

SCANNED

BEFORE THE
FLORIDA PUBLIC SERVICE COMMISSION

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In the matter of
 Proposed Revisions to Rules : DOCKET NO. 911082-WS
 25-30.020, 25-30.025, 25-30.030, :
 25-30.032, 25-30.033, 25-30.034, : FILED 10/20/1993
 25-30.035, 25-30.036, 25-30.037, : DOCUMENT NO. 11260-1993
 25-30.060, 25-30.110, 25-30.111, : FPSC - COMMISSION CLERK
 25-30.135, 25-30.255, 25-30.320, :
 25-30.335, 25-30.360, 25-30.430, :
 25-30.436, 25-30.437, 25-30.443, :
 25-30.455, 25-30.515, 25-30.565, :
 NEW RULES 25-22.0407, 25-30.0408, :
 25-30.0371, 25-30.038, 25-30.039, :
 25-30.090, 25-30.117, 25-30.432 :
 to 25-30.435, 25-30.4385, :
 25-30.4415, 25-30.456, 25-30.460, :
 25-30.465, 25-30.470, AND :
 25-30.475; AND REPEAL OF RULE :
 25-30.441, F.A.C. PERTAINING TO :
 WATER AND WASTEWATER REGULATION. :

AFTERNOON SESSION
VOLUME II
Pages 162 through 240

PROCEEDINGS: SPECIAL AGENDA

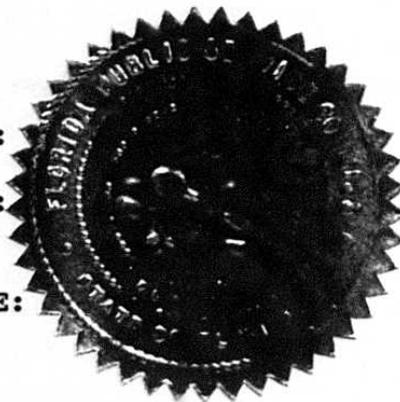
BEFORE: CHAIRMAN J. TERRY DEASON
 COMMISSIONER SUSAN F. CLARK
 COMMISSIONER LUIS J. LAUREDO
 COMMISSIONER JULIA L. JOHNSON

DATE: Thursday, October 7, 1993

TIME: Commenced at 9:30 a.m.
 Concluded at 4:10 p.m.

PLACE: FPSC Hearing Room 106
 Fletcher Building
 101 East Gaines Street
 Tallahassee, Florida

REPORTED BY: JOY KELLY, CSR, RPR
 Chief, Bureau of Reporting
 PAMELA A. CANELL
 Official Commission Reporters



DOCUMENT NUMBER - DATE
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FPSC-RECORDS/REPORTING

1 APPEARANCES:

2 (As heretofore noted.)

3

4 I N D E X

5

6 RULES:

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P R O C E E D I N G S

(Transcript continues in sequence from Volume

I.)

CHAIRMAN DEASON: Let's go ahead and get started again.

MR. SCHIEFELBEIN: Mr. Chairman.

CHAIRMAN DEASON: Yes.

MR. SCHIEFELBEIN: If you were going to move on to a new rule, could I just ask for a clarification on the one we just did?

CHAIRMAN DEASON: Surely.

MR. SCHIEFELBEIN: I understand what you've indicated what your preference is as far as As and Bs and Cs. Have you voted to do that or have you told us that once everything -- all the ducks are in a row, as far as the forms, you're going to do that?

CHAIRMAN DEASON: I think we've actually voted to do it. We're just going to get the forms finalized before we send the package over and before we start the 14-day clock.

COMMISSIONER CLARK: Before we vote out the whole deal.

CHAIRMAN DEASON: Before we vote out to start the 14-day clock.

COMMISSIONER LAUREDO: See, I don't have any problem just picking .433 for that procedure and voting on the other ones.

1 problem just picking .433 for that procedure and voting
2 on the other ones.

3 CHAIRMAN DEASON: You're talking about just
4 that entire rule, .433, that entire rule?

5 COMMISSIONER LAUREDO: Yes, that's the one
6 that's causing trouble, isn't it?

7 CHAIRMAN DEASON: It doesn't matter to me.
8 Maybe Ms. Moore's got --

9 COMMISSIONER LAUREDO: We used to have in
10 other governments what we call "first reading" and
11 "second reading," you know, we had a vote on the first
12 reading and then catch it and in two weeks -- but don't
13 hold off the rest of it. I don't want to see this ever
14 again.

15 CHAIRMAN DEASON: I'd like to get it out.

16 MS. MOORE: The clock starts running from the
17 conclusion of the public hearing or when the
18 transcripts are received. Now, it's going to be a
19 couple of extra weeks for the transcripts.

20 CHAIRMAN DEASON: This is first time that
21 I've ever known when Joy has been asked to delay the
22 transcript. (Laughter)

23 COMMISSIONER LAUREDO: Type a page a day.

24 MS. MOORE: I think ten days is the standard,
25 ten working days. That would give an extra two weeks

1 to Staff and that's adequate

2 CHAIRMAN DEASON: That should be sufficient
3 time.

4 MS. MOORE: Then we won't violate -- that
5 will give them 28 days total.

6 COMMISSIONER LAUREDO: Well, what is it that
7 you want by asking your question?

8 MR. SCHIEFELBEIN: I just want to be able to
9 advise the Board of the Association as to this is done
10 or this is going to be done.

11 CHAIRMAN DEASON: He wants to know whether he
12 can -- he wants to be able to tell his client whether
13 there should be a challenge or not.

14 COMMISSIONER CLARK: He wants to know the
15 time to file the challenge.

16 CHAIRMAN DEASON: Did you all see, by the
17 way, representative-something -- I forget his name now
18 -- from Hialeah where he's proposing bullfighting in
19 the state of Florida?

20 COMMISSIONER CLARK: Yes.

21 COMMISSIONER LAUREDO: I think it's a great
22 idea, and it may evolve where we can have some of this
23 dispute settled in that and also increase tourism at
24 the same time.

25 COMMISSIONER CLARK: It's bloodless.

1 COMMISSIONER LAUREDO: We can have Jack Green
2 on one side, a bull on the other and the industry and
3 let it go. That's how we Spaniards do it. (Laughter)
4 A true bullfight.

5 CHAIRMAN DEASON: Luis, you were telling me
6 something about you thought that Mr. Shreve was
7 bull-headed. (Laughter)

8 MR. SCHIEFELBEIN: Mr. Chairman, the other
9 clarification I wasn't clear on all of that, there was
10 some conversation as far as -- did you decide that all
11 parties for As would be limited to fighting over the
12 balance sheet approach, that Mr. Shreve would no longer
13 be able to battle on behalf of using an alternative
14 method where a balance sheet is required and vice
15 versa, will he be prevented from -- was it decided or
16 left unresolved?

17 CHAIRMAN DEASON: What we've done is we've
18 adopted a rule that uses the terminology "shall," and
19 whatever applies to any time we adopt a rule that says
20 "shall," however it's applied in those rules, that's
21 the way it's going to be applied here.

22 Now, I don't know what the requirement is,
23 whether that precludes parties from litigating things
24 or it does not. I don't know. But it's going to be
25 the same standard here as it is any time we use the

1 term "shall." And I don't see how we can make a
2 distinction one way or the other, and perhaps Ms. Moore
3 or Ms. Davis could give us some guidance as to how it
4 works. I really don't know. The Commission is
5 adopting the rule that says "shall," which means we
6 certainly intend to utilize that methodology when we
7 process these cases. That's what we prefer. And, of
8 course, there's always -- at the beginning there's this
9 out provision that unless something can be shown to do
10 otherwise, that's what we're going to do.

11 MR. SHREVE: Mr. Chairman, I would assume
12 that from that you would expect the rate case expense
13 to be cut in about half.

14 CHAIRMAN DEASON: At least that.

15 MR. SHREVE: At least that. From the
16 accountants, anyway.

17 COMMISSIONER CLARK: You know, when you say
18 things like that, it doesn't -- whether or not your
19 kidding doesn't translate into the --

20 CHAIRMAN DEASON: Okay. That was said in
21 jest. I don't know what the effect on rate case
22 expense is, but --

23 MR. SHREVE: Who said in jest? (Laughter)

24 CHAIRMAN DEASON: We need to make sure that
25 we all realize the purpose of all of these rules is to

1 try to minimize rate case expense, and what the effect
2 is going to be, I guess, only time will tell. But,
3 hopefully, it's going to have an effect to reduce. I
4 know that the utilities are concerned with balance
5 sheet, 13-month averages and that not going to reduce
6 things at all; it's going to increase. But on the flip
7 side of that if we know what the procedure is going to
8 be and it's not going to be litigated that may actually
9 result in reduced rate case expense.

10 COMMISSIONER LAUREDO: Anyway, we cannot have
11 a retroactive nonreasonable test of their expenses
12 arising out of our rules. If they, in fact, occur
13 reasonable expenses because of a change, then -- so be
14 it.

15 CHAIRMAN DEASON: Section 6 of Rule .433.

16 COMMISSIONER CLARK: I move Staff's change.

17 COMMISSIONER LAUREDO: Is this consistent
18 with everybody else or is it we're picking on the
19 water.

20 COMMISSIONER CLARK: It's consistent.

21 COMMISSIONER LAUREDO: Okay. That's all I
22 wanted.

23 CHAIRMAN DEASON: Show 6 approved without
24 objection. 7.

25 COMMISSIONER LAUREDO: I want to hear the

1 rationale behind 7. I really do.

2 Are we discriminating against partnerships,
3 Chapter S corporations?

4 CHAIRMAN DEASON: We're not discriminating,
5 we're making them consistent because a Chapter S does
6 not pay income taxes as a corporation.

7 COMMISSIONER LAUREDO: So you're talking
8 about tax expenses that relates to the actual taxes,
9 not the expense, okay. I'm sorry. I was reading tax
10 work expense, I'm sorry.

11 COMMISSIONER CLARK: Okay. I'll move 7.

12 COMMISSIONER LAUREDO: My apologies.

13 CHAIRMAN DEASON: Without objection, show 7
14 adopted. 8.

15 COMMISSIONER CLARK: Move 8.

16 CHAIRMAN DEASON: Without objection. Show 8
17 adopted. 9.

18 COMMISSIONER CLARK: Move 9.

19 CHAIRMAN DEASON: This is our policy at this
20 time; is that correct?

21 MS. MERCHANT: That's correct.

22 CHAIRMAN DEASON: 9 without objection. 10.

23 COMMISSIONER CLARK: I move 10 with the
24 understanding it would be amended in the same way as
25 suggested.

1 MS. MERCHANT: That's correct.

2 CHAIRMAN DEASON: 10 amended without
3 objection. 11.

4 COMMISSIONER CLARK: I move 11.

5 CHAIRMAN DEASON: Without objection show 11
6 adopted. 12. Without objection. Hearing no objection
7 12 is adopted. 13.

8 COMMISSIONER CLARK: Mr. Chairman, I was
9 looking through 12 and 13 last night and I think I know
10 what it means. And I'm just concerned that I would be
11 out somewhere and somebody would say to me, "Well, what
12 do these two subsections mean."

