



I N D E XWITNESSES - VOLUME VIII

<u>3</u>	<u>NAME:</u>	<u>PAGE NO.</u>
4	SCOTT W. VIERIMA (Resumed Stand)	
5	Continued Cross Examination by Mr. McLean	1016
	Cross Examination by Ms. Bedell	1030
6	Redirect Examination by Mr. Armstrong	1033
7	JOSEPH P. CRESSE	
8	Direct Examination by Mr. Hoffman	1041
	Prefiled Direct Testimony Inserted	1044
9	Cross Examination by Mr. Jones	1052
	Cross Examination by Mr. McLean	1060
10	Cross Examination by Mr. Twomey	1064
	Cross Examination by Ms. Summerlin	1117
11	Redirect Examination by Mr. Hoffman	1143
	Recross Examination by Mr. Jones	1157
12		
	GREGORY L. SHAFER	
13		
	Direct Examination by Mr. Feil	1160
14	Prefiled Direct Testimony Inserted	1162
	Cross Examination by Mr. Hoffman	1167
15		
16		
17		
18		
19		
20		
21		
22		
23		
24		
25		

EXHIBITS - VOLUME VIII

2	<u>Number:</u>	<u>Identified</u>	<u>Admitted</u>
3	83 (Vierima) OPC Interrogatory No. 299	1016	1039
4	84 (Late-filed) (Vierima) Bond Indenture Deltona Debt	1016	
6	85 (Vierima) Staff recommendation for Docket 910662-WS	1016	1039
8	86 (Vierima) OPC Interrogatory No. 303	1028	1039
9	87 (Late-filed) (Vierima) Update variable cost debt	1033	
11	72, 73, 74, 75, 76, 77, 82		1039
12	88 (Composite) (Cresse) JPC-1 through JPC-3	1043	1160
13	89 (Cresse) Alternative Caps and Statewide Rates	1135	1160
15	90 (Shafer) GLS-1 Examples of Linear Regression	1161	
16			
17			
18			
19			
20			
21			
22			
23			
24			
25			

P R O C E E D I N G S

(Transcript continues in sequence from Volume VII.)

(Hearing reconvened at 12:30 p.m.)

CHAIRMAN BEARD: Let's go.

MR. McLEAN: Commissioners, during the break I arranged for three exhibits to be handed out, which we'll be using momentarily. The first is OPC Interrogatory 299.

CHAIRMAN BEARD: Exhibit No. 83.

MR. McLEAN: And the second is an excerpt from a deposition of Jose Quesade.

CHAIRMAN BEARD: Be 84.

MR. McLEAN: The third is a Staff recommendation. Maybe I can identify it a little better than that. Docket 910662-WS, Staff recommendation.

COMMISSIONER EASLEY: Just out of curiosity, what's Interrogatory No. 125?

CHAIRMAN BEARD: That's an old one.

COMMISSIONER EASLEY: I beg your pardon.

CHAIRMAN BEARD: That's Exhibit No. 82.

COMMISSIONER EASLEY: Sorry. Thank you.

CHAIRMAN BEARD: All right, Exhibit No. 85 is a Staff recommendation for Docket 910662-WS. Okay. It will be identified as 85.



1 (Exhibit Nos. 83, 84 and 85 marked for  
2 identification.)

3 MR. McLEAN: Thank you, Mr. Chairman.

4 SCOTT W. VIERIMA

5 resumed the stand as a witness on behalf of Southern  
6 States Utilities, and testified as follows:

7 CONTINUED CROSS EXAMINATION

8 BY MR. McLEAN:

9 Q Mr. Vierima, would you refer to Exhibit No.  
10 83 please, sir?

11 A Yes, sir.

12 Q You see the long term mortgage of \$21 million  
13 which has a cost rate of 15.99%? Are you familiar with  
14 that obligation?

15 A Yes, I am.

16 Q Okay, now, that was the obligation of Deltona  
17 Utilities, Inc. at one time, wasn't it?

18 A Yes.

19 Q Now, can you agree with me in a general way  
20 that 15.99% is somewhat higher than prevailing market  
21 rates, at least today?

22 A It would depend on the credit but in general,  
23 yes.

24 Q And if the company -- I think, in its own  
25 statement of position on the issue, has indicated that

1 it would like to refinance this mortgage, hasn't it?

2 A That's true.

3 Q Now, first of all, what -- you also say in  
4 your position, of which I believe you're the listed  
5 witness, that the Company has made several attempts to  
6 refinance this debt. Can you provide the Commission  
7 with some detail of what y'all have done?

8 A The Company approached the four lenders in  
9 question on the bond, on a number of different  
10 occasions with alternatives that would, perhaps, extend  
11 the maturity of the obligation, change the outstanding  
12 balance, and do other things to the covenants in the  
13 indenture itself that would provide additional  
14 financing for SSU, as well as restructure the existing  
15 obligation.

16 Q All right, sir. Did you make the lender  
17 aware that a change in ownership of the utility had  
18 taken place?

19 A Yes.

20 Q Would you look to Exhibit No. 84 which  
21 purports to be the deposition of Jose Quesada.

22 MR. ARMSTRONG: Objection, Commissioners.  
23 We're going to object to any questions being asked  
24 about this exhibit. I think it's very clear that this  
25 is a hearsay exhibit. It was not prepared in this

1 document -- I don't know who Mr. Jose Quesada is, but  
2 if he's a -- indicated in the pages that we have here,  
3 if he's a Deltona Corporation employee, his viewpoints  
4 and interests certainly aren't consistent with the  
5 interests of our Company. As you know, there was  
6 litigation over the takeover. I don't think we should  
7 be bound in anyway or have any evidentiary value to  
8 this document since he's obviously not a Company  
9 employee, and I believe that if Public Counsel had any  
10 questions of Mr. Quesada, they could have subpoenaed  
11 him in this docket and had him here for testimony so  
12 that his knowledge and the basis of his viewpoints that  
13 might be expressed herein, could have been cross  
14 examined by the Company.

15 MR. McLEAN: May I respond? The statement  
16 wasn't extrajudicial. It was under oath, and most  
17 importantly, I don't intend to assert the truth of  
18 anything contained in the statement, I just want to  
19 know if this gentleman knows, that at least someone in  
20 that Company thought that they might be able to be  
21 refinanced. I don't intend to assert the truth of  
22 whether they could be refinanced, I just want to find  
23 out if they took it into consideration. Thus, it's  
24 neither hearsay, and even if it were hearsay -- well,  
25 it's just not hearsay. It's not extrajudicial, it's

1 under oath, and I'm not attempting to assert the truth  
2 of anything contained in the statement.

3 MR. ARMSTRONG: Is that tantamount to a  
4 stipulation that you won't rely on this in your brief  
5 for support of any of your arguments? Is that what --

6 MR. McLEAN: No, it's the answer to your  
7 question.

8 MR. ARMSTRONG: The question is, is this  
9 evidence or not? We do not believe it is.

10 MR. McLEAN: I'm not trying to assert the  
11 truth of what is said. I just want to know if this  
12 gentleman knows it was said.

13 CHAIRMAN BEARD: I know you all's positions.  
14 Mr. Pruitt, you might want to give me a little advice  
15 on this. I understand that hearsay can be admitted and we  
16 give it the weight it's due and all that stuff, but --

17 Do you know who this guy is?

18 WITNESS VIERIMA: Jose Quesada?

19 CHAIRMAN BEARD: Yeah.

20 WITNESS VIERIMA: Yes, I do.

21 MR. PRUITT: Hearsay, Mr. Chairman, can only  
22 be used for the purpose of supplementing or  
23 substantiating other admissible evidence.

24 MR. McLEAN: But of course it's not hearsay.

25 CHAIRMAN BEARD: Pardon me?

1 MR. McLEAN: My argument is that it is not  
2 hearsay.

3 COMMISSIONER CLARK: Because it's under oath?

4 MR. McLEAN: No, because I'm not trying to  
5 assert the truth of anything stated in the document  
6 itself. I'm trying to ask this witness if he knows  
7 whether it was said. I don't know that it's true and  
8 I'm not going to try to impeach this witness and say  
9 that it is.

10 CHAIRMAN BEARD: You want this witness to  
11 testify whether or not he knows whether or not this  
12 person said this?

13 MR. McLEAN: Well, to tell you the honest to  
14 goodness truth, since I haven't asked the question I  
15 don't so how counsel can object.

16 CHAIRMAN BEARD: Go ahead and ask the  
17 question and then I'll assume there's an objection, and  
18 we'll try to figure out where we are.

19 BY MR. McLEAN:

20 Q Would you turn to numbered Page 5 of the  
21 exhibit please, sir?

22 A Okay.

23 Q Down to Line 7, if you please. Let me read  
24 it to you: "There is a provision for, if somebody buys  
25 us out, there is a premium that they can call in if

1 somebody buys us out." Is that a fair reading of that  
2 sentence?

3 A Yes.

4 Q Now, were you hitherto aware -- were you  
5 aware before you saw this, that at least someone in  
6 that Company thought that there might be a provision  
7 for refinancing if there was a buyout?

8 CHAIRMAN BEARD: First help me out, because  
9 that is not a fair interpretation of what you just  
10 read.

11 MR. McLEAN: I think you're right.

12 CHAIRMAN BEARD: Especially based on the next  
13 question.

14 COMMISSIONER EASLEY: Especially based on the  
15 prior answer -- or prior question.

16 CHAIRMAN BEARD: And there's a premium they  
17 can call in. That's not the same thing as simply  
18 renegotiating and, in fact, the answer says, "I'm not  
19 aware of that." Now, I'm just trying to listen to your  
20 question and make sure I understand.

21 Q (By Mr. McLean) Mr. Vierima, do you know  
22 whether there is any specific provision in the bond  
23 indentures which addressed the issue of a buyout?

24 (Pause)

25 A I believe so, yes.

1 Q Can you tell the Commission what that  
2 provision is?

3 A I have a copy of the indenture and the  
4 wording of Section 3.01: "The Series A bonds shall be  
5 redeemable pursuant to and shall have the benefit of  
6 the sinking fund provided for in Section 3.02 hereof,  
7 and shall be redeemable at the option of the holder in  
8 accordance with Section 303, but shall otherwise not be  
9 redeemable." The sinking fund refers to the \$3 million  
10 per year that is paid against the principal, and  
11 Section 3.03 refers to involuntary conversions, which  
12 is another word for condemnations.

13 Q I want to make sure I understand your  
14 testimony, and it seems to be, that there was no  
15 special opportunity to revisit this debt occasioned by  
16 the takeover or purchase, as the case may be, of  
17 Deltona by Topeka Group, is that correct?

18 A I believe that's correct, yes.

19 Q So this particular section is addressed more  
20 to condemnation or other involuntary transfer?

21 A The section I referred to, yes.

22 Q All right, sir. Do you have a copy -- can  
23 you provide, as a late-filed exhibit, a copy of the  
24 bond indenture?

25 A Yes, we can.

1 Q I'd ask you to do so please, sir.

2 MR. McLEAN: Commissioner, I tell you what  
3 I'm going to do, if you need numbers, I'll strike --  
4 withdraw Exhibit No. 84 and you can use that number if  
5 you want to, I don't think we need that exhibit.

6 UNIDENTIFIED SPEAKER: You talking about  
7 saving paper.

8 MR. McLEAN: Yes, sir.

9 CHAIRMAN BEARD: Save that number for  
10 another day. 84 will become a late-filed, and short  
11 title would be what?

12 MR. McLEAN: Bond Indenture Deltona Debt.

13 (Previous Exhibit No. 84 withdrawn.)

14 (Late-filed Exhibit No. 84 identified.)

15 CHAIRMAN BEARD: Okay.

16 Q (By Mr. McLean) When do these bonds mature,  
17 Mr. Vierima, do you know?

18 A December 1st, 1984.

19 Q Do y'all plan to -- you're trying to replace  
20 that debt now, I assume -- I mean, you would like to  
21 replace the debt now, but failing in that, you'll  
22 replace it in 1994, correct?

23 A If we could refinance it at more desirable  
24 terms, yes, we would like to do so.

25 Q Okay. Now, my next question, and getting



1 pretty close to one of the last is, when y'all did the  
2 deal to buy Deltona, did you in anyway view that  
3 particular obligation of Deltona as undesirable from  
4 the standpoint of someone who would have to pay that  
5 money back?

6 A The Company was aware of the obligation at  
7 that point in time -- of the mortgage bond, and not  
8 being part of the negotiations, I couldn't represent  
9 whether or not that was a specific consideration in the  
10 purchase or not.

11 Q So you don't know whether Topeka Group cut a  
12 little bit better deal because of this obligation than  
13 they otherwise could have, do you?

14 A The only thing that I can say is that Topeka  
15 was aware of the obligation.

16 Q Okay. If they didn't get any reduction of  
17 the purchase price because of that obligation, can you  
18 say that the acquisition was prudent, all else being  
19 equal?

20 A The entire acquisition, going back to the  
21 purchase of the preferred -- redeemable preferred  
22 stock?

23 Q Yes, sir, recalling, of course, that my  
24 premise is all else being equal.

25 A We believe that all things considered in the

1 original purchase of the preferred stock, the exercise  
2 of the warrants and the settlement agreement, that it  
3 was a prudent decision for Topeka Group.

4 Q You're the listed witness on Item No. 40,  
5 correct, on Issue No. 40?

6 A Yes, I am.

7 Q Okay, but you can't tell us, I believe your  
8 testimony is, whether the purchase price took this  
9 particular obligation into specific consideration,  
10 correct?

11 A I believe it was a factor that was known at  
12 the time of the acquisition.

13 Q And you're also the listed witness for  
14 acquisition adjustment, are you not?

15 A That's correct.

16 Q Okay. Let's change the focus a little bit.  
17 Refer, if you will please, sir, to Exhibit No. 85.

18 A Yes.

19 Q Refer, if you will, to Page 4 of Exhibit 85.  
20 See, too, if you agree with me that this is a Staff  
21 recommendation in a docketed case before the  
22 Commission?

23 A Yes, it is.

24 Q And it dealt with the restructuring of a  
25 Company's related -- Southern States and its

1 subsidiaries, didn't it?

2 A It deals with the merger of those entities,  
3 yes.

4 Q You see the finding there, it said, "SSU is  
5 currently negotiating with DUI bondholders to limit the  
6 extent of the bondholder security interest to DUI  
7 interest"?

8 A Yes.

9 Q Do you know what the Staff is referring to  
10 there?

11 A The issue there is when the company is  
12 consolidated, I believe there was a provision in the  
13 original indenture for inclusion of after-acquired  
14 property, meaning that if Southern States Utilities was  
15 the surviving corporation after Deltona Utilities, Inc.  
16 merged in, that technically they may have a first  
17 position on all of the assets, in addition to those  
18 that originally were associated with Deltona Utilities,  
19 Inc.

20 Q So do you know if any additional Southern  
21 States or related Company assets were burdened with  
22 this mortgage?

23 A I believe the supplemental indenture that was  
24 issued by the bondholders in association with this  
25 identified specifically the original assets and did not

1 expand the asset base beyond which was originally  
2 included in the indenture.

3 Q Did you say renewed indenture? I missed the  
4 term you used to describe what I perceive to be a new  
5 indenture?

6 A It was a supplemental indenture. The vehicle  
7 that we used for the consolidation consent was a  
8 supplemental indenture by the bondholder.

9 Q Did the supplemental indenture in anyway  
10 address the issue of the -- I want to say refinance  
11 position for want of a better term, provisions? Do you  
12 understand the question?

13 A No, I don't.

14 Q Okay, the bond indenture originally said you  
15 can't buy us out early. Does the supplemental change  
16 that in anyway?

17 A No, it does not.

18 Q Okay, the -- this is -- this debt is included  
19 in the capital structure of the Utility, isn't it?

20 A Yes, it is.

21 Q Okay, and thus, it is -- the debt service on  
22 that particular debt is going to be shared in by all  
23 SSU customers, isn't it?

24 A That's correct.

25 Q Even those that are non-Deltona in origin?

1           A     Even those customers that were not previously  
2 customers of Deltona Utilities, Inc.?

3           Q     Yes.

4           A     That's correct. (Pause)

5           Q     Mr. Vierima, I asked for a late-filed  
6 exhibit. Will you include the supplemental indenture  
7 on the first indenture?

8           A     Yes, I will.

9           Q     Thank you, sir.

10           MR. McLEAN: May I have the newest exhibit  
11 marked for identification, Mr. Chairman?

12           CHAIRMAN BEARD: That will be, short title,  
13 OPC, Interrogatory No. 303, will be Exhibit No. 86.

14           MR. PRUITT: That will be 85, Mr. Chairman.

15           CHAIRMAN BEARD: No, that will be 86. 85 is  
16 the Staff recommendation on Docket No. 910662-WS.

17           MR. PRUITT: You are correct, I'm sorry.

18           CHAIRMAN BEARD: Okay.

19                     (Late-field Exhibit No. 86 identified.)

20           Q     (By Mr. McLean) Mr. Vierima, Southern States,  
21 although it's a Utility, is also a customer of the  
22 utilities, isn't it?

23           A     That's correct.

24           Q     And it has to post a deposit to secure the  
25 payment of its periodic bills, correct?

1 A That's correct.

2 Q Does it earn interest on any of those  
3 deposits?

4 A Yes.

5 Q Do you know whether the interest is booked  
6 above or below the line for ratemaking purposes in  
7 Southern States?

8 A Currently booked below the line.

9 Q Do you know why that is appropriate to book  
10 it below the line as opposed to above the line?

11 A The booking below the line is made on the  
12 assertion that the investment required in those  
13 deposits is not being recovered in any other way  
14 through the ratepayers.

15 Q Well, isn't that investment covered by  
16 working capital?

17 A Technically, it would not be, if interest is  
18 being booked below the line.

19 Q Well, isn't that a bit circular, I mean, if  
20 it's covered by working capital -- if the customers are  
21 actually furnishing that investment, then shouldn't the  
22 customers be the beneficiary of the interest which is  
23 earned it?

24 A If the customers are providing a return to  
25 the Utility on that investment, yes, then the interest

1 should be booked above the line.

2 MR. McLEAN: No further questions. Thank you  
3 for your patience.

4 CHAIRMAN BEARD: Staff?

5 CROSS EXAMINATION

6 BY MS. BEDELL:

7 Q Mr. Vierima, if I were to look at the  
8 schedules on the capital structure on the cost of  
9 capital, for example, in this docket, would I find any  
10 short-term debt shown on those?

11 A Not in this docket, no.

12 Q Okay. And Marco Island is a subsidiary of  
13 Southern States, is it not?

14 A Marco Island is a division of Southern States  
15 Utilities. It is not a subsidiary of SSU.

16 Q And do you currently, or does the -- is there  
17 a current pending docket for rate case for that system?

18 A Yes, there is.

19 Q And did you prepare the capital structure  
20 schedules for that docket?

21 A They were prepared under my supervision, yes.

22 Q And if I were to look at the Marco Island  
23 schedules, would I find short-term debt shown on this?

24 A Yes, you would.

25 Q And why would I find the short-term debt on

1 the Marco Island schedules and not on the schedules  
2 filed in this docket?

3 A The test year is different for the Marco  
4 Island schedules.

5 Q The short term -- does that mean that the  
6 short-term debt was not -- that there was none in the  
7 test year here?

8 A That's correct.

9 Q When was the short-term debt entered into?

10 A Short-term debt was incurred during 1992.

11 Q Which would be within the test year for the  
12 Marco Island system?

13 A Correct.

14 Q I'm going to ask you a question that I think  
15 I've asked you at least once before, if not twice in  
16 the last couple months. Would you agree that the cost  
17 of capital set in this proceeding should reflect the  
18 current economic conditions?

19 A Yes.

20 Q And, I'm going to ask you a couple of  
21 percentages, subject to check, but I would like for you  
22 to know, before I ask you that, that these numbers came  
23 from the November 2nd Wall Street Journal. Subject to  
24 check, would you agree that the current prime rate is  
25 6%?



1 A Yes.

2 Q And subject to check, would you agree that  
3 the current 30-day London Interbank Offered Rate is  
4 3.25%?

5 A For what duration?

6 Q For what duration?

7 A Yeah. Three-month, six-month or nine-month?

8 I believe LIBOR was quoted.

9 Q I think 30 days is what I was asking about.

10 A And the rate quoted was? The rate you  
11 stated?

12 Q 3.25%.

13 A That's correct.

14 Q And subject to check, would you agree that  
15 the current 30-day T-bill rate is 3.05%?

16 A Subject to check, yes.

17 Q And would you be able to provide a late-filed  
18 exhibit for us that would update Schedules D-5 and D-6  
19 to reflect the current rates, and the appropriate  
20 current interest rate for the industrial revenue bonds?

21 A Yes, we would.

22 Q And if you could also, when you do that,  
23 state the rates that you were using. And if we could  
24 have a number?

25 CHAIRMAN BEARD: Number is 87. Short title

1 is? Update to E-4 and E-5, did you say?

2 MS. BEDELL: Update Variable Cost Debt.

3 (Late-filed Exhibit No. 87 identified.)

4 MS. BEDELL: We don't have any other

5 questions.

6 CHAIRMAN BEARD: Pardon me?

7 MS. BEDELL: Staff doesn't have any further

8 questions of this witness.

9 CHAIRMAN BEARD: Commissioners? Redirect.

10 REDIRECT EXAMINATION

11 BY MR. ARMSTRONG:

12 Q Mr. Vierima, Mr. McLean asked you a number of  
13 questions regarding the Topeka's support fees and the  
14 Company's financial relation with Topeka. Do you  
15 remember those questions?

16 A Yes, I do.

17 Q Could you list some of the various ways  
18 Topeka Group has benefited Southern States from a  
19 financing standpoint since January 1991?

20 A Yes. (Pause) During the 1/92 period SSU's  
21 financial condition deteriorated, and as a result, the  
22 support from its parent corporation, Topeka Group, was  
23 stepped up. Some of the benefits that were provided  
24 during this period included guarantees to Sun and South  
25 Trust Bank, in terms of credit support for their lines

1 of credit; subordinations and continuing ownership  
2 agreements; credit support for the refund associated  
3 with the mega-Docket 900329.

4 Topeka has also been an equity provider to  
5 Southern States Utilities without the overhead  
6 typically associated with equity. If SSU had been  
7 issuing equity securities on its own, the cost of  
8 shareholder services, shareholder notices, the types of  
9 costs normally associated with maintaining a  
10 shareholder body, have not been, in the past, charged  
11 to SSU.

12 There's the implied credit support of our  
13 affiliation with the Minnesota Power group of  
14 companies. Our affiliation, Minnesota Power and Topeka  
15 have also been influential in certain transactions,  
16 market transactions. For example, the Deltona  
17 bondholder consents. Minnesota Power as a larger  
18 corporation, had previous financial relationships with  
19 some of the bondholders and was able to intervene in  
20 those activities. They have provided bridge short-term  
21 financing during a period when SSU's credit has been  
22 low, and at the time when we still had heavy  
23 construction financing requirements. They've accepted  
24 returns that are below the cost of equity for the  
25 parent corporation, and which we view as a positive in

1 terms of patient capital. And they have provided  
2 indemnification on the current performance bonds that  
3 were required for revenues subject to refund under the  
4 multiple filings currently in progress with SSU.

5 Q Does that complete your list?

6 A Yes.

7 Q Do you believe that the benefits you have  
8 listed to Southern States and its customers regarding  
9 the financing relationship between Topeka and Southern  
10 States should be considered by the Commission when  
11 determining whether Southern States' ratepayers should  
12 reimburse Southern States for travel costs by employees  
13 between Minnesota and Apopka?

