor, you heard the  
13 testimony that Dr. Durham had before. I think he  
14 reasonably agreed that there are some assumptions that  
15 are made in terms of doing that analysis. They're two  
16 reasonable assumptions that change that -- that I think  
17 would change this overall number. For starters, there  
18 was some questioning about he's assuming 2,000 customers  
19 on January 1 every year. I think most reasonable people  
20 would understand that if you're going to add 2,000  
21 customers a year, it's probably going to happen over the  
22 course of the year, not in January 1 everybody's  
23 plugging in.

24 So here to take and sculpt that over the year,  
25 that has the implications when you're looking a time

1 value monthly over about a 30-year period. So you need  
2 to kind of think about that and adjust for it. Actually  
3 has a pretty significant financial implication on this  
4 overall cost calculation. And so that's one adjustment  
5 that ought to be made to this.

6 I think the other issue that ought to be  
7 considered is these excess payments. I'm not exactly  
8 sure where he pulled that excess payment number, but if  
9 you pull it in any given month, say right after PGS gets  
10 its purchase gas acquisition adjustment, they do it  
11 every six months, and they're coming in making a true-up  
12 because of a cold winter, you're going to get an  
13 instantaneous jump perhaps. That will probably smooth  
14 itself out over time. You want to look at a longer  
15 smoothing average.

16 It's my understanding that excess payment is  
17 designed in the fashion where it probably doesn't occur  
18 on a regular basis and it shouldn't happen often. It's  
19 my understanding that those numbers were developed in a  
20 way that looked at historic trends in those  
21 differentials and it wasn't designed to make an excess  
22 payment -- I forgot the dollar amount on an  
23 individual -- each and every year for a 30-year period.

24 So you need to zero that out, too. And if you  
25 pop those two numbers out, those are relatively simple.

1 They're relatively reasonable adjustments that you want  
2 to make. That drops that return down to about 9.1 and  
3 that's certainly within the ballpark of reasonable --  
4 without making any more adjustments, which I could go in  
5 there and do, but just make those two tweaks and then  
6 comes back and looks at that.

7 I think, again, when you look at investments,  
8 you want to look at your return on investment and you  
9 want to look at the total dollar. You made ninety  
10 million dollars, but you invested \$89 -- eighty-nine  
11 million in it, it's not really a big return on  
12 investment, right. It's the percentage that matters  
13 when you're making financial investment decisions, and  
14 those are the things to keep in mind.

15 BY MR. MOYLE:

16 Q With respect to the payments to SSGC, are  
17 those capital or operational expenditures? How would  
18 you characterize those if you had to?

19 A Well, yeah, so that's -- if you're looking at  
20 investment costs of ninety million dollars, the more  
21 appropriate way of doing this would be to go in and  
22 calculate revenue requirements for that number. You're  
23 not going to recover that cost in one year. That's a  
24 30-year asset you're going to have to amortize. You're  
25 going to gross-up your taxes.

1           In the regulatory world, we don't look at  
2 numbers like that in that kind of fashion. If you want  
3 to calculate a revenue requirement, you figure out what  
4 the return is on that. If you were to do that for  
5 Peoples Gas, that's the opportunity cost to look at,  
6 what would it be for SSGC versus Peoples Gas in terms of  
7 their allowed rate-of-return. If you look at those  
8 numbers, I think those numbers are actually higher than  
9 they would be with the company than they would be on a  
10 return basis for SSGC.

11           Q     And the City would treat those as operational  
12 costs, isn't that right?

13           A     Yeah, they would, because it's trice a  
14 payment.

15           Q     Yeah. And with respect to -- you just said  
16 how it would be treated. It's not the right way to do  
17 it. What, from a regulatory standpoint, I'm not sure --  
18 what did you mean by that?

19           A     Well, I mean, you wouldn't be looking at  
20 recovering that investment in each and every year. On  
21 that year, it essentially splits.

22           Q     Explain that.

23           A     Well, you're recovering it that year. You're  
24 actually going to recover those costs, some cumulative  
25 mixes, over time. They're long-lived assets.

1 Q So if you were to take that chart and say,  
2 well, here's how we should do it, would it change that  
3 ninety million dollar number?

4 A Yes.

5 Q Can you show us how it would?

6 A No.

7 Q Huh?

8 A No. Not right off -- I can't do the math in  
9 my head.

10 Q Yeah. You're a professor at LSU --

11 A I've looked at them generally. I think  
12 they're somewhere around 110 million dollars, or  
13 something, if you really start summing up that revenue  
14 requirement and you were to look at the return on  
15 investment, that's the -- you know, just for that kind  
16 of simple example, it would be something like that.

17 Q How long do you think it would take you to do  
18 that calculation?

19 A I'd have to -- I can get it to you by tomorrow  
20 if you want.

21 Q Well, I mean, I think it's important as we --

22 THE COURT: It sounds to me like that might be  
23 opinion that hasn't been previously formulated in  
24 accordance with the order of prehearing  
25 instruction. Just my musings.

1                   MR. BROWN: Correct, but we're -- I was  
2                   waiting for the next question.

3                   MR. MOYLE: I'm going to change to another  
4                   topic.

5 BY MR. MOYLE:

6           Q       Let me -- you were asked about uneconomic  
7           duplication by Mr. Brown. You know, is there uneconomic  
8           duplication in this matter as you've looked at it? And,  
9           if so, could you describe it?