13 CHAIRMAN DEASON: Just refer them to Billy.

14 COMMISSIONER CLARK: Well, he's not always
15 with me.

16 Here's my point: I think any kind of
17 requirement you have can be put in plain language that
18 even the nonaccountants, nontax experts can understand.

19 COMMISSIONER LAUREDO: This is a lawyer
20 trying to tell you accountants to write simply. This
21 is incredible irony.

22 CHAIRMAN DEASON: Susan, you don't have a
23 comment for that?

24 COMMISSIONER CLARK: My response would take
25 too long. (Laughter)

1 COMMISSIONER LAUREDO: And we may not
2 understand it.

3 COMMISSIONER CLARK: That's right.

4 What are we doing here in No. 13? In
5 calculating income tax expense, I understand that.
6 Then you get to interest expense shall be calculated by
7 synchronizing the cost of debt included in the capital
8 structure with rate base. What does "synchronizing"
9 mean. I know that's a term -- this is the interest
10 synchronization or something, but what does that mean?

11 MS. CAUSSEAU: No, that isn't the interest
12 synchronization, and that one give me cockleburs every
13 time I hear it. It's reconciling the interest expense
14 used in the calculation with the amount of debt and the
15 cost of debt that's approved in the capital structure.
16 In other words, if they had \$20 million worth of debt,
17 and after we reconciled rate base there was only \$10
18 million left, we would only use the interest expense
19 applicable to the \$10 million.

20 COMMISSIONER CLARK: Okay.

21 CHAIRMAN DEASON: But we also take it a step
22 further and we recognize the effect of parent company
23 debt, and we also recognize the debt component of the
24 return on investment tax credit.

25 MS. CAUSSEAU: Right. Right.

1 COMMISSIONER CLARK: Couldn't we say
2 something to the effect that, for purposes of
3 calculating income tax expense, the amount of debt
4 shall be that amount after cost -- the amount derived
5 after cost of capital is reconciled with the rate base?

6 MS. CAUSSEAU: That would not include the
7 parent debt piece or the investment tax --

8 COMMISSIONER CLARK: And then you would say
9 and the parent -- an adjustment to recognize parent
10 debt and an adjustment to -- my hang up is the
11 synchronizing.

12 MS. CAUSSEAU: The first part of it would be
13 fine. Yeah.

14 COMMISSIONER CLARK: I have no objection to
15 what I think you're trying to accomplish. I'm just
16 looking for it to be in more plain language for nontax
17 accountant types. And the same goes for the loss
18 carryforwards, that subsection. I guess, Mr. Chairman,
19 I --

20 COMMISSIONER LAUREDO: That's 14, you mean?

21 COMMISSIONER CLARK: Yeah.

22 I'd like to give Staff an opportunity to
23 clarify that language without changing the meaning.

24 COMMISSIONER LAUREDO: I have a problem with
25 14, so I don't know if you want to jump to 14.

1 CHAIRMAN DEASON: You want 13 clarified.

2 COMMISSIONER CLARK: Yes. Do you understand
3 it? I mean is it plain to you?

4 CHAIRMAN DEASON: Well, yes it's plain to me.
5 Is the problem with use of the term "synchronized."

6 COMMISSIONER CLARK: I think it is.

7 CHAIRMAN DEASON: I don't have a problem with
8 changing that terminology.

9 MS. CAUSSEAU: I don't have a problem with
10 changing that.

11 CHAIRMAN DEASON: Do you want to just leave
12 it to Staff's discretion to --

13 COMMISSIONER CLARK: Yeah. If you would come
14 talk to me, we could probably work it out and it may be
15 that I just end up agreeing that synchronization is
16 good enough.

17 CHAIRMAN DEASON: My concern is I want to get
18 these rules out of here --

19 COMMISSIONER CLARK: I do, too. I agree.

20 CHAIRMAN DEASON: -- and get done with it,
21 and I don't want to be bringing them back. And Staff
22 has even worked out a thing where they have got the
23 time necessary due to the transcripts being filed,
24 unless we finish this, I want to be finished with it.

25 COMMISSIONER LAUREDO: Can we move it and

1 that they change the wordage without changing the
2 impact?

3 CHAIRMAN DEASON: I think we have the
4 discretion to let Staff reword it, taking out the term
5 "synchronizing," and put it more in everyday language
6 and accomplish this same effect.

7 COMMISSIONER CLARK: Okay. I can agree with
8 that.

9 MS. CAUSSEAU: And I'll get the language
10 back to --

11 COMMISSIONER CLARK: And, Chris, if you would
12 work with her, too, on developing the language. Okay?

13 CHAIRMAN DEASON: Any objection to that?
14 Okay. With that understanding, 13 is adopted. 14.

15 COMMISSIONER LAUREDO: I think I have some
16 questions on this before. Are we penalizing -- I mean
17 if we're going to be fair about -- if a company has,
18 for some other reason, from nonutility or otherwise,
19 loss carryforwards, why shouldn't --

20 CHAIRMAN DEASON: The terminology is at the
21 utility level. Does that mean that we're only
22 recognizing loss carryforwards that resulted from
23 utility operations?

24 MS. CAUSSEAU: Exactly. We're trying to
25 avoid cross-subsidization in any way, shape, form or

1 size of the utility operations for which we've set
2 rates.

3 COMMISSIONER CLARK: If you develop loss
4 carryforward in a year that you could probably use as
5 the utility for a couple of years, that loss
6 carryforwards can't be transferred to a nonregulated
7 part of the company and used there, the effect of its
8 use be translated back to the utility. We're going to
9 treat the utility as a stand alone for that and the
10 loss carryforwards will be something that they can take
11 advantage of in the out years.

12 MS. CAUSSEAU: There's something that they
13 can take advantage of for 15 years into the future.
14 They also can be used by nonjurisdictional activities,
15 and if they are used there, then I would anticipate
16 that that use -- the utilities lost the value of that
17 use into the future, and should be recompensed for the
18 loss in that future value.

19 COMMISSIONER LAUREDO: Well, I don't
20 understand 14, but if we were all making arguments for
21 another concept on other things about stand alone and
22 trying to look at it between the four corners of the
23 stand alone and that stand-alone activity, whatever it
24 may be, generates a tax liability? That's it. That's
25 the number.

1 MS. CAUSSEAU: If it generates a tax
2 liability, that is the number, but you have to remember
3 that the tax law allows current losses to be carried
4 back and prior losses to be carried forward. So over
5 time you could actually -- by not recognizing it, you
6 could over time give the utility more tax expense than
7 it would actually incur. You could give them more tax
8 expense than it would actually pay.

9 COMMISSIONER LAUREDO: Well, then my point
10 would be that I don't see that we need 14. Wouldn't it
11 be better not to have that and allow us the flexibility
12 to look at it on a case-by-case basis?

13 MS. CAUSSEAU: I think we come back at this
14 point in time to --

15 COMMISSIONER LAUREDO: I mean, we want to
16 codify and simplify as much as we can, but sometimes we
17 just can't. The circumstances can be -- I mean, this
18 area, I can give you scenarios and scenarios and
19 scenarios. Why not deal with the scenarios when they
20 come up? I think it seems to me to be more fair, and
21 certainly more consistent with generally the
22 stand-alone snapshot.

23 MS. CAUSSEAU: Well, I think that, first of
24 all, in response, you do have the out in the first
25 part. If they can show that, you know, it's just

1 this is not appropriate, then I think that you have the
2 opportunity already within the main body of the rule.

3 COMMISSIONER LAUREDO: But I think you're
4 shifting the burden there a little bit to the party
5 petitioning. There is a little bit of a burden to
6 prove the exception. I don't think this is fair. It
7 just strikes me as not fair. I don't know why. It
8 don't look like one, it don't smell like fair, and, you
9 know, I try to be fair as much as I can. And this just
10 goes against my grain, my intuition. I mean, I'd
11 rather have the flexibility to make the judgments on
12 individual cases to make sure that we're not granting
13 unwarranted benefits. But on the other hand, this way
14 they really get swapped, and I just -- I disagree with
15 it.

16 CHAIRMAN DEASON: Ann, let me ask you a
17 question. When you're using the term "loss
18 carryforward," that is in the tax sense. That's a tax
19 terminology?

20 MS. CAUSSEAU: That's a tax loss
21 carryforward.

22 CHAIRMAN DEASON: So when I was reading -- I
23 believe it was Southern States' comments they were
24 talking about how this would be unfair and that
25 ratepayers would not have paid even the operating and

1 talking about how this would be unfair and that
2 ratepayers would not have paid even the operating and
3 maintenance expenses of the company, that's not
4 necessarily so. I mean, for ratemaking purposes or
5 accounting purposes you can show a profit, for tax
6 purposes you can show a loss and have that loss carry
7 forward to a future period.

8 MS. CAUSSEAU: That's true.

9 COMMISSIONER LAUREDO: Again, there are
10 individual cases. That's my biggest concern. I think
11 it's such an area of -- because the -- regulatory tax
12 treatment, there's a lot of circumstances where we
13 should -- unless it's a preponderance of evidence to
14 the contrary, I'd rather keep the flexibility than put
15 it in stone, without violating the spirit of what
16 you're trying to accomplish. That's my only concern.

17 So I would move that we strike 14, I guess.

18 CHAIRMAN DEASON: Let me ask Southern States
19 a question. I think I characterized your comments a
20 certain way. I don't want to mischaracterize them. Do
21 you have any comments on the way I've interpreted that?

22 MR. ARMSTRONG: Thank you, Chairman. I guess
23 Southern States had a number of comments. Two primary
24 ones I believe, though, is that we do have a tax
25 sharing agreement in the case of Southern States. So

1 what Ms. Causseaux is referring to, Southern States is
2 paid by our parent for those tax losses in the year
3 incurred, so we don't have the situation where we have
4 any mismatching going on or actually carrying these
5 losses forward. This is done on a year-to-year basis
6 to consolidate the tax return. So we believe that this
7 certainly would, you know, the way it's stated here,
8 being mandatory, certainly would impact us in a
9 negative way.

10 A second comment basically comes down to the
11 fact that we believe if we're carrying the tax loss
12 forward, the revenue deficiencies which created the
13 loss also should be carried forward, so you'd mis-, you
14 know, match appropriately.

15 The fact is, when you do have a loss
16 situation, it's the shareholders who bear the burden of
17 that loss and not the ratepayers.

18 And I understand your comment, it is a
19 15-year carryforward, and we have to recognize that as
20 well, you know, over a 15-year period it only can be
21 used if it's appropriate to use it. I mean, if there's
22 another loss in that next year, you also cannot use
23 that tax loss carryforward.

24 There are a number of variables that come
25 into play here. This rule certainly doesn't give any

1 flexibility as to the Commission's understanding or to
2 recognize those variables. And I think the most simple
3 one is the tax-sharing agreement, where we don't have
4 this come into play at all because, you know, both
5 shareholders and ratepayers don't -- aren't impacted by
6 this tax loss because we are compensated by our parent
7 for that tax loss.