14 A Yes.

15 Q Did Southern States perform any analysis of  
16 the costs and benefits of using Minnesota Power and  
17 Topeka personnel, who are located in Minnesota, to  
18 perform certain functions, versus the use of  
19 independent third parties who may be located in  
20 Florida?

21 A We estimate that for an average visit of a  
22 Minnesota Power employee on any given function, that  
23 for a typical two-week stay, including travel costs,  
24 for a degreed individual with many years of utility  
25 experience, that the average cost, including the travel

1 cost, would range from 40 to \$45 an hour. That  
2 includes the fact that these employees typically worked  
3 longer hours and on weekends, those types of things,  
4 when they do work for SSU. Our experience has been  
5 that that rate is comparable for those qualifications,  
6 plus the fact that these individuals are familiar with  
7 SSU; that these qualifications compared to what we  
8 would pay for similar qualified people, locally, is at  
9 least comparable, if not less.

10 Q Mr. Vierima, do you have any further  
11 information about what Southern States is doing in 1992  
12 regarding the possible apportionment of expenses?

13 A Yes, in response to Commissioner Clark's  
14 question, we discussed at the break what other items  
15 might be subject to that interpretation. One other  
16 item may be Bert Phillips, who is the president of  
17 Southern States Utilities, will occasionally attend  
18 waterworks conventions, industry conventions, those  
19 types of things, his expenses associated with those  
20 types of activities, he does do an apportionment  
21 between the Florida Utilities and the Carolinas  
22 Utilities. It's a relatively small number, but it may  
23 be another example of something that would perhaps be  
24 considered an apportionment.

25 Q But, Mr. Vierima, to be clear, that did not

1 occur in 1991 test year, right?

2 A To my knowledge, it did not.

3 MR. ARMSTRONG: That concludes redirect.

4 Thank you.

5 CHAIRMAN BEARD: Witness may step down.

6 Exhibits?

7 MR. ARMSTRONG: Mr. Chairman, Mr. Jones, I  
8 believe has something.

9 CHAIRMAN BEARD: Yes.

10 MR. JONES: The questions that Mr. Vierima  
11 was responding to, there are a couple of errors in  
12 these that I would like to correct.

13 Question No. 34, COVA's position is we do  
14 have a position and we agree with OPC.

15 CHAIRMAN BEARD: Just hang on a second.  
16 You're talking about Issue No. 34?

17 MR. JONES: That is correct. I think this  
18 was typographical error --

19 CHAIRMAN BEARD: And you adopt OPC's  
20 position?

21 MR. JONES: That's right.

22 CHAIRMAN BEARD: Okay.

23 MR. JONES: We had adopted that at the  
24 preliminary, but it was incorrectly transcribed. Also No.  
25 47, the same thing applies. Agree with OPC. Thank you.

1 CHAIRMAN BEARD: Okay, witness may step down.

2 Exhibits?

3 (Witness Vierima excused.)

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5 MR. ARMSTRONG: The Company moves Exhibits 72  
6 and 73.

7 CHAIRMAN BEARD: Without objection.

8 MS. MONTANARO: Office of Public Counsel  
9 moves Exhibits 74, 75, 76, 77, 80, 82, 83, 85 and 86.

10 CHAIRMAN BEARD: Objection?

11 MR. ARMSTRONG: The Company does object to  
12 the admission of this Exhibit 80. We spoke about that  
13 at some length.

14 CHAIRMAN BEARD: After lunch we were supposed  
15 to have identified what it is and where it came from.  
16 I have yet to have that information.

17 MR. ARMSTRONG: We would be willing to wait  
18 on that one. I committed to and I did call, and people  
19 back at the office are, you know, looking to see if  
20 they can find this thing. Also, I did speak with  
21 Public Counsel, and Mr. McLean and I -- you gave me  
22 some further names and hints as to where it might be.  
23 So we are doing that.

24 CHAIRMAN BEARD: We'll withhold moving it  
25 into the record until we know what it is, how about

1 that?

2 MS. MONTANARO: That's fine.

3 CHAIRMAN BEARD: And then, once y'all know  
4 what it is, we can decide what to do with it.

5 MS. MONTANARO: Thank you.

6 (Exhibit Nos. 72, 73, 74, 75, 76, 77, 82, 83,  
7 85 and 86 received into evidence.)

8 CHAIRMAN BEARD: Going out of order now, I  
9 believe Mr. Cresse is on.

10 MR. HOFFMAN: Mr. Chairman, before we start  
11 with Mr. Cresse, I'd like to briefly come back to an  
12 issue which I raised at the beginning of the hearing.  
13 We had moved to strike Issue 40, and Mr. McLean's  
14 questions raise a concern in my mind that the record be  
15 clear on the Commission's ruling.

16 And essentially, I'm asking the Commission to  
17 reconsider or clarify the ruling. And that is, our  
18 legal position is that the cost rate of the Deltona  
19 bonds may not be relitigated for ratemaking purposes,  
20 that number -- that cost rate assigned to the bonds may  
21 not be relitigated, and a different number, a different  
22 cost rate, assigned to this case.

23 It's not that say that the Public Counsel --  
24 Public Counsel can still pursue the issue of a negative  
25 acquisition adjustment based on the 15.95% cost of



1 debt. So, that is our position and I would like some  
2 clarification on that.

3 And the only other thing that I'd would like  
4 to reiterate is that the issue of a potential negative  
5 acquisition adjustment, which was raised by Public  
6 Counsel, it is Public Counsel that does have the burden  
7 of proof on that issue and they've sponsored no  
8 testimony on that issue. And we just want to make it  
9 clear on the record that it's our position that a  
10 potential negative acquisition adjustment under the  
11 Commission's policy -- the burden of proof on that  
12 issue lies with Public Counsel.

13 CHAIRMAN BEARD: Well, I'm well aware that's  
14 your position. I did not strike the issue. And I  
15 think we left it for brief and anything else you can  
16 get your hands on. If memory serves me correct.

17 MR. HOFFMAN: Thank you.

18 CHAIRMAN BEARD: Okay, your witness.

19 MR. ARMSTRONG: Mr. Cresse, have you been  
20 sworn?

21 CHAIRMAN BEARD: Mr. Shafer, have you been  
22 sworn?

23 (Witnesses collectively sworn.)

24 CHAIRMAN BEARD: First question is did you  
25 pass the pregnancy test or not?

1 WITNESS CRESSE: The rabbit is still living  
2 but the 24 hours is not up yet. (Laughter)

3 COMMISSIONER CLARK: Just let that be a  
4 reminder to you, Thursday is my son's birthday and I  
5 would like to be home for dinner.

6 CHAIRMAN BEARD: Fortunately, Mr. Cresse is  
7 not making those decisions.

8 COMMISSIONER CLARK: Thank goodness.

9 WITNESS CRESSE: Commissioner, I would  
10 certainly advise the Company to let you off Thursday  
11 and just cancel the whole hearing for that day.  
12 Whether they'll pay attention to that or not, I don't  
13 know.

14 CHAIRMAN BEARD: Go ahead.

15 JOSEPH P. CRESSE  
16 called as a witness on behalf of Southern States  
17 Utilities, Inc., and, having been duly sworn, testified  
18 as follows:

19 DIRECT EXAMINATION

20 BY MR. HOFFMAN:

21 Q Sir, would you please state your name and  
22 business address?

23 A My name is Joe Cresse. My address is P. O.  
24 Box 1876, Tallahassee, Florida.

25 Q Mr. Cresse, did you prepare and cause to be

1 filed prefiled direct testimony on behalf of Southern  
2 States Utilities in this proceeding?

3 A Yes, I did.

4 Q Do you have any changes or revisions to your  
5 prefiled direct testimony?

6 A There's an error on Page 6, Line 1. I  
7 referenced JPC-1 as an exhibit; that should be JPC-2.

8 Q Any other changes or revisions?

9 A Not to my knowledge.

10 Q With that one change, Mr. Cresse, if I asked  
11 you the same questions contained in your prefiled  
12 direct testimony today, would your answers be the same?

13 A Yes.

14 MR. HOFFMAN: Mr. Chairman, I would ask that  
15 Mr. Cresse's prefiled testimony be inserted into the  
16 record as though read.

17 CHAIRMAN BEARD: It will be so inserted.

18 MR. HOFFMAN: Thank you.

19 Q (By Mr. Hoffman) Mr. Cresse, have you  
20 prepared or attached any exhibits to your prefiled  
21 direct testimony?

22 A Yes, sir.

23 Q Could you please identify them?

24 A There are three exhibits: One is a brief  
25 resume and two are some data that relate to my

1 testimony.

2 MR. HOFFMAN: Mr. Chairman, I would ask that  
3 Mr. Cresse's exhibits appended to his prefiled direct  
4 testimony be marked for identification.

5 CHAIRMAN BEARD: Is that JPC-1 through -3?

6 MR. HOFFMAN: Yes, sir.

7 CHAIRMAN BEARD: Okay. That will be  
8 identified as Exhibit No. 88.

9 (Exhibit No. 88 marked for identification.)

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1 Q. PLEASE STATE YOUR NAME AND BUSINESS ADDRESS.

2 A. My name is Joseph P. Cresse. My address is P. O.  
3 Box 1876, Tallahassee, Florida 32302-1876.

4 Q. PLEASE DESCRIBE YOUR EDUCATION AND PROFESSIONAL  
5 BACKGROUND AND EXPERIENCE.

6 A. I am currently employed as a non-lawyer Special  
7 Consultant with the law firm of Messer, Vickers,  
8 Caparello, Madsen, Lewis, Goldman & Metz, P.A. I  
9 graduated from the University of Florida with a  
10 B.S.B.A. Major in Accounting in 1950. A copy of my  
11 resume is attached as Exhibit 88 (JPC-1) under  
12 cover page entitled "Resume of Joseph P. Cresse."

13 Q. WHAT IS THE PURPOSE OF YOUR TESTIMONY?

14 A. The purpose of my testimony is to explain and  
15 justify why it is fair, just and reasonable to  
16 establish maximum rates as proposed by Southern  
17 States Utilities, Inc. and Deltona Utilities, Inc.  
18 (referred to collectively as "Southern States" or  
19 the "Company") in this case and recover the  
20 resulting revenue deficiencies from customers served  
21 by other systems operated by SSU.

22 Q. WILL YOU PLEASE EXPLAIN WHAT SOUTHERN STATES IS  
23 PROPOSING?

24 A. Southern States is proposing a maximum bill at  
25 10,000 gallons of consumption for the residential

1 (5/8") customers of any single system of \$52.00 per  
2 month for water service and \$65.00 per month for  
3 residential (5/8") sewer service. Of course,  
4 customers who consume less than 10,000 gallons would  
5 pay less than the maximum bill. Water customers who  
6 use more than 10,000 gallons would pay more, but  
7 because we are proposing a 10,000 gallon usage cap  
8 for calculating wastewater bills, the highest  
9 monthly wastewater bill for any residential (5/8")  
10 customer would be \$65.00.

11 Southern States is not proposing rate  
12 reductions for 10 systems for which a stand alone  
13 cost of service study would reflect lower required  
14 rates than those proposed in this case. Southern  
15 States is proposing that the revenue deficiency  
16 resulting from implementation of the proposed  
17 maximum bill be recovered from customers served by  
18 other systems. This method of recovery would  
19 increase the revenue requirements of such systems  
20 by 1.9% above the levels indicated through a stand  
21 alone cost of service study.

22 Q. WHY IS THIS PROPOSAL JUSTIFIED?

23 A. This proposal is justified because it is in the best  
24 long term interest of all customers of the Company  
25 and it recognizes the economies of scale that a

1 large multi-system company can bring to all of its  
2 customers. It can help prevent rate shock to all  
3 customers as capital investment is made in the  
4 future, and it permits the Company to recover  
5 investment from small undeveloped systems that they  
6 are required to serve, without imposing rates that  
7 could cause disconnection or discourage additional  
8 customers from connecting to our systems. Also, it  
9 should not be forgotten that if any of these ten  
10 systems were truly "stand alone," their rates would  
11 be significantly higher than current rates because  
12 the economies enjoyed by such customers would not  
13 then be available.

14 **Q. HOW DID SOUTHERN STATES ARRIVE AT THE MAXIMUM BILL**  
15 **FIGURE OF \$52.00 FOR WATER AND \$65.00 FOR SEWER?**

16 **A.** The weighted average residential bill for 10,000  
17 gallons of water consumption is \$17.39 and for  
18 wastewater is \$32.92. The maximum bill we are  
19 proposing of \$52.00 (water) and \$65.00 (wastewater)  
20 at 10,000 gallons are approximately 3 times and 2  
21 times, respectively, these average bills. These  
22 maximum bills are based on the Company's and my  
23 judgment of the maximum fair rates a residential  
24 customer should face at this time (absent specific  
25 conditions in servicing a given geographic area that

1 would cause costs to exceed these amounts for a  
2 reasonably sized system).

3 **Q. YOU ADMIT THEN THAT THE MAXIMUM RATE CAPS PROPOSED**  
4 **ARE SUBJECT PRIMARILY TO A JUDGMENT CALL.**

5 **A. Yes, it certainly is, and the Commission makes these**  
6 **type of judgments in nearly every rate case it**  
7 **decides.**

8 **Q. PLEASE EXPLAIN.**

9 **A. In electric rate cases, a cost of service study is**  
10 **used to allocate revenue requirements to each class**  
11 **of customers, however, the Commission does not**  
12 **usually set rates to recover 100% of the revenue**  
13 **requirements of each class. On many occasions, the**  
14 **Commission has limited the percentage increase of**  
15 **any particular class to 150% of the average increase**  
16 **for all classes. Further, the Commission normally**  
17 **does not reduce existing rates of a class of**  
18 **customers that are paying in excess of 100% of their**  
19 **calculated cost. In other words, to maintain**  
20 **stability of rates and to avoid rate shock, the**  
21 **Commission historically has applied its judgment in**  
22 **rate design issues. It is rare that approved rates**  
23 **require each class of customers to pay exactly 100%**  
24 **of their cost of service, and even if they did, the**  
25 **next cost of service study would demonstrate that**



1 100% parity was not in fact accomplished.

2 Furthermore, it is recognized that electric  
3 utilities must serve all customers with similar  
4 characteristics at the same tariff rates, thus no  
5 customer in a new undeveloped subdivision pays  
6 higher electric rates than customers in older fully  
7 developed areas. The same principles are applied  
8 in telephone service - undeveloped areas do not pay  
9 higher rates than fully developed areas. There is,  
10 however, one major difference between electric  
11 ratemaking and telephone ratemaking. The electric  
12 utilities have developed reasonably good cost of  
13 service studies while the telephone companies have  
14 not, so absent cost of service studies for telephone  
15 services, the Commission must rely almost entirely  
16 on their own judgment to establish rates that are  
17 fair, just and reasonable.

18 **Q. ARE YOU SUGGESTING THAT SOUTHERN STATES SHOULD HAVE**  
19 **A TARIFF RATE APPLICABLE TO EACH CLASS OF CUSTOMERS**  
20 **STATEWIDE AS IS DONE IN ELECTRIC AND TELEPHONE**  
21 **RATEMAKING?**

22 **A.** No, Southern States is not proposing statewide rates  
23 in this case. However, I hope that the Company and  
24 the Commission can move in that direction in the  
25 future.

1 Q. I SHOW YOU EXHIBIT 88 (JPC-<sup>2</sup>1) UNDER COVER PAGE  
2 ENTITLED "REVENUES REQUIRED TO BE REDUCED FOR  
3 SYSTEMS WHICH EXCEED MAXIMUM RESIDENTIAL BILL AT  
4 10,000 GALLONS CONSUMPTION," AND EXHIBIT 88 (JPC-  
5 3) UNDER COVER PAGE ENTITLED "REVENUES FOR SYSTEMS  
6 THAT WERE HELD TO EXISTING REVENUE LEVELS." WERE  
7 THESE EXHIBITS PREPARED BY YOU OR UNDER YOUR  
8 DIRECTION AND SUPERVISION?

9 A. Yes, they were.

10 Q. DO THESE EXHIBITS DEMONSTRATE THE EFFECT OF CAPPING  
11 RATES AS PROPOSED BY THE COMPANY?

12 A. Yes, they do.

13 Q. PLEASE EXPLAIN.

14 A. Exhibit 88 (JPC-2) shows that 31 systems will  
15 benefit from the implementation of the proposed  
16 maximum bill at 10,000 gallons of usage producing  
17 a shortfall of \$775,541 in revenue requirements for  
18 those systems. The exhibit also shows that with  
19 one exception these systems are very small. Exhibit  
20 88 (JPC-3) shows that \$365,477 of the shortfall is  
21 recovered by Southern States' proposal to not reduce  
22 rates for 10 systems. The balance of \$410,064 would  
23 be recovered from Southern States' remaining  
24 approximately 97,000 customers, at a cost of less  
25 than 36¢ per customer per month.

1 Q. DO YOU HAVE ANY FURTHER COMMENTS?

2 A. Yes, Southern States is a large water and sewer  
3 company, but compared to the large electric and  
4 telephone companies, it is relatively small. The  
5 Company's acquisitions of smaller water and sewer  
6 companies has been approved by the Commission as  
7 being in the long term interests of the Company's  
8 customers. The Company deserves the same  
9 opportunity to earn a fair rate of return on its  
10 prudent investments in utility plant as the  
11 Commission affords to other utilities. In response  
12 to the Commission's criticism of the Company's  
13 inclusion in Docket No. 900329-WS of only systems  
14 in need of significant rate relief, the Company has  
15 attempted to meet the needs and desires of the  
16 Commission by including all jurisdictional systems  
17 (except the Marco Island Systems due to a large  
18 amount of post-1991 investment) in this case. The  
19 long term goal of both the Company and the  
20 Commission regarding rate design should be to  
21 encourage long-term economies, rate stability, and  
22 fair treatment for both the Company and its  
23 customers.

24 Q. DOES THAT CONCLUDE YOUR DIRECT TESTIMONY?

25 A. Yes, it does.

1 Q (By Mr. Hoffman) Mr. Cresse, have you  
2 prepared a summary of your testimony?

3 A Yes.

4 Q Could you please provide it?

5 A Thank you.

6 The purpose of my testimony is to explain and  
7 hopefully justify the rates caps proposed by Southern  
8 States Utilities in this case.

9 For residential customers, we're proposing a  
10 maximum rate for 10,000 gallons of water at a cost of  
11 \$52 per month for water and 10,000 gallon consumption;  
12 and a \$65 cap on wastewater, and that would be a flat  
13 cap because there would be no charge, no increase in  
14 charge for wastewater, if somebody consumed more than  
15 10,000 gallons of water in a residential bill.

16 In my opinion, the proposal is in the best  
17 long-term interest of all customers since it  
18 recognizing that economy of scale a multisystem company  
19 can bring to its customers.

20 The caps arrived at are admittedly a judgment  
21 call, but this Commission makes this type of judgment  
22 in all rate cases. I point out that, in most cases,  
23 not all rates are set at parity. And the Commissioners  
24 regularly and routinely apply their judgment to rate  
25 design issues, and that's basically what we're

1 recommending in this case.

2 That completes my summary.

3 MR. HOFFMAN: Mr. Chairman, we tender the  
4 witness.

5 CHAIRMAN BEARD: Questions?

6 MR. JONES: Mr. Cresse, I didn't realize who  
7 you were when I saw you in the men's room. Nice to  
8 meet you.

9 WITNESS CRESSE: It's a pleasure to meet you  
10 here, too, sir.

11 COMMISSIONER EASLEY: That's because he  
12 hasn't passed the pregnancy test yet. (Laughter)

13 CROSS EXAMINATION

14 BY MR. JONES:

15 Q I'm the President of the Civic Association of  
16 the Cypress and Oak Villages Association in Sugar Mill  
17 Woods; and, as such, we have been involved in water  
18 cases for some period of time now. I think in excess  
19 of ten years. Prior to the 1988-89 acquisition of Twin  
20 County Utilities by Southern States, the cases were  
21 handled by independent counsel.

22 I guess my question to you is, since those  
23 cases were handled so simply and so easily without all  
24 the paperwork and so forth that I'm seeing in this  
25 case, why are you recommending something which appears

1 to me will make future rate cases even more complex?

2 A I don't agree with your conclusion that my  
3 recommendations would make future cases even more  
4 complex.

5 I think what I'm recommending is simply a  
6 rate design that places a cap on the maximum rates that  
7 you would charge any given customer in any utility  
8 operated by Southern States; and that rate cap, I  
9 think, is fair and just. I think the impact on the  
10 ratepayers of other utilities are minimal, and I don't  
11 see that it complicates future rate cases at all.

12 Q As I'm attempting to understand the numbers  
13 which you quoted a little bit ago, it would appear to  
14 me that our rates might increase by as much as 100%.  
15 Is that not correct?

16 A I don't have the specific information for  
17 your company. I understand you say it's Point O'  
18 Woods?

19 Q No, sir, it's Sugar Mill Woods.

20 A All right, sir, Sugar Mill. I don't have the  
21 specific impact on Sugar Mill. But from the data that  
22 I do have, I do not think that Sugar Mill would be  
23 impacted more than an average of 1.9% of their total  
24 bill. (Pause)

25 The rate caps that I'm proposing are only

1 those for those systems that would have a cost of  
2 service greater than that which we're limiting it to.  
3 And if you'll see my testimony and the exhibits that  
4 are attached, if you'll turn to JPC Exhibit No. 2?

5 (Pause)

6 Q Yes, sir.

7 A Do you have that, sir?

8 If you're turning it sideways, I don't think  
9 you have my exhibit. That's not it. It's attached to  
10 my testimony.

11 Q I obviously don't have it.

12 COMMISSIONER CLARK: What exhibit number was it?

13 WITNESS CRESSE: Exhibit No. 2.

14 COMMISSIONER CLARK: I don't have to turn  
15 mine sideways.

16 WITNESS CRESSE: No. I said he was turning  
17 his sideways. And I said if he had to turn it  
18 sideways, I didn't think he was looking at my exhibit.

19 Q (By Mr. Jones) I'm looking at your exhibit,  
20 sir.

21 A All right, sir.

22 You see, what this reflects is that these  
23 systems here, without rate caps, and using the standard  
24 cost of service study, the rates would be greater for  
25 water than \$52 a month for 10,000 gallons of

1 consumption. And that's in the water column. And then  
2 the next column is the wastewater; and those are the  
3 systems that would have rates greater than \$65 a month  
4 if you use a specific individual company  
5 cost-of-service study.

6 What I'm recommending is that the rates for  
7 those systems that you see listed on Exhibit 2 be  
8 capped in such a way that they not be in excess of \$52  
9 for 10,000 gallons consumption of water nor in excess  
10 of \$65 for wastewater, should you consume 10,000  
11 gallons of water.

12 Q Not seeing Sugar Mill Woods' name on here,  
13 I'm assuming that our rates, then, would be  
14 substantially less than this?

15 A Yes, sir.

16 Q But we don't know how much less?

17 A That's in Ms. Helena Loucks' testimony and in  
18 the minimum filing requirements. That's in that  
19 information that is with the Commission, but it's not  
20 included in my testimony.

21 COMMISSIONER EASLEY: I'm sorry, Mr. Cresse.  
22 Let me ask a question at this point, Mr. Jones, if you  
23 don't mind.

24 Mr. Cresse, you've seen the information  
25 booklets that have been handed out at all the -- right.



1 Go to Page A-3 of that, please. It shows the -- it's  
2 the water. I think, in spite of the different color, I  
3 think they're on the same page. You see Sugar Mill  
4 Woods, a little bit better than halfway down the page?