10          A       No. I mean, as I looked at this issue,  
11          there's kind of two concerns, I think, to think about in  
12          the uneconomic duplication argument that I listened to  
13          here and I was just thinking about the expert report.  
14          You know, historically when you think about territorial  
15          disputes, certainly when you think about utilities going  
16          in and making investment decisions and capital,  
17          particularly for use service in areas, and this is an  
18          issue that comes up in a lot of different venues and  
19          proceedings around the countries, you know, what's it  
20          going to cost to extend lines in the areas.

21                   One of the things that regulators are often  
22                   concerned about is developing white elephants. When you  
23                   build a line out to an area, you don't have a lot of  
24                   sales to cover that, and that not only burdens the  
25                   customers that are on that new line, but all the other



1 customers, because these costs are rolled up and they're  
2 aggregated up, everybody pays for those and they're  
3 allocated out. So you want to make sure on a foregoing  
4 basis that you're not essentially developing a white  
5 elephant.

6           And if you look at the Commission's  
7 requirements, one of the reason why I did all the sales  
8 growth forecast and sales analysis is, again, to kind of  
9 focus real closely on, you know, what are the projection  
10 on a foregoing basis, what are the probabilities that  
11 this line, or any kind of cost, that the City would wind  
12 up putting in place, or even PGS for that matter, would  
13 wind up putting into place, is there an opportunity for  
14 it to, you know, become, you know, a white elephant? So  
15 that was one of the factors that I was looking at in  
16 terms of that.

17           You know, if you go back and look at the  
18 Commission decision in the Gulf Power decision with the  
19 Gulf Coast Electric Cooperative, one of the things that  
20 they noted -- and this is in my report of footnote 11 --

21           MR. BROWN: Your Honor, he's not giving a  
22 legal opinion.

23           THE WITNESS: I'm not offering a legal --

24           THE COURT: I don't take his testimony as  
25 such. Overruled.

1           THE WITNESS: And then from a policy  
2           perspective, the Commission notes that the  
3           appropriate evidence to consider in determining  
4           whether uneconomic duplication will occur is the  
5           historic growth patterns of both utilities, whether  
6           these patterns are expected to continue, and the  
7           potential impacts on the general body of  
8           ratepayers. And so that's one of the reasons why I  
9           looked at those sales trends as forecast, those  
10          projections, to help ensure that, no, we're not  
11          looking at some kind of white elephant. If you  
12          look at the demographic trends, if you look at the  
13          trends that have been associated with the  
14          development for The Villages overall historically  
15          to date, they've been relatively strong.

16                You know, the other issue that is important is  
17                what about this PGS investment that's been  
18                discussed and looked at. And this line  
19                particularly running down along 468 in that area --

20                MR. BROWN: I mean, this is -- he's about to  
21                go into something I don't think I ever asked him  
22                about.

23                MR. MOYLE: But he asked about stranding.

24                MR. BROWN: I did not ask about stranding.

25                THE COURT: Hang on. You did have a

1 question -- I think the question was, you were  
2 talking about Paragraph 30 and 31 that your report  
3 demonstrated there was little in the way of  
4 stranded investment, so I take --

5 MR. BROWN: But he said was even for both.

6 THE COURT: He did say it was even, so -- but  
7 you raised it and opened the door for some  
8 testimony on redirect. So go ahead.

9 MR. MOYLE: Thank you.

10 BY MR. MOYLE:

11 Q So you were, I think, in the process of  
12 talking about the line on 468, the PGS line on 468. Go  
13 ahead and continue your answer.

14 A Right. So it is even. Right. It is even  
15 because that line has been built. It's been put in  
16 place. As I noted earlier, when I had my deposition,  
17 and one of the things I thought about with this line is  
18 that that has been there to serve growth to those  
19 particular areas to the west and move down to this 301  
20 line, to move out into the western part where those  
21 industrial customers are.

22 In my review early on in preparing my report,  
23 and looking at how those expansions had occurred, they  
24 were primarily associated with trying to serve that new  
25 industrial growth. I don't think anybody at the time

1 envisioned any big growth in The Villages. I think Mr.  
2 Mitchell already talk about that, but even when I was  
3 doing my report, there's no way that line is going to  
4 get stranded. It's in rates. It's used and useful.  
5 Commission has determined that. It's been paid for.  
6 You've kind of got a pareto optimal situation, as we say  
7 in economics with this. You've got an ability to make  
8 one group of customers better off without harming any  
9 others. PGS' customers are not going to wind up seeing  
10 their rates go up. Admittedly, they're not going to go  
11 down by the extra volumes, but they're not going to go  
12 up.

13           The Villages -- I mean -- I'm sorry -- the  
14 City's native load customers are not going to be paying  
15 more because they're going to have on a separate rate  
16 and they're not going to be getting paid either or  
17 anything that they would -- the cost of service to the  
18 City. And then The Villages' customers are no worse off  
19 because they're going to be paying the rate that PGS  
20 has.

21           And so it's kind of an optimal situation when  
22 you think about it from a public interest perspective,  
23 because two parties, the native load customers, PGS  
24 customers, are no worse off, because by definition this  
25 plan is in rates. It's used and useful and it's prudent

1 by the Commission and that's it. And if PGS serves this  
2 or doesn't serve this, the asset doesn't become any more  
3 uneconomic or any more unutilized. And then you get the  
4 benefit of choice that occurs on any part of the system.  
5 So there is, you know, no real big loss on that.

6 And then, lastly, I think it's important to  
7 also keep in mind that duplicate facilities don't mean  
8 uneconomic facilities, particularly in the gas business,  
9 because we talk about the progression of the gas  
10 industry, how you build a line that goes out. You try  
11 to get an anchor of ten. You try to go with and  
12 back-fill around that ten to get new customers.