8 COMMISSIONER LAUREDO: And the losses that
9 the ratepayers normally incur are much more restrictive
10 today than they were five, six years ago because there
11 was some tax -- there was some tax benefits to losses
12 prior to 1986 that are not as broad as they are today.
13 So they are a little more, quote, "real loses," unquote
14 if you are the actual -- I have a share of GM for
15 using, than it was before, so I'm worried about this a
16 little bit. It just doesn't seem to be -- where I
17 think we can reserve the flexibility to look at it
18 case-by-case is a better policy then.

19 MR. TODD: Mr. Chairman, may I interject one
20 statement here?

21 CHAIRMAN DEASON: For all of the start-up
22 utilities, your typical Class Cs, the Commission's very
23 rules dictate that you're going to have not only a tax,
24 but a ratemaking operating loss every year because you
25 don't set your rate of return to -- until the utility,

1 which is 80% of capacity, and that's dictated by rule.
2 So it seems somewhat confiscatory to say that first you
3 will lose money in your beginning years as you grow
4 because up can't make those first ratepayers bear the
5 burden of supporting the entire cost of a start-up
6 utility. But then you take the only relief that any
7 governmental agency gives them, which is the loss
8 carryforward to protect their future earnings or to use
9 against those future earnings. It seems to me that
10 you've dictated or mandated to lose money automatically
11 by rule, and then you've also gone ahead and said,
12 "But, no you can't have any of the tax benefit of that,
13 either."

14 CHAIRMAN DEASON: I think everybody has made
15 comments except Public Counsel. I'll give Ms.
16 Dismukes, if you want to make a comment. No comment,
17 okay.

18 MR. GATLIN: We agree with the way the Staff
19 has proposed the rule here. Except for the fact that
20 our concern in every rate case is the fact that the
21 utility pays taxes up to an entity that never sends
22 them to the IRS. But perhaps Commissioner Lauredo is
23 correct, you know, on a case-by-case basis would be a
24 better way.

25 CHAIRMAN DEASON: Commissioner, are you

1 making a motion?

2 COMMISSIONER LAUREDO: Yes, to deny or
3 exclude Item 14.

4 CHAIRMAN DEASON: Just have 14 withdrawn at
5 this time?

6 COMMISSIONER LAUREDO: Withdrawn, yes.

7 COMMISSIONER CLARK: I'll second it.

8 CHAIRMAN DEASON: Motion to withdraw 14 has
9 been moved and seconded. All in favor say, aye.

10 (All Commissioners vote aye.)

11 CHAIRMAN DEASON: Any opposed? We'll just
12 withdraw 14 at this time.

13 MS. MOORE: I don't believe it was ever
14 proposed. It was suggested to be added, so --

15 CHAIRMAN DEASON: So, actually, we don't have
16 to withdraw it; we're just voting not to add it?

17 MS. MOORE: Correct.

18 CHAIRMAN DEASON: Okay. Show that 14 is not
19 added. That completes .433, I believe. (Pause)

20 .434.

21 COMMISSIONER CLARK: I move Staff.

22 COMMISSIONER JOHNSON: Second.

23 COMMISSIONER LAUREDO: On the whole?

24 COMMISSIONER CLARK: Yes.

25 COMMISSIONER LAUREDO: Okay.

1 CHAIRMAN DEASON: Give me just a moment.

2 (Pause)

3 COMMISSIONER CLARK: This is the one where
4 you had made a suggestion with respect to not reducing
5 it -- gross plant and net plant, or something like
6 that.

7 CHAIRMAN DEASON: Let me find my place.

8 COMMISSIONER CLARK: As I recall, there was
9 Staff's proposal; and the utilities made the same
10 argument they are making here, and you suggested some
11 middle ground.

12 COMMISSIONER LAUREDO: And you're talking
13 about Paragraph (f)?

14 MS. MERCHANT: That's correct.

15 COMMISSIONER LAUREDO: On Page 76?

16 MS. MERCHANT: On Page 76. (Pause)

17 CHAIRMAN DEASON: Okay. Staff, you're going
18 to need to refresh my memory just a moment.

19 What are we doing with the depreciation that
20 is recovered through the AFPI charge -- or is there any
21 depreciation recovered?

22 MS. MERCHANT: Do you mean how do we account
23 for it?

24 CHAIRMAN DEASON: All right, let's go back in
25 the AFPI charge there is a component for depreciation?

1 MS. MERCHANT: That's correct, for each year.

2 The two differences that we have are the
3 Staff has recommended that it use gross plant when you
4 start the charge -- I just said that backwards. That's
5 the utility's position to use gross plant when you
6 start the cost of the assets to be included in the
7 charge: nonused and useful, gross plant.

8 Then Staff is recommending that you use the
9 nonused and useful net plant, which is the plant less
10 the accumulated depreciation, on that. And Staff's
11 position is that when you set rate base for ratemaking
12 purposes, the used and useful portion, you have the
13 plant component and you have the accumulated
14 depreciation component that's removed. And you slide
15 that over, and you would use the same two amounts in
16 the AFPI calculation and show that as the net cost of
17 the nonused and useful assets.

18 And our opinion is that it's the utilities'
19 burden to come in early and get their AFPI charges
20 established so that they can recover any nonused and
21 useful depreciation expense. And for them to come in
22 and now ask for gross plant, Staff believes that is
23 essentially -- I'm not sure if it's exactly retroactive
24 ratemaking, but it appears to Staff that that's what it
25 is.

1 You've either got to ask -- like, we had a
2 company about six months ago that had a brand-new plant
3 that came on line; they had an old plant for the
4 current customers and they had a new plant coming on
5 line for a brand-new set of customers. Without filing
6 a rate case, they came in and they said, "We need an
7 AFPI charge."

8 And so, basically, in that situation you use
9 gross plant. They came in at the right time, they
10 established their AFPI charge, and it flows forward for
11 those future customers so that they would recover all
12 of that depreciation expense and all of the costs, the
13 nonused and useful costs associated with that.

14 CHAIRMAN DEASON: So what you're saying is
15 that the depreciation that is booked up until the time
16 that they request the AFPI charge, you recognize that;
17 you use that net plant amount as the basis for AFPI to
18 be calculated in the future?

19 MS. MERCHANT: That's correct, the nonused
20 and useful net amount. That's correct.

21 CHAIRMAN DEASON: Okay. Now, each year when
22 there is an AFPI amount calculated, there's a
23 depreciation component in there, is there not?

24 MS. MERCHANT: That's correct.

25 CHAIRMAN DEASON: Okay. Now, do you

1 recognize that depreciation component and reduce net
2 plant for the next year's AFPI charge?

3 MS. MERCHANT: That's correct.

4 CHAIRMAN DEASON: I think that's where my
5 problem comes in. Because that AFPI charge is not a
6 cash recovery at that point, and they actually haven't
7 recovered that depreciation component at that time. I
8 think that's where my problem is coming in.

9 MS. MERCHANT: Well, it's two-tiered. What
10 you have is the one part that's reducing for each year
11 for the level of the reduction in the rate base
12 component. Then in the next line below that, you've
13 got the prior year's depreciation expense added on and
14 it's accumulating for each year. So you're getting
15 that depreciated expense built into the charge for the
16 next year and the next year and the next year, it's
17 just on separate line items. Did that explain?

18 CHAIRMAN DEASON: Okay. The depreciation is
19 cumulative and it keeps adding --

20 MS. MERCHANT: The depreciation expense, say
21 in the first year there was an amount of depreciation
22 expense. When you move to the second year, you reduce
23 your rate base in the first line by that amount of
24 depreciation expense; but in the second line below
25 that, you take that amount of depreciation expense and

1 you move that forward.

2 And then in the third year, you move -- you
3 reduce the investment portion again by another year of
4 depreciation. But on the line below that, you've got
5 the two prior years of depreciation expense coming in.
6 So you're actually getting that depreciation expense
7 for those years.

8 CHAIRMAN DEASON: But you don't get a return
9 on that, though.

10 MS. MERCHANT: No, not a return on that, but
11 you're getting the dollars.

12 CHAIRMAN DEASON: You get the dollars but you
13 don't get the return. You don't get the carrying costs
14 of that depreciation expense, which has been recognized
15 but actually has not been recovered in cash. (Pause)

16 I'm going to ask Mr. Seidman: Do you
17 understand what my concern is, is that basically the
18 carrying costs of the depreciation?

19 MR. SEIDMAN: No, I didn't understand that.

20 CHAIRMAN DEASON: Okay. You didn't
21 understand that. Okay.

22 Well, what is your position on this?

23 MR. SEIDMAN: Our position is that you should
24 be allowed the gross amount, because there has been no
25 opportunity to recover depreciation expense on that

1 plant that's nonused. It was not recovered; even
2 though it's booked, it's not recovered from present
3 ratepayers. There's no opportunity to recover it from
4 future ratepayers unless it goes into the AFPI
5 calculation in a gross manner. Then when it goes in
6 gross, it's accumulating, as she indicated; and that
7 amount will be recovered, or at least the opportunity
8 to recover, through the AFPI charge.

9 But aside from that, it's lost and it falls
10 in the cracks, because it's not recovered at all
11 through present ratepayers.

12 CHAIRMAN DEASON: But at some point when the
13 AFPI is recovered, then that depreciation component has
14 to be recognized on a going-forward basis?

15 MR. SEIDMAN: On a going-forward basis, if
16 you've allowed it in as gross plant to begin with.

17 CHAIRMAN DEASON: Ms. Dismukes, does Public
18 Counsel have a position on this one?

19 MS. DISMUKES: I'm not real sure. I mean, I
20 understand what you're saying and I know what Trish is
21 saying. And I agree with what Trish is saying in terms
22 of how it's calculated, so they do get to recover their
23 entire depreciation expense.

24 But your concern is they don't get a return
25 on the -- well, because it's not cash so they don't get

1 a return on it. And I'm just grappling with that. I
2 don't see the logic in giving them the return since
3 they are recovering the entire depreciation expense and
4 they're getting a return on their investment, and so --

5 COMMISSIONER CLARK: This is somewhat of a
6 compromise to allow them, to encourage them to build a
7 larger plant than they immediately need to enjoy
8 economies of scale. But the reason you don't allow
9 AFPI for what, more than five years? Is that what it
10 is?

11 MS. MERCHANT: You allow it for -- it
12 increases for a period of five years; but then at that
13 fifth year, if you still have ERCs to be connected onto
14 the system, it just doesn't increase any more. But you
15 can collect the charge until you have all your ERCs
16 collected.

17 COMMISSIONER CLARK: And isn't it sort of to
18 encourage the utilities to properly size their plant
19 but not a huge plant that they wouldn't --

20 MS. MERCHANT: That's correct.

21 COMMISSIONER CLARK: -- be able to fill up
22 for several years?

23 MS. MERCHANT: That's correct.

24 COMMISSIONER CLARK: I have talked to Staff
25 about their proposal and about Public Counsel's -- I

1 mean, Waterworks Association and discussed briefly
2 yours, and I think what the Staff has proposed is the
3 way to go.

4 MS. MERCHANT: Do you need to make a
5 correction real quick on what I said earlier?

6 COMMISSIONER CLARK: Yeah. There was an
7 inconsistency. I couldn't -- you weren't there and I
8 couldn't ask you except in this forum.