5 WITNESS CRESSE: Yes, on A-3, Page A-3?

6 COMMISSIONER EASLEY: Yes.

7 MR. CRESSE: The current rates are \$2 for the  
8 base facility charge and 58 cents?

9 COMMISSIONER EASLEY: Right. And then it  
10 shows Utility proposed final rates at \$8.18.

11 Do you disagree with those figures?

12 WITNESS CRESSE: I have no way to verify or  
13 to disagree with them, so let me say this: I have no  
14 reason to disagree with those figures at all.

15 COMMISSIONER EASLEY: Okay. All right. But  
16 I think the confusion may exist when Mr. Jones asked  
17 you about Sugar Mill Woods getting better than 100%  
18 increase and you came back and said 1.-something  
19 increase.

20 WITNESS CRESSE: I understand the confusion.

21 COMMISSIONER EASLEY: Right. If you could  
22 help us with that, it might shorten the process a  
23 little bit.

24 WITNESS CRESSE: I think I can do that.

25 COMMISSIONER EASLEY: Good.

1 WITNESS CRESSE: If you used -- as I  
2 understand the proposal, they would pay in Point O'  
3 Woods --

4 COMMISSIONER EASLEY: Sugar Mill Woods.

5 Q (By Mr. Jones) Sugar Mill Woods.

6 A Sugar Mill Woods -- I'll get that straight in  
7 about, hopefully, a minute. It will pay \$8 plus \$8.18  
8 base facilities charge, or \$16.18 in total for 10,000  
9 gallons of consumption, if I'm reading this correct.  
10 And currently they would be paying \$2 base facilities  
11 charge and \$5.80, or they'd be paying \$7.80 currently;  
12 and that rate would go to \$16.18.

13 If his question is, is that doubling the  
14 rates, the answer is yes.

15 Q Unfortunately, the papers that you're reading  
16 from, I think, are not necessarily accurate. They  
17 don't, in my way of thinking, reflect the final rates  
18 that were given to us about a month ago, interim rates.  
19 Maybe I'm --

20 COMMISSIONER EASLEY: Try it again, Mr.  
21 Cresse.

22 What he was using was this sheet, Mr. Jones.

23 MR. JONES: I know that.

24 COMMISSIONER EASLEY: Oh, okay. All right.

25 MR. JONES: That sheet is not correct; that's

1 what I'm saying.

2 COMMISSIONER EASLEY: Oh, this isn't correct?

3 MR. JONES: That's right. Our rates are  
4 essentially two-and-a-half times that. Most of us are  
5 on one-inch meters.

6 COMMISSIONER EASLEY: Okay. Just keep  
7 asking. I'm sorry. You and I both are testifying now  
8 and we can't do that.

9 MR. JONES: I know.

10 Q (By Mr. Jones) Well, historically, going  
11 back to what I said earlier, Sugar Mill Woods has  
12 always pushed for stand-alone rates, and there are  
13 several reasons for that. One of the major ones is  
14 that every person who moves into Sugar Mill Woods has  
15 to make a contribution in aid of construction in excess  
16 of \$2200. Now, how can you lump us in with all these  
17 other utilities who maybe have never done this and  
18 never will do it and flatten the rates out so that we  
19 end up paying disproportionately higher rates than  
20 they?

21 A I understand the question. I don't think the  
22 proposal that the Company has made does that, sir.

23 Specifically, what the proposal, as it  
24 affects Sugar Mill Woods, that the Company has made in  
25 this rate case is simply to cap these rates, which I

1 demonstrated to you and showed you on my Exhibit No. 2,  
2 and to recapture a portion of that from utilities whose  
3 rates are currently in excess of their individual  
4 cost-of-service study.

5           You recapture \$365,000 of that total as shown  
6 on my Exhibit No. 3. The balance which would be  
7 unrecovered then, that would be recovered from other  
8 utilities, is \$410,000. And that equates to 1.9% of  
9 the average bill or 36 cents per month per customer.  
10 So we're not proposing that we have statewide rates in  
11 this case, and I don't think the Company is proposing  
12 that we ever have statewide rates.

13           I would make a proposal that we have more  
14 uniform rates but not statewide because of the basic  
15 difference in cost of service, which I covered with  
16 Staff in my deposition.

17           Q     I probably am remembering this incorrectly  
18 but I think yesterday we talked about three different  
19 rate configurations. And I can't identify them, but  
20 the third one was statewide rates, and it was my  
21 impression that the Utility was in favor of those. You  
22 are not aware of this?

23           A     I wasn't here yesterday at any of your  
24 discussion, sir.

25           I can tell you what I would advise the

1 utility; and we have discussed it very briefly but not  
2 in depth, as to what my advice would be on getting some  
3 uniformity in rates.

4 I think it's wasteful to have 127 different  
5 rate bases and make determinations on an individual  
6 basis for 127 systems. And there could be some  
7 consolidation that would work to the advantage of all  
8 customers of this Company. I'd be happy to explain  
9 that if you'd like for me to.

10 Q Well, I'm sure we're not going to -- it  
11 shouldn't be explained now in this particular line of  
12 questioning. Obviously, I do not agree with you and  
13 you probably are not going to change my mind nor am I  
14 going to change yours.

15 I guess that ends my questioning.

16 CHAIRMAN BEARD: Mr. Twomey?

17 MR. TWOMEY: May I defer, if that's okay?

18 CROSS EXAMINATION

19 BY MR. McLEAN:

20 Q That one observation made does give me cause  
21 for concern because I've wondered about uniform rates  
22 and the effect of CIAC on that whole deal.

23 Would you explain to the Commission, given  
24 that some of these systems are heavily contributed and  
25 some are not much contributed at all, how you plan to

1 take that into consideration in rate design?

2 A Well, I think first you have to recognize  
3 where a company is at this time in their acquisition of  
4 the various systems, and they take them as they find  
5 them and they acquire them. And because of different  
6 policies in the past, the various systems can have a  
7 different level of contributions in aid of  
8 construction.

9 In addition to that, because of where they  
10 acquired them in the past or the size of the systems or  
11 the number of customers, you can have other factors  
12 that can cause a wide divergence of cost.

13 I would hope somehow that we could establish  
14 some goal as to what is the appropriate level for  
15 Southern States Utilities for contributions in aid of  
16 construction? And once you establish that goal, then  
17 they ought to restructure their service availability  
18 charges and their contributions in aid of construction  
19 charges to accomplish that particular goal.

20 And it would be a gradual -- it won't happen  
21 overnight if there's -- and you will never have exactly  
22 the same investment on the part of each customer by the  
23 utility or on the part of the customer. But you can  
24 get close enough, if you categorize your systems by the  
25 type and nature of the treatment that is required.

1           As I said in my deposition to Ms. Summerlin,  
2 that probably we ought to be looking at systems that  
3 have the basic cost for the simplest type system, and  
4 then as it gets more complicated, the type of treatment  
5 is more expensive, we ought to categorize those and we  
6 may have four or five or six different types of systems  
7 in the state, some of which are generically more  
8 expensive. I am not recommending, nor would I  
9 recommend to the Company, that all those be lumped in  
10 together. But I think that there's room, maybe, to  
11 have five or six different levels of rates for the 127  
12 systems that exist in Southern States Utilities.

13           Q     Well, the Commission currently approves ratio  
14 CIAC on the one hand and investment on the other hand  
15 anywhere from 25% to 75%, doesn't it?

16           A     Yes, as far as I recall, that's correct.

17           Q     Are you suggesting that Southern States ought  
18 to be treated differently?

19           A     No. I'm suggesting that the Southern States  
20 ought to establish some goal that would be consistent  
21 with this Commission's view for all of their companies.  
22 And we need to sit down, I think, and say here is the  
23 way we ought to categorize these systems, one, two,  
24 three, four, five, because of the type of treatment  
25 they require, and this is the kind of goal that we

1 ought to have in terms of contributions in aid of  
2 construction.

3           Now, if we're still going to have the range  
4 of 25 to 75% without any further direction from the  
5 Commission than that, that can be handled. But the  
6 fact is, if you have a goal of 25 to 75 and you're  
7 within that band, then I don't think we ought to spend  
8 as much time arguing about whether or not used and  
9 useful is appropriate, because you make used and useful  
10 adjustments because you've got vacant lots that water  
11 and sewer companies pass. And that makes no sense to  
12 me at all. If you're going to have a goal to have a  
13 specific contribution in aid of construction, why you'd  
14 make a nonused and useful adjustment because a pipeline  
15 passes a vacant lot to get to another lot that's being  
16 served on down the line.

17           Q     That's the fill-in lot theory, isn't it?

18           A     Well, I think that's the nickname they call  
19 it, fill-in lot.

20           Q     I think that's also beyond the scope of your  
21 direct or rebuttal, isn't it, or just your direct?

22           A     Pardon?

23           Q     I believe that's the beyond of scope of your  
24 testimony.

25           A     Well, but you asked me questions beyond my



1 scope and I went ahead and answered them.

2 Q Fine. No further questions.

3 A The answer to the question is yes, that's  
4 beyond my scope of my testimony.

5 CHAIRMAN BEARD: Staff? Excuse me,  
6 Mr. Twomey.

7 MR. TWOMEY: Yes, sir, Mr. Chairman, thank  
8 you.

9 CROSS EXAMINATION

10 BY MR. TWOMEY:

11 Q Good afternoon, Mr. Cresse.

12 A Mr. Twomey, how are you, sir?

13 Q Pretty good, thank you.

14 Mr. Cresse, I want to understand this  
15 proposal a little bit better than what I do currently  
16 from your testimony, if you can help me.

17 First, do I understand correctly that the  
18 Company has taken the administrative and general  
19 expenses of all these -- all of the administrative and  
20 general expenses and pooled them and allocated them  
21 back to the constituent systems on a per-customer  
22 basis?

23 A They've taken most all of them and done it  
24 that way. There's some, I'm sure, direct charges to  
25 each individual systems. But, generally, the

1 allocation of administrative and general expense has  
2 been based on the number of customers.

3 Q And is it true, generally, they've done the  
4 same thing with expenses associated with general plant,  
5 common plant, and on customer accounts?

6 A That's true with common plant. I don't know  
7 what you mean by general plant.

8 Q I'm sorry. I meant to say common plant?

9 A Yes, I believe that's true with common plant  
10 and customer accounting expenses, yes.

11 Q And would that include a return on the  
12 investment associated with common plant?

13 A If they allocate plant, they would have to  
14 include an allocation in return on investment, yes.

15 Q Okay, sir. (Pause) Now, is it -- am I  
16 correct in understanding that all or a bulk of the  
17 remaining expenses associated with the constituent  
18 systems of this company remain with those systems, for  
19 purposes of establishing what their revenue  
20 requirements are?

21 A Yes. I think all the direct charges remain  
22 with the individual systems and then the overhead cost  
23 was allocated in the manner we just discussed.

24 Q Okay, sir. And the same would be true with  
25 their rate base of each constituent system?

1 A Yes.

2 Q Okay. Now, from that, did the Company  
3 construct a revenue requirement for each system?

4 A Yes.

5 Q Okay. And using the concept of the maximum  
6 bill that you spoke to, did they look at the billing  
7 determinants, or whatever, and come up with a revenue  
8 deficiency for each of those systems where one was  
9 found?

10 A Yes, revenue requirement was determined for  
11 each system, yes.

12 Q Yes, sir, but then, from that you, in some  
13 manner --

14 A You can calculate a revenue deficiency, yes.

15 Q Okay. And you did that for -- you found that  
16 in a number of systems?

17 A The Company did that; I did not do that.

18 Q Okay. But you understand how they did it?

19 A My understanding is they did it in the  
20 standard methodology, yes.

21 Q Okay, sir. And again, how many -- how many  
22 constituent systems had a revenue requirement  
23 deficiency?

24 A I don't know. Every system would have a  
25 revenue requirement. My belief is that 117 of the 127

1 had an additional revenue requirement.

2 Q Okay, sir, because that's -- is that  
3 understanding based on the fact that there were ten  
4 systems that you testified to that would not have --  
5 that would have had lower rates?

6 A That would have a lower revenue requirement  
7 than currently exists. The answer is yes.

8 Q Yes, sir. But there would be, if they were  
9 given those revenue requirements, they would  
10 necessarily have lower rates based -- than what's  
11 proposed here, is that correct?

12 A That's correct.

13 Q Okay. (Pause) Now, I think I understood  
14 your testimony to show that the total revenue  
15 deficiency, revenue requirement deficiency, was in the  
16 neighborhood of \$775,000?

17 A Yes, sir. That's shown on Exhibit 2.

18 Q Okay, sir. And that is acquired or it is the  
19 sum total of the revenue requirement deficiency of some  
20 26 utilities, is that correct? Am I reading that  
21 right?

22 A I believe there's 31. There's 26 lines, but  
23 there's a water and a sewer system.

24 Q Okay, sir.

25 A So counting each of those separately, there

1 would be 31 altogether.

2 Q 31, I understand.

3 Now, you've testified that in order to make  
4 up that \$775,000, a portion of it, \$365,000,  
5 approximately, was recovered by a proposal not reducing  
6 the rates for the ten systems?

7 A That's correct.

8 Q Okay.

9 A That's shown on Exhibit 3.

10 Q Yes, sir. Now, can you tell me what, on  
11 average, if you know, what the cost per customer, per  
12 month would be for those ten systems?

13 A I don't have that data in front of me.  
14 Ms. Helena Loucks would have that information in her  
15 testimony. I don't have it in front of me right now.

16 Q Do you know ballpark if it's greater or  
17 lesser than the 36 cents per customer, per month for  
18 the remainder of that? If you don't know, that's fine.

19 A I just don't have the data.

20 Q Okay, sir. But Ms. Loucks could tell us  
21 that?

22 A Yes.

23 Q Okay. Now, the remaining, that is, the  
24 balance of the \$775,000, which comes out to a little  
25 over \$410,000, is recovered from the remaining systems?

1 A That's correct.

2 Q Being apportioned or having some of this  
3 revenue requirement deficiency transferred to them, is  
4 that --

5 A Having some of the -- yes, having their rates  
6 increase by 1.9% above what the standard  
7 cost-of-service study would attribute to those  
8 particular systems.

9 Q Okay, sir.

10 A Which I believe there's 86 of.

11 Q 86?

12 A Yes.

13 Q Now, the -- Mr. Cresse, is the 36 cents per  
14 customer and the 1.9% that you testified to, is that a  
15 figure -- those figures based on averages?

16 A Yes.

17 Q Okay. What are the range -- I assume, then,  
18 that there is a range for the other systems in terms of  
19 what the percentage would be, and the actual cost per  
20 month. Do you know the range?

21 A No, I don't. It would depend upon what the  
22 individual rates were. But I think 1.9% was added to  
23 the rates of each system. And so that there would be a  
24 range there.

25 In my deposition, the Staff asked if this

1 could be done on a gallonage basis as opposed to a  
2 percentage basis, and I said, well, yes, I thought it  
3 could. And Helena Loucks sent some information to the  
4 Staff, as a supplemental exhibit to my deposition,  
5 reflecting how that could be done. But I don't have  
6 the data as to how much it is on the low side, how much  
7 it is on the high side on the 1.9%.

8 Q Okay, sir. Now, I have to apologize, I  
9 didn't follow completely your discussion with  
10 Mr. Jones, but did you calculate, did I hear you  
11 calculate that the rates for persons on his system  
12 would increase by something in excess of 100%?

13 A Not because of this. Looking at this  
14 information, which Mr. Jones says is wrong, his basic  
15 water rates would go from -- if he consumed 10,000  
16 gallons, would go from \$7.80 to \$16.18. That \$16.18  
17 includes the 1.9% that we would have allocated to that  
18 utility from the other systems. So this did not double  
19 his rates. Well, 1.9% of the \$16 is less than 30  
20 cents.

21 Q Yes, sir, but let me be clear on the question  
22 I asked you before and your response. Did you give --  
23 did the Company assign 1.9% to each utility?

24 A Each of those which -- of the 86, that's  
25 correct.

1 Q Okay. So that the same amount went to each  
2 system?

3 A Yes.

4 Q Or the same percentage went to each system,  
5 or both?

6 A No, it couldn't have been -- it couldn't have  
7 been both. It had to be the same percentage.

8 Q Of their own rates?

9 A That's correct.

10 Q Okay. So the higher their rates were to  
11 start with, the more they would get?

12 A That's my understanding of the way it was  
13 applied, yes.

14 Q Okay. Now, Mr. Cresse, you attempt to  
15 justify your support for this revenue requirement  
16 responsibility transfer by suggesting that it offers  
17 certain advantages that you list on Pages 2 and 3 of  
18 your testimony. And because you think that it is in  
19 the, quote, "Best long-term interest of all customers  
20 of the Company." Is that correct?

21 A Yes. I believe that the proposal is in the  
22 best long-term interest of the all the customers of the  
23 Utility.

24 Q Okay.

25 A I think -- well I'll say "Yes, sir." I'll



1 hold it right there.

2 Q Yes, sir. Now, would your support of this  
3 proposal, or principle, whichever it is, remain the  
4 same if the revenue requirement responsibility that is  
5 being transferred exceeded the 1.9% of this case?

6 A The answer is yes, I think it is appropriate  
7 to recognize that in a system as large and diverse as  
8 this system, that -- recognizing the efficiencies and  
9 the economies that can be brought about because of one  
10 utility owning these systems, to share some of that  
11 benefit, some of that cost, is beneficial to all the  
12 customers. For example, you can have a very small  
13 system. If you'll look at my Exhibit No. 2.

14 Q Yes, sir.

15 A For example, you got utility systems in here  
16 that have eight customers. The Utility is obligated to  
17 serve those customers the same high quality service  
18 that they serve an area that has 1200 customers. And  
19 that comes with the certificate; that comes with the  
20 territory. And most of these that we're talking about  
21 are very small.

22 When you have a lot of smaller utilities and  
23 one utility -- a repair has to be made at one utility  
24 or major replacement has to be made at one utility, you  
25 have what's referred to as "rate shock." And you have

1 substantial rate shock if you don't do some sharing of  
2 these costs. And simply to avoid rate shock over time,  
3 and to share some of the administrative efficiencies  
4 that can come about through a larger system, in my  
5 opinion, everybody benefits when you do that.

6 If you had any of these small utilities and  
7 you had to replace the treatment plant, for example,  
8 that could cause an enormous increase in a utility that  
9 has 150, 200, 300 customers.

10 Q Yes, sir. Let me ask you this: Would you  
11 agree that it is likely that this Utility, that is,  
12 Southern States Utilities, when they purchased this  
13 small utility with eight customers and acquired the  
14 transfer of its certificate, did it with the knowledge  
15 of the rate base and the revenues associated with it,  
16 as well as the number of active customers?

17 A I would think that they did a prudent  
18 investigation before they acquired the utilities and  
19 had general knowledge about what they were acquiring,  
20 yes, sir.

21 Q And a prudent investigation would include at  
22 least the things that I enumerated, would it not?

23 A Well, yes, I think it would include knowing  
24 how many customers they have and the revenue and how  
25 much they were investing in that utility. I think they

1 would know that.

2 Q Mr. Cresse --

3 A And I also, let me add.

4 Q Yes, sir.

5 A I think that the Commission and the customers  
6 of the Utility ought to be glad that they were acquired  
7 by a larger company. Simply put, if a lot of folks  
8 that have service in this small a system, sometimes the  
9 developers just walk away from them and they leave it  
10 there. I don't think that's in the best interest of  
11 the people in those territories. And I don't think  
12 it's in the best interests of the state or the best  
13 interests of this Commission that you have utilities  
14 that are abandoned because people cannot afford to  
15 provide adequate service.

16 Q Let me ask you a hypothetical with respect to  
17 the rate shock issue that you just spoke to.

18 Assume for a moment that Minnesota Power  
19 built themselves a big old nuclear power plant and that  
20 the inclusion of that plant in their rate base would  
21 provide a certain measure of increase in the rates of  
22 their electric customers such that it would meet your  
23 definition of rate shock. Would it be acceptable to  
24 you, Mr. Cresse, under those circumstances, that they  
25 transfer a certain portion of the revenue requirement

1 associated with the addition of the nuclear plant  
2 through Topeka, down through Southern States and have  
3 -- such that the customers of the 127 systems in this  
4 Utility, would pick up part of the slack so that the  
5 folks in Minnesota wouldn't experience rate shock?

6 A Mr. Twomey, that's one of those questions you  
7 asked and you know the answer to it. And I want to  
8 congratulate you for it.

9 You know that would not be acceptable to me  
10 to have any of the costs of the nuclear plant reflected  
11 in the water and sewer rates of Southern States  
12 Utilities. I wouldn't allow that to happen.

13 Does that answer your question?

14 COMMISSIONER CLARK: Mr. Cresse, I agree  
15 that's sort of extreme, but it does sort of go to where  
16 does it end? At what point do you draw the line? And  
17 I'll tell you what concerns me about this.

18 I think on the one hand we do want to  
19 encourage financially viable, technically capable  
20 companies to come in and buy up some of these small  
21 companies that frankly aren't functioning the way they  
22 need to and don't have the hope of providing adequate  
23 service at reasonable costs based on their current  
24 configuration. So on the one hand we want to encourage  
25 entities like Southern States to come in.

1           But on the other hand, I do feel that people  
2 who have contributed property to a company, through --  
3 when they paid for the lots and, as such, their rate  
4 base is not as high as some others, should not have to  
5 pay for the service to somebody else -- that is  
6 rendered to somebody else, when they didn't pay the  
7 same amount of CIAC and their rate bases are grossly  
8 different.

9           And I think that's -- at what point -- where  
10 do we draw the line? It seems to me that one thing we  
11 have to address, before we can address uniform rates,  
12 is to get the service availability policy for these  
13 various systems so they are moving in the direction of  
14 people contributing the same amounts, so the rate bases  
15 begin to look more uniform.

16           WITNESS CRESSE: I don't disagree with what  
17 you've said. And, of course, as you know, we are not  
18 proposing in this case anything different than what you  
19 have just said. We are not proposing that we have  
20 uniform rates statewide.

21           All I have proposed is that we start  
22 categorizing our system. I think we need to redo the  
23 contributions in aid of construction. Let's find out  
24 where we are and where we want to get to in this whole  
25 business. And, certainly, we may have systems where,

1 when they acquired them, they may have been  
2 overcontributed.

3 COMMISSIONER CLARK: Uh-huh.

4 WITNESS CRESSE: Well, if they've  
5 overcontributed, we've got to deal with that. Now, the  
6 next time we have to make a major replacement, that  
7 overcontribution will disappear. Likewise, you may  
8 have systems that are undercontributed, that are  
9 outside the guidelines that the Commission has  
10 established.

11 Well, we ought to put in into place a service  
12 availability policy that will move in that same  
13 direction. And what I've said is we ought to have a  
14 specific goal of where we're trying to get to.

15 The only cross subsidy between rate classes  
16 -- and I don't like to use that word "cross subsidy,"  
17 except between competitive and noncompetitive services  
18 -- but the only cross subsidy that we're asking here is  
19 to freeze rates of those systems which are currently  
20 based on our cost-of-service study, freeze those rates.  
21 And then as the 1.9% deficiency we're asking the other  
22 86 systems to pick up, so that we can place these caps  
23 on these systems. These rate caps are \$52 for water  
24 for 10,000 gallons and 65 -- we are not proposing  
25 uniform statewide rates at all.

1           COMMISSIONER CLARK: And you wouldn't -- if I  
2 understand your testimony in conjunction with -- I  
3 think it was Mr. Ludsen, that you would take into  
4 account a higher cost of service for particular  
5 treatment or area?