13 And then as you start to see systems mature,  
14 the next step in that process is try to create some  
15 redundancies, particularly as they get larger, because  
16 you've got more supply that you need to put into that  
17 area because those loads are getting bigger.

18 So -- and my understanding of these areas is  
19 that part of this provides back-feed capabilities and  
20 hardening capabilities for the Ocala division and it  
21 will continue to do that whether PGS serves these sets  
22 of customers or not. It will continue to have value  
23 even though it's duplicate, because it is duplicative  
24 for an actual operational reason.

25 So, you put all those things together, I don't

1 see this creating any uneconomic investment or any  
2 adversely duplicative investment as a consequence of the  
3 City serving these customers.

4 Q All right. So, with respect to looking at it  
5 from the City's standpoint, I think you were saying  
6 there's one line for sure that's needed to serve that.  
7 Let's talk about the line up 501, right?

8 A 501 line?

9 Q Yeah.

10 A I think it's somewhere around 680 million  
11 dollars for that line to go up there.

12 Q Not 680.

13 A I'm sorry -- (multiple speakers) --

14 THE WITNESS: I'm sorry.

15 THE COURT: You guys win.

16 THE WITNESS: 680,000.

17 BY MR. MOYLE:

18 Q All right. So assume that with respect to --  
19 if the Court decided to say, well, this should go to  
20 PGS, isn't that going to be stranded on the City in  
21 terms of what --

22 MR. BROWN: Your Honor, this is beyond  
23 anything on cross.

24 THE COURT: I think we're probably straying a  
25 little bit from the cross examination. So I'll

1 sustain it.

2 MR. MOYLE: All right. Well, then can I have  
3 one quick second?

4 BY MR. MOYLE:

5 Q You've been here the whole hearing, have you  
6 not?

7 A Yes.

8 Q And when we were talking, you were just  
9 talking about that line that PGS has running on 468.  
10 Has there been any testimony with respect to the cost of  
11 that line and how that should be allocated, if you can  
12 recall?

13 MR. BROWN: Your Honor this is, I think,  
14 beyond cross again. I mean --

15 THE WITNESS: Sustained.

16 MR. MOYLE: I have no further questions.

17 THE COURT: All right.

18 THE WITNESS: Thank you, Your Honor.

19 THE COURT: All right. So it's ten until  
20 3:00. Let's take about ten minutes. We can go off  
21 the record.

22 (Brief recess.)

23 THE COURT: Raise your right hand, please.

24 Whereupon,

25 RYAN MCCABE

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

4 THE WITNESS: Yes, sir.

5 THE COURT: Please be seated. State your full  
6 name, please.

7 THE WITNESS: Ryan Jacob McCabe.

8 DIRECT EXAMINATION

9 BY MR. WHARTON:

10 Q Please state your full name for the record.

11 A Ryan Jacob McCabe.

12 Q And by whom are you employed, in what  
13 capacity?

14 A Holding Company of The Villages. I am the  
15 Operations Manager.

16 Q Okay. You know, the word The Villages has  
17 been used a lot in this proceeding. Is The Villages  
18 actually developed in one form or fashion by a variety  
19 of entities?

20 A Yes.

21 Q But they -- it attempts to be, though, a  
22 centralized structure?

23 A Yes, sir.

24 Q All right. What are the duties of your  
25 present position?



1           A     As Operations Manager for The Villages, I  
2     oversee a lot of our non-residential-based businesses.  
3     A couple example of that would the newspaper, our golf,  
4     our golf cart store and our Villages Grown that we're  
5     just getting started -- and several others.

6           Q     How long have you been in that position?

7           A     Just over one year.

8           Q     And were you with The Villages before that?

9           A     Yes, sir. I've been with The Villages for a  
10    total of five years.

11          Q     All right. Well, let's fill in some of the  
12    information about The Villages rather quickly if you  
13    can, because we've been talking about The Villages for  
14    days. Take a look at SSGC Exhibit 14 in the book in  
15    front of you, if you will, which has been admitted into  
16    evidence.

17          A     Okay.

18                 MR. WHARTON: Let's let the judge wrestle  
19    with --

20                 THE COURT: Got it. Go ahead.

21    BY MR. WHARTON:

22          Q     And what does Exhibit 14 depict?

23          A     This shows basically the current state of The  
24    Villages. It's the public map that we use a lot in our  
25    different advertising and marketing pieces.

1           Q     All right. Well, generally describe the  
2 exhibit -- the present state of The Villages, if you  
3 will.

4           A     Okay. Well, for those who've never been to  
5 The Villages, obviously we're a very large retirement  
6 community in central Florida. We're around about  
7 125,000 folks to date, but it hasn't always been that  
8 way. And I'm welcome to walk through the history, if  
9 that's a good --

10          Q     I think you should do a bit of that.

11          A     So a lot of people thought The Villages just  
12 kind of was always what it is today, and that's not the  
13 case. It actually started back in the '70s and it was a  
14 manufactured home community. And so we're talking about  
15 mobile homes back then. And at that time there was two  
16 partners that were involved and they were actively  
17 marketing to northern residents of the United States to  
18 get them to come down and kind of enjoy their slice of  
19 paradise here in Florida.