9 MS. MERCHANT: It does include a return on
10 the -- so they get the time value of money on that lost
11 depreciation expense going forward from each year.

12 CHAIRMAN DEASON: Okay. They do?

13 MS. MERCHANT: They do.

14 CHAIRMAN DEASON: See, that's where I'm
15 getting lost with that.

16 MS. MERCHANT: They do.

17 CHAIRMAN DEASON: Earlier, I thought you said
18 they do not.

19 MS. MERCHANT: I was incorrect.

20 CHAIRMAN DEASON: Okay. So the amount of
21 depreciation expense that is recognized but is not
22 actually recovered in cash, under your methodology,
23 that's recognized and there is a time value of money
24 components associated with that?

25 MS. MERCHANT: That's correct, there is, for

1 each year.

2 CHAIRMAN DEASON: Mr. Seidman, is that your
3 understanding?

4 MR. SEIDMAN: Yes. That's my understanding.
5 I maybe missed what it was, what your concern was. I
6 agree with her; that's the calculation.

7 CHAIRMAN DEASON: Okay. All right. We have
8 a motion.

9 MS. DAVIS: Commissioners, excuse me.
10 On Paragraph (5) on Page 78, I just noticed
11 that an appellate standard of review snuck into that
12 language that I would recommend be removed.

13 Right now it reads, "Unless there is
14 competent substantial evidence presented by the utility
15 demonstrating that," et cetera. I would recommend
16 changing that to read, "Unless the utility demonstrates
17 that," et cetera.

18 COMMISSIONER CLARK: What difference does
19 that make?

20 MS. DAVIS: Well, "competent substantial
21 evidence" is the standard of review that the appellate
22 court uses in reviewing the Commission's decision. The
23 utility has to demonstrate by a preponderance of the
24 evidence, so it's the wrong terminology. And just
25 using the word "demonstrating," I think, is sufficient.

1 would include the change recommended by Ms. Davis.

2 COMMISSIONER CLARK: Okay.

3 CHAIRMAN DEASON: Without objection, show
4 that change made through .434 and it being adopted.

5 (Pause)

6 .436.

7 MR. SCHIEFELBEIN: Excuse me, Mr. Chairman,
8 on .435, is that, which is --

9 COMMISSIONER CLARK: That's in a different
10 category.

11 CHAIRMAN DEASON: That's a different --
12 that's Issue 4. We're still dealing with Issue 3 of
13 the rules.

14 MR. SCHIEFELBEIN: I'm sorry.

15 CHAIRMAN DEASON: Okay. Rule .436.

16 MS. MERCHANT: Commissioners, I would like to
17 propose a correction to Staff's recommendation on Page
18 82. And that is Section 4(h), No. 2, on Line 23 and
19 24.

20 The language that's shown in the shadow says,
21 excuse me, it says, "In excess of one-tenth of 1%." It
22 doesn't tell you what that one-tenth of 1% is suppose
23 to be measured by. So Staff was going to propose that
24 the whole No. 2 read, "A detailed description and
25 itemization of the cost in excess of one-tenth of 1% of

1 the whole No. 2 read, "A detailed description and
2 itemization of the cost in excess of one-tenth of 1% of
3 test year revenues being allocated or charged in the
4 amount," and then the rest of sentence would be reading
5 as quoted.

6 COMMISSIONER CLARK: Does that clear up the
7 Waterworks' comments?

8 MS. MERCHANT: Yes. Well, some of them.

9 COMMISSIONER CLARK: Well, I mean, with
10 respect to their confusion as to the one-tenth of 1%.

11 MS. MERCHANT: That's correct. They had some
12 comments that it shouldn't be one-tenth of 1%; that it
13 should be 2%; but that does fix that problem. Because
14 that is what Staff had intended all along, we just
15 didn't put that into the rule.

16 MR. SCHIEFELBEIN: Could you repeat your new
17 language?

18 MS. MERCHANT: "A detailed description and
19 itemization of the cost being allocated or charged in
20 excessive of one-tenth of 1% of test year revenues and
21 the amount of each itemized cost," et cetera, as it
22 reads on. (Pause)

23 CHAIRMAN DEASON: Let me ask Mr. Schiefelbein
24 a question.

25 In your comments, you have a concern about

1 the requirement for an organizational chart and that
2 that could be burdensome?

3 MR. SCHIEFELBEIN: We have a concern both
4 with the materiality threshold for MFR purposes, and we
5 also have a problem with the organizational chart.

6 CHAIRMAN DEASON: Okay. Now, as far as a
7 threshold, you recommend 2%?

8 MR. SCHIEFELBEIN: Yes. For purposes of
9 MFRs, yes.

10 CHAIRMAN DEASON: And the problem with the
11 organizational chart is that it requires all affiliates
12 of affiliates-type situation, and that could be
13 burdensome for some companies?

14 MR. SCHIEFELBEIN: As written right now, it
15 would be an organizational chart of any affiliate you
16 have, whether there is any allocation or charging going
17 on between them.

18 I think for the vast majority of companies,
19 that's not going to be that big a deal as the rule is
20 written. But for two of our members, both of whom are
21 in the ITT family of companies, they -- and I think we
22 have testimony -- they have, I think, literally
23 thousands of affiliates.

24 There is no organizational chart in
25 existence, and to prepare one would be extremely costly

1 and wouldn't accomplish anything, again, if you assume
2 there's no allocation or charging going on between
3 them.

4 I have representatives here today of both of
5 those companies who, unless you're prepared to drop the
6 requirement altogether right now, would like an
7 opportunity to chat about it because it's just not
8 workable for their unique situation.

9 We've proposed specific rules -- excuse me,
10 specific rule language that limits the organizational
11 chart to entities that you do have an allocation or
12 charging a relationship with. And I think that that
13 should make everyone happy.

14 COMMISSIONER CLARK: What about the comment
15 that we need to look at it at all because there may be
16 some people you ought to be allocating to and you're
17 not?

18 MR. SCHIEFELBEIN: Well, it reminds me of
19 Chairman Nichols' comment years ago, saying, you know,
20 "Somehow we have to have some rationality to
21 regulation, and we can't have people raising issues:
22 Where is the allowance for dancing girls in your rate
23 base? And how do we know that there isn't a component
24 for dancing girls?" It's, you know --

25 COMMISSIONER CLARK: Let me be more specific.

1 companies. And then we find out there are more
2 subsidiaries to which that charge should be allocated,
3 and we find out you're allocating 50% to the utility
4 when, if you had allocated evenly to everybody that's
5 part of that organization, they would have only been
6 10%? How do we find that out without an organizational
7 chart?

8 MR. SCHIEFELBEIN: Well, of course, here
9 we're talking about the MFRs and including this chart
10 in the MFR. Certainly, the discovery process is
11 available to try to get more into that information.
12 But if we could, could I get those gentlemen up here to
13 talk about --

14 COMMISSIONER LAUREDO: Let me ask you
15 something.

16 Is your testimony or your comments that a
17 company like ITT has no -- cannot, if I ask them now,
18 "Could you print out all the names of your affiliate
19 companies," they can't punch it into a computer and get
20 it out?

21 MR. SCHIEFELBEIN: I would rather have them
22 up here. I assume, and they'll correct me if I'm
23 wrong, that they can produce the names. But to create
24 a chart --

25 COMMISSIONER LAUREDO: Well, okay. That's

1 what I was getting at. What you're talking about is a
2 flowchart because of interlocking directorships and
3 whatever; but the listing, which seems to me should not
4 be that --

5 MR. WILLIS: Commissioners, if you turn to
6 Page 43 of this same rule, there is a waiver provision
7 in Subsection 6 that takes care of this problem.

8 MS. MERCHANT: 83.

9 MR. WILLIS: 83, I'm sorry.

10 COMMISSIONER LAUREDO: Which is what?

11 MS. MERCHANT: On Line 20.

12 MR. WILLIS: Line 20 of that page says,
13 "waiver of MFRs requirements."

14 COMMISSIONER LAUREDO: What line?

15 MS. MOORE: Subsection (6), Line 20.

16 COMMISSIONER LAUREDO: Let me ask you
17 something, if I can parentheses, and Chuck is here.

18 Was I involved -- I mean, I get GDC and
19 Deltona sometimes confused as it relates to water.
20 Didn't we have recently, while I've been here, a
21 Deltona Utility case?

22 MS. MERCHANT: Deltona is owned by Southern
23 States now. And GDU, you did just recently sit on a
24 case.

25 COMMISSIONER LAUREDO: All of Deltona's

1 case.

2 COMMISSIONER LAUREDO: All of Deltona's
3 utilities are owned by --

4 MS. MERCHANT: Southern States.

5 COMMISSIONER LAUREDO: Okay. You escaped my
6 wrath by an inch. Because I was looking at -- you see,
7 I happen to, as you notice, every case I ask for the
8 annual report. I happen to be a freak of 10Ks and all
9 of that because I like to get behind the company. I
10 like to know what they're doing first. Not for
11 sinister reasons, just to understand; and not for
12 allocation reasons but just to know. This is
13 particularly true in a world where there's more and
14 more conglomeration and cross-ownerships; where the
15 title doesn't tell you anything.

16 There are a lot of people who still think ITT
17 does what it did 50 years ago, and it's in everything
18 but what you thought.

19 So I really don't -- I mean, other than the
20 organizational part of it I can understand, because
21 they don't necessarily flow that it's an organizational
22 chart.

23 MR. SCHIEFELBEIN: Well, our quarrel is with
24 the chart.

25 COMMISSIONER LAUREDO: Okay.

1 MR. SCHIEFELBEIN: I was a part of a rate
2 case involving Palm Coast years ago, and I recall a
3 discovery meeting held where I believe Public Counsel
4 was requiring to see our organizational chart. And my
5 recollection is there was a chart that was put together
6 that would cover a substantial expanse of the wall
7 behind you all in very fine print and, you know, Palm
8 Coast wasn't on it. I mean, it was that small of a
9 company that it wasn't even in it.

10 Our quarrel is with the chart, not with
11 providing information. And I think we need to keep
12 reminding ourselves that we're dealing with the minimum
13 filing requirements as far as this particular rule.

14 COMMISSIONER LAUREDO: Well, it seems to me
15 if you list the companies and then in the MFRs if you
16 just list the affiliate company, either by name or
17 somehow it raises your interest, then you would have
18 discovery to follow up on it, right?

19 MR. SCHIEFELBEIN: Yes.

20 COMMISSIONER LAUREDO: I agree with that.

21 MR. SCHIEFELBEIN: Of course, our preference,
22 though, is that you -- yes, here's Mr. Todd.

23 MR. TODD: Commissioners.

24 COMMISSIONER LAUREDO: While you're at it,
25 Deltona does not have any regulated industry under us?

1 MS. MERCHANT: Deltona is now owned by
2 Southern States, and all of those --

3 COMMISSIONER LAUREDO: Deltona Utilities.

4 MS. MERCHANT: There is no Deltona Utilities
5 anymore.

6 COMMISSIONER LAUREDO: I just learned of the
7 true ownership of Deltona Corporation recently being
8 Dutch West Indies Corporation, and I don't know if you
9 saw the Florida Trend, and it just over the weekend I
10 was worried that I missed something.