6           COMMISSIONER CLARK: We do that today, and my  
7 goal in the future would recognize that, too.

8           As I said in my deposition to the Staff, in  
9 water systems you may have -- and I'll just give you  
10 three examples. You may have a plain water system that  
11 all you have to do is pump it out of the ground,  
12 chlorinate it and distribute it. That may be probably  
13 the simplest type water system.

14           You may have another type water system that  
15 you have to -- as you get further south, that you may  
16 have to pump and lime treat rather extensively and  
17 expensively, and chlorinate and distribute. That may  
18 be what I call a "Type 2 plant."

19           And then you're -- at the high end of the  
20 deal, you may have a reverse osmosis water treatment  
21 plant. I would not recommend that we put all three of  
22 those types into one rate base, into one cost. I would  
23 want to recognize the fact that if, generically, the  
24 type of treatment required was basically more  
25 expensive, but we recognized that, but we would put all

1 plants in that same pot that have that same type  
2 treatment.

3 COMMISSIONER CLARK: Okay.

4 WITNESS CRESSE: Same general cost category.

5 COMMISSIONER CLARK: What about costs that  
6 are driven by density?

7 WITNESS CRESSE: I didn't hear that.

8 COMMISSIONER CLARK: What about costs that  
9 are driven by density, that presumably it's cheaper to  
10 serve people that are closer together because you don't  
11 have to put in the expensive pipes and things like  
12 that? Would you also make that distinction?

13 WITNESS CRESSE: I probably would not, and  
14 let me tell you why.

15 The Utility is obligated to serve everybody  
16 in its territory, both the water and sewer company, the  
17 telephone company and the electric company. And  
18 there's no distinction made in your electric rates or  
19 your telephone rates based upon density.

20 COMMISSIONER CLARK: Well, yes, there is.

21 WITNESS CRESSE: There's no decision made  
22 based upon the geographic area when it was last  
23 constructed. There's no decision made based upon  
24 vacant lots in electric utilities or telephone  
25 companies. It's only in water and sewer companies



1 where you make a distinction based on vacant lots. And  
2 the distinction between those two industries -- the  
3 telephone companies have a line fill of about 51%, but  
4 they're 100% used and useful.

5 COMMISSIONER CLARK: But they also charge  
6 extra if you are out in a rural area, and the same is  
7 true of electricians.

8 WITNESS CRESSE: No, ma'am. That's not  
9 correct. Every ratepayer pays exactly the same  
10 residential rate.

11 In telephones, as a matter of fact, if you're  
12 out in a rural area, you pay less because that's a  
13 Group 1. And in Group 1 they group them, in local  
14 rates, based upon the number of people that they can  
15 call.

16 COMMISSIONER CLARK: Let me be more specific.

17 WITNESS CRESSE: In Frostproof, Florida --

18 COMMISSIONER CLARK: I'm talking about  
19 getting service to them to begin with.

20 WITNESS CRESSE: In services there is a  
21 revenue test, a revenue test that you run, to determine  
22 whether or not you get a contribution in aid of  
23 construction.

24 COMMISSIONER CLARK: So you do have them in  
25 both electric and telephone?

1           WITNESS CRESSE: That's an extension of  
2 service policy.

3           COMMISSIONER EASLEY: Let me remind both of  
4 you that the court reporter can only take one at a  
5 time.

6           WITNESS CRESSE: I apologize for  
7 interrupting.

8           COMMISSIONER CLARK: I guess to be more  
9 specific, in terms of initially bringing service to a  
10 rural area, not the recurring rates, but what would be  
11 the service availability, there is a distinction in  
12 both telephones and electrics, isn't there, when you  
13 are far away from the nearest line?

14           I don't mean in your everyday rates. I mean  
15 just to get the service to begin with.

16           WITNESS CRESSE: There is an extension of  
17 service policy which, if my memory serves me correct,  
18 in electric companies, says if you're going to do  
19 anything other than the drop and the pole, if you're  
20 going to have to extend the distribution system, that  
21 you don't spend more than four times the estimated  
22 annual revenue to extend the distribution system,  
23 without obtaining a contribution in aid of  
24 construction.

25           COMMISSIONER CLARK: So that's how we should

1 handle a density problem? It should be an up-front  
2 cost?

3 CHAIRMAN BEARD: Commissioner, let me just  
4 jump in for a second.

5 That is, within a single system, how you  
6 handle an individual customer who is quote, unquote  
7 "abnormal" with respect to the rest of the customers.  
8 But it is not addressing on a system-density basis.

9 Your system density, if I'm in rural America,  
10 if I'm within -- I can be five miles from my nearest  
11 neighbor, but if I'm within 50 feet of that main  
12 backbone feeder going down the highway, that won't cost  
13 me a penny more than it will in lovely downtown Orange  
14 Park, Florida, where you've got a density of about 20  
15 customers per mile of line. It's within one electric  
16 utility system. Okay. You don't differentiate the  
17 density within that system, or system density, either.

18 WITNESS CRESSE: Commissioner Clark, let me  
19 give you an example.

20 If you took a new subdivision -- I can  
21 remember when Killearn was developed, and you weren't  
22 old enough to remember that, but I remember when  
23 Killearn was developed --- and other systems throughout  
24 the state, when those developments take place and the  
25 developer puts in the street, water system is put in,

1 the telephone system is put in, the electric system is  
2 put in. And that's because they expect that to build  
3 out. They don't all build out in the same way they're  
4 expected to.

5 But if there's somebody on the back of the  
6 160 acres, the electric company goes around and serves  
7 them. They don't charge that individual anything,  
8 because they expect that line that they're running on  
9 the back of the 160 acres to fill in with people. So  
10 they don't charge that fellow back there because they  
11 look at it and say, "Well we're going to get -- yes,  
12 this is going to cost us so much and we're going to  
13 fill in these lots between now and the end of four  
14 years." They don't make a charge for putting electric  
15 service in a subdivision.

16 It's only whenever somebody calls and says,  
17 "Look, I own 300,000 acres of land here, or 30,000, or  
18 3,000 acres of land, and I want you to run me a  
19 telephone and electric line right smack dab in the  
20 middle of my property." That's when that application  
21 is made. It's not made in the developing subdivisions.  
22 And you can go back and look and inquire, and you'll  
23 find that what I'm telling you is correct.

24 COMMISSIONER CLARK: Well, here's one of the  
25 things that I'm struggling with.

1           It seems to me if you're in a subdivision  
2 that has five-acre lots, it's going to cost more to  
3 serve ten people in that area than it would cost to  
4 serve ten people who have half-acre lots, just the  
5 amount of equipment that you have to put in.

6           WITNESS CRESSE: The amount of distribution  
7 pipe --

8           COMMISSIONER CLARK: That's right.

9           WITNESS CRESSE: -- that you have to put in  
10 would vary because of the width of the lot, yes, ma'am,  
11 that's correct.

12           COMMISSIONER CLARK: And presumably our CIAC  
13 policy would take care of that because we recommend  
14 that as a floor, that you would have the distribution  
15 and collection system be contributed.

16           WITNESS CRESSE: That's correct.

17           COMMISSIONER CLARK: My problem is I can see  
18 where you should have uniform rates for telephones and  
19 electrics because it's all interconnected. Probably  
20 more so in the telephone, because for every customer  
21 that's added to the telephone system, it's value to  
22 everybody who is otherwise connected. It's one more  
23 person that they can get in touch with. The same isn't  
24 true in the sewer service or water service. The fact  
25 that you may have more customers in Sugar -- in Spring

1 Hill, isn't necessarily going to benefit somebody in  
2 Burnt Store.

3 WITNESS CRESSE: Is there a difference  
4 between that and the electric companies?

5 COMMISSIONER CLARK: Well --

6 WITNESS CRESSE: Every electric customer that  
7 you put on your system adds to the cost of the other  
8 customer.

9 COMMISSIONER CLARK: That's true, but the  
10 system itself is all interconnected. We have a broker  
11 system and we use the least-cost generation at any  
12 given time, and you don't have the same  
13 interconnectedness of these various systems that would  
14 argue more strenuously, in my mind, for uniform rates.

15 WITNESS CRESSE: The generation plant, if you  
16 make the analogy, the generation plant of the electric  
17 company serves all of its customers. And you're saying  
18 the pumping station only serves customers which is  
19 hooked up to that. I think that analogy, that  
20 difference is correct. But I still think that there's  
21 the added benefits; after you get past the direct  
22 costs, the added benefits of being financially viable  
23 --

24 COMMISSIONER CLARK: I agree with that.

25 WITNESS CRESSE: -- and so forth, that need

1 to be taken into consideration.

2 And there may be a limit as to the  
3 differences in costs. And I think until you see it  
4 displayed in front of you, that you ought not reach any  
5 conclusions as to what is good or bad performance.

6 COMMISSIONER CLARK: When are we going to see  
7 them?

8 WITNESS CRESSE: When would you like to see  
9 them? It would be one of the issues in this case, I  
10 think. "Should SSU be required to file a service  
11 availability case for all of its systems?" That's  
12 Issue 103.

13 COMMISSIONER CLARK: But that addresses  
14 service availability; it doesn't address sort of  
15 similar rates for similar service.

16 CHAIRMAN BEARD: I think that was in the  
17 previous rate case and it didn't fare too well. I do  
18 want to take exception with the one thing that was  
19 stated here. And I can think of an instance where  
20 removal of certain customers from the telephone service  
21 that I'm associated with would tremendously increase  
22 the value of my telephone, as opposed to decreasing it.  
23 Most of them are teenagers, but not all of them.

24 WITNESS CRESSE: There's some other trash you  
25 can get over the phone now that I can do without.

1 MR. TWOMEY: Mr. Chairman, could we credit  
2 the time taken by that exchange to Mr. Cresse's account  
3 and not to my otherwise succinct cross-examination?

4 CHAIRMAN BEARD: Were we crediting accounts?  
5 If that's the case, I have to keep better tabs through  
6 the days. Go ahead.

7 Q (By Mr. Twomey) Yes, sir. Thank you.

8 Mr. Cresse, in response to one of  
9 Commissioner Clark's questions, you responded that -- I  
10 think it was in the nature of well -- while they're not  
11 interconnected there's these extra benefits to be  
12 recognized and so forth. Now, let me ask you, aren't  
13 those extra benefits, if I understand what extra  
14 benefits you're talking about, aren't they generally  
15 recognized in the administrative and general accounts  
16 and the common plant accounts and the customer  
17 accounts, that are, in turn, reallocated to the  
18 constituent systems on a per customer basis?

19 A Yes, that's one of the places they're  
20 recognized, yes.

21 Q And aren't any of the additional benefits  
22 that you want to have this Commission believe would  
23 result from this proposal, such as avoidance of rate  
24 shock by spreading the cost of new plant, and that kind  
25 of stuff, aren't those benefits, in fact, fully



1 completely dependent upon the proposal itself being  
2 accepted?

3 A The proposal -- what proposal?

4 Q The proposal to transfer revenue requirement  
5 responsibility to the customers of other systems?

6 A Yes.

7 Q Okay. Now, let me ask you, it struck me that  
8 in response to my first hypothetical about Minnesota  
9 Power and getting down to the water and sewer systems,  
10 that you were somewhat reluctant to adopt that  
11 proposal?

12 A You didn't understand my eyes then if you  
13 thought I was reluctant. I was happy to develop that  
14 proposal, not reluctant at all.

15 Q It seemed to me that your response was based  
16 in part on the fact that there was a power company  
17 involved and a water and sewer company involved, and  
18 that, therefore, there were two different industries;  
19 does that play any part?

20 A I thought there was two different industries,  
21 I thought there was two different states involved and  
22 at least a thousand miles between here and Minnesota.

23 Q Okay, so it does depend upon -- does it  
24 depend upon it all being in one state?

25 A No, I think what we're talking about is

1 judgment, and what this depends upon is judgment. It's  
2 whether or not, in the Commission's judgment, you can  
3 have fair, equitable and just rates with this proposal  
4 that we've just made. And give an analogy in my  
5 testimony that the Commission uses this type judgment  
6 all the time. They do it in every electric rate case,  
7 between classes of customers that they face and this is  
8 a judgment call.

9           And there is no such thing as 100% parity for  
10 each class of customers receiving service from a  
11 utility for every service they receive. And you know  
12 that, Mr. Twomey. It doesn't exist. And we're asking  
13 the Commission to apply their judgment, as they do in  
14 telephone cases, as they do in electric cases, to this  
15 case. That's all. It's not complicated.

16           Q     Okay. Let me ask you another real quick  
17 hypothetical, involving the same industry. Assume for  
18 the moment that Southern Bell in Georgia strips out all  
19 the copper wire it has, loads up the system with  
20 fiberoptics from the customers' CPE on out, a lot of  
21 money associated with it, and the Georgia Public  
22 Service Commission approves it as being reasonable and  
23 prudent, but there's going to be some rate shock to the  
24 customers of Georgia. Would you be agreeable to having  
25 some of that transferred through the common parent,

1 that is Southern Bell, and down to Southern Bell of  
2 Florida customers?

3 A No.

4 Q And why not?

5 A I wouldn't think it was fair, equitable and  
6 just.

7 Q Okay. Now, the -- you spoke about this  
8 transfer of revenue responsibility as being a cross  
9 subsidization, did you not?

10 A I said I didn't like to call it cross  
11 subsidy, because I like to reserve that term for  
12 subsidizing between competitive and monopoly services  
13 as opposed to cross subsidy within the monopoly  
14 service. I would call that rate design adjustments. I  
15 would not call it cross subsidy. That word carries a  
16 connotation much more evil than I like to apply to this  
17 proposal.

18 Q Yes, sir, but let me just ask you straight  
19 out, notwithstanding your distaste for that terminology  
20 in this context. Isn't this, in fact, a subsidy,  
21 flowing from --

22 A If you'd give me your definition of a  
23 subsidy, I can agree with -- maybe I can agree with it,  
24 maybe I can't.

25 COMMISSIONER CLARK: Well, let's look at it

1 this way. Some customers are not going to be paying  
2 the full cost of providing service to them from their  
3 particular plant.

4 WITNESS CRESSE: As that cost is calculated  
5 under using the Company's cost of service study, that  
6 is correct.

7 COMMISSIONER CLARK: Right. And to make up  
8 some of that deficiency, we will use the overearnings  
9 or the additional price paid by some customers for  
10 service that doesn't cost up to that price?

11 WITNESS CRESSE: That is correct.

12 COMMISSIONER CLARK: So in that sense, one  
13 customer is subsidizing another customer.

14 WITNESS CRESSE: And I would say that  
15 depending on your definition of subsidy, that may be  
16 true. Not all customers are paying rates at 100% of  
17 parity, is the way I would like to express that. And  
18 not all rates that are established to 100% parity among  
19 all the utilities that you regulate. And if you want  
20 to call it a subsidy, that's fine. I can accept that.  
21 I will agree that they're not paying 100% of the  
22 calculated cost of their service.

23 Q (By Mr. Twomey) For my purposes, I'll drop  
24 the question of subsidy.

25 A Thank you.

1 Q Let me ask you this, Mr. Cresse. Does the  
2 revenue requirement deficiency that's being transferred  
3 from system to system, consist of expenses of the other  
4 systems that have a deficiency, a return on the rate  
5 base of those utilities, or a mix of the two?

6 A Once you've determined revenue requirements  
7 and you've reduce them through pricing, it's for -- it  
8 would be affecting everything that affects the revenue  
9 requirements which would be including rate base, a rate  
10 of return, depreciation and so forth. And at that  
11 point in time you cannot attribute to any single thing,  
12 because it's just the way the total revenue  
13 requirements are calculated.

14 Q Would you agree that if you can't attribute  
15 to a single, then you can reasonably conclude that it's  
16 a mix?

17 A Reasonably contribute to what?

18 Q That it is a mix of those?

19 A Sure.

20 Q Okay. Now, you were a Commissioner here at  
21 the Florida Public Service Commission for -- was it  
22 approximately ten years?

23 A No. Seven.

24 Q I'm sorry.

25 A I got out after seven. Ten was more than I

1 could stand.

2 Q Seven years then. Now, Mr. Cresse, during  
3 those years, those seven years at this Commission, did  
4 you formulate a -- kind of a walking-around definition  
5 of the concept of used and useful that you could share  
6 with the Commission?

7 A Did I formulate a concept of used and useful?

8 Q Yes, sir.

9 A A walking-around? And if I did it was  
10 probably a walking-around, and the answer is yes.

11 Q You're not a lawyer, are you, Mr. Cresse?

12 A No, sir, I'm certainly not. One of the great  
13 prides in my life.

14 Q First question is do you -- did you formulate  
15 a definition of used and useful?

16 A Yes, sir.

17 Q And if you have, would you share it with the  
18 Commission?

19 A I think that probably --

20 CHAIRMAN BEARD: Before Mr. Cresse shares  
21 this walking-around definition of used and useful --

22 COMMISSIONER EASLEY: From the turnip truck.

23 CHAIRMAN BEARD: From the turnip truck or  
24 wherever it's at, we need to find a point to give the  
25 court reporter a break. Would this be a good place to

1 stop, and we'll come --

2 MR. TWOMEY: Any, any -- at your discretion.

3 CHAIRMAN BEARD: Okay. Because we've been  
4 going about an hour and forty minutes and we've only  
5 got one this afternoon, if we could. And that will  
6 give Mr. Cresse some time to really think about this.

7 MR. TWOMEY: Because I don't have much more  
8 after this, but this is a fine point to break.

9 CHAIRMAN BEARD: I appreciate it. Thank you.  
10 (Brief recess.)

11

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12 COMMISSIONER EASLEY: We're back on the  
13 record. Mr. Cresse, I think you were about to  
14 enlighten us with your definition of used and useful.

15 WITNESS CRESSE: I'm not sure that was the  
16 question, but -- is that the question, Mr. Twomey?

17 Q (By Mr. Twomey) Mr. Cresse, you don't have  
18 to enlighten us, if you'd just give us your definition  
19 -- your walking-around definition of used and useful,  
20 sir.

21 A My walking-around definition of used and  
22 useful is all of the investment made by the utility to  
23 provide service to the utility's customers.

24 Q Mr. Cresse --

25 A Would you like me to expand on that?

1 Q Certainly you're welcome to.

2 A Well, I think ratemaking starts with the  
3 concept that the utility is providing monopoly  
4 services, and regulation is designed as a surrogate or  
5 a substitute for competition. And that a utility is  
6 expected to operate its business in a prudent way. And  
7 if they operate their business in a prudent way,  
8 they're entitled to the opportunity -- just an  
9 opportunity, to earn a fair rate of return on all their  
10 prudent investment.

11 The distinction between used and useful is  
12 made solely for ratemaking, in that you determine what  
13 are the current investment in the plant you should be  
14 allowed to earn a current rate of return on, as opposed  
15 to what current investment in plant do you allow the  
16 utility to capitalize the rate of return on that  
17 investment. So the distinction between used and useful  
18 is only made, in my mind, by decision of what do you  
19 allow to be recovered in current rates as opposed to  
20 what investment you allow to be not recovered in  
21 current rates, which you allow them to impute, what's  
22 been referred to as AFUDC, AFPI if it's a water and  
23 sewer company, and IDC if it's a telephone company.  
24 And all those mean the same thing, they just use  
25 different languages because they're different



1 industries and it tends to confuse Staff and  
2 Commissioners because they don't all use the same  
3 language.

4 Q Yes, sir. Now, but going back to my  
5 Minnesota Power, either one of my hypos I've given you  
6 thus far, either Minnesota Power or the Southern Bell  
7 hypothetical. Weren't you offended in part by the fact  
8 that the -- and assume for a moment that the investment  
9 I spoke to, both in Minnesota Power and the nuclear  
10 plant, and the installation of fiberoptics were both  
11 considered 100% used and useful. Didn't it offend you  
12 or wouldn't it offend you if those -- that rate base  
13 was not providing service to the Florida water and  
14 sewer customers, I spoke to in the first hypothetical,  
15 and Southern Bell's Florida customers, I spoke to in  
16 the second?

17 A Whether it would -- I'm not sure it would  
18 offend me, I would not allow it. I've disallowed a lot  
19 of things that were proposed to be included in rate  
20 base, but I can't say that I was offended by that.  
21 It's just a difference of opinion as to what be  
22 included or not included. But, I guess, at my age I  
23 don't offend as easy as I used to when I was younger.

24 Q Yes, sir.

25 A And I just take the source of information

1 into consideration in arriving at a conclusion.

2 Q Let me ask you more specifically. And this  
3 may not be necessary to your support of the proposal  
4 put forth by this utility, but is it your testimony, or  
5 is it your belief that the rate base of each of these  
6 constituent utilities, that is each of the 127  
7 constituent systems, comprising Southern State  
8 Utilities in this case, is, in fact, used and useful in  
9 the service of the customers of the others?

10 A In a portion of the rate base of Southern  
11 States Utilities is used and useful in serving all  
12 customers. Yes.

13 Q That would be the common plant, is that  
14 correct?

15 A That would be the common plant. I think the  
16 plant that is devoted exclusively, such as the water  
17 treatment plant and the distribution lines and so forth  
18 and so on, that are serving in one area -- I'll just  
19 say for example, Marion County. Is that used and  
20 useful in providing benefits to the people in Citrus  
21 County? That's another question. And my answer to  
22 that would be yes, it is.

23 Simply because of the fact that the utility  
24 is larger and they can share some direct costs among  
25 the two utilities provides a benefit to the customers

1 of both of those. And if you can have average rates  
2 between those two utilities, if they have a basic kind  
3 of common ground, what it precludes, what the benefits  
4 to the other customer is, simply, if you continue to  
5 keep single individual rates, you're going to -- every  
6 time a major investment is made in any given utility,  
7 you're going to have to bring that utility in and have  
8 a rate case, and they're going to have to take up  
9 Staff's time, the Commission's time, and there's a cost  
10 to that. These things we're doing today do not come  
11 free. They're costly.

12           And to the extent that you can do this  
13 averaging of investment and avoid having to come in for  
14 rate cases, when there's a major repair or major  
15 replacement, provides benefits to the other customers  
16 that are involved. It provides benefits to the  
17 customers that gets that investment and it provides  
18 benefits to the other customers also, because you save,  
19 everybody saves.

20           Q     Yes, sir, I understand what your discussion  
21 of the benefits, but I want to ask you again, because  
22 I'm not sure I understood the answer to my question. I  
23 want to ask you, Mr. Cresse, if it's your testimony  
24 that -- let's take an example. Let's take one of the  
25 -- I understand one of the constituent systems of this

1 Utility is located in Washington County in the  
2 northwest panhandle of this state and that at least  
3 another is located in Collier County in southwest  
4 Florida. Are you aware of that?

5 A Yes, sir.

6 Q Now, what I want to ask you, and I want to  
7 understand your answer clearly, is not withstanding  
8 this transfer of these benefits you just testified to,  
9 is the rate base, that is the utility plant in  
10 Washington County, used and useful in providing utility  
11 service to the customers of the Utility in Collier  
12 County?

13 A Only in the way that I described.  
14 Specifically, as the people in Collier County getting  
15 any service from the lines of the plant in Washington  
16 County, the answer is no.

17 Q Okay, sir. Now, the remaining expenses --  
18 and by remaining expenses, I mean the expenses that are  
19 not associated with administrative and general, they're  
20 not associated with customer accounts, and the others  
21 that might be there, that were pooled and reallocated  
22 on a per customer basis, that we spoke to earlier,  
23 those operational and maintenances expenses and others  
24 that are direct assigned to each individual system --  
25 is it your testimony that any of those expenses from

1 any constituent systems are necessary to the provision  
2 of service to any of the other systems? It's the same  
3 kind of question I have to ask you about the rate base,  
4 but going to --

5 A I think all the administrative and general  
6 expenses that are allocated on customer basis, those  
7 types of expenses are necessary to operate any  
8 individual system, yes.