20                   As things started to progress, that business  
21 wasn't doing so well so the partners decided they would  
22 split up and Gary Morse actually brought in -- or Harold  
23 Schwartz brought in his son, Gary Morse, to help him out  
24 and they bought out their partner at the time, Al  
25 Tarrson. The two -- father-son duo -- got to work there

1 and basically moved The Villages into the '80s and they  
2 started building golf courses and small recreation  
3 centers, but it's still not quite what you imagine it is  
4 today.

5 A few more people came down and purchased  
6 trailers and people actually started wanting to  
7 customize their mobile homes. And that's when The  
8 Villages quickly realized that they were selling mobile  
9 homes that cost more than site-build homes. And so  
10 through the '80s and into the beginning of the early  
11 '90s, we started to build site-build homes, instead of  
12 manufactured homes, and that proved to be very  
13 successful and right in the price point that the people  
14 we were advertising could afford.

15 Around the early '90s The Villages basically  
16 figured out that they were building backwards. If you  
17 can imagine how a town is formed, it usually starts with  
18 a centralized hub and then the community builds out  
19 around that. The homes come from around that  
20 centralized hub. The Villages was just building homes.

21 So in 1994, construction was started on the  
22 Spanish Springs Town Center and it was completed in  
23 1997. Our concept of a town center is very much a  
24 centralized entertainment hub and then around that  
25 square is shopping, dining, entertainment, basically a

1 place that the community would come together to enjoy  
2 one another's company.

3 The completion of Spanish Springs in '97 was  
4 extremely successful and that's what really launched The  
5 Villages into the next few years. After that, the  
6 abundance of golf courses came along, more diversified  
7 recreation centers started popping up and true promise  
8 of free golf for life was really driving folks from the  
9 north down to the south.

10 That continued on. We hit County Road 466 and  
11 that was in about 2000. And at that time, it was pretty  
12 clear that we needed to keep pushing forward and that we  
13 were basically onto something that people loved. So in  
14 2004 we opened our second town square, which is Lake  
15 Sumter Landing, still today one of the most popular  
16 squares there, right on the beautiful lake there, but  
17 with the same idea, shopping, dining, entertainment, a  
18 place where the community could come together.

19 So from 2000 moving forward, there was a very  
20 large piece of land that really just created a wheel for  
21 The Villages to start turning. With that came more and  
22 more households, more and more recreation, more golf.  
23 The Savannah Center was developed to provide more  
24 world-class entertainment, a larger venue, and The  
25 Villages kept moving on from there.

1                   We also diversified the series of homes that  
2 we had at the time. So we started getting into bigger  
3 homes and still not leaving the smaller home so that you  
4 could purchase a home anywhere from \$120,000 to upwards  
5 of three million dollars, if that was so your dream. So  
6 it was kind of the idea that no matter what you did in  
7 the life previous, you could come here and enjoy the  
8 rest of your life in The Villages.

9                   That kept going forward and forward and  
10 brought us to State Road 44, and that's where we built  
11 our third town center, Brownwood, which still today is  
12 our newest town center and is undergoing construction on  
13 Phase II of Brownwood.

14                   At that point we thought The Villages was  
15 probably going to end at State Road 44 and we would  
16 develop the remaining land with homes and we would  
17 maintain The Villages community just like that. And  
18 with that, though, it's a big interruption, both in the  
19 business model and in the local community.

20                   So the train that drives The Villages is  
21 really our construction. As you can imagine, there are  
22 thousands of people employed. I don't know the exact  
23 number of employment, but it's a lot to put up 2,000 new  
24 homes a year. And The Villages was going to abruptly  
25 stop at State Road 44. We were offered the opportunity

1 to maintain development moving forward, but on a  
2 noncontinuous part of land.

3 So, another important factor, The Villages has  
4 always been connected. Each piece of The Villages is  
5 connected to the other so that you could run around via  
6 golf cart, basically get anywhere you needed within the  
7 community. You never had to leave. So we took a big  
8 gamble on a piece of property, which is now called The  
9 Village of Fenney, and decided that we would continue  
10 developing not connected to The Villages north. That  
11 gamble has proven to pay off. We were able to keep all  
12 of our construction workers in jobs in the community,  
13 keep them from leaving the area and finding other work,  
14 because basically The Villages is Sumter County, and  
15 without The Villages the trades guys are gone, the  
16 construction guys are gone, and that causes a complete  
17 ripple effect throughout the economy.

18 So we took that gamble a couple years ago and  
19 since then things have been going very well. We've been  
20 working from The Village of Fenney back north to  
21 Brownwood. We're actually about to put a bridge over  
22 State Road 44 to finally connect the two pieces of land  
23 to make The Villages all one piece again. And then once  
24 we do that, we'll continue development further headed  
25 south.

1 Q About how many people are in The Villages now?

2 A Just under 125,000. We --

3 Q Go ahead.

4 A No, obviously that changes daily. You know,  
5 obviously -- we average ten home sales a day, so it's  
6 tough to really keep track.

7 Q We heard the last witness saying -- well, I  
8 guess maybe I'm not sure I should tell you that. Are  
9 there any, like, nationally-published metrics about  
10 growth that The Villages have ranked on? Talk about  
11 those real quick.

12 A Certainly. So as you can imagine, we average  
13 about 2,000 new home sales a year. We're actually on  
14 pace to do 2,600 new home sales this year. So the  
15 things that -- people still love it. And, because of  
16 that, for the last five years in a row, The Villages'  
17 metropolitan statistical area, MSA, has been the fastest  
18 growing for the last five years in a row of -- if you  
19 look at all MSA's and you pull out anything under 25,000  
20 people, that's it. We have been consistently the  
21 fastest growing ever since then.