11 MS. MERCHANT: They're all Southern States.

12 COMMISSIONER LAUREDO: Okay. Just wanted to
13 make sure I --

14 MR. TODD: I would just like to give a little
15 bit of background of the way ITT does business, at
16 least as far as I can gather from my position in the
17 corporation, which is fairly low down. But they have
18 basically seven major operating groups, I believe, is
19 the correct number.

20 The one I'm a subsidiary of is ITT Rayonier,
21 which is a forest products company. The one Palm Coast
22 is a subsidiary of is ITT Shearton. They don't report
23 to any of the same officers; they don't have any of the
24 same legal staff; they don't have anything except once
25 you get to the very top they have the same general

1 board of directors, chief legal counsel and that sort
2 of thing.

3 But our company independently creates
4 subsidiaries to do the forest products business and to
5 do some real estate business and to do some utility
6 business and to do some export/import trading
7 businesses and all sorts of different businesses.

8 And for me to be able to get the subsidiary
9 information in my company, my parent, Rayonier, that's
10 a piece of cake because the Rayonier legal staff keeps
11 that both locally and at corporate. But each of the
12 major operating groups has authority to create and
13 extinguish subsidiaries without any further-up
14 authority, and they do have to report them over time.

15 But, for instance, ITT Automotive, which is
16 one of the operating groups, could have a foreign
17 subsidiary and does business in England. Well, I don't
18 have any business with them and I don't do any business
19 with them. And for me to assure you when I make my
20 minimum filing requirements that I've got every single
21 company, I would have a hard time assuring you that. I
22 can assure you to the best of my ability.

23 I can get you a list that's published
24 annually. In the policy guide, there's a list of
25 subsidiaries that are active at a given time; but it's

1 an ongoing business and it's not a static sort of
2 thing. And that's really our concern is we don't have
3 very good access to any information that tells us the
4 interrelationships of those with other subsidiaries
5 beyond our own company.

6 Again, we have 77 subsidiaries in Rayonier,
7 and those are reasonably accessed for our company. But
8 I don't have any good information other than calling
9 Jim Perry on the phone and asking him for Palm Coast's
10 subsidiary relationships. And we don't pass any
11 charges to them and they don't pass any back to us.

12 COMMISSIONER CLARK: But why can't the last
13 paragraph in this rule address your problem?

14 MR. TODD: It probably can. We're just
15 trying to point out that it's going to be an ongoing
16 problem for us other than give -- we're not trying to
17 hide anything. We can give you the annual reports, all
18 the stuff we've got; but beyond business segments, it
19 gets real cloudy as to what's in existence today and
20 what's not.

21 COMMISSIONER LAUREDO: I think you're going
22 to be the exception, but I certainly share the reality
23 of what they're talking about.

24 I mean, an annual report and a listing of
25 affiliates that are in any way somehow related to the

1 operations, without an organizational framework, could
2 provide you the information. If you, for some reason,
3 are suspicious about something, then you can pursue it.

4 So I agree with the Company on this one.
5 Although it sounds -- I don't want to be nasty. It
6 sounds like the arguments I hear from a lot of
7 companies, how they cannot certify that they're not
8 violating the trade embargo to Cuba. And so I don't
9 know what my people in Argentina are doing, you know.

10 MR. TODD: Again, we have no problem bringing
11 in everything, you know, what's published on a regular
12 basis, whatever we can access through the corporate
13 offices. But it would probably be unduly burdensome
14 and of no value to this Commission to find out what
15 subsidiaries were, you know, making brakes in England
16 today.

17 COMMISSIONER LAUREDO: Wouldn't a listing
18 help you all trigger your curiosity if you --

19 MR. TODD: One of the ways -- if you have a
20 concern, for instance, about allocated costs, let's
21 take one like pension costs, which typically in a lot
22 of big companies get allocated around. One of the
23 very easy ways to check is it a reasonable cost is to
24 look at similar costs in other businesses. Or you can
25 go through the entire analysis of every single company

1 and every single employee. But I think that's
2 preclusive to sound ratemaking from a cost point of
3 view.

4 You can check reasonableness many ways, and I
5 submit to you sometimes accuracy to the penny is not
6 the most reasonable way to check a cost.

7 COMMISSIONER LAUREDO: I guess I could go
8 back and say, "What's the problem we're trying to fix?"
9 And maybe start working backwards from there.

10 MR. SHREVE: For one thing, there is a waiver
11 down there. If it's really burdensome, they can get
12 that. But I guess if we're talking about (4), "An
13 organizational chart of the relationship between the
14 utility and its parent and affiliated companies and the
15 relationship of any related parties," I don't see any
16 big problem with that for IT&T. Now if they're worried
17 about it changing, they're only going to be obligated
18 for what they give us at that particular time.

19 I just don't see any problem. And there
20 could be affiliated companies that are doing business
21 with a utility that might show up in this. I don't see
22 any problem where it's so hard for them. IT&T ought to
23 be able to handle that.

24 COMMISSIONER LAUREDO: And if we delete the
25 words "and the relationship of any related parties" and

1 just say "an organizational chart of the relationship
2 between the utility and its parent"?

3 MS. MERCHANT: I don't think that would get
4 us the information that we really need. Because we
5 know about the parent generally, But it's the
6 affiliates that we're really concerned with. And a
7 company as big as ITT, I think I would be more worried
8 to make sure that the allocated costs were correct. I
9 mean, it's just a big company and it makes it a bigger
10 issue by that very fact.

11 MR. TODD: But again, Trish, you have another
12 way to check that, and it's a fairly reasonable way --

13 MS. MERCHANT: It's called discovery.

14 MR. TODD: Well, sure. And you can go
15 through -- that is certainly a way, and no one's
16 disputing that as a manner to do it.

17 I'm only suggesting that that may not be the
18 best manner to do it. The best manner might be check
19 for reasonability versus other utilities you see, other
20 companies you see, if that's what your goal is.

21 We would have no objection to providing every
22 single subsidiary of our parent company or any
23 subsidiaries of ours. I mean, that's a doable goal
24 that I think basically is how the businesses are
25 managed as business groups in IT&T.

1 MS. MERCHANT: Staff is really concerned with
2 just the overall picture as a filing requirement. We
3 can't look at individual companies. And I think that
4 if this was a burden for them, I think that certainly
5 that would be the area for the company to request.
6 Maybe not the total organizational costs -- chart for
7 that company; maybe that would be an area where they
8 could present some information up front to the
9 Commission and that would be the best way to decide
10 that on a case-by-case basis. But in general, I think
11 that this MFR requirement is very necessary.

12 MS. DISMUKES: If I could just interject
13 something real quick with respect to IT&T. Mr. Todd
14 mentioned that they had seven major operating groups,
15 and they have got the parent company and seven groups
16 and then they have got subsidiaries under that. I
17 know, like with Bell, basically, when they give us an
18 organizational chart, that's in effect what they do.
19 They say, "This is the parent company and these are
20 operating groups"; and to the extent that the operating
21 groups have major subsidiaries under it, they tell us
22 what those major subsidiaries are, and then they say
23 "affiliates." And then it's up to us from that
24 standpoint to go forward and say, "Okay, now, identify
25 all of the affiliates underneath these major

1 subsidiaries or these major operating groups."

2 And maybe with respect to this company, you
3 could do something like that with the seven major
4 groups; and then for the one group that the utility is
5 under, you'd want detail under that so you could see
6 exactly how the relationship is built up from that
7 utility up to that operating group.

8 COMMISSIONER LAUREDO: There's a little more
9 rationality to an organizational chart of a BellSouth
10 than there is to an IT&T. I mean, there really is.

11 I can think that this may be a way of just
12 confusing the enemy. I mean, I can throw you 500 boxes
13 full of this stuff and it doesn't get you anywhere. If
14 they really wanted to play devil's advocate, I mean,
15 they could --

16 MS. DISMUKES: And I'm trying to get away
17 from 500 boxes.

18 COMMISSIONER LAUREDO: Which it would, yeah,
19 but maybe what you're suggesting is in the case -- let
20 me ask you this, because perhaps my concerns -- I agree
21 with you. But maybe, unless you assume that we will
22 not be reasonable, did your answer, Chairman, on the
23 waiver, you don't feel comfortable with that?

24 MR. TODD: Well, I just think it puts an
25 added burden of having to go in front.

1 COMMISSIONER LAUREDO: Because you would be
2 the only --

3 MR. TODD: I think what Ms. Dismukes
4 suggested is something that's easily achieved. Our
5 concern is with all the little companies that don't
6 have any relationship whatsoever to us other than they
7 get a little bitty piece of Mr. Araskog's, Chairman of
8 the Board's, time. I don't think we get any of his
9 time, to be honest with you. I'm not sure my parent
10 does, myself.

11 COMMISSIONER LAUREDO: Southern States
12 doesn't have this kind of diversity problem. IT&T is
13 pretty much unique.

14 MR. HOFFMAN: We don't have a problem with
15 that requirement.

16 CHAIRMAN DEASON: Let me ask a question to
17 Public Counsel.

18 Public Counsel, you're suggesting that the
19 rule require work papers to be filed with the MFRs; is
20 that correct?

21 MS. DISMUKES: Yes.

22 CHAIRMAN DEASON: And that there is some
23 concern with the potential voluminous nature of that
24 and have suggested that it be limited to three copies.

25 MS. DISMUKES: Right.

1 CHAIRMAN DEASON: Okay. I also understand
2 that you believe it would be better to have it in the
3 MFRs because it's going to be needed. And if it's not
4 in the MFRs, it's going to be part of the discovery
5 anyway and it may be cheaper to have it done up front.

6 MS. DISMUKES: Right.

7 CHAIRMAN DEASON: What's the industry's view
8 on that? I mean, if it is going to be requested anyway
9 and if it is legitimate discovery, why not have it in
10 the MFRs?

11 Mr. Hoffman.

12 MR. HOFFMAN: If I may, Mr. Chairman, one
13 reason we brought this up at the hearing is that there
14 are going to be significantly less copies that the
15 company will have to make and serve if the information
16 is provided through discovery, as opposed to providing
17 it up front with a minimum of 16 copies when it's part
18 of the MFRs.

19 CHAIRMAN DEASON: Okay. I think there's been
20 a suggestion to limit that to three.

21 MS. MERCHANT: That's correct.

22 CHAIRMAN DEASON: That would help in that
23 regard as far as number of copies.

24 MR. HOFFMAN: Yeah.

25 MS. MERCHANT: That's correct.

1 a reasonable person can look at expenses and figure out
2 what is reasonable or not. I would think that anybody
3 -- as I said just a second ago, it would be easy for us
4 to show you the parent company, all the major
5 subsidiary business groups, any of the one or two big
6 huge subsidiaries that truly warrant a look at if the
7 cost is being accurately allocated.

8 There's not the issue. The issue is having
9 to provide the 900, 1,500 -- I don't know the number.
10 I tried to find out the number, so I could talk about
11 this and couldn't get the number.