9 Q Yes, sir. But I don't think I -- maybe I  
10 wasn't listening close enough, but I don't think I heard  
11 an answer to the question that I asked you and --

12 A I thought that was the answer. Excuse me.  
13 What is question then?

14 Q Well, it's probably my fault for not asking  
15 it properly but -- we already know that the  
16 administrative and general and other pooled expenses  
17 have been reallocated on a per customer basis, correct?

18 A They have been allocated on a customer basis,  
19 not reallocated?

20 Q I'm sorry. Yes, sir. Allocated.

21 A Or a portion. Either way you want to use  
22 those two words, I think they mean -- in my context,  
23 they mean the same thing.

24 Q Or assessed.

25 A No, assessed, in my language, means

1 different. Assessed is if you belong to an  
2 organization, they increase the dues and they assess  
3 you an extra ten bucks, why that's an assessment. It's  
4 kind of like what the property appraiser does.

5 Q Okay. Now, going back to -- excluding those  
6 expenses that have been allocated back -- or allocated  
7 to the constituent systems, and taking just the  
8 expenses, operation, maintenance expenses, for the  
9 constituent systems, is it your testimony, that is  
10 those expenses that are necessary to operate the  
11 specific utility plant and maintain it and so forth,  
12 are those specific expenses of each constituent system  
13 necessary to the provision of service to any of the  
14 others? And if you will, for ease of consideration,  
15 consider the example of the Washington County Utility  
16 versus the Collier County Utility.

17 A Well, probably not between Washington and  
18 Collier County, but let me give you one that there may  
19 be great benefit between two systems, between Citrus  
20 and Marion because those counties adjoin.

21 Q Yes, sir.

22 A You may have plant operators that serve both  
23 systems, more than one system. And if it wasn't for  
24 the single ownership of those two systems, plant  
25 operators may not be able to serve both. So you can

1 spread some costs, direct costs -- and I think that's  
2 what you're referencing -- direct costs between one or  
3 more systems if you have joint ownership. That's  
4 economy and efficiency. And you may have to have, if  
5 you only had a single one, you may have to devote a  
6 full-time operator to that single system at the added  
7 cost that would take place.

8 Q Yes, sir. And in that example, the question  
9 is -- some of the questions would be whether the cost  
10 of the service, or the expense, was reasonable and  
11 prudent, and then, whether the allocation was proper?

12 A Yes. First the question would be was it  
13 prudent. And if you have to have a license to operate  
14 under DER rules and regulations to supervise a plant,  
15 then my guess is that if you got a full-time person  
16 doing that, that's prudent. If you can get by with a  
17 half-time person doing it, but you -- and share that  
18 between two people -- between two plants, that's,  
19 maybe, even more prudent, certainly more economical.

20 Q Okay. I want to ask you one last  
21 hypothetical that eliminates some of the problems, I  
22 think, that you have with the others, and that is the  
23 hypothetical concerning the same state, same industry,  
24 same regulatory commission, and no appreciable distance  
25 or separation of the utilities involved. And that

1 would be -- take Tampa Electric Company, for example,  
2 which is virtually, as I understand it, if not totally,  
3 surrounded by Florida Power Corporation. One utility  
4 has higher rates, higher residential rates at least,  
5 than the other. Would you support, based upon your  
6 support of the proposal here, the merging or the  
7 uniform rates between those two, to avoid the rate  
8 shock imposed upon, hypothetically TECO's customers due  
9 to assertion in rate base of a new plant?

10 A No.

11 Q Okay. Now, Mr. Cresse, you say at --

12 A Let me add this to that last question, too:  
13 I think what you're going to find in electric utilities  
14 is the fellow that built the last plant, he's the one  
15 that's going to have the highest rates. And my  
16 recollection is is that TECO built the plant since  
17 Florida Power Corp did, and they have higher rates than  
18 Florida Power Corp. I think it will be interesting to  
19 find out what happens to Florida Power Corp when they  
20 build their next base load plant. I suspect there may  
21 be a turnaround.

22 Q Yes, sir, but --

23 A And the question then is is whether or not in  
24 the interim period of time, there should be some  
25 sharing of rate base between Florida Power Corp and



1 TECO. And my answer to that is no. I think both those  
2 companies are sufficiently large, that they can -- that  
3 their rates are not unreasonable.

4 Q Okay. So -- and when you have large  
5 companies, it's okay for the last guy that built a  
6 plant, large plant, to absorb it within his system,  
7 whereas under the basis of this proposal for Southern  
8 States Utilities, a company that last built plant, if  
9 the proposal were adopted, would be able to spread some  
10 of the rate shock associated with the installation of  
11 the plant through --

12 A Yes, that's correct. And some of the smaller  
13 companies would be able to spread that until such time  
14 as that system grew, as it was originally planned, to  
15 where it would be an adequate number of customers to  
16 not have to absorb too much cost.

17 Certainly, if you build a minimum systems,  
18 say, to serve 150 customers, and I don't know if that's  
19 a minimum sized system or not, but if you did that, it  
20 needs to be some provision to recognize that when that  
21 system has ten, 15 or 20 customers, that the rates are  
22 going to be enormously large if you allow that company  
23 to earn a fair rate of return. And sharing some of  
24 that excess rate base with other customers, who will  
25 benefit from that sharing in the future, in my opinion,

1 is fair, equitable and just treatment of all customers.

2 Q Okay. So that -- I'm almost finished and you  
3 bring me, in your last comment, to Page 1, Line 14 of  
4 your testimony, wherein you say, and I quote, "The  
5 purpose of my testimony is to explain and justify why  
6 it is fair, just and reasonable to establish maximum  
7 rates as proposed by Southern States Utility, Inc., and  
8 Deltona Utilities, Inc." And you go on. But the point  
9 I want to ask you is, would you agree with me that the  
10 terminology or the phrase "fair, just and reasonable"  
11 is a legal standard? That is a --

12 A No. I'm certain it has legal connotations  
13 and I'm certain that the courts have defined that some  
14 time in the past, and so forth. And I also think it  
15 has common, walking-around sense standards about it,  
16 too, in addition to legal standards.

17 Q But in your experience and --

18 A I don't think the courts have ever determined  
19 that every decision by the Commission is fair, just and  
20 reasonable. I think they have made the definition of  
21 -- stated in the opinions as to what that means under  
22 certain circumstances.

23 Q Would you agree that, during your seven years  
24 as a Commissioner of this Commission, that in many  
25 cases, if not all, you took into consideration, in

1 determining whether the resultant in rates were fair,  
2 just and reasonable, whether the plant considered  
3 in establishing those rates was used and useful, and  
4 whether the expenses were necessary to the provision of  
5 the service -- the utility service being provided to  
6 the customers?

7 A Yes. And I think we took -- had to take into  
8 consideration what was used and useful. And I think if  
9 you look back, you'll find that in many, many cases, we  
10 included this used and useful plant that was not in  
11 service at the moment in time.

12 I recall when you were working for Staff for  
13 the Public Service Commission and I was a Commissioner,  
14 that sometimes a Public Counsel will come over and say,  
15 "Oh, no, don't put any of that construction work in  
16 progress in rate base. That's not used and useful."  
17 And I remember you helping me reach some conclusions  
18 that, yeah, it was, it needed to be put in rate base.  
19 And we put it in rate base before it was on line,  
20 because that was the fair, just and reasonable thing to  
21 do for the benefit of the ratepayers. And because the  
22 cost of keeping AFUDC -- and AFUDC was greater than the  
23 cost of including it in rate base at that time because  
24 it avoided rate shock when that plant finally went on  
25 line, as opposed to if we had completely capitalized

1 the construction cost of that plant, during the five or  
2 six years it took to build it. So we did put some,  
3 quote, "nonused and useful," under the Public Counsel's  
4 definition, plant and rate base. And you assisted me  
5 in arriving at those conclusions and I think they were  
6 very valid and very sound.

7 Q Yes, sir. But the bottom line is is that you  
8 didn't accept -- is it not true that you didn't accept  
9 Public Counsel's definition of used and useful and that  
10 the plant that you did include, whether it was all the  
11 plant that you included and the Commission included in  
12 the rates of a given utility, was done so on the basis  
13 of a finding that it was, in fact, in the Commission's  
14 determination, used and useful?

15 A I think the -- my finding was that it was in  
16 the best interest of the ratepayers; it was fair.

17 My recollection is that there was two tests  
18 we put to that. One, we asked ourselves the question  
19 of whether or not the rates were any greater than if  
20 they were paying replacement cost depreciation -- the  
21 ratepayers. That was an issue we addressed. In  
22 addition, we later came to address the question of  
23 financial viability of the company. And we reached the  
24 conclusion that it was in the best interests of the  
25 ratepayers to maintain the financial viability of the

1 company in every circumstance, as long as the rates  
2 which the ratepayers were paying were not unfair,  
3 unjust and unreasonable.

4           And it's very important, and I think the  
5 Commission reached those conclusions when I was on it,  
6 that maintaining the financial viability of the  
7 company, keeping its cost of credit as low as possible,  
8 was in the best interests of the ratepayers over the  
9 long term.

10           Q     I have one last question, Mr. Cresse. And  
11 that is: Would you agree with me that the -- this  
12 Company, that is Southern States Utility, is legally  
13 entitled to an opportunity to recover a fair and  
14 reasonable return on its used and useful investment for  
15 all 27 systems, and its reasonably and prudently  
16 incurred expenses necessary to the provision of the  
17 utility services, and that it's entitled to the  
18 resulting revenue requirement, irrespective of which  
19 customer it comes from, as long as it comes from the  
20 customers of each system?

21           A     That's a long question, and let me see if I  
22 can answer it in this way: I think the Commission is  
23 entitled to the opportunity to earn a fair rate of  
24 return on all of its prudent investment, regardless of  
25 whether the Commission determines it is currently used

1 and useful or not, and included to be recovered in  
2 current rates. I think that portion which is prudently  
3 invested, they're entitled to earn a fair rate of  
4 return on that, through the AFPI process. It has to be  
5 in one of two pots. It's either included in current  
6 rates, or it's included in AFPI, as long as it's  
7 prudently invested, as long as it's a prudent  
8 investment. That I believe in. I think, the answer to  
9 that part of your question is yes.

10 As it relates to the rate design issues, as  
11 to whether or not the Commission is obligated to  
12 recover the costs from each of the utilities based on  
13 each utility's cost-of-service study, I agree with you  
14 that the only obligation to the part of the Commission  
15 is to set rates that are just, reasonable and fair, and  
16 that they have the discretion, as long as they're  
17 allowed a fair rate of return on all 127 systems, they  
18 don't necessarily have to get a fair rate of return  
19 from each system. Does that answer your second  
20 question?

21 MR. TWOMEY: Thank you. Those are all the  
22 questions I have.

23 COMMISSIONER CLARK: Mr. Cresse, is there  
24 somewhere in the MFRs or on a sheet of paper that  
25 indicates for the rates you are proposing, on an

1 individual system basis, what rate of return that  
2 generates?

3 WITNESS CRESSE: I think the answer to that  
4 question is yes. And I think Ms. Helena Loucks would  
5 have that information, and it would show you that data.

6 COMMISSIONER CLARK: Then let me ask you a  
7 question. Would it be fair to sort of cap rates for  
8 those people who are above parity, that they -- that we  
9 cap the amount above parity that they have to pay,  
10 using some rate of return test for their own system?  
11 In other words, if we found we should set rates at 11%,  
12 should we say that they shouldn't pay anymore in rates  
13 than would generate for their system on a stand-alone  
14 basis, 13%? I mean, would that be one way of -- rather  
15 than using the terms "the absolute dollars" -- I think  
16 you've suggested that we would say because of the  
17 ultimate long-term benefit, that there should be some  
18 sharing of these costs?

19 WITNESS CRESSE: Let me see if I can answer  
20 the question this way: I think if you decide that  
21 looking at one individual utility, that the rates that  
22 they're paying, current, should be reduced because they  
23 are so much greater than the cost study shows, I think  
24 if you wanted to say that we would reduce those if they  
25 were more than 125 or 150% of parity, some percentage

1 of parity, you could do that. And that percentage of  
2 parity would be the deviations, you know, that you  
3 expect and see in a whole lot of rate cases.

4 COMMISSIONER CLARK: I'm not sure you've  
5 answered my question. What I want to say is, for  
6 instance -- is Spring Hill one of the utilities that's  
7 overearning, one of the systems?

8 WITNESS CRESSE: Let me look here just a  
9 minute. My recollection is that it is not, but it may  
10 be.

11 COMMISSIONER CLARK: Well, it really doesn't  
12 matter.

13 WITNESS CRESSE: Yes, ma'am, it is.

14 COMMISSIONER CLARK: All right, it's  
15 overearning and, in fact, it's generating a return of  
16 capital 20%. What would be wrong with saying, we're  
17 going to reduce their rates, but not to the rate  
18 setting point. We're going to reduce them to some --  
19 that produces a return on equity of, say, 13 or 14%?

20 WITNESS CRESSE: That's another way of  
21 looking at a deviation from parity. It's exactly the  
22 same way. It's the same thing. If you reduce them to  
23 a level of 14%, then their rates would be some  
24 percentage in excess of 100% of parity. And you would  
25 have, time and again, looked at cost of service



1 studies. We don't have one here on a stand-alone  
2 basis, at all, but if you have looked at  
3 cost-of-service studies, and you've said, well, they're  
4 not going to grow into this rate over a reasonable  
5 period of time, so we will reduce it. And you could  
6 apply the same principle in this case.

7 COMMISSIONER CLARK: Have you done that?

8 WITNESS CRESSE: No, ma'am. I have not  
9 looked at it that way.

10 COMMISSIONER EASLEY: Before we go to Staff,  
11 Mr. Cresse, go back to Page 60 of the prehearing order,  
12 Issue 92. And I recognize this is not your issue, but  
13 it immediately precedes your issues and it touches  
14 again upon what Mr. Jones was asking about earlier.

15 A Yes, ma'am, I see Issue 92.

16 Q Would you take a quick look at the Company's  
17 written position on that issue, remind yourself of what  
18 it says. (Pause)

19 WITNESS CRESSE: Yes, ma'am.

20 COMMISSIONER EASLEY: I'm having a little  
21 trouble. I thought I understood it until we had this  
22 long dissertation. I'm having a little trouble  
23 deciding which one of these three methods stated in the  
24 Company's position on Issue 92 really fits your  
25 proposal?

1           WITNESS CRESSE: Two, rate bands for systems  
2 falling in certain bands based upon cost of service and  
3 other pertinent factors would be considered together.

4           COMMISSIONER EASLEY: Well, then, why is 3  
5 listed as the Company's preferred method?

6           WITNESS CRESSE: Because, I'm a consultant to  
7 the Company. I'm not the president of the Company and  
8 the president doesn't have to agree with me on all of  
9 my recommendations. That's not one of the criterias  
10 for a consultant to work for anybody. They solicit  
11 your advice; they don't necessarily have to follow it.

12           COMMISSIONER EASLEY: So the fact that the  
13 Company's position on Issue 92 is not necessarily  
14 consistent with the subsequent issues to which your  
15 name is appended shouldn't bother me?

16           WITNESS CRESSE: No, ma'am. I think that --  
17 I don't think the Company is in disagreement --

18           COMMISSIONER EASLEY: I didn't say  
19 disagreement. I said --

20           WITNESS CRESSE: They have a preference a  
21 little bit different.

22           COMMISSIONER EASLEY: Huh?

23           WITNESS CRESSE: Their preference is just a  
24 little bit different than the way I would do it.

25           COMMISSIONER EASLEY: All right. And you're

1 saying that your description of these -- this -- using  
2 the cost of service study as a parity measure and  
3 coming up with a loop line or whatever it is, is  
4 devising a band for these systems?

5 WITNESS CRESSE: No, ma'am. That doesn't do  
6 that at all. I thought this question was in terms of  
7 long term goal. No, there is not a band established.  
8 We've been discussing what they should do in the  
9 future. In this rate case, me and the Company are in  
10 complete agreement on what should be done in this rate  
11 case.

12 COMMISSIONER EASLEY: Well, then, in this  
13 rate case you're advocating No. 3?

14 WITNESS CRESSE: No, ma'am. In this case  
15 we're advocating No. 1. Methods similar to the rate --

16 COMMISSIONER EASLEY: I'm sorry. Maybe I  
17 should have gone back to Mr. Ludsen on this, but I  
18 really do not understand, then, the Company's position.  
19 If you're advocating No. 1. No. 2 matches your long  
20 range goals, and in the Company's stated position it  
21 says, No. 3 is the Company's preferred method. What am  
22 I to understand from all that?

23 WITNESS CRESSE: Commissioner Easley, let me  
24 back up and maybe I can bring some understanding. What  
25 I am proposing and what I have suggested for long term

1 rates, requires a very lengthy study to establish of  
2 categorizing all of these companies into the type of  
3 treatment, and where they would fall within these  
4 certain categories or rate bands. That information is  
5 not available now. It also requires a comprehensive  
6 review of the CIAC policy and implementing a  
7 comprehensive CIAC policy to get to a certain goal.

8           The Company and I are in agreement on that,  
9 that should be done, and they have already come in and  
10 done some things in the CIAC area and the  
11 interconnection area. But that hasn't reached fruition  
12 yet. I'm saying that they have a very distinct problem  
13 right now. They had to come in and ask for a rate  
14 relief prior to being able to do all of these things,  
15 that I think need to be done in the long run. Their  
16 request for rate relief is based upon an individual  
17 cost-of-service study for each of the 127 systems. It  
18 is not combining anything. They didn't have time to do  
19 the combining that would be necessary under a long-term  
20 studies.

21           All they're asking in this case is individual  
22 rates for each individual utility, with the rate caps  
23 that I have described, and with the 1.9% that that  
24 would not recover, being recovered from the other 86  
25 utilities. It's a very simple, straightforward,

1 individual rates for individual systems with that one  
2 modification. I think what's laid out in '92 is long-  
3 term goals of where you ought to get to. I don't think  
4 you have enough data to do that in this case.

5 COMMISSIONER EASLEY: Mr. Cresse, the Issue  
6 92 is stated as follows: "Should SSU's final rates be  
7 uniform within counties, regions or statewide?" Now,  
8 it doesn't say out 20 years in the future, or five  
9 years out in the future. It says should SSU's final  
10 rates be done a certain way, and then I read the  
11 position. Did you hear Mr. Ludsen's testimony?

12 WITNESS CRESSE: No, ma'am, I did not.

13 COMMISSIONER CLARK: He advocated No. 3.

14 COMMISSIONER EASLEY: But he also indicated,  
15 I believe, that No. 2 was a consideration available to  
16 the Commission in the context of this rate case. Now,  
17 if I misunderstood that, I'm putting everybody on  
18 notice that they need to correct me.

19 WITNESS CRESSE: If the Company has the data  
20 to do that, then you ought to be able to consider it in  
21 this rate case. I'm unaware as to whether they have  
22 that data or not. And for that ignorance, I'm  
23 responsible.

24 COMMISSIONER EASLEY: I'm not sure whether  
25 it was even developed to the extent that I know whether

1 or not the Company has that data, but I am certain,  
2 from my notes, that I understood it to be an option  
3 available. And I'm having a little difficulty --

4 WITNESS CRESSE: I will certainly find out  
5 and get you that information before -- after the next  
6 break.

7 COMMISSIONER EASLEY: I would appreciate it  
8 because that -- frankly, changes the way I'm viewing  
9 some of this. Staff.

10 CROSS EXAMINATION

11 BY MS. SUMMERLIN:

12 Q Good afternoon, Mr. Cresse?

13 A Good afternoon, Counselor.

14 Q Let me just summarize what the result would  
15 be if the Commission were to accept what the Company is  
16 proposing, and what you've proposed in your testimony,  
17 and make sure that I've got this right, okay? If the  
18 proposal were accepted, all of the systems that  
19 Southern States has in this filing would be paying  
20 different rates to start with; that's the first point  
21 of my understanding. Is that correct?

22 A Yes.

23 Q Okay. Ten of the existing systems would  
24 remain at the same current level of rates.

25 A Correct.

1 Q Okay. 86 systems would have increases of  
2 1.9% applied to the existing rates.

3 A That's not correct. 86 percent would have  
4 increases applied of 1.9% above their cost-of-service  
5 study, not to the existing rates.

6 Q Okay, all right. And 31 systems would  
7 receive rate reductions down to the cap level?

8 A No, they would still receive the rate  
9 increases, but they would receive reductions below what  
10 their cost-of-service study would show that they should  
11 pay. But they would still -- many of them would still  
12 receive rate increases. Those increases would not go  
13 beyond the \$52 and \$65.

14 Q Okay. You stated in your deposition and in  
15 your testimony that the Utility's filing presented a  
16 rate structure that was an attempt to move towards some  
17 type of uniform rate methodology, is that correct?

18 A I didn't hear all of that question could you  
19 repeat it?

20 Q You stated in your deposition or at your  
21 deposition and in your testimony that the utility's  
22 filing here was a representative effort towards a  
23 uniform rate methodology, is that correct?

24 A Was a representative effort towards a uniform  
25 rate methodology?

1 Q Represented an effort to move toward a  
2 uniform rate methodology?

3 A In part, yes, that's correct.

4 Q Well, can you explain what you mean?

5 A Yes, they're moving towards uniformity in  
6 terms of the billing cycle, the maximum rates that  
7 would be imputed for -- I want to say sewer service  
8 because I'm from the old school, but it's now  
9 wastewater -- for wastewater service, and it has  
10 uniform rate caps, and -- as opposed to the divergent  
11 methodologies that they have currently, which they are  
12 what existed when they acquired these systems.

13 Q Did you not imply in your testimony that you  
14 were moving toward -- the Company was moving toward  
15 ultimately a more uniform type of rates?

16 A I think in my testimony and in my deposition  
17 I said I would recommend that the Company move more  
18 towards the system that we've spent a good bit of time  
19 discussing, no. 2 on Issue 92. That's what I think we  
20 discussed, yes.

21 Q What are the benefits to the customers of a  
22 more uniform rate methodology?

23 A Besides what I've testified to for the last  
24 two hours? Anything in addition to that?

25 Q Yes.



1           A     You know, I really think I've about covered,  
2 but let me see if I can summarize it, Counselor.

3                     If you have uniform rates based upon type of  
4 treatment and equivalent contributions in aid of  
5 construction, you can kind of get the pot right and  
6 move on down the road. What you have is longer rate  
7 stability, and less erratic rate changes. You have,  
8 frankly, less accounting and ratemaking costs that the  
9 customers have to pay. If you can -- the longer you  
10 can stay away from a rate case, the longer you can stay  
11 out of Tallahassee, the better off your customers are.

12                     And you get -- there will not be substantial  
13 difference in the actual cost of providing service, but  
14 it will prevent rate shock. It recognizes the benefits  
15 of joint management, of sharing of costs, and very  
16 frankly, it's nothing new about that. That's what you  
17 do all the time in electricity and telephone service.  
18 And it just brings the water and wastewater treatment  
19 regulation up to the same level of the 20th century,  
20 that you are in electric service.

21           Q     Well, if all of these benefits flow from a  
22 uniform methodology, isn't the ultimate methodology a  
23 uniform statewide rate?