22 Why do you pull out the 25,000 and under is  
23 because you have small towns that may strike oil and  
24 they've had a 500-population town and now all of a  
25 sudden they're 1,500, so they've tripled. You know,

1 those kinds of things. With -- without those anomalies,  
2 we sustained growth for the last five years.

3 Q All right. I'm going to direct your attention  
4 to Exhibit 10, SSGC Exhibit 10, which has been admitted  
5 into evidence. It is a confidential document and,  
6 therefore, I only want you to refer to it in the most  
7 general terms.

8 MR. WHARTON: I'm not sure if yours, Judge, is  
9 in red envelope or you just put it in your  
10 regular --

11 THE COURT: What I plan to do at the end of  
12 this, I'm going to take anything that's marked on  
13 my exhibit list that has been received in evidence  
14 as confidential, I'm going to pull it out of the  
15 binders and put it in a separate conglomerated  
16 confidential envelope, probably, marked  
17 confidential and that will be transmitted in the  
18 form.

19 MR. WHARTON: Well, we're going to use one  
20 confidential exhibit after this, which we're going  
21 to un-confidentialize.

22 THE COURT: I'm just saying that's how I plan.  
23 Anything that's in that says confidential on it,  
24 that's how I plan to do it.

25 BY MR. WHARTON:



1 Q So, Mr. McCabe, taking a look at SSGC Exhibit  
2 10, do you have that in front of you?

3 A Yes, sir.

4 Q Now, this is a document that has been admitted  
5 into evidence. To your knowledge, does this map  
6 accurately depict The Villages' best projection about  
7 its intention with regard to the growth of The Villages  
8 in the future?

9 A Yes, sir.

10 Q All right. And is The Villages taking active  
11 steps to make this a reality?

12 A Every day.

13 Q And The Villages has committed to continue the  
14 growth after the episode with Fenney and deciding to go  
15 forward as you've described?

16 A Yes, sir.

17 Q All right. Let's take a look at --

18 THE COURT: Let me ask you this: As we go  
19 down this, these get -- 2,050, and there's a total  
20 population. That's cumulative, right? That's not  
21 just that section?

22 THE WITNESS: Yes, sir. So that would be The  
23 Villages as a whole, and each one of those that you  
24 see represents the community as a whole, the total  
25 population.

1 BY MR. WHARTON:

2 Q Take a look if you will, Mr. McCabe, at  
3 Exhibit 15. Now, for the record, Page 1 of Exhibit 15,  
4 which has been admitted into evidence, Judge, is marked  
5 confidential, and we have determined that it does not  
6 need to be treated confidential.

7 THE COURT: Page --

8 MR. WHARTON: Fifteen. SSGC Exhibit 15.

9 THE COURT: Hang on. All right. So SSGC 15  
10 is no longer confidential.

11 MR. WHARTON: Correct.

12 THE COURT: All right. And this is what I  
13 plan to do: If there's something confidential that  
14 isn't marked as confidential on the exhibit list,  
15 then you guys need to tell me, because that's what  
16 I'm going to be using in making my determination  
17 of --

18 MR. WHARTON: And the way we set this up on  
19 the list was it said Page 1 only. That's why the  
20 only Page 1 is marked that way, but, like I say,  
21 you got that on the record now.

22 THE COURT: All right.

23 BY MR. WHARTON:

24 Q Mr. McCabe, referring to Exhibit 15 when  
25 necessary, talk about the -- and you alluded a little

1 bit to this a moment ago. Talk about the economic  
2 impact that -- the import of The Villages of the region  
3 in Sumter County.

4 A Sure. So, you know, actually looking at page  
5 two, in the last eight years about how Sumter County has  
6 been the number-one county in Florida in terms of the  
7 percentage growth at 44 percent and the fact that The  
8 Villages makes up 90 percent of Sumter County household  
9 growth, really gives you an idea of how much a driver  
10 The Villages is of the whole county's economic  
11 development.

12 Some other things that I brought by, too, you  
13 know, The Villages is a retirement community, but does  
14 so much more than just provide an opportunity for those  
15 that are retiring. It's a place where people live and  
16 work and start careers and have kids. And, because of  
17 that, the personal real income in The Villages has grown  
18 faster than any other MSA in the U.S. in the past  
19 decade. Sumter County has added 1,800 new businesses  
20 from 2008 to 2018. So it's not only a driver for  
21 retirement lifestyle, but it's been a driver for the  
22 people who call The Villages home, build families there.  
23 I've done the same. Grew up in Leesburg and now have  
24 based my career in the same place, following the  
25 footsteps of my father who did exactly the same,

1 starting The Villages 30 years ago. So it's provided  
2 much more than just a retirement lifestyle.

3 MR. WHARTON: That's all we have, Your Honor.

4 MR. MOYLE: No questions.

5 THE COURT: Mr. Kruppenbacher.

6 CROSS EXAMINATION

7 BY MR. KRUPPENBACHER:

8 Q Good afternoon, Mr. McCabe. Nice to see you  
9 again. The Villages is a 55+ age community, correct?

10 A Yes, sir.

11 Q So they're not raising families in The  
12 Villages?

13 A Residents of The Villages are not raising  
14 families in The Villages.

15 Q Now, you testified in your deposition that one  
16 of your slogans is if you love it here, bring your  
17 friends here, correct?