12 CHAIRMAN DEASON: You really don't have a
13 problem, then, with just providing the work papers that
14 show the allocations, the actual calculations?

15 MR. TODD: No. What I'm saying is I have no
16 problem showing the actual number of companies, the
17 work groups, as far as organizational. It's easy
18 enough for me to show you the allocations from my
19 parent to me and all the charges are made up of that.
20 That I can do, too.

21 CHAIRMAN DEASON: Let me ask Staff a
22 question.

23 I know that you rejected Public Counsel's
24 suggestion because it is voluminous and it can be, if
25 it is needed, it can be requested through discovery.

1 suggestion because it is voluminous and it can be, if
2 it is needed, it can be requested through discovery.

3 MS. MERCHANT: That's correct, on the work
4 papers. And that's because I think that you've got
5 enough information with the MFRs right now so that you
6 could go through this. This would be sufficient
7 information to find red flags if you wanted to go and
8 look further.

9 You wouldn't have to have every single work
10 paper behind that. You'd just go in and you'd say --
11 well, insurance expense for example, if you got the
12 information up front on that and you thought, "Well,
13 that looks fine," you wouldn't have to have that. But
14 on salaries, executive salaries coming down, maybe
15 you'd need a lot more information behind that.

16 So I think you could pick and choose once you
17 got the MFR information and then get more specific and
18 you wouldn't have to have everything.

19 COMMISSIONER LAUREDO: Of course, all of this
20 that we're doing is in the name of streamlining, right?

21 MR. TODD: Right.

22 COMMISSIONER LAUREDO: We've got to keep that
23 in mind. I really don't -- I mean, I could actually
24 see it turn to the benefit of the company. I can -- to
25 use Ed Ball's famous phrase, "confusing to the enemy."

1 Just dump -- my God, I know you guys are overworked
2 already as it is. Just dump hundreds of boxes of stuff
3 on you, and it seems to me that could actually work
4 against you rather than to, you know, use a reasonable
5 common-sense test and then flag things and then follow
6 up on that. It seems to be more efficient.

7 But it's not implied in my comment that you
8 shouldn't have full access to any and all of it, it's
9 just when.

10 CHAIRMAN DEASON: Well, my concern is what is
11 the most efficient and cheap way to provide the
12 information if the information is needed?

13 What I'm hearing Public Counsel saying is,
14 "This is essential information. If it's not in the
15 MFRs, we're going to file discovery and that's probably
16 going to take more attorney time and everything else
17 involved, and it's probably going to be more expensive
18 in the long term."

19 What I hear Staff saying is that, "Well,
20 there's enough information in the MFRs already that it
21 can give an informed party direction as to what
22 additional information is needed, and they can tailor
23 those requests, and that would be less burdensome and
24 less voluminous and less expensive than just getting it
25 all up front."

1 And I don't know what's the right position.

2 MS. MERCHANT: Well, Staff's position is
3 essentially agreeing with OPC. A lot of this was added
4 from OPC's, we just didn't take those two components
5 about the work papers and the source documents. So,
6 you know, originally Staff's position was not near as
7 detailed as this; but we agreed that that was
8 reasonable, and I think certainly doing it up front
9 would save money for the utilities. I think you're
10 right, discovery time, he may have some objections or
11 whatever, legal expense.

12 CHAIRMAN DEASON: It seems to me that if a
13 company is seeking to include in its recoverable
14 expenses allocations from a parent that they've had to
15 do the calculations. They've done some type of
16 allocations and calculations and that exists somewhere.
17 And it may be cheaper in the long term just to provide
18 that information, three copies of it, than it would be
19 for a party to try to tailor discovery questions and
20 have those discovery questions sent to an attorney; and
21 the attorney looks at them and the attorney sends them
22 to an analyst or a consultant; and they look at it, and
23 they finally decide, "Well, let's just send them copies
24 of our work papers; it will be easier." In the
25 meantime, you've already clocked in several hours of

1 with you. I don't know what the answer is, but I think
2 we're taking a step in the right direction here and I
3 think we've reached a good compromise on this rule.
4 And I would propose we adopt the rules as proposed by
5 Staff, at least, .436.

6 COMMISSIONER LAUREDO: You're calling the
7 compromise (h), the three copies part.

8 COMMISSIONER CLARK: No. Just what Staff has
9 recommended. And that's not to say that sometime in
10 the future that we would conclude that we need to go
11 further.

12 COMMISSIONER LAUREDO: See, this doesn't make
13 any sense to me except one thing, which is I think
14 probably it might have been part of the motivation of
15 Public Counsel requesting this. Then when they do flag
16 things, then they are dragged and their time is dragged
17 down in a nonproductive chase for the information. You
18 know, the appeals and the this and the objection comes
19 to confidentiality. That's where my sympathy switched
20 back a little bit to.

21 COMMISSIONER CLARK: I agree with that, and I
22 think Staff did make several changes to the rule with
23 that in mind.

24 MS. MERCHANT: That's correct.

25 MR. SHREVE: Commissioner, at this point I

1 MS. MERCHANT: That's correct.

2 MR. SHREVE: Commissioner, at this point I
3 think what we're talking about is making some copies
4 and furnishing them to us and to the Staff. And I
5 certainly don't think that makes it any more cumbersome
6 for the Staff. They can do what they want to with
7 them.

8 If we have to come back in and serve
9 interrogatories and take depositions and fight it out
10 through hearings, you're talking about not cutting rate
11 case expenses, you're talking about adding attorneys
12 fees and other things like that. And at this point --
13 it's the type thing we go after in every one of the
14 cases. If we get it up front, it's that much easier
15 and cuts out a lot of the unnecessary discovery in the
16 case.

17 COMMISSIONER LAUREDO: And some animosity
18 that develops in the chase for discovery.

19 MR. SHREVE: Absolutely.

20 COMMISSIONER LAUREDO: As we know from
21 Southern Bell.

22 MR. SHREVE: Sure. And continually builds up
23 fees in opposition to it. There shouldn't be any
24 problem with furnishing that. And at this point we're
25 talking about copies for us to go into when something

1 a question.

2 If a company -- and maybe I'm looking at it
3 too simply; and if I am, correct me. But if a company
4 is seeking to recover allocated expenses, they've
5 identified what those expenses are and they must have
6 calculated them some way, which means some type of a
7 worksheet or spreadsheet that shows allocations and how
8 the costs are being allocated. And if that already
9 exists, what's wrong with just providing a copy that up
10 front in the MFRs and, hopefully, bypass some of the
11 discovery? (Pause)

12 MR. SCHIEFELBEIN: What is the exact language
13 that we're looking at including in the MFRs?

14 MR. ARMSTRONG: It's on Page 82 in the
15 right-hand columns there, numbers (4) and (5) there.

16 MR., SEIDMAN: You're proposing the language
17 that's already written?

18 MS. MOORE: It's in OPC's comments, what
19 we're talking about, in the far right column, (4) and
20 (5).

21 COMMISSIONER LAUREDO: What's a "source
22 document"?

23 MS. DISMUKES: A source document would be the
24 -- let's say they were allocating costs on the assets
25 of three individual utilities, and the assets were the

1 -- let's say they were allocating costs on the assets
2 of three individual utilities, and the assets were the
3 basis of the allocation factor, the source document
4 would be the financial statements from which they took
5 the asset amount from each of these utilities.

6 MR. SCHIEFELBEIN: The consensus at this end
7 of the table seems to be that the work papers are less
8 of a problem; but source documents, we're really
9 getting into potentially very burdensome, very
10 voluminous documentation.

11 CHAIRMAN DEASON: Well, perhaps a compromise
12 would be to provide the work papers in which those are
13 reviewed. If source documents are needed, then
14 discovery could be filed for those.

15 COMMISSIONER LAUREDO: I move that motion --
16 that spirit, or whatever you call it.

17 CHAIRMAN DEASON: Spirit of compromise.

18 COMMISSIONER LAUREDO: Yes.

19 CHAIRMAN DEASON: Does Staff have problem
20 with that?

21 MS. MERCHANT: So that would be adding in
22 both (4) and (5), and just taking out source --

23 CHAIRMAN DEASON: No, it would be, basically,
24 adding in (4) and not adding in (5). And it would be
25 up to an interested party to file discovery to seek

1 source documents once they've reviewed the work papers,
2 but work papers would be provided in the MFRs.

3 MR. HOFFMAN: Mr. Chairman?

4 CHAIRMAN DEASON: Yes.

5 MR. HOFFMAN: Would that be three copies?

6 CHAIRMAN DEASON: Three copies of the work
7 papers, yes.

8 COMMISSIONER CLARK: Do we need to designate
9 to whom the three copies go?

10 CHAIRMAN DEASON: I think one would go to
11 Public Counsel and two would be retained at the
12 Commission.

13 MS. MERCHANT: One goes to Records and
14 Reporting; one goes to Staff.

15 COMMISSIONER CLARK: Okay.

16 MS. MERCHANT: That's how we came up with
17 three.

18 MS. DISMUKES: Could I just add one thing?
19 There was a difference between (4) and (5). (4) is
20 when there's an allocation and (5) is when they are
21 using a direct charging method, which is different than
22 an allocation. Florida Cities does that, and I think
23 Minnesota Power and Light does, too. They actually
24 charge for a person's time and those dollars come down
25 to the subsidiary.

1 CHAIRMAN DEASON: Perhaps what we need then
2 are the work papers for allocations and direct charges,
3 but there would be no reference to source documents.

4 MS. MERCHANT: So in No. (5) it would just be
5 the work papers used to develop?

6 CHAIRMAN DEASON: Yes.

7 MS. MERCHANT: And then we would move both --

8 CHAIRMAN DEASON: But we would eliminate any
9 reference to source documents.

10 MS. MERCHANT: Okay.

11 COMMISSIONER LAUREDO: And you're going to
12 list the parties that the copies go to, or not?

13 CHAIRMAN DEASON: I don't know if that needs
14 to be in the rule or not.

15 COMMISSIONER LAUREDO: Okay.

16 MS. MERCHANT: Even the original 16 is not in
17 the rule.

18 MS. DISMUKES: No, they are all filed and
19 then the clerk take care of it.

20 MR. ARMSTRONG: They all go to the clerk.

21 CHAIRMAN DEASON: You just file it with the
22 clerk and then it's just an internal matter as to how
23 we distribute them at that point.

24 MS. MERCHANT: That's correct.

25 COMMISSIONER LAUREDO: And on the

1 organizational chart, we're just going to just kind of
2 go forward with some spirit of reasonableness. What
3 did we decide?

4 CHAIRMAN DEASON: Yes. And then if there's
5 the need for a waiver, it can always be requested.

6 COMMISSIONER LAUREDO: And certainly the
7 spirit of this Commissioner is be very reasonable on
8 somebody as diverse as, for example, an ITT.

9 CHAIRMAN DEASON: I believe that disposes of
10 .436.

11 MR. SCHIEFELBEIN: Commissioners, on the
12 materiality level, as Staff has proposed.

13 CHAIRMAN DEASON: I'm glad you brought that
14 up. How did we determine one-tenth of 1%? That seems
15 to be a pretty small threshold level.