24           A     Yes, I would think so, except from the  
25 standpoint that we, as a state, have permitted

1 development to take place in areas where it is,  
2 basically and generically, extremely expensive to  
3 provide adequate water and wastewater treatment. And  
4 to that extent, as opposed to having statewide rates,  
5 since the, quote, "generating plant" by its very nature  
6 of the location it serves, and the operating expenses,  
7 by the very nature of the location it serves, are  
8 substantially greater than if we were wise enough to  
9 tell people that you only can build houses on the sand  
10 hills of Florida; you can't build them in the swamp.

11           But when we allow them in build in the swamp,  
12 it costs more to serve they in the swamp than it would  
13 if they lived on the sands hills. If they choose to  
14 live there in that expensive place, it may be more fair  
15 -- notice I didn't say anything but "more fair" -- for  
16 those people to pay the cost of where they chose to  
17 live, if it generically costs more to serve them in  
18 that area. So that's the reason I'm kind of leaning in  
19 the direction of grouping them by the type of treatment  
20 required to adequately serve.

21           If you go down to Marco Island and you cannot  
22 -- and you're required to do what's required to do down  
23 there, maybe you get to pay the privilege of living on  
24 Marco Island, which comes a little bit higher than if  
25 you moved on the sand hills of Polk County, Frostproof,

1 Florida, where things are pretty cheap.

2 Q Mr. Cresse, the proposal of the Company is  
3 that there be a rate cap of \$52 for water and a cap of  
4 \$65 for wastewater at 10,000 gallons of use. Is that  
5 right?

6 A Yes, ma'am.

7 Q Can you tell us exactly how those caps were  
8 established or how the Company came up with them?

9 A Yes, ma'am. As I told you in my deposition,  
10 we came up with that mainly with a lot of discussion  
11 between myself and Mr. Ludsen and Helena Loucks, and  
12 arrived at the conclusion that that was kind of fair,  
13 after looking at all of the various and sundry rates.

14 And then having done that, then I chose to  
15 run a sanity test against that conclusion. And I ran  
16 it against what it would cost if an individual had to  
17 put in their own water and sewer system, or septic tank  
18 at their own house. And I arrived at what that would  
19 cost would be about \$3,600 for a well, because that's  
20 what the man told me that I called. I have my own  
21 water and sewer system at my own house. And a septic  
22 tank would -- a water system would cost about \$3,600  
23 bucks and that is no treatment. That's plain,  
24 come-out-the-ground, good water. You don't have to run  
25 it through a Culligan's machine or anything else and

1 you don't have to chlorinate it. You just get to drink  
2 it when it comes out. That's good water. \$3,600 bucks  
3 for a well; septic tank \$2,750; and an annual  
4 maintenance cost about \$170 on that. If you look at  
5 that, and if you assume credit card interest rates,  
6 you'd be talking about 1300 and some odd dollars per  
7 year. So that was a sanity check that I ran against,  
8 whether or not those were reasonable caps.

9 COMMISSIONER EASLEY: Did you factor into  
10 that whether or not in individual systems individual  
11 customers would even be allowed to have a well or  
12 septic tank?

13 WITNESS CRESSE: No, ma'am. I just assumed  
14 that if they were allowed to do it, that that's what it  
15 would cost and that's kind of the -- that was just --  
16 that was the sanity check.

17 COMMISSIONER EASLEY: Well, I was wondering  
18 if you'd get a little more sanity, if you would -- at  
19 least recognized in those areas where they can't do  
20 that; that isn't an option for them, if you picked a  
21 sanity check that was an option? I don't know what  
22 that would be, but --

23 WITNESS CRESSE: Well, if I could think of an  
24 option for them, where they're not allowed to exercise  
25 the only other option that I know, to centralize

1 treatment, I --

2 COMMISSIONER EASLEY: It wouldn't make any  
3 difference if it cost \$25 if they can't do it.

4 WITNESS CRESSE: And there are areas, of  
5 course, where they cannot do that, as you well know,  
6 and those areas are getting more and more prevalent as  
7 opposed to -- you just can't hardly build anymore  
8 unless you hook up to centralized water and sewer. But  
9 that was the test that I put to and said, "well, is it  
10 just ridiculously high?"

11 And the other factor that we considered,  
12 though we didn't -- you can't quantify it, as I  
13 attempted to quantify the cap, is, do you want the rate  
14 to be so high as to discourage anybody else from moving  
15 in and being served by an under -- by a system that has  
16 greater capacity to serve than the people hooked up? I  
17 mean, if you're sitting there and you got a system that  
18 eight people are being served, do you want the rates to  
19 be raised to their cost of service, and encourage  
20 yourself to serve only eight people for the next 20  
21 years, because nobody else will move in with \$300 water  
22 and sewer bills.

23 Q (By Ms. Summerlin) Mr. Cresse, did you check  
24 those costs for the septic tank and the well in all these  
25 counties that are --

1           A     No, ma'am. My sanity check did not get out  
2 of Leon County. I just checked them locally, with the  
3 people I knew locally.

4           Q     Are you suggesting that we should check the  
5 fairness of telephone or electric rates by how much it  
6 would cost somebody to come up with their own telephone  
7 company or their own electric company? I mean, I'm not  
8 trying to be impertinent here, but you've used those  
9 analogies to support your position.

10          A     Well, as a matter of fact, in some areas, I  
11 worked for a man that went through high school that owned  
12 225,000 acres of land, and he wanted his house right in  
13 the middle of it. He also wanted electricity. When the  
14 power company told him what they would charge him to run  
15 seven miles of line and poles into his house on his  
16 property, he decided to put in his own generating plant.  
17 And that's exactly what he did. Because the power company  
18 wanted to charge him too much to put in the lines. So he  
19 went out there, when he went to his ranch, he went out and  
20 pushed a button, cranked up the generator and served  
21 himself. One of the tests are if the electric power  
22 company is going to charge you too much, you may serve  
23 yourself. There's a man I worked for in high school that  
24 did.

25                   COMMISSIONER CLARK: That's what cogeneration

1 is, right?

2 WITNESS CRESSE: Ma'am?

3 COMMISSIONER CLARK: That's what cogeneration  
4 is.

5 WITNESS CRESSE: And that's what them Honda  
6 generators that you can buy down at Mulvaney's will do  
7 also. If they charge too much, you can hook one of  
8 them up.

9 Q (By Ms. Summerlin) In your testimony did you  
10 not say that the way you came up with the water cap was  
11 that it was three times the average bill for water and  
12 two times the average bill for sewer?

13 A I said that was the result of it. That was  
14 not -- that wasn't the way we determined it. We tried  
15 to determine what would be the maximum reasonable rate.  
16 And then it turned out to be three times and two times.  
17 We didn't set there and say, "Well, should it be twice  
18 the average rate or three times or four times the  
19 average rate." We kind of looked at the average rate  
20 and it came very close to that and that's the result of  
21 it as opposed to the way we arrived at it.

22 Q Well, did you start with the well and septic  
23 tank figure or -- I don't understand what the first  
24 number you came to was?

25 A No. We sat down and talked about it, and we

1 applied totally judgment to arriving at that figure,  
2 looking at what the various costs would be, what the  
3 costs are, and we said that looks pretty good. And  
4 then we applied -- and I applied the sanity test to  
5 that figure that we said looks pretty good.

6 Q Why did that look pretty good?

7 A Well, it seemed like a good idea at the time.

8 (Laughter)

9 No. I think -- if you sat and looked at a  
10 lot of figures and you look at a lot of things and so  
11 forth, in terms of rate design, you look at where they  
12 are and where they're going and what the alternatives  
13 are, pretty soon you start getting a little bit of  
14 confidence in what you think is fair. And that's  
15 basically what we did. I said in my testimony, totally  
16 a judgment call. And that's what it is. I wish there  
17 was some objective criteria I could reach to and say  
18 here's the way we did it in a purely objective way.  
19 But that doesn't exist.

20 And I also mentioned that the Commission has  
21 to make these kind of judgments all the time, just from  
22 looking at data and doing what they think in their  
23 heart is fair and reasonable.

24 Q Well, I guess part of the problem is that  
25 this proposal is asking the Commission to make a



1 decision to allow cross-subsidization, in some people's  
2 language anyway, and what you're basically saying is  
3 that that cap that's being proposed doesn't have any  
4 basis other than judgment; is that right?

5 A Yes, ma'am. With the sanity test that I ran  
6 against it, that's the best I can offer, yes.

7 Q Is it possible that some other level of caps  
8 would generate equally appropriate rates?

9 A Yes, ma'am. It is very possible.

10 Q Okay. Is it correct that this proposed  
11 structure, as well as providing for the  
12 cross-subsidization of some 31 systems, also provides  
13 for cross-subsidy between water and wastewater?

14 A I think there's a little bit of that  
15 involved, but not much. And Ms. Loucks could  
16 particularly answer that question, but I think there's  
17 a little bit under 1.9%.

18 Q Okay. In what other water and wastewater  
19 case has the Commission approved a proposal of this  
20 sort that you're aware of?

21 A I don't know that they've ever had the  
22 pleasure of having a proposal of this sort. I wish I  
23 did and I wish I could point to it. I noticed in the  
24 Staff's position on some issue or something, that they  
25 referred to it as innovative. That gave me a warm and

1 rosy feeling. (Pause)

2 I didn't say the Commissioners referred to it  
3 that way.

4 COMMISSIONER EASLEY: They just gave you  
5 license to steal, didn't they, Joe?

6 WITNESS CRESSE: Sounds to me like she opened  
7 the door. (Pause)

8 Q (By Ms. Summerlin) Mr. Cresse, the  
9 Commission has approved countywide uniform rates in the  
10 water and wastewater industry, but hasn't considered  
11 rates that were aggregated in a broader manner, such as  
12 the regional or statewide rates. Do you think that  
13 it's more appropriate for rates developed for the long  
14 run to be aggregated in the more -- the broadest sense  
15 possible, or in a less broad sense?

16 A Well, I think in the broadest sense, not  
17 possible, but in the broadest sense reasonable. In the  
18 broadest sense possible, you would just put in  
19 statewide rates. Whether that would be the most  
20 reasonable thing to do or not, I think could be subject  
21 to some argument.

22 I don't think that -- I think the Commission  
23 has also established some uniform rates for other  
24 utilities regardless of whether they were in the same  
25 county that had different plants and so forth. And I

1 think you do that in gas companies on a regular routine  
2 basis. You have gas companies that serve in more than  
3 one county but they have uniform rates. And I might  
4 mention they have different generating plants, too,  
5 called gate stations that serve a given area.

6 And for example you have People's Telephone  
7 Company -- excuse me, People's Gas Company serves many  
8 geographic areas in Florida. And I think, if you  
9 check, you'll find they have the same rates. I think  
10 you'll find the same thing for West Florida Gas Company  
11 that serves in both Panama City and Ocala. And so  
12 having uniform statewide rates between counties is not  
13 different.

14 COMMISSIONER EASLEY: But isn't there a  
15 little bit of a difference when you got one gas line  
16 connecting these people and you don't exactly have one  
17 water line or one wastewater line?

18 WITNESS CRESSE: Well, the gas line that  
19 serves them is not the Company that you regulate, as  
20 you well know.

21 COMMISSIONER EASLEY: I understand, but the  
22 provision of the service depends upon that one line.

23 WITNESS CRESSE: The whole service depends  
24 upon that one line, but their cost of service after  
25 they take it off that line, which is what you regulate,

1 can be substantially different by geographic location;  
2 depending on the nature of customers, it can be  
3 different

4 Q (By Ms. Summerlin) I assume that aggregating  
5 them in the most reasonable sense possible for you  
6 would mean that proposal that you've already said that  
7 you support, which is the banded rates?

8 A Yes, ma'am. That is most reasonable to me at  
9 this time. I think, you know, if we sat down and  
10 discussed it, there may and more reasonable way than  
11 that. That just appears to me at this time to be the  
12 most reasonable way to do it.

13 Q Do you think that customers will find the  
14 proposal that the Company has made here easy to  
15 understand?

16 A I think it's easy to understand, yes, ma'am,  
17 and I think the customers would understand it fairly  
18 easy.

19 Q How is the Commission going to explain to  
20 customers the fairness, justness and reasonableness of  
21 this proposal to a customer in a small system that  
22 would receive the 1.9% increase to go into the pot to  
23 help reduce another customer's rates in another system  
24 without any identifiable increase in the cost of  
25 providing of water or wastewater service?

1           A     I think the way I would explain it is this:  
2 That yes, we cap rates of these small systems, as  
3 reflected on my Exhibit 2. There are ten of them in  
4 the -- I'm sorry, there are 31 of them. These are very  
5 small systems, generally speaking. And they would have  
6 very high rates, and we're capping that and we're  
7 asking you to pay 1.9% more than you might otherwise  
8 pay.

9                     The benefits to you are simply because this  
10 company is a large utility, they bring economy of  
11 scales. By doing what we're doing, we can save a lot  
12 of rate case expense and other administrative costs.  
13 If you were charged on a stand-alone basis, it's  
14 possible that your rates would be even higher. But you  
15 will get the benefit of this, as these other utilities  
16 whose customers we are saving from the high rates,  
17 keeping them from paying high rates, as they grow, they  
18 will be benefiting you. And you're part of the same  
19 system that is serving those folks. And then if that  
20 wasn't a selling, I would say then it's not unlike what  
21 we have been doing in telephone and electric utility  
22 regulation ever since we've been in existence.

23           Q     Okay. In your testimony you state that the  
24 Company's proposed design was an effort to levelize the  
25 amount of the rate increase that any one system would

1 receive; is that correct?

2 A I don't think I said it was an attempt to  
3 levelize the amount of rate increase.

4 Q Well, an attempt to -- or an effort to lessen  
5 rate shock, is that a way to put it maybe?

6 A I think I said it was -- we established these  
7 -- are you talking about the rate caps?

8 Q Yes.

9 A Yes, ma'am. We established the rate caps  
10 simply -- part of it was rate shock and a part of it  
11 also was to put a specific cap that would not  
12 discourage growth of the facilities in that particular  
13 geographic area.

14 Q Okay. Isn't it true that by spreading the  
15 increase on a percentage basis, such as the Company has  
16 proposed, the 1.9%, that the amount of increase for  
17 each system will vary because the percentage applied to  
18 the base rates will generate a --

19 A Yes, ma'am.

20 Q -- absolute dollar amount?

21 A Yes, ma'am. That's true.

22 Q Okay. Would it be equally reasonable from  
23 the Company's point of view to implement an alternative  
24 approach to increase the rates by an absolute dollar  
25 amount?

1           A     Yes, ma'am. That would be not unreasonable.  
2 That would be reasonable.

3           Q     All right. (Pause)

4                     Am I correct that the proposal that the  
5 Company has here for the combined caps creates a  
6 possible maximum bill of over \$100?

7           A     Yes, ma'am, it would.

8                     If those companies that are capped, if they use  
9 10,000 gallons and they were capped at \$52.65, that would  
10 be \$117, if they used 10,000 gallons. However, I have  
11 some information in terms of average consumption, and some  
12 of the bills will not be over \$100 at all. In fact, the  
13 majority of the bills will be less than \$117 because in  
14 these smaller utilities, the rates are already somewhat  
15 high and the consumption is very low.

16                     For example, if you turn in my exhibit, JPC  
17 No. 2, Burnt Store has a consumption of 5,505 gallons  
18 of water -- I'm sorry, that's Beachers Point, 5,505  
19 gallons of water, and their's would be \$41.17. And so  
20 even though those caps may appear to be high, people  
21 have to be using 10,000 gallons of water to pay them,  
22 is the point I'm making.

23           Q     Okay. The Staff has passed around an  
24 exhibit, hopefully you have at your location there.

25           A     Yes, ma'am.

1 Q Titled "Schedule of Alternative Caps and  
2 Schedule of Statewide Rates Using the Southern States'  
3 Utilities Proposed Final Revenue Requirements."

4 A Yes, ma'am. That's the exhibit that  
5 Ms. Loucks sent to you.

6 MS. SUMMERLIN: Yes. This was a request at  
7 your deposition that you produce this exhibit.

8 Commissioners, can I get a number for that?

9 COMMISSIONER EASLEY: It will be marked as  
10 Exhibit 89. Do you want to give me the short title,  
11 "Alternative Rate Schedule"?

12 MS. SUMMERLIN: Yes, ma'am. "Alternative  
13 Caps and Statewide Rates."

14 There's a page on the very back of this  
15 exhibit that's a Staff-generated exhibit that I need to  
16 ask you a question about also.

17 (Exhibit No. 89 marked for identification.)

18 Q (By Ms. Summerlin) At your deposition,  
19 Mr. Cresse, the Staff asked you to do an analysis or to  
20 have the Company do an analysis to determine what flat  
21 add-on amounts to the proposed final rates would be if  
22 you used different levels of caps and that's what -- I  
23 assume that's what this exhibit consists of?

24 A Yes, ma'am. I asked the Company to call you  
25 and get very clear exactly what you want. I think they



1 called Staff to get clear exactly what you wanted. And  
2 this is the result of that, and we hope it's exactly  
3 what you wanted.

4 COMMISSIONER EASLEY: Are we talking about  
5 the last page?

6 MS. SUMMERLIN: No, ma'am. We're talking  
7 about -- the last page is a separate item that's part  
8 of this exhibit, but it's a Staff-generated chart on  
9 the back.

10 COMMISSIONER EASLEY: Well, for clarity,  
11 which page -- is it all except the last page that the  
12 two of you were discussing at the moment?

13 MS. SUMMERLIN: Yes, ma'am. All except the  
14 last page, that's what we're talking about right now.

15 COMMISSIONER EASLEY: Okay.

16 Q (By Ms. Summerlin) If you'd turn to Page 1 of 9.

17 COMMISSIONER EASLEY: 1 of 9?

18 MS. SUMMERLIN: It's Appendix A, Page 1 of 9.  
19 The other numbering up in the right corner is Page 2 of 11.

20 COMMISSIONER EASLEY: Thank you.

21 Q (By Ms. Summerlin) Mr. Cresse, am I correct  
22 that this exhibit shows the effect of recovering the  
23 revenue deficiency created by generating various caps  
24 on water and wastewater on a flat per ERC basis and a  
25 flat add-on to the gallonage charge?

1 A Yes, ma'am.

2 Q This is opposed to the utility's proposal  
3 which recovered the revenue deficiency created by the  
4 caps on a percentage basis?

5 A Yes, ma'am. It differs in that respect.

6 Q Also, I believe this is calculated based on  
7 the utility's proposed revenue requirement, but is also  
8 calculated without the water and wastewater  
9 cross-subsidy?

10 A I believe that's correct, yes.

11 Q Okay. All right. Just as an example of what  
12 this alternative cap exhibit represents, if one were to  
13 look at the Alternative 2 section of this, the second  
14 group of columns, and look at the -- which has a \$36  
15 cap for water and a \$45 cap for wastewater -- it shows  
16 that the proposed final base facility charge rates for  
17 all customers under the cap would be increased by 26  
18 cents per ERC for water and \$3.05 per ERC for  
19 wastewater, is that correct?

20 A Yes, ma'am, that's correct.

21 Q And it also shows that the final gallonage  
22 charges would be increased by five cents per 1,000  
23 gallons for water and an additional increase of 67  
24 cents for residential wastewater customers?

25 A That's correct.

1 Q And 80 cents for per 1,000 gallons for the  
2 general service wastewater customers, is that correct?

3 A Correct.

4 Q Okay. That's just simply to show what this  
5 exhibit consists of. (Pause)

6 All right, Mr. Cresse, if you'd look at the  
7 last page in this package here. This is a Staff-generated  
8 exhibit, and it's entitled "Statewide Rates".

9 What I want to do is go through this with you  
10 and get your opinion as to the reasonableness of this  
11 information here. This chart here is using the  
12 Utility's proposed final revenue requirement and the  
13 per ERC methodology that you have used in your exhibit  
14 that you've provided on the alternative caps that we  
15 just talked about in the rest of this same exhibit.

16 Would you accept, subject to check, on this  
17 particular exhibit that we're looking at, that this  
18 schedule shows that a statewide water base facility  
19 charge of \$7.15 per ERC would be generated with a total  
20 water gallonage charge of \$1.21 per 1,000 gallons and a  
21 statewide wastewater base facility charge of \$12.31 per  
22 ERC and a \$3.23 per 1,000 gallons total wastewater  
23 gallonage charge would be generated? Is that something  
24 you can tell from this chart?

25 A That's exactly what this chart shows. I

1 think the question is: Do I believe those figures are  
2 correct?

3 Q Well, subject to check?

4 (Simultaneous conversation.)

5 A Let me say, subject to check, I think that  
6 they certainly look, from what I know about the case,  
7 accurate, but I haven't done the calculation. If  
8 there's a difference between that when Helena gets  
9 through doing it and telling me what the answer is, if  
10 there's a difference between that and what you've done,  
11 I'll get back to you.

12 Q Okay. I'm not asking you whether you know  
13 whether these calculations are correct or not. But  
14 what I'm asking you is do these rates that are  
15 calculated on this chart appear to be reasonable or  
16 another alternative approach to reasonable rates?

17 A Yes, ma'am. (Pause)

18 MR. TWOMEY: Madam Chairman, I should not even  
19 bother asking you about any additional cross or right to  
20 for Mr. Cresse on this exhibit, may I inquire of Staff  
21 counsel or through you if their witness, Mr. John  
22 Williams, proposes to testify to this same exhibit?

23 COMMISSIONER EASLEY: Staff, do you want to  
24 respond to that?

25 MS. SUMMERLIN: We did not intend for

1 Mr. Williams to talk about it, but I'm sure if he's  
2 asked questions, he'll be happy to answer them.

3 MR. TWOMEY: Thank you

4 Q (By Ms. Summerlin) Mr. Cresse, in this  
5 filing, the Company has made a -- would you agree that  
6 the Company has made a philosophical move towards  
7 statewide rates? (Pause)

8 A I can't agree to that. I just don't know  
9 that -- in my conversations with the Company and so  
10 forth, if you mean uniform statewide rates, will there  
11 be one base facility charge and one cost per 1,000  
12 gallons, the answer is, in my opinion, no.

13 If you mean some uniform statewide  
14 methodology, the answer is yes.

15 Q Okay.

16 A And they have moved -- they do want to move  
17 to a uniform methodology for determining rates.

18 (Pause)

19 Q Hypothetically, would it be appropriate to  
20 implement statewide rates or any kind of uniform  
21 statewide rates prior to evaluation of the service  
22 availability charges that are being -- that each of the  
23 systems has right now?

24 A Yes, ma'am. Hypothetically, all of the  
25 service availability charges, which have been charged

1 up to this point in time, have been determined by this  
2 Commission to be fair, just and reasonable because they  
3 have been approved by this Commission.

4 So, hypothetically, you can move, knowing  
5 that everything that you -- that the Company has done  
6 in the past on that subject matter was fair, because if  
7 it hadn't been fair, the Commission wouldn't have  
8 approved it. You can move forward in statewide rates,  
9 unless you want to say the Commission would approve  
10 something that wasn't fair, and I have never known them  
11 to do that in my life.

12 COMMISSIONER CLARK: But don't you think to sort  
13 of do the whole thing and get it right once and for all so  
14 we're moving towards our goal, it would be best if we  
15 could do service availability and rates for base facility  
16 and gallonage and flow all at the same time? I mean it  
17 seems to me we should do the rate design all at once.

18 WITNESS CRESSE: I think you have to do rate  
19 design in this case before you can get the other  
20 problem resolved.

21 COMMISSIONER CLARK: What other problem?

22 WITNESS CRESSE: The uniformity of CIAC and  
23 so forth. I have always thought if you could do rate  
24 design independent of a rate case, you're more apt to  
25 get closer to your goals on rate design.