18 A Sure. Yes.

19 Q And most of the people who move to The  
20 Villages are retirees, correct?

21 A Yes, sir.

22 Q And what's the reason they move to The  
23 Villages?

24 A Well, you know, we like to think that  
25 retirement is no longer sacrificing what you do today

1 for tomorrow's goals. Right. So we all put our time in  
2 today so that we can achieve something later in life.  
3 And The Villages works to be that something for all  
4 these folks later in life.

5 Q What are the factors that attract your buyers  
6 to buy homes and move to The Villages?

7 A Certainly. So we found that there's three  
8 main factors that people are looking for later in life.  
9 Safety. They want to be safe. They want to feel that  
10 they're someplace they can go out and not have to worry  
11 about anything. Financial freedom. So they need a  
12 place that's affordable so that they can outlive their  
13 money. And the fact that their friends and family will  
14 come and visit them is another huge factor. And that's  
15 what we strive to be everyday.

16 The third being one of our top -- top things  
17 is, you know, it's a place that -- we've got a lot of  
18 transplants and people didn't live here, and so we want  
19 it to still feel like their community and a place where  
20 their families can come and enjoy the area and that they  
21 make -- you know, bring their friends or make new  
22 friends to make it feel like home.

23 Q And those are the, I would say, make the  
24 assumption, those are the three prongs you build  
25 marketing around, to hit those issues?

1           A       Probably not the three prongs we build  
2 marketing around, but those are the three hurdles that  
3 our residents are trying to overcome when making a  
4 decision to move to The Villages.

5           Q       And what are the concerns your residents have?  
6 You talked a little bit about that during your  
7 deposition.

8           A       Concerns to --

9           Q       I believe there is -- I'll quote. Tell me if  
10 I'm wrong. You testified: And for the residents of the  
11 community -- this is Page 9, Line 11 -- there is a  
12 number of things that go through your head when you,  
13 retire, whether that be safety, will I outlive my money,  
14 will my friends and grandkids and things come to visit  
15 me.

16                   MR. WHARTON: I object. That's outside the  
17 scope of direct. Trying to keep to pretty tight.

18                   THE COURT: It was a pretty tight direct. How  
19 is this within the scope? What I have gathered  
20 from direct was basically the history, a little bit  
21 of the history of the development, how it went from  
22 its original iteration down to State Road 44, the  
23 projection of going beyond. I really didn't get  
24 much in the way that the individual marketing or  
25 how individual people react to --

1                   MR. KRUPPENBACHER: I'll leave the question  
2                   with that question, Judge, and not go any further  
3                   if he can answer it.

4                   THE COURT: I'm going to sustain the  
5                   objection, so.

6 BY MR. KRUPPENBACHER:

7                   Q       When you are marketing and telling this story  
8                   to customers, which you testified about, about The  
9                   Villages and all they have to offer, do you disclose to  
10                  these prospective customers that The Villages will  
11                  continue to make money off of them by their use of  
12                  natural gas?

13                  MR. WHARTON: Same objection.

14                  THE COURT: Sustained.

15                  MR. KRUPPENBACHER: Judge, if I could be heard  
16                  on that. He talked all about The Villages and  
17                  what's attractive and, et cetera, and I'm just  
18                  asking, are they disclosing one of the elements of  
19                  this so-called attractive component?

20                  THE COURT: I'll sustain the objection.

21 BY MR. KRUPPENBACHER:

22                  Q       You continue to project, for at least the next  
23                  five years plus, the growth of somewhere about  
24                  approximately about 2,500 homes or so a year, correct?

25                  MR. WHARTON: There's no facts to that --

1 THE COURT: I recall that part.

2 MR. KRUPPENBACHER: That's on your exhibit you  
3 put in.

4 MR. WHARTON: 2,500 homes?

5 THE COURT: I think it -- I think the number I  
6 heard was probably close to 2,000.

7 MR. KRUPPENBACHER: He said 2,000 and 2,500.  
8 I added up your exhibit.

9 THE COURT: Whatever it is, go ahead and ask  
10 him a question unless -- let's move forward.

11 BY MR. KRUPPENBACHER:

12 Q You continue to project that kind of growth,  
13 correct?

14 A Sure. We have sustained 2,000 homes over the  
15 last several years and that's a good base for us.  
16 Currently on -- like I said earlier, we're projecting  
17 about 2,600 this year. So you can assume the range in  
18 there.

19 Q And from '20 to '25, you project somewhere  
20 north of 13,000, correct?

21 A You said in the total years between '20 and  
22 '25?

23 Q Yes.

24 A That sounds about right if we did the math.

25 MR. KRUPPENBACHER: No further questions.



1 THE COURT: All right. Anything further?

2 REDIRECT EXAMINATION

3 BY MR. WHARTON:

4 Q As we sit here today, Mr. McCabe, do you  
5 believe that it's a reasonable projection that The  
6 Villages will continue to produce 2,000 homes a year  
7 given the ebbs and flows in the economy?

8 A Yes, sir, that's our goal.

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

10 THE COURT: Okay. Thank you.

11 (Brief recess.)

12 THE COURT: All right. Mr. Lovo, raise your  
13 right hand.

14 Whereupon,

15 MATTHEW LOVO

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

19 THE WITNESS: I do.

20 THE COURT: State your full name, please.

21 THE WITNESS: Matthew John Lovo.

22 THE COURT: Please proceed, sir.

23 DIRECT EXAMINATION

24 BY MR. WHARTON:

25 Q Sir, state your name for the record.

1           A     Matthew John Lovo.

2           Q     Yeah, and use the microphone to the extent you  
3 can. By whom are you employed and in what capacity?

4           A     Holding Company of The Villages and I am the  
5 Director of Purchasing.

6           Q     All right. What are your duties in that  
7 position?

8           A     I supervise the accounts payable department  
9 and negotiate contracts for national account contracts  
10 for the home-building side of the business.