16 MS. MERCHANT: I think it just came out at
17 the hearing.

18 COMMISSIONER CLARK: Could we go back to 2?
19 Should we go back to 2?

20 MS. MERCHANT: We were thinking that the
21 one-tenth of 1% -- the 2% was for maintenance and
22 generally nonrelated party transactions, and we were
23 thinking that the related party transactions would
24 deserve more scrutiny and that's why we chose a lower
25 percent.

1 CHAIRMAN DEASON: Commissioners, what's your
2 pleasure?

3 MR. SCHIEFELBEIN: May I just offer a simple
4 observation on that? If we use the Staff level there,
5 we're -- of course, I'm going to use the worst example
6 I can come up with to try to make my point. But this
7 is MFRs for As and Bs, so you can have, at worst case,
8 for a B itemization of allocated items totaling all of
9 the \$151 in your MFRs. And I think that puts it in
10 perspective, and I think that's unprecedented for
11 anything you all have ever required for MFR purposes to
12 get that down to that level.

13 COMMISSIONER CLARK: What is the level you're
14 recommending?

15 MR. SCHIEFELBEIN: We're recommending 2% for
16 MFR purposes. We got that from the existing MFRs
17 contractual services, and also major maintenance
18 projects you require us to itemize when it's 2% of test
19 year revenues.

20 CHAIRMAN DEASON: But Staff's concern is that
21 you need to apply a little more scrutiny when you're
22 dealing with affiliated transactions. Perhaps we just
23 can compromise 1%. Could Staff live with 1%?

24 MS. MERCHANT: That's fine.

25 CHAIRMAN DEASON: Is there any objection to 1%?

1 COMMISSIONER CLARK: No.

2 COMMISSIONER LAUREDO: No, sir.

3 CHAIRMAN DEASON: Very well. We have that
4 change as well.

5 .437.

6 MS. MERCHANT: .437 is where the form would
7 change. We'd have to add in a new form for the Class B.

8 COMMISSIONER LAUREDO: My only problem is
9 with (6), and I would move that be deleted.

10 COMMISSIONER CLARK: I would just --

11 COMMISSIONER LAUREDO: It's kind of a
12 backdoor way of getting into something we're going to
13 have a full debate on.

14 COMMISSIONER CLARK: Yeah, I think the rule
15 can wait until we have that hearing. Because it does
16 -- the logic of it is persuasive to me. One of the
17 reasons you go to statewide rates is you don't enjoy
18 the benefits that you anticipate coming from statewide
19 rates if you don't do it on a whole utility basis every
20 time you come in.

21 But I see no -- I think we should go through
22 the rate design proceeding for Southern States before
23 which adopt this rule, this subsection.

24 CHAIRMAN DEASON: Are you moving, then,
25 adoption of .437 with the exception of Paragraph (6)?

1 COMMISSIONER CLARK: Yes.

2 COMMISSIONER LAUREDO: Yes, and I second.

3 CHAIRMAN DEASON: Move and seconded. Without
4 objection. So .437 --

5 MS. MERCHANT: And then that would be the
6 section we'd have to come back to at the next agenda
7 for the form?

8 COMMISSIONER CLARK: No. No. No.

9 CHAIRMAN DEASON: No. This would be after we
10 conduct the investigation into Southern States' rate
11 structure.

12 COMMISSIONER LAUREDO: I don't know if you
13 know about -- you don't know about this fight we have
14 about --

15 MR. WILLIS: We've got it.

16 MS. MERCHANT: I mistated. disregard that
17 last comment.

18 CHAIRMAN DEASON: I realize we need some
19 changes to forms as a result of other votes. We're
20 just going to let you all take care of that and make
21 sure the forms are consistent with our policy votes.
22 Is that sufficient?

23 MS. MOORE: That's sufficient.

24 CHAIRMAN DEASON: .4415. Without objection?

25 COMMISSIONER CLARK: What page is that on?

1 COMMISSIONER LAUREDO: On 91. I move it.

2 COMMISSIONER CLARK: Without objection.

3 CHAIRMAN DEASON: Okay. .4415 without
4 objection.

5 COMMISSIONER CLARK: I'm sorry, I don't have
6 any --

7 CHAIRMAN DEASON: .443.

8 COMMISSIONER LAUREDO: I move it.

9 CHAIRMAN DEASON: Without objection, .443,
10 show it adopted.

11 .465.

12 MS. MOORE: Excuse me, Commissioners, on .443
13 of the Class C MFRs, there's a form in there, too, and
14 we are not going to have to change that?

15 MS. MERCHANT: No, Class C won't have to
16 change.

17 MS. MOORE: Excuse me.

18 MR. SCHIEFELBEIN: Mr. Chairman, could I
19 point out what I think is a typo back in .436? It'll
20 just take a second.

21 CHAIRMAN DEASON: Surely.

22 MR. SCHIEFELBEIN: I think it's on Page 82,
23 Line 2, there's a reference to 25-30.439. And I guess
24 that should be something else, because there is no
25 .439.

1 MR. ARMSTRONG: I believe it should be .4385.

2 CHAIRMAN DEASON: We'll ask Staff to look at
3 that and make sure that the right reference was made.

4 CHAIRMAN DEASON: Okay. We're on Rule .465.

5 COMMISSIONER CLARK: I move Staff.

6 COMMISSIONER LAUREDO: I wanted to challenge
7 Public Counsel to tell me what their position is. It
8 is an artful diplomatic words I read there and unless
9 -- I read it several times.

10 COMMISSIONER CLARK: On .465? They don't
11 have any.

12 COMMISSIONER LAUREDO: They don't oppose the
13 rule.

14 COMMISSIONER CLARK: That's SSU.

15 COMMISSIONER LAUREDO: I'm sorry. I
16 apologize. SSU, what wonderful diplomatic language
17 there that you can live with it or without it.

18 MR. ARMSTRONG: Commissioner, what we meant
19 to indicate was we had some expert -- well, it wasn't
20 testimony, but Mr. Buddy Dewar was here in a prior
21 hearing and indicated that the firefighters across the
22 state felt that this private fire protection is
23 beneficial to save life and limb and property. And
24 Southern States, when we heard that testimony, we
25 realized that he was representing the firefighters, not

1 the sellers of these systems or purveyors of these
2 systems.

3 We were convinced from his testimony and the
4 subsequent discussions that this will have an impact on
5 the health and safety of our customers as well as their
6 property. And in that regard, we think there is
7 discretion to the Commission to set, you know, for rate
8 structure purposes, and you'll be hearing that from us
9 in the future. We don't disagree with Staff in this
10 regard.

11 COMMISSIONER LAUREDO: And you disagree on
12 the basis of cost, right?

13 MR. SCHIEFELBEIN: Yes, sir.

14 COMMISSIONER LAUREDO: I agree.

15 MR. SCHIEFELBEIN: Cost causer pays.

16 COMMISSIONER CLARK: It's not that the
17 utility is not going to recover this cost --

18 MR. SCHIEFELBEIN: That's true.

19 COMMISSIONER CLARK: It's from whom they are
20 going to recover it.

21 MR. SCHIEFELBEIN: We'll be going to the
22 general body of ratepayers instead.

23 COMMISSIONER LAUREDO: To me, having lived in
24 the northeast, there is a qualitative difference
25 between a New York or a Washington high-rise type -- of

1 course, there are a lot of high-rises in Florida. But
2 you know, I have the same problem with this as I have
3 with environmental, you know, everybody is making these
4 -- they are very worthwhile social policies that are
5 optimum. Of course, you know, when you say, "save life
6 and property," I mean, that's like the flag and apple
7 pie and how could you be against it? But I just don't
8 know if that's the most efficient way, and it's another
9 burden on the ratepayer. This doesn't -- I don't like
10 this one. I'm against this one.

11 MR. SCHIEFELBEIN: The current policy of
12 using one-third to set the base facility charge has
13 been used, I think, as long as anyone can remember.
14 And this is quite an abrupt departure from what you all
15 have done for a long time.

16 MR. CRQUCH: Commissioners, the one-third was
17 arrived at by just a guesstimate by Staff a number of
18 years ago. There was no basis for this other than a
19 guesstimate.

20 The investment that the utility has is
21 negligible only in a small amount of capacity held in
22 reserve. They have no investment in the installation
23 of a fire protection, private fire protection. The
24 meter is already paid for. We're trying to reimburse
25 the utility for the limited amount of capacity that

1 they have to hold in reserve in case that sprinkler is
2 used.

3 The question is whether or not we should
4 charge them one-third or one-twelfth. It's still a
5 minimal amount of capacity that they hold in reserve
6 for a private fire protection as opposed to fire
7 hydrants. Fire hydrants, the fire code requires them
8 to hold a certain amount in reserve.

9 COMMISSIONER LAUREDO: But this is not in
10 lieu of fire hydrants, this is in addition to fire
11 hydrants.

12 MR. CROUCH: This is in addition to fire
13 hydrants.

14 COMMISSIONER LAUREDO: Here we have 500
15 people, and 20 decide they have the money and the means
16 to put in a sprinkler system. And we have to then back
17 from that design a system by which we have got all of
18 these reserves and all of this stuff you call. And
19 then at 12 or at 10, whatever, the bottom line is all
20 500 have to pay a little bit more. Is that a quick
21 broad summary of common sense of what is happening
22 here?

23 MR. CROUCH: Possibly, if you got no
24 reimbursement from the person with the private fire
25 protection, then you could say everybody would have to

1 pay for it. But we're saying the person with private
2 fire protection should pay something, and how much
3 should they pay?

4 COMMISSIONER LAUREDO: And so will the other
5 480 people on the system who didn't put in fire
6 protection. There will be a burden, is there not,
7 financial increase in rates somehow. I don't know the
8 number, for people who do not -- either for financial
9 reasons for aesthetic reasons --

10 MR. CROUCH: We don't think so, sir. We
11 think the one-twelfth is enough to compensate the
12 utility for the expense that they would incur.

13 COMMISSIONER LAUREDO: I'm not worried about
14 the utility, they take care of themselves, they have a
15 good lawyer. My question is does the regular Joe of
16 the 480 who did not put it in, in my example, do they
17 have to pay one cent more?

18 MR. COUCH: No, sir.

19 COMMISSIONER LAUREDO: Gee, I don't
20 understand this.

21 CHAIRMAN DEASON: Well, I think we need to
22 clarify it, because I think if you assume the revenue
23 requirement the company is holding and is earning a
24 revenue requirement with a given rate, and you change
25 that rate structure and you want to still generate the

1 same dollar revenue requirements, well, then one
2 customer group is going to pay a little more and one is
3 going to pay a little less. So, yes, it could impact.
4 There's going to be a differential between customers if
5 you change.

6 To create the same dollar revenue, by
7 definition, you have to change.

8 COMMISSIONER LAUREDO: Absolutely. I'll tell
9 you something. I hold fire people in high esteem and
10 we're starting our new fire department in Key Biscayne
11 next week. And I would like to not vote for this and
12 have it part when it comes up in rate cases, we invite
13 these fire people to perhaps articulate in the content
14 of the rate case their point of view. But to lock it
15 into a rule --

16 CHAIRMAN DEASON: Well I think that -- what I
17 hear Mr. Crouch saying is that this investment is
18 pretty small; it's probably not worth litigating in
19 every case. But we need a rule and the rule needs to
20 be fairly drawn such that it fairly represents the cost
21 involved and we can just go forward.