1           It's just been the custom that you do rate  
2 design and rate changes simultaneously. And that kind  
3 of keeps things clobbered up a little bit, the fact  
4 that you're having to do both of them simultaneously.

5           If you got -- some long range goal you're  
6 trying to achieve, you have to implement it. It won't  
7 change the facts immediately, but you're moving in that  
8 direction, moving towards -- you're not going to change  
9 rate base -- overnight.

10           COMMISSIONER CLARK: But the rates should be  
11 done at once, and we shouldn't separate out service  
12 ability rates, the notion of setting those rates from  
13 gallonage and base facilities. We should do those  
14 together.

15           WITNESS CRESSE: Service availability rates  
16 and rates that you charge?

17           COMMISSIONER CLARK: At least in this case,  
18 if he we want to achieve some -- any of the goals that  
19 the Company has suggested are appropriate --

20           WITNESS CRESSE: No, ma'am. I don't think  
21 you need to change service availability charge to set  
22 rates in this case, because there's such a little  
23 deviation from the cost per system, as the Company has  
24 requested, that anything you do in changing service  
25 availability charges is not going to make the rates

1 that you're currently charging wrong.

2 See, we have not proposed combining rates.

3 We have proposed individual utility rates with the  
4 modifications which we have discussed of the 1.9% and  
5 the caps on the ten systems. Nothing you can do in  
6 service availability charges, changing the service  
7 availability charge policy is going to change the basic  
8 rates that ought to be established in each utility as  
9 long as you establish them on each utility basis. If  
10 you want to combine into a statewide rate, nothing is  
11 going to change the statewide revenue requirements as  
12 reflected on Page 2 of 11, or whatever that is right  
13 there. Nothing is going to change that. Everything you  
14 are going to change is going to happen prospectively.

15 MS. SUMMERLIN: Staff has no further questions.

16 Thank you.

17 COMMISSIONER EASLEY: Redirect?

18 MR. HOFFMAN: Thank you, Commissioner Easley.

19 REDIRECT EXAMINATION

20 BY MR. HOFFMAN:

21 Q Afternoon, Mr. Cresse.

22 A Counselor.

23 Q Mr. Cresse, Mr. Twomey asked you quite a few  
24 questions regarding how the Company allocates expenses,  
25 and how it allocates general plants, and the allocation



1 of a return on that general plant, and the benefits to  
2 customers and the fair, just and reasonable rates that  
3 arise out of those allocations.

4 And my question for you is: With respect to  
5 allocations and establishing fair and just and  
6 reasonable rates, and based on your experience, how  
7 should the gain on the condemnations of the St.  
8 Augustine Shores system and the University Shores sewer  
9 facilities be allocated, if at all?

10 A Let me answer that separately. As I  
11 understand the facts in each of those cases --

12 MR. McLEAN: May I interrupt? I mean, where  
13 is that in cross examination? It's outside his  
14 testimony. I never had an opportunity to discuss any  
15 discovery with this witness about what he might say on  
16 that point. That's pretty farfetched.

17 MR. HOFFMAN: I disagree, Commissioner.

18 I think that what we had here was we started  
19 out with rate structure, and I think Mr. Twomey took  
20 the subject matter of Mr. Cresse's testimony well  
21 beyond that. There were numerous questions addressing  
22 allocations of cost and rate base and how they should  
23 be spread amongst the customers. That's the first  
24 thing.

25 The second thing is I think that with an issue

1 as important as this, the Commission should want a full  
2 disclosure on these issues. You have the opinions in this  
3 case of Ms. Dismukes, of Mr. Sandbulte; you have an audit  
4 report from the Staff auditor. And I think it would be  
5 valuable for the Commission have Mr. Cresse's opinion,  
6 particularly because he was a Commissioner when some of  
7 the orders that have been cited in this case were issued.

8 COMMISSIONER EASLEY: Let me --

9 COMMISSIONER CLARK: In my view, you should  
10 have put it in the direct. I don't think there was  
11 anything on cross examination that allows you to ask  
12 that question.

13 MR. HOFFMAN: And I guess I would also add  
14 that yesterday Mr. Twomey was given quite a bit of  
15 leeway in asking questions on matters that are not at  
16 issue in this case. And I think the Company should be  
17 afforded the same small margin of leeway, particularly  
18 with an issue of this importance.

19 MR. TWOMEY: Madam Chairman, may I address  
20 that just momentarily?

21 I resent the assertion of Counsel that I was  
22 given any latitude to ask questions that were beyond the  
23 scope. I was given minimal latitude, notwithstanding his  
24 constant objections.

25 I'd also like to add that I would join

1 Mr. McLean's objection because although I disagree that  
2 my cross was beyond the scope of Mr. Cresse's direct,  
3 the proper time to raise that would have been through  
4 objection during my examination.

5 COMMISSIONER EASLEY: Mr. Cresse, do not  
6 respond. I want you to repeat your question for me.  
7 I want to hear the systems you asked about.

8 MR. HOFFMAN: My question, essentially,  
9 Commissioner Easley, was with respect to allocations in  
10 the establishment of fair, just and reasonable rates,  
11 and based on your experience, how should the gain on  
12 the condemnations of the St. Augustine Shores system  
13 and the University Shores wastewater facilities be  
14 allocated, if at all.

15 COMMISSIONER EASLEY: I'm going to sustain  
16 the objection. It's way outside.

17 MR. HOFFMAN: Thank you.

18 Q (Mr. Hoffman) Mr. Cresse, let me move on.

19 Mr. Twomey also asked you some questions  
20 regarding the ten systems which the Company proposes  
21 would not receive rate reductions, and I think they're  
22 cited on your Exhibit 3. Do you recall those questions?

23 A I don't remember the exact questions, but I  
24 remember some discussion we had on that.

25 Q All right, sir. Let me read you a passage

1 from Mr. Ludsen's direct testimony, which has been  
2 entered into the record, and I'm leading from Page 11  
3 and it states "If any of the systems included in this  
4 proceeding attempted to purchase or provide the level  
5 and scope of A&G services currently provided by  
6 Southern States, the stand-alone costs to each system  
7 would be significantly higher than those which Southern  
8 States seeks to recover in this proceeding."

9           And my question to you is: Would you agree  
10 with Mr. Ludsen's statement as to the ten systems which  
11 the Company proposes not receive rate reductions?

12           A     Yes.

13           Q     Commissioner Clark, during a discussion, asked  
14 you some questions regarding the refundable advances  
15 collected by electric and telephone companies. Do you  
16 recall that discussion?

17           A     Yes, I recall that.

18           Q     Mr. Cresse, do you know whether or not  
19 Southern States also collects refundable advances from  
20 customers?

21           A     I am informed that they do collect refundable  
22 advances, and in the discussion with Commissioner  
23 Clark, I'm not sure we got into refundable advances as  
24 we did have specific charges for extension of service.

25           COMMISSIONER CLARK: So that when you said

1 you recalled that discussion, we really didn't have it?

2 WITNESS CRESSE: Well, we had a discussion,  
3 but I clarified that our discussion --

4 COMMISSIONER CLARK: I think Mr. Hoffman was  
5 very artful in this case.

6 WITNESS CRESSE: Mr. Hoffman is very artful,  
7 I know that. But I did recall our discussion and  
8 that's the reason I said "Yes, I did."

9 Q (Mr. Hoffman) Mr. Cresse, let me ask you one  
10 more question. I believe that Commissioner Clark, in a  
11 discussion with you, commented that the Commission's  
12 policy concerning CIAC, contributions in aid of  
13 construction, and the establishment of CIAC levels so  
14 as to recover the minimum of the collection and  
15 distribution lines, takes care of the fill-in lot  
16 problem. Do you recall that discussion?

17 A Yes, I do.

18 Q Do you have any further comments regarding --

19 COMMISSIONER CLARK: I beg your pardon. I  
20 don't think that's what I asked.

21 MR. McLEAN: Neither do I.

22 MR. HOFFMAN: I'm sorry.

23 COMMISSIONER CLARK: I didn't talk about  
24 fill-in problem. My comment on that was it takes care  
25 of the CIAC problem because the guidelines are you

1 should at least have a percentage of plant equal to the  
2 percentage of -- contributed plant equal to the  
3 percentage of plant that is attributable to collection  
4 and distribution. I don't think I said anything about  
5 fill-in.

6 MR. HOFFMAN: Pardon me, Commissioner.

7 Q (Mr. Hoffman) In light of Commissioner  
8 Clark's correction, Mr. Cresse, do you have any further  
9 comments with respect to CIAC levels and the --

10 MR. McLEAN: I object. It's an open-ended  
11 question. I have no idea what the answer might be. I  
12 have no idea whether the testimony Mr. Cresse might  
13 give in response to that vague sort of question is  
14 going to be objectionable or not.

15 COMMISSIONER EASLEY: Well, could we at least  
16 let him finish the question so I can tell whether it's  
17 going to be what you distributed or not?

18 MR. McLEAN: Well, I heard an answer start.  
19 It's an open-ended question --

20 COMMISSIONER EASLEY: Well, Mr. Cresse is not  
21 going to answer until the question is over and I've  
22 ruled on your objection. Finish the question. If had  
23 you had finished, tell me so.

24 MR. HOFFMAN: I'm trying to remember where I  
25 was.

1 COMMISSIONER EASLEY: I don't have the  
2 foggiest idea.

3 MR. HOFFMAN: The intent of my question was  
4 simply whether Mr. Cresse had any comments on  
5 Commissioner Clark's comment that she just made.

6 COMMISSIONER EASLEY: I'm afraid you're going  
7 to have to do better than that one.

8 Q (Mr. Hoffman) Okay. My question, the intent  
9 of my question, Mr. Cresse, is whether or not you have  
10 any further comments regarding the Commission's  
11 policies on the establishment of minimum CIAC levels  
12 and how those relate to the necessary investment the  
13 Company must undertake for distribution lines and  
14 collection lines.

15 A Yes. I think the Commission needs to  
16 understand that if the policy says that they will  
17 collect from CIAC distribution lines, and then if you  
18 calculate the amount of that collection based upon the  
19 number of lots that those distribution lines pass, that  
20 until such time as every lot is filled, you'll never  
21 have 100% CIAC --

22 MR. McLEAN: Move to strike the answer to  
23 that question.

24 You know, it ain't no secret this Utility has  
25 a witness on fill-in lots. I don't know what Mr. Cresse's

1 position is on it, and I have certainly not been afforded  
2 to discover what that is or to question his methodology  
3 before this hearing. Due process affords me the right to  
4 find out what this witness is going to say if that's what  
5 he's going to talk about and to question his methodology.  
6 To afford me --

7 COMMISSIONER EASLEY: I'm sorry, go ahead. I  
8 thought you were through.

9 MR. McLEAN: No, ma'am. That's good enough.

10 COMMISSIONER EASLEY: The only problem I've  
11 got with that, Mr. McLean, is there has been, on cross  
12 examination, some fairly good discussion of fill-in  
13 lots with Mr. Cresse.

14 MR. McLEAN: I didn't hear it. I disagree.  
15 I think the only mention of fill-in lots --

16 COMMISSIONER EASLEY: With whom was the  
17 discussion held if it was not Mr. Cresse? If I'm  
18 wrong, somebody can tell me so. But I thought there  
19 was some discussion --

20 COMMISSIONER CLARK: Madam Chairman, I think  
21 what it is, is I did ask questions about CIAC and the  
22 level of CIAC. And to the extent he is further  
23 elaborating that there may be some error in the  
24 assumption that you would have CIAC equivalent -- you  
25 would have contribution to plant equivalent to your



1 distribution and collection line would be in error to  
2 the extent you don't collect it -- the full amount from  
3 the people on the line.

4 In other words, you may have a line that  
5 serves four people, it's designed to serve four people,  
6 two of whom aren't hooked up, so you haven't gotten the  
7 CIAC yet. So to that extent, I think he is responding  
8 to my comment that it would --

9 MR. McLEAN: Okay. Then if it is your  
10 comment, my question recurs: When do I have the  
11 opportunity to discover from this witness what his  
12 theories are and to prepare in advance of this hearing  
13 to criticize those theories?

14 COMMISSIONER CLARK: Well, Mr. McLean, I  
15 don't think it's a theory. I think it's a mathematical  
16 result.

17 MR. McLEAN: I think it's a due process right  
18 and I insist upon a ruling on that particular issue.

19 COMMISSIONER EASLEY: Well, one of the  
20 problems I'm going to have is I'm going to have to take  
21 a minute and find out if my recollection is correct or  
22 somebody else's recollection is correct, because I  
23 would swear to you that this witness talked about  
24 fill-in lots on cross, and if he did, I think we're in  
25 trouble.

1 MR. McLEAN: I accept Commissioner Clark's  
2 statement as true. I think she did mention fill-in  
3 lots, but I know that the Citizens did not, and I know  
4 it is the Citizens who have the right to discover what  
5 this witness might say before he takes the stand.

6 COMMISSIONER EASLEY: Well, the only trouble  
7 now, Mr. McLean, help me out on this. Because if we're  
8 going to have discovery on everything that is brought  
9 up by a Commissioner, or anybody else on cross that is  
10 not objected to at the time, if it is then readdressed  
11 on redirect, are we always going to have the due  
12 process problem of allowing time for discovery to the  
13 other parties?

14 MR. McLEAN: I thought about objecting to the  
15 Commissioner's question but she moved almost immediately  
16 away from it, and her earlier characterization of those  
17 questions was that they weren't even aimed at fill-in lots  
18 and I think I agreed with that at the time.

19 COMMISSIONER EASLEY: And this has happened  
20 before where a witness has gone far beyond the question  
21 that has been asked. I'm not saying Mr. Cresse  
22 specifically did that, but it has happened many times.  
23 In fact, I have ruled not too long ago that an  
24 objection was out of order because the witness had gone  
25 into the area on his own.

1 MR. McLEAN: Doesn't it boil down to this:  
2 Doesn't this Company have a fairly competent witness to  
3 talk about fill-in lots and what need do we have to  
4 hear from Mr. Cresse on the point?

5 COMMISSIONER CLARK: Mr. McLean, don't I have  
6 the right, as a Commissioner, to ask any witness that  
7 appears before us in a case anything that I'm concerned  
8 about with regard to the case?

9 MR. McLEAN: Yes ma'am. To the extent it  
10 doesn't interfere with our due process rights, one you  
11 of which is discovery. You've adopted the rules of  
12 discovery, and I would like an opportunity to know it.  
13 It isn't like there isn't a witness to whom you can ask  
14 all the questions you wish on fill-in lots.

15 COMMISSIONER CLARK: But you're saying that I  
16 cannot ask Mr. Cresse about fill-in lots or CIAC?

17 MR. McLEAN: I think to the extent you do,  
18 you risk running afoul of our rights to find out what  
19 Mr. Cresse would say when he takes the stand. And  
20 that's why I believe his testimony on the point is  
21 objectionable.

22 COMMISSIONER CLARK: I think your remedy is  
23 recross.

24 COMMISSIONER EASLEY: And I will allow  
25 recross. I'm going to allow the question. I will

1 allow you to recross on the issue of fill-in lots.  
2 As far as I'm concerned, that's the only remedy I have  
3 available to me at the moment.

4 MR. McLEAN: I'm ill-prepared to do so. I  
5 have had no notice and I simply --

6 COMMISSIONER EASLEY: We're going to take a  
7 break before we get around to that anyway. How is  
8 that? Go ahead.

9 Q (Mr. Hoffman) Mr. Cresse, following up your  
10 last comment with one more question, let me ask you,  
11 does it make a difference when the CIAC level is set  
12 and the level of growth on a system?

13 A Yes, it does. It makes a substantial  
14 difference. If the system can -- you may not always  
15 have a CIAC level sufficient to cover all the  
16 investment in any particular part of that plant, even  
17 though it was designed up front to do that. You can  
18 have replacement of pipe and still have an investment  
19 in distribution plant. You can have -- the utility has  
20 to serve everybody that asks them -- under the policies  
21 approved by this Commission. If the Utility serves  
22 everybody that asks them for service, under the policies  
23 approved by this Commission, the pipe has to be laid to  
24 do, and it's used and useful. It's out there. And I  
25 don't know how, if a utility has followed the policies

1 which this Commission has approved in the area of CIAC,  
2 how there can be a question of used and useful over time.

3 Now, the Commission has established policies  
4 that says "We want you to go ahead and do this because  
5 it's the least cost way and we'll give you AFPI to do  
6 it for a period of five years." But at the end of five  
7 years, what if they have not grown as forecasted? Do  
8 you leave out that plant? If it's a prudent  
9 investment, I don't think you should.

10 MR. HOFFMAN: No further questions.

11 COMMISSIONER EASLEY: We're going to take a  
12 ten-minute break and then if Mr. McLean has recross, we  
13 will take recross. Mr. Pruitt, could I have you in my  
14 office, please?

15 COMMISSIONER EASLEY: Now, we can go back on  
16 the record. Mr. McLean, do you wish to do recross?

17 MR. McLEAN: No, ma'am. I decline to recross  
18 Mr. Cresse because I have no earthly idea what he might  
19 say on the subject matter; and in order to protect the  
20 record, I can't ask questions to which I have no  
21 earthly idea what the answer might be.

22 COMMISSIONER EASLEY: Well, in order to  
23 protect the record, Mr. McLean, I did check at the  
24 break, and I am not the only one who heard the  
25 exchange, and the exchange was with Mr. Twomey. So I

1 suggest to you at some point in time you may want to  
2 read that portion of the transcript.

3 Mr. Jones, did you have --

4 MR. McLEAN: Commissioner, I think neither  
5 Mr. Cresse nor Mr. Twomey nor Commissioner Clark can  
6 open the door such that I am put in a position of  
7 having to ask questions about a subject of which I have  
8 no ideas --

9 COMMISSIONER EASLEY: No objection was raised  
10 at that time, Mr. McLean. And I am ruling that if you  
11 wish redirect -- I mean recross -- you are entitled to  
12 do so; and I think that is going a little bit above and  
13 beyond even what I am required to do at this point, and  
14 that's my ruling.

15 MR. McLEAN: Thank your, ma'am. And I  
16 decline to cross Mr. Cresse for the reasons I  
17 mentioned.

18 COMMISSIONER EASLEY: Thank you, sir.

19 Mr. Jones?

20 MR. JONES: Yes. I have one quick question  
21 of Mr. Cresse.

22 RE CROSS EXAMINATION

23 BY MR. JONES:

24 Q After your testimony, in response to a number  
25 of different things, I went back and I looked at an

1 exhibit which we had presented as a part of our  
2 intervention. And what we had done was taken the  
3 mailing which came from Southern States Utilities and  
4 imposed upon that our present, what were then our  
5 present water rates.

6 Now, it so happened that for a one-inch  
7 meter, which is what most our customers are, the rate,  
8 which may be low, was \$5. Now, the Utility's proposed  
9 rate, final proposed rate, is \$20.45, which represents  
10 over 400% increase. Now, if you add 1.9 to that,  
11 you're looking at, I think, somewhere around a 6%  
12 increase on the basic rate. So those things kind of  
13 add up as they go along.

14 And I guess my question to you is, doesn't  
15 that seem excessive, percentage-wise?

16 A It depends, sir, upon what the cost to serve  
17 you is. If you're getting service now for \$5, you've  
18 probably got the best bargain in the state of Florida.  
19 I don't know how long it's been since the utility that  
20 serves you has had their rates reviewed, I just don't  
21 know the answer to that question, or how long it's been  
22 since they were raised.

23 Q 1985.

24 A I would say that \$5 rates for 10,000 gallons  
25 of water, is that --

1 Q No, base facilities.

2 A Base facilities charge? Is not unreasonable.

3 Q No, no, I think it's very inexpensive; \$20.45  
4 is not unreasonable?

5 A No, sir, not in my opinion, not at today's  
6 cost --

7 Q A 400% increase is unreasonable, though.

8 A Well --

9 CHAIRMAN BEARD: Mr. Jones, I'm trying to  
10 work with you.

11 You're doing the cross examination and he's  
12 doing the testifying. Okay. And I know that you know  
13 that I'm trying to be patient, but you need to quit  
14 testifying.

15 MR. JONES: All right. Well, maybe that's  
16 all I have.

17 CHAIRMAN BEARD: Okay. Staff?

18 COMMISSIONER EASLEY: No. Everybody is --

19 CHAIRMAN BEARD: Everybody is -- I'm sorry.

20 MR. HOFFMAN: Mr. Chairman, we move 88.

21 MS. SUMMERLIN: Staff moves 89.

22 CHAIRMAN BEARD: 88, without objection.

23 89, without objection.

24 Hearing none, they're in the record.

25 You may step down.



1 (Exhibit Nos. 88 and 89 received into  
2 evidence.)

3 (Witness Cresse excused.)

4 - - - - -

5 GREGORY L. SHAFER

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

9 DIRECT EXAMINATION

10 BY MR. FEIL:

11 Q Mr. Shafer, you've been sworn, haven't you?

12 A Yes, sir.

13 Q Mr. Shafer, could you please state your name  
14 and business address for the record?

15 A Gregory L. Shafer, 101 East Gaines Street,  
16 Tallahassee, Florida 32399.

17 Q Mr. Shafer, did you prepare prefiled direct  
18 testimony in this docket consisting of five pages?

19 A Yes, I did.

20 Q If I asked you the questions in that prepared  
21 direct testimony here again today, would your answers  
22 to the questions be the same?

23 A Yes, they would.

24 Q Do you have any changes or corrections to the  
25 testimony?

1 A No.

2 MR. FEIL: Commissioner, I'd ask that Mr.  
3 Shafer's testimony be inserted into the record as  
4 though read.

5 CHAIRMAN BEARD: It will be so inserted.

6 Q (By Mr. Feil) Mr. Shafer, did you also have  
7 attached to your prefiled direct testimony one exhibit  
8 marked "GLS-1," which was six pages long?

9 A Yes, I did.

10 MR. FEIL: Mr. Chairman, I'd ask that that  
11 exhibit be identified.

12 CHAIRMAN BEARD: It will be Exhibit No. 90.

13 (Exhibit No. 90 marked for identification.)  
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## DIRECT TESTIMONY OF GREGORY L. SHAFER

1 |  
2 | Q. Would you please state your name and address?

3 | A. Gregory L. Shafer, 101 E. Gaines Street, Tallahassee, Florida 32399.

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

5 | A. I am employed by the Florida Public Service Commission, Division of Water  
6 | and Wastewater, as Chief of the Bureau of Special Assistance.

7 | Q. What are your current responsibilities as Bureau Chief in the Special  
8 | Assistance Bureau?

9 | A. I presently manage two section supervisors. Combined, the sections  
10 | consist of eight Regulatory Analysts and three Engineers--all of which are  
11 | under my supervision. The Bureau processes Staff Assisted Rate Cases for  
12 | Class C Water and Wastewater utilities, limited proceedings for A, B and C  
13 | utilities, index and pass-through applications for Class A, B and C utilities,  
14 | miscellaneous complaints and inquiries, and tariff related matters.

15 | Q. Please summarize your educational and professional background.

16 | A. I have a Bachelors degree in Economics from the University of South  
17 | Florida and a Masters degree in Economics from Florida State University. My  
18 | emphasis in the Masters program was in Labor Economics and Econometrics.

19 | My professional experience includes two years as a Field Economist with  
20 | the U.S. Department of Labor, Bureau of Labor Statistics. I have been  
21 | employed by the Florida Public Service Commission since September 1983. I  
22 | spent five plus years in the Division of Communications in various capacities,  
23 | the final two years as a Supervisor of the Economics Section. My  
24 | responsibilities primarily focused on policy development in the areas of  
25 | Access Charges, Long Distance Service, Cellular telephone, and Shared Tenant

1 Services. While working in the Division of Communications, I testified in the  
2 Interexchange Carrier Rules docket and in the A.T. & T. Waiver Request docket  
3 and have testified in two previous water and wastewater cases on the  
4 calculation of margin reserve. I have been working in the Division of Water  
5 and Wastewater in my current capacity for over four years.