11          Q     How long have you been with The Villages?

12          A     Three years and a month.

13          Q     And as the Purchasing Director of The  
14 Villages, is it part of your job to have personal  
15 knowledge of the interaction between the developer arm  
16 of The Villages and various utilities?

17          A     Yes.

18          Q     In that regard, when did PGS begin to provide  
19 natural gas service to The Villages?

20          A     Late 2016, early 2017.

21          Q     And, to your knowledge, did any issues arise  
22 with regard to the provision of that service in Fenney?

23          A     A significant number of issues.

24          Q     And was The Villages adversely affected by  
25 those issues?

1           A     Yes.

2           Q     Let's talk about those issues, if you will,  
3 just --

4                   THE COURT: Hang on. Let me ask. So, Mr.  
5 Lovo, prior to 2016 and the Fenney development, did  
6 PGS provide any service in The Villages?

7                   THE WITNESS: Not the construction arm of The  
8 Villages. It was a hundred percent electric.

9 BY MR. WHARTON:

10           Q     So let me ask you in that regard, Mr. Lovo.  
11 These problems that arose with PGS that you're about to  
12 address, did they arise fairly contemporaneously with  
13 the beginning of service from PGS?

14           A     Oh, immediately with the service there.

15           Q     Okay. Let's just, in kind of a chronological  
16 order, talk about the kind of issues that you've  
17 experienced interacting with PGS?

18           A     Well, on my side, it was the accounts payable  
19 side, the billing issues, getting homeowner accounts,  
20 getting accounts turned over from The Villages to the  
21 homeowner and things like that, rebates not being  
22 correctly paid per their agreement. And then there was  
23 hearsay of the construction issues with the meter sets  
24 being late, storm sewer being hit, you know, yards being  
25 torn up by a boring not --

1           MR. BROWN: Your Honor, if I may interrupt.  
2           He just said this is hearsay. He just himself said  
3           hearsay about this latter topic, other than the  
4           billing issue.

5           THE COURT: I think --

6           THE WITNESS: It was --

7           THE COURT: Hang on a second. I think I'm  
8           willing to hear him out and I'll -- you can put  
9           that on cross as to what the basis is for his  
10          testimony.

11         BY MR. WHARTON:

12           Q     First let's just talk about the issues within  
13           your department.

14           A     Okay. The issues in my department. There  
15           were billing issues where we get estimated meter  
16           readings and then two days later get an actual meter  
17           reading. Gets final bills after the check has already  
18           been sent. Get sent to collections. Get six or seven  
19           different credits on one bill and then miss credits that  
20           none of these credits could be tracked back and forth.  
21           I mean, it's just the billing issues. It took one of my  
22           assistant -- my assistant purchasing director, she was  
23           spending four times the amount of time on chasing these  
24           billing issues; 10, 11 emails trying to get bills paid  
25           and reconciled, things like that.

1           Q     You say that she was. Try to put some time  
2 frames around these problems.

3           A     It started as soon as she got there in June or  
4 July of 2017 and it has -- it still has not been  
5 resolved. It still -- as we can -- it has gotten less  
6 as the amount of service is being, you know,  
7 diminishing, but the issues, even despite the attempts  
8 of Peoples Gas to put two dedicated representatives on  
9 the account, the issues continued. We had an account  
10 that was closed in final of November of last year, and  
11 then in May of this year we got another bill because  
12 they had moved charges and credits from multiple  
13 accounts around, then they had accidentally pulled  
14 somebody from that account and then we ended up owing  
15 another \$19 on an account we thought was finalled off in  
16 November of last year.

17           Q     What steps have your department taken to try  
18 to compensate for these issues?

19           A     We asked for face-to-face meetings. I have  
20 been willing to say I'd take several of my staff, travel  
21 up to two hours, have a face-to-face meeting. We sent  
22 numerous emails and the billing issues continue to be as  
23 bad, if not worse, than they've always been.

24           Q     How many extra hours a week would you say your  
25 department has been devoting to these issues?

1           A     Probably 20 hours a week.

2           Q     Has it been frustrating for your department?

3           A     Oh, it's very frustrating.

4           Q     And do you feel like that PGS has made  
5 positive steps to ameliorate these issues?

6           A     No, it's -- we continue to get checks for a  
7 dollar, checks for 60 cents. Then we'll get late fees  
8 for \$79 dollars. Then we'll have to negotiate -- we'll  
9 have to save those late fees -- it's not that we haven't  
10 paid. The credits have been moved back and forth. It's  
11 the frustration level, and the harder we try it seems  
12 like the more confusion is had.

13          Q     You talk about it in terms of man hours. Are  
14 you able to quantify it in terms of frequency or numbers  
15 beyond that?

16          A     It's probably 60 to 70 percent of the bills  
17 are grossly wrong and things like that, maybe 80  
18 percent.

19          Q     And these are bills that you're handling  
20 regarding the PGS service at The Village of Fenney?

21          A     Correct.

22          Q     Now, is your department also interacting with  
23 the City of Leesburg?

24          A     Yes. We interact with the City of Leesburg  
25 and numerous other utility departments.

1           Q     Quantify what your interactions have been like  
2 with regard to the City of Leesburg?

3           A     The City of Leesburg, when we set the first  
4 account up, we wanted to make sure we had clear billing  
5 turnover. I supervised that call and I had no other  
6 interaction and there have been no complaints, no issues  
7 with the City of Leesburg on the gas side. It's been  
8 flawless.