22 MR. SCHIEFELBEIN: For purposes just of
23 discussion, what would be a fair average base facility
24 charge for water service, typical water service,
25 approximately?

1 MS. MESSER: Well, \$6 might be average.

2 MR. SCHIEFELBEIN: That high. It's getting
3 expensive. So we'd be talking, then, under this of
4 typically a 50-cent-a-month, using that as a scenario,
5 base facility charge for fire protection?

6 MS. MESSER: No. Fire protection is going to
7 be provided through about at least a 4- or 6-inch
8 meter, so you'd multiply it by the ERCs and then you
9 divide by whatever ratio we end up with, and it's been
10 one-third.

11 MR. SCHIEFELBEIN: It's hard for me, then, to
12 put it in perspective. I don't know so much about the
13 investment in the facilities, but there are also other
14 fixed costs that we have to recover through this base
15 facility charge associated with the fire protection.

16 MS. MESSER: Well, I would just like to point
17 out that this charge was never designed on a cost-based
18 foundation. This charge was completely designed on an
19 estimate of demand through the meter size to provide
20 the service. And what Staff tried to do with this
21 revision was update the Commission's policy, in
22 essence. Because it was designed about 20 years ago,
23 fire protection was not something that was commonly
24 built into buildings; it was the exception rather than
25 the rule. And it appeared from the testimony in this

1 proceeding that there was merit to reconsidering the
2 level of contribution that we were requiring that class
3 of customers to provide.

4 CHAIRMAN DEASON: Commissioner, it seems to
5 me that -- maybe it's a bad example, but it seems to me
6 that it may be a good one. It's kind of like in the
7 telephone industry where many years ago we charged more
8 for a private line than for two-party or four-party, and
9 now we realize that it costs more to provide two-party or
10 four-party than it does private line service. It seems to
11 me that, as I remember the testimony, is that there was an
12 argument made that private fire protection actually
13 imposes less cost when you consider the whole broad
14 perspective of everything.

15 COMMISSIONER LAUREDO: Oh, yeah. On a
16 societal basis, I agree with you. The problem is, I'm
17 reacting to this because, Mr. Chairman, you know my
18 spiel about we're the only guys who have to -- you
19 know, everybody is out there in their ivory tower, I
20 mean, with their wonderful intentions, but the buck
21 stops here. When we're the ones who have to put the
22 cent to the thing and then explain it to the people in
23 Jasmine Lakes and this and that. I'm getting tired of
24 it. I wanted to fire people and Jack Shreve and
25 whoever else who explained to them that this is how it

1 goes whether it's because we want to eliminate another
2 2,000 contaminants that haven't been completely proven
3 to be totally lethal, --

4 (Simultaneous Conversation.)

5 CHAIRMAN DEASON: There's one distinction
6 here, and that is we're not talking about adding more
7 cost. We're talking about fairly advocating costs that
8 are there. And is it more fair for it to be one-third
9 of one-twelfth. So that's where I say --

10 COMMISSIONER LAUREDO: Exactly. I was going
11 beyond that, I was trying to abolish the admendment and
12 the rule under the premise that I, since I'm a new
13 Commissioner, I --

14 CHAIRMAN DEASON: And I think you're going
15 get the opportunity to vote against it. We have a
16 motion and a second to approve Staff; is that right?

17 COMMISSIONER CLARK: Right.

18 CHAIRMAN DEASON: Moved and seconded. All in
19 favor say aye.

20 (Chairman Deason, Commissioner Clark and
21 Commissioner Johnson vote aye.)

22 CHAIRMAN DEASON: And opposed?

23 (Commissioner Lauredo vote, nay.)

24 COMMISSIONER LAUREDO: Well, it was worth the
25 fight.

1 CHAIRMAN DEASON: It was an interesting
2 discussion.

3 COMMISSIONER LAUREDO: And I got in the stuff
4 about our new fire department.

5 CHAIRMAN DEASON: Yeah, you got that plug in.

6 COMMISSIONER CLARK: Are you a volunteer?

7 CHAIRMAN DEASON: You're going to have a long
8 way to go if the bell rings. (Laughter)

9 Maybe you can do a --

10 COMMISSIONER LAUREDO: USAir, we have a
11 special arrangement if the firemen call me.

12 MR. SEIDMAN: Commissioner, can you clarify?
13 Are we reducing the charge to one-twelfth of the
14 capacity portion of the base facility charge or
15 one-twelfth of the base facility charge?

16 CHAIRMAN DEASON: I don't know. That's a
17 good question. Staff?

18 MS. MESSER: It's one-twelfth of the base
19 facility charge.

20 MR. SEIDMAN: Even though more than half the
21 base facility charge has nothing to do with capacity?

22 MS. MESSER: Well, that's not our argument.
23 That's your argument.

24 MR. SEIDMAN: Just as long as we're clear.

25 CHAIRMAN DEASON: I believe your position,

1 MR. SEIDMAN: One-twelfth of the capacity
2 portion.

3 CHAIRMAN DEASON: Okay.

4 COMMISSIONER CLARK: Which is more?

5 MR. SEIDMAN: Which is more charge to the
6 fire protection?

7 COMMISSIONER CLARK: Yes.

8 CHAIRMAN DEASON: Yes.

9 MR. SEIDMAN: One-twelfth of the capacity
10 portion, I think.

11 (Simultaneous conversation.)

12 MS. MESSER: That's right. We don't make
13 that distinction.

14 MR. SEIDMAN: Our position is that only a
15 portion of the base facility charge has to do with
16 capacity. So that for fire protection, they should pay
17 that portion that's not capacity related and have a
18 reduction of the capacity portion. So they'd pay the
19 noncapacity portion and one-twelfth of the capacity
20 portion. That would be more than what the Staff has.

21 CHAIRMAN DEASON: Yes. And I think what
22 we're saying is just we're simplifying it and we're
23 just doing one-twelfth of base facility charge.
24 That disposes of .465.

25 .515.

1 That disposes of .465.

2 .515.

3 COMMISSIONER LAUREDO: I move it.

4 CHAIRMAN DEASON: Without objection, show
5 .515 adopted. I believe that concludes Issue 3.

6 We can move to Issue 4.

7 MS. MERCHANT: Commissioners, I was going to
8 tell you that correction that Mr. Schiefelbein --

9 CHAIRMAN DEASON: I'm sorry. Commissioner
10 Clark?

11 COMMISSIONER CLARK: We would also approve
12 the repeal of .441. Did we do that already? Okay.
13 That was one more.

14 CHAIRMAN DEASON: I think you're right, we
15 need to do that.

16 COMMISSIONER LAUREDO: I move that.

17 COMMISSIONER CLARK: Okay. Second.

18 CHAIRMAN DEASON: Show the repeal of --

19 COMMISSIONER LAUREDO: .441.

20 COMMISSIONER CLARK: Yeah. 30.441.

21 CHAIRMAN DEASON: Show that the repeal of
22 .441 is approved.

23 Now we can move to Issue 4.

24 COMMISSIONER CLARK: I move Issue 4.

25 COMMISSIONER LAUREDO: Second.

1 CHAIRMAN DEASON: Okay. Ms. Merchant, did
2 you want to add something about that?

3 MS. MERCHANT: I do. The comment that Mr.
4 Schiefelbein made a few minutes ago that there was a
5 possible typo in .436, it is a typo. It's on the top
6 of Page 82, and it's adding in a section of a rule, and
7 it's -- specifically what this is doing is telling you
8 where the exceptions are, where not 16 -- where you
9 don't have to file 16 copies. In that rule, instead of
10 .439 -- there is no Rule .439. It should be .4385.

11 CHAIRMAN DEASON: Very well. We have a
12 motion and a second to approve Staff's recommendation
13 on Issue 4. Without objection, show that approved.

14 Issue 5?

15 COMMISSIONER CLARK: I move Staff.

16 COMMISSIONER JOHNSON: Second.

17 CHAIRMAN DEASON: Moved and seconded.

18 Without objection, show Issue 5 approved.

19 COMMISSIONER CLARK: I move Issue 6.

20 COMMISSIONER LAUREDO: We need to discuss
21 that one, right, in light of what we proposed? Oh,
22 that has nothing to do with the dates, right?

23 CHAIRMAN DEASON: No, because there's going
24 to be sufficient time between now and the time that
25 transcripts are filed, and then the 14 days are

1 COMMISSIONER LAUREDO: Okay.

2 CHAIRMAN DEASON: So we can go ahead and
3 close the docket; is that correct? Or do we do that
4 after the rule --

5 MS. MOORE: No. I'm sorry, do it after what?

6 COMMISSIONER CLARK: We can vote now; and
7 once you have gone through all the proceedings, all the
8 procedural hoops, you can close the docket. You don't
9 have to come back.

10 MS. MOORE: That's right.

11 COMMISSIONER CLARK: I move 6.

12 COMMISSIONER LAUREDO: Second.

13 CHAIRMAN DEASON: Moved and seconded. Without
14 objection, show Issue 6 approved.

15 That concludes this special agenda. Any last
16 comments?

17 COMMISSIONER LAUREDO: I think we should have
18 more hearings.

19 CHAIRMAN DEASON: I think you're out of
20 order. (Laughter)

21 Thank you all.

22 (Thereupon, the hearing concluded at 4:10 p.m.)

23

24

25

1 F L O R I D A)
 2 :
 3 COUNTY OF LEON)

CERTIFICATE OF REPORTERS

3 We, JOY KELLY, CSR, RPR, and PAMELA A.
 4 CANELL, Official Commission Reporters,
 5 DO HEREBY CERTIFY that the special agenda in
 6 Docket No. 911082-WS was heard by the Florida Public
 7 Service Commission at the time and place herein stated;
 8 it is further

9 CERTIFIED that we stenographically reported
 10 the said proceedings; that the same has been
 11 transcribed under our direct supervision, and that this
 12 transcript, consisting of 239 pages, Volumes I and II,
 13 inclusive, constitutes a true transcription
 14 of our notes of said proceedings.

15 DATED this 20th day of October, A. D., 1993.

10

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13

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Joy Kelly
 JOY KELLY, CSR, RPR
 Chief, Bureau of Reporting

Pamela A. Canell
 PAMELA A. CANELL
 Official Commission Reporter
 (904) 488-5981

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15 STATE OF FLORIDA)
 16 :
 17 COUNTY OF LEON)

18 The foregoing certificate was acknowledged
 19 before me this 20th day of October, 1993,
 20 by JOY KELLY and PAMELA A. CANELL, who are personally
 21 known to me.

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24

25

Evelyn L. Borschel
 Evelyn Borschel
 Notary Public - State of Florida



EVELYN L. BORSCHEL
 MY COMMISSION # CC289265 EXPIRES
 May 25, 1997
 BONDED THRU TROY FAIR INSURANCE, INC.