9           Q     As we sit here today, do you have any reason  
10 to be encouraged that the problems that you're  
11 experiencing with PGS on the billing side are going to  
12 end?

13          A     No.

14          Q     How do you have knowledge about some of the  
15 problems that PGS had in the field of The Village of  
16 Fenney?

17          A     That would be from weekly construction  
18 meetings that I used to attend, communications with our  
19 gas piping contractor to do when the meter sets were --  
20 because I had communication with the plumbers in terms  
21 of other products we used, price increases, and then  
22 attending the construction meetings hearing that, you  
23 know, closings were delayed because we couldn't get gas  
24 meters set and that would delay getting the certificate  
25 of occupancy. Hearing that, from the concrete vendors

1 that I deal with, you know, talking about concrete, that  
2 they had to delay driveways because gas mains couldn't  
3 be put underneath them, to hear from the landscapers  
4 that I try to keep -- touch base with on irrigation  
5 parts that they've had issues, they've had to go back  
6 and re-roll sod and put, you know, yards back together  
7 that were, you know, torn up by putting gas piping in  
8 things.

9 Q How long did those problems persist?

10 A That -- those problems -- the gas meters were  
11 continuous. That was always the -- they can be anywhere  
12 from 30 to 50 meters behind and like ten meters per day,  
13 and then like 30 and then 50, nothing for a week or two  
14 weeks. That has continued all the way through. That  
15 never got any better. The other construction problems,  
16 those did probably clear up. Tommy would know better,  
17 but those did slowly taper off as construction went on,  
18 but the meter set issues and the billing issues always  
19 continue.

20 Q But your knowledge of the problems that had  
21 been experienced with PGS in the field at Fenney are  
22 based on your attendance at the construction meetings?

23 A Construction meetings and communication with  
24 subcontractors.

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



1 MR. MOYLE: No questions.

2 CROSS EXAMINATION

3 BY MR. BROWN:

4 Q Mr. Lovo, give me an understanding -- let's  
5 talk about the billing problems first, those issues. As  
6 I understand what was going on, is that The Villages  
7 would open a Villages account for each home that was  
8 constructed, correct?

9 A Correct.

10 Q And they would then establish service with  
11 Peoples Gas for the purpose of having the home inspected  
12 and to verify that the gas appliances had been  
13 delivered, correct?

14 A Correct.

15 Q And part of the reason to do that was so they  
16 could -- so the gas rebates could be paid because those  
17 can't be paid until the appliances have been verified,  
18 correct?

19 A Well, you cannot get a certificate of  
20 occupancy on a house without hot water. So you've got  
21 to activate the hot water heater and that's part of the  
22 final plumbing inspection.

23 Q Okay. And so rather than waiting to do that  
24 when the house had -- well, and so The Villages would  
25 open an account and then immediately after the gas was

1 turned on to get through the CO, they would turn off the  
2 gas, correct?

3 A Correct.

4 Q And then they would close out the account?

5 A No.

6 Q Okay. They would close it out when it got  
7 sold?

8 A When it got sold, it would get closed.

9 Q And there were issues about this billing that  
10 were going on?

11 A Correct.

12 Q These billing issues did not involve any of  
13 the people who were actually buying the houses, correct?

14 A Correct.

15 Q All right. And I think with regard to the  
16 construction issues, you said those resolved when Hamlet  
17 came on board, at least those -- not involving the meter  
18 sets, the other issues resolved?

19 A Tommy would have to know that. All I know is  
20 that they, as time went on, they were resolved.

21 Q And you did say that the billing issues with  
22 Peoples have been getting better, not resolved but  
23 improved?

24 A No. It's just the quantity has gone down  
25 because the number of houses that are served by Peoples

1 Gas is less, is the number of houses that are under  
2 construction that we have accounts, the number of  
3 accounts are going down. Simply the quantity.

4 Q Because you're selling the houses in Fenney  
5 and now you're moving on to selling the houses in the  
6 new developments?

7 A Correct.

8 Q Okay. And you're not aware of any lost sales  
9 to The Villages as a result of any of these problems,  
10 correct?

11 A No.

12 Q No, meaning I'm correct?

13 A I do not know of any sales that were lost  
14 because of that.

15 MR. BROWN: That's all I have. Thank you,  
16 sir.

17 MR. WHARTON: I have nothing further.

18 THE COURT: All right. Mr. Lovo, thank you.  
19 We can go off the record.

20 (Whereupon, the proceedings were concluded at  
21 3:43 p.m. and resume in Volume 7.)  
22  
23  
24  
25

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25

CERTIFICATE OF REPORTER

STATE OF FLORIDA     )  
COUNTY OF LEON        )

I, DANA W. REEVES, Professional Court Reporter, certify that the foregoing proceedings were taken before me at the time and place therein designated; that my shorthand notes were thereafter translated under my supervision; and the foregoing pages, numbered 717 through 816, are a true and correct record of the aforesaid proceedings.

I further certify that I am not a relative, employee, attorney or counsel of any of the parties, nor am I a relative or employee of any of the parties' attorney or counsel connected with the action, nor am I financially interested in the action.

DATED this 24th day of July, 2019.



---

DANA W. REEVES  
NOTARY PUBLIC  
COMMISSION #FF968527  
EXPIRES MARCH 22, 2020