6 Q. What is the purpose of your testimony in this docket?

7 A. I am advocating a more accurate method for calculating a margin reserve.  
8 If the Commission allows Southern States Utilities, Inc. a margin reserve in  
9 this case, I recommend that the margin reserve be calculated using a simple  
10 linear regression analysis.

11 Q. What is your understanding of the concept of margin reserve in the  
12 regulation of water and wastewater utilities?

13 A. The Commission requires every utility to serve all customers in its  
14 service territory within a reasonable time. Utility facilities are designed  
15 to serve not just current customers but future customers as well.  
16 Essentially, a margin reserve allowance is recognition in rate base of that  
17 portion of plant needed to serve short-term growth. Through the margin  
18 reserve, a utility will earn a return on that capacity needed for growth.

19 Q. Has the Florida Public Service Commission recognized margin reserve?

20 A. Yes. The Commission has recognized margin reserve at least as far back  
21 as 1985 and continues to do so for most cases where applicable.

22 Q. How does the Commission currently calculate margin reserve?

23 A. Margin reserve has been based on the product of a simple five-year average  
24 for growth in the number of customers (or ERCs if applicable) multiplied by  
25 one and one-half years of construction time in the case of treatment plant or

1 | by one year of construction time in the case of collection and/or distribution  
2 | systems. The construction time factors represent the average amount of time  
3 | needed to construct additional treatment plant or distribution or collection  
4 | facilities. More recently in the case of Florida Cities Water Company, Docket  
5 | No. 910477-SU, the Commission chose to use simple linear regression using five  
6 | years of historical data for the margin reserve calculation.

7 | Q. Is there anything wrong with the simple average method?

8 | A. Nothing is wrong with the simple average method per se; however, it is the  
9 | most basic approach possible. As a strictly mathematical extrapolation, it  
10 | totally ignores the fact that there may be a relationship between the two  
11 | pertinent factors, time and the rate of growth. I believe that there is a  
12 | superior forecasting method which can take such a relationship into account  
13 | without requiring a much more sophisticated calculation.

14 | Q. Can you describe the method you believe is superior to simple average?

15 | A. The method of statistical linear regression would be a relatively easy and  
16 | superior method on which to base growth projections. The linear regression  
17 | can more accurately quantify a relationship between time and growth and would  
18 | therefore more reliably reflect positive or negative trends in growth than  
19 | would simple averaging.

20 |         In using a linear regression analysis to calculate margin reserve, you  
21 | track the relationship between time and growth over five or more observations  
22 | and can reasonably predict future growth by projecting out along the same  
23 | path. Exhibit GLS-1 shows a comparison of margin reserve in three past water  
24 | and wastewater rate cases according to the simple average and the simple  
25 | linear regression methods. As is shown in these examples, by the simple

1 | linear regression analysis, you establish a straight line relationship for the  
2 | observations with the minimum amount of dispersion between the observations  
3 | and the line. In addition, the equation that describes the straight line  
4 | allows us to enter a new year and plot the resulting growth on the line.

5 | Q. Under the current method for calculating margin reserve you stated that  
6 | the growth figure is multiplied by construction time. Once the growth figure  
7 | is established by the linear regression analysis, should that figure likewise  
8 | be multiplied by the construction time factor?

9 | A. Yes. The purpose for the construction time factor is the same. These  
10 | forecast periods should be retained with the linear regression methodology.

11 | Q. Are there shortcomings to the regression analysis?

12 | A. Yes, as with any type of forecast or projection, the linear regression  
13 | analysis has shortcomings. As is shown in the examples in the Exhibit, we  
14 | assume with this method that growth over time is linear, that is, a straight  
15 | line trend. In fact, the trend may show a logarithmic, polynomial or some  
16 | other type of relationship.

17 | Q. Does that assumption create any problems?

18 | A. The reliability of the estimates is diminished by incorrectly specifying  
19 | the relationship. This can be a serious shortcoming with long-range estimates  
20 | in particular. In order to correct this problem when projecting short-term  
21 | growth for a margin reserve, however, the sophistication of the analysis would  
22 | increase disproportionately to the benefit of its application.

23 | Q. Do you believe that the assumption of a straight line relationship for the  
24 | purpose of determining growth for a margin reserve is a serious shortcoming?

25 | A. No. The severity of the problem in determining growth for a margin

1 | reserve is relatively minor since we are only forecasting (at most) one and  
2 | one-half years of growth based on the previous five. Since a straight line  
3 | relationship is suggested for only a relatively short time frame, the amount  
4 | of any distortion is mitigated. This minor problem notwithstanding, I  
5 | believe that the application of simple regression analysis is a sufficient  
6 | improvement over simple averages to warrant its use. In addition, the  
7 | Commission has shown considerable flexibility with regards to incorporating  
8 | in a margin reserve determination additional factors that might not be  
9 | reflected in a regression analysis.

10 | Q. Do you believe it is appropriate to use linear regression as the basis for  
11 | calculating margin reserve in this case?

12 | A. Yes, in the absence of any compelling evidence to the contrary I believe  
13 | linear regression is the appropriate method of calculating margin reserve in  
14 | this case.

15 | Q. Does this conclude your testimony?

16 | A. Yes, it does.

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1 Q (By Mr. Feil) Mr. Shafer, do you have a  
2 brief summary of your testimony?

3 A Yes. The purpose of my testimony is to  
4 recommend to the Commission the use of simple linear  
5 regression analysis as a basis for calculating margin  
6 reserve.

7 MR. FEIL: Thank you. The witness is  
8 available for cross.

9 CROSS EXAMINATION

10 BY MR. HOFFMAN:

11 Q (By Mr. Hoffman) Afternoon, Mr. Shafer. My name  
12 is Ken Hoffman, and I represent Southern States.

13 A Good afternoon.

14 Q Let me ask you to turn to Page 3 of your  
15 testimony. On Line 2, you refer to construction time  
16 factors.

17 Are you with me, sir?

18 A Yes, sir.

19 Q And those are construction time factors that  
20 are used in the determination of the time period  
21 required for margin reserve, is that right?

22 A Yes.

23 Q Do these construction time factors include  
24 the time necessary for planning, engineering, designing  
25 and regulatory permitting of additional treatment and



1 distribution and collection facilities?

2 A These time factors are factors that are  
3 conventional by Commission practice. I'm assuming that  
4 they include those items that you mention.

5 Q Thank you, sir.

6 Now, if you move down to Lines 16 through 19  
7 on the same page of your testimony, you make a  
8 statement that "linear regression can more accurately  
9 quantify a relationship between time and growth and  
10 therefore would more reliably reflect positive or  
11 negative trends in growth than would simple averaging."

12 Are you with me, sir?

13 A Yes.

14 Q My first question, Mr. Shafer, is how often  
15 is this true?

16 A I would say in general that it's always true.

17 Q So your testimony is that the linear  
18 regression method always more accurately quantifies the  
19 relationship between time and growth and more reliably  
20 reflects positive or negative trends in growth than  
21 simple averaging?

22 A Yes. The linear regression analysis is a  
23 measure of the relationship between two factors. To  
24 the extent that there is a relationship, then, this  
25 type of analysis is going to be some measure of that.

1 A simple averaging is not an attempt to do that at all;  
2 it is not an attempt to establish any relationship  
3 between the factors whatsoever.

4 Q All right, sir. Well, let me go back to your  
5 last answer because I don't think you answered my  
6 question, and I just want to make sure that the record  
7 is clear. You are saying that the linear regression  
8 method is a more accurate method -- using my words --  
9 than the simple average method in all cases?

10 A A more accurate measure to quantify the  
11 relationship between two factors.

12 Q Okay. And, Mr. Shafer, isn't it true that  
13 with linear regression analysis the line through the  
14 data points -- and I'm referring to the data points,  
15 for example, in the graphs in your exhibits -- isn't it  
16 true that with linear regression analysis the line  
17 through the data points may reflect a trend in growth  
18 which does not in fact exist?

19 A I'm not sure exactly what you're driving at.  
20 It will reflect the trend in the data. If there's no  
21 relationship between time and growth, then there will  
22 be indications in the analysis that that is true. And  
23 I think the exhibits reflect that.

24 For example, if you'll look at Page 6 of 6 of  
25 the exhibit, the square -- the dark squares there

1 represent actual observed growth. The line between the  
2 inverted triangles represents the linear regression  
3 analysis of those points.

4           On the previous page when you look in the  
5 middle of the page under regression output where it  
6 says "R squared," the zeros there indicate that there  
7 is not a relationship in these five points between time  
8 and growth. If there were a relationship there to  
9 measure, this would be the appropriate way to do it.  
10 In this particular case, there is no relationship and,  
11 therefore, the analysis shows that.

12           Q     So referring to Page 5 and 6, and 6 and 6 of  
13 your exhibit, you are acknowledging that the use of  
14 linear regression analysis shows no correlation  
15 between time and growth?

16           A     That's correct. And that is not to say that  
17 regression analysis is not an appropriate way to  
18 measure that relationship if there was one.

19           Q     Matter of fact, on Page 6 of 6, the result  
20 that you reach is essentially the same as that under  
21 the averaging method, is it not?

22           A     That's correct.

23           Q     Now, let me go back and ask you another  
24 question. And that is, isn't it true that when you use  
25 linear regression analysis, this line reflecting the

1 trend in growth generally falls between the first two  
2 data points and then must follow that trend by the next  
3 three data points representing the percentage changes  
4 in growth in Years 3 through 5?

5 A I guess I'm not following your question. Try  
6 me again.

7 Q Take a look, for example, at Page 2 of 6?

8 A Yes, sir.

9 Q And as a matter of fact, in the three graphs  
10 in your exhibits, the line is a straight line. There  
11 are no curves in these lines, is that correct?

12 A That's correct.

13 Q Okay. The lines either go straight across  
14 the page, they trend up, or they trend down; but  
15 they're straight?

16 A That's correct.

17 Q And my question is, once you establish which  
18 way this line is heading use the first two data points,  
19 since the line is ultimately a straight line in terms  
20 of trending, musn't the trend that is established in  
21 the first two data points, musn't that trend be  
22 followed when you use the next three data paints no  
23 matter where growth actually end up?

24 A No, I don't believe that's true at all. It  
25 may be true in the examples that are shown here but, in

1 general, you can't make that generalization.

2 Q No I'm not trying to make that  
3 generalization. I'm asking you if that's possible.

4 A I don't believe that's the question you asked  
5 me before. If you would please repeat the question  
6 that you're asking.

7 Q Okay, let me move on for a moment.

8 When you use linear regression analysis,  
9 isn't it possible that you can have decreases in growth  
10 in ERCs in Years 1, 2 and 3 and then increases in  
11 growth in ERCs in Years 4 and 5, which would give you a  
12 reversal in trend. And the reversal in trend in Years  
13 4 and 5 would not be reflected under linear regression  
14 analysis?

15 A Again, you can't make that generalization.  
16 It would depend entirely on the magnitude of the  
17 changes. And your first three observations could be  
18 downward and the last two be upward, and that doesn't  
19 tell you anything about the slope of the line unless  
20 you can quantify the magnitude of those directions.

21 Q If your first three observations, as you put  
22 it, are downward, isn't that line going to go downward?

23 A If you have five observations, and the first  
24 three are down and a small --

25 Q Could you answer my question first?

1 A Ask the question again, please.

2 Q If your first three data points, or  
3 observations, as you put it, trend downward, isn't that  
4 line going to be downward for all five data points?

5 A You just cannot reach that conclusion, Mr.  
6 Hoffman.

7 Q Could you describe the correlation between  
8 the best fit line based on linear regression analysis  
9 and actual data?

10 A Try me again on that, please.

11 Q Could you describe the correlation between  
12 the best fit line, which I understand to be these lines  
13 running across your graphs in your exhibit --

14 A All right.

15 Q -- based on linear regression analysis, and  
16 actual data, these five data points, what is the  
17 relationship between the five dark squares and the  
18 lines that run across the page?

19 A The relationship of the line to the  
20 observations is an attempt to fit a line that minimizes  
21 the variance of those points off that particular line.  
22 I mean, it's more technical than that but that's a  
23 pretty basic description of the process.

24 Q Okay. So the line attempts to reflect the  
25 variations between where the line ends up and where the

1 actual data points are on the graph?

2 A The line is an attempt to minimize certain  
3 calculation of distance between each point and the  
4 line. I mean, I don't have my statistics textbook in  
5 front of me, so I can't give you the formulas, but  
6 that's a generalization about what's going on.

7 Q Okay. In your exhibit you refer to the "R  
8 squared." That's an R -- that would also be in your  
9 statistics textbook, I take it?

10 A Yes, sir.

11 Q What is an R squared value? What does that  
12 mean?

13 A The R squared value is a measure of how well  
14 the line describes the data of the observed points.

15 Q Okay. And the R squared value has a range  
16 from zero to 1.0, is that correct?

17 A That's correct.

18 Q And when you have an R squared value which is  
19 close to 1.0, that would indicate a close correlation  
20 between the regression output and the historical data,  
21 is that correct?

22 A That's correct.

23 Q And conversely, if you have an R squared  
24 value which is closer to zero, that would indicate a  
25 relatively poor correlation between the regression

1 output and the historical data, is that correct?

2 A Poor or nonexistent.

3 Q Okay. Nonexistent would be your Page 5 of 6  
4 and 6 of 6, correct?

5 A Yes.

6 Q Now, turning to your exhibits -- your  
7 exhibit, excuse me -- is it your opinion that these  
8 three examples which you show on the six pages are  
9 representative of typical linear regression analyses?

10 A These three examples were selected as a range  
11 of best-to-least-case scenarios that could happen if  
12 you applied that type of analysis.

13 They were selected on that basis to give the  
14 Commission some understanding of what can happen in  
15 that type of analysis.

16 I think my testimony basically suggests that  
17 to the extent that you do that analysis and determine  
18 that there is little or no correlation between the two  
19 factors that you're observing, that you then have to  
20 ask some other questions, some additional questions,  
21 and do some additional analysis before you make your  
22 determination of margin reserve. And that all I would  
23 be suggesting is that linear regression is a tool that  
24 ought to be used as a sanity check to look at what's  
25 going on.



1 Q Would you suggest that it be used possibly as  
2 a sanity check as a supplement to using the average of  
3 the past five years?

4 A My position is that the linear regression  
5 analysis is a preferred method over the average method.  
6 To the extent that your regression analysis does not  
7 indicate a strong correlation, then I believe that you  
8 have to look more closely at the factors that are  
9 driving growth in that particular situation.

10 I just have a real difficult time embracing a  
11 simple mathematical average as the kind of thing that  
12 the Commission ought to do as a policy matter.

13 Q Would you agree that the use of a simple  
14 mathematical average at least avoids the "highs," I'll  
15 call it, of the R squared factors shown on Page 1 of 6  
16 and the "lows," I'll call it, shown on Page 5 much 6  
17 where there's an R squared of zero. Would you agree  
18 with that?

19 A It would certainly do that. I'm not so sure  
20 that you would want to avoid particularly the highs.  
21 That tells you that there is definitely a strong  
22 relationship there and that you ought to be looking at  
23 that.

24 Q And vice-versa, you want to avoid situations  
25 like Page 6 of 6, or Page 5 of 6, where there is no

1 relationship between regression analysis and projected  
2 growth, correct?

3 A And, again, I would say if you want to use  
4 that tool in order to get the answer to the question,  
5 "Is there a relationship?" And if there's not, then  
6 you certainly need to go beyond that and find out what  
7 is happening.

8 Q Okay. So you would agree with my question?

9 A I would agree with my response.

10 Q Did your response include a "yes" to my  
11 question?

12 A Try your question again.

13 Q I'm trying to remember what it was.

14 A My answer was a qualified agreement, I  
15 believe.

16 Q Okay. Let me ask you to turn to Page 1 of 6  
17 of your exhibit, which addresses the example on the  
18 Sanlando water treatment plant?

19 A Okay.

20 Q You show an R squared factor of .98718,  
21 correct?

22 A Yes, sir.

23 Q Now, again, because this figure is extremely  
24 close to 1.0, this means that the line, the regression  
25 line on Page 2 of 6, very accurately depicts the trend

1 in growth over the last five years. Is that true?

2 A That's correct.

3 Q And all you have to do is look at Page 2 of 6  
4 and you can see how the line is so close to those five  
5 black boxes, right?

6 A That's correct.

7 Q Okay. Now, if you turn over to Page 3 of 6,  
8 this is where we get to kind of the opposite type  
9 situation, because we've got an R squared factor on the  
10 Sanlando wastewater treatment plant under the  
11 regression output of .28597. Is that correct?

12 A That's correct.

13 Q So compared to the R squared we saw on Page 1  
14 of 6, the R squared shown on Page 3 of 6 reflects a  
15 very poor correlation between the regression line and  
16 the actual data points, correct?

17 A "Poor" is a relative term. Obviously, the  
18 correlation factor is much less in this one.

19 Q Right. And all you have to do, again, is  
20 look over on Page 4 of 6, even if you're a layman like  
21 me, and you can see that both of those black boxes are  
22 nowhere near the left line going from the left side to  
23 the right side of the page. Is that correct?

24 A That's correct.

25 Q Would you agree, looking at the graph on Page

1 4 of 6, that the average growth triangle shown on the  
2 right side of the graph, which is at 550 ERCs, more  
3 accurately depicts the five data points than the  
4 regression line which shows approximately 120 ERCs at  
5 the 6.5-year axis point?

6 A No, I wouldn't agree with that.

7 Q You wouldn't agree with that? Why not?

8 A I believe that you have a situation there  
9 where you have one observation that appears to be some  
10 great distance from the line, but that the line pretty  
11 accurately describes what's going on in the other four  
12 observations.

13 I think before I made any conclusion about  
14 what the appropriate thing to do would be, I would want  
15 to know some more details about what was going on there  
16 in Year 5 that caused that somewhat aberrant or, excuse  
17 me, yeah, Year 4 and 5, that caused the aberrant  
18 observations.

19 Q Well, you wouldn't consider Year 5 to be  
20 unusual on this graph, would you?

21 A It's difficult to determine whether Year 4 or  
22 Year 5 is the most unusual. The first three are going  
23 down, and the fourth is going down, and the fifth is  
24 going up.

25 Again, I would want more information before I

1 made a determination as to what was appropriate and  
2 what wasn't; and simply accepting the mathematical  
3 average over the regression analysis in this case  
4 without knowing any more information I don't believe  
5 would be appropriate.

6 Q Okay. But just looking at it, again, kind of  
7 as a layman, in Year 1, I'm at 900; in Year 2, I'm at  
8 about 640; in Year 3, I fall to 620; something happened  
9 in Year 4 where I fell to 20; but in Year 5 I'm back up  
10 to 620.

11 Now, under the average method, I fall out of  
12 550, which seems to be much closer to four of the five  
13 numbers.

14 Under the regression method, I'm down to 120,  
15 which is close to one of the five numbers. And, again,  
16 as a layman, it just seems to me that on this page the  
17 average growth method more accurately depicts the trend  
18 in growth. Am I wrong?

19 A I don't believe that average methods depict  
20 anything about trends, at all. Because they're not --  
21 it's not attempting to establish a relationship between  
22 time and growth. That's what a trend is. To that  
23 extent, mathematical average has no meaning in that  
24 context.

25 So, again, I can't just accept a mathematical

1 average over linear regression without having some more  
2 explanatory information about the observations.

3 Q Okay. And I guess one of your points is  
4 that, at least in your opinion, the regression analysis  
5 method attempts to establish a trend, is that correct?

6 A That's correct.

7 Q The question is, whether it's a close trend  
8 or a trend that's way off, correct?

9 A That's correct. And I believe there's a  
10 certain amount of judgment that the Commission has to  
11 exercise in the information that's presented to them.  
12 And I'm simply recommending that one of the tools that  
13 they use to look at that information is the regression  
14 analysis.

15 Q All right, sir.

16 Moving to Page 6 of 6 of your exhibit.

17 A Yes.

18 Q Excuse me just a moment, Mr. Shafer. (Pause)

19 Mr. Shafer, have you gone beyond a linear  
20 regression method in other cases?

21 A Beyond? I'm not sure I understand what  
22 you're asking.

23 Q In other words, have you made investigations  
24 of specific circumstances in trying to calculate margin  
25 reserve?

1 A I personally have not, no.

2 Q Are you aware of any Commission orders which  
3 have accepted a linear regression method?

4 A I'm not real sure offhand. I have testified  
5 in three previous cases; and I believe that the Staff  
6 used that testimony, but I'm not real sure what the  
7 order says about it. Subject to check, I would say,  
8 yes, that they have.

9 Q What cases were those, Mr. Shafer?

10 A The last Southern States case, Florida  
11 Cities, South Fort Myers, I believe. And I can't  
12 recall the third.

13 Q And a third but you just can't recall?

14 A I believe there was a third, I just don't  
15 recall. That's right.

16 Q Have you testified on this issue in other  
17 water and wastewater cases?

18 A No, just those three.

19 Q Have you testified in support of the use of  
20 the historical average method in other cases?

21 A I've never testified to the use of historical  
22 averages.

23 Q Have you ever been involved in entering  
24 recommendations to the Commission in support of the use  
25 of an historical average method in the past?

1           A     There are -- well, I'm a Bureau Chief of The  
2 special Assistance Bureau, and part of the  
3 responsibility of that bureau is to make  
4 recommendations on Staff-assisted rate cases. Now,  
5 that method has been used in those cases under my  
6 supervision, yes.

7           Q     Could you give me an estimate of how many of  
8 those recommendations you have been involved in or have  
9 been done under your supervision?

10          A     I'd say 25 to 30 or more, perhaps. (Pause)

11                   COMMISSIONER EASLEY: While he's doing that,  
12 have all of those been Staff-assisted rate cases?

13                   WITNESS SHAFER: Yes, ma'am.

14          Q     (Mr. Hoffman) Mr. Shafer, why did you  
15 recommend the use of the linear regression method in  
16 the Florida Cities water case that you referred to?

17          A     The decision on the part of the Division was  
18 that that would be a superior method to begin using.  
19 And in order to establish that as a policy and an  
20 option for the Commission to use, I was asked to  
21 testify on that, given my educational background and so  
22 forth.

23          Q     So you would agree that the Commission does  
24 have an option in terms of which method it believes to  
25 be more appropriate for this rate case?



1           A     Certainly, the Commission has an option to  
2 entertain whatever method they choose. They have, as a  
3 matter of practice in the past, used the simple average  
4 method.

5                     My testimony is being offered and has been  
6 offered in previous cases in an attempt to move beyond  
7 that simple method into something that has a little  
8 more meaning in terms of trying to relate those two  
9 factors.

10           Q     Do you know how many rate cases the Florida  
11 Cities Company was involved in this year?

12           A     No, sir, I sure don't.

13           Q     Did they have more than one?

14           A     I believe they did, but I'm not real sure.

15           Q     Can you tell me why -- assuming that they did  
16 have more than one, can you tell me why you offered  
17 testimony in support of the linear regression method in  
18 only one of their rate cases?

19           A     I believe that in one case it was decided  
20 that it was not an appropriate thing to do because  
21 there was a forecasted test year involved. And I did  
22 not believe that the analysis that I'm recommending in  
23 this testimony would be an appropriate thing to do on a  
24 forecasted test year. Because you are then extending  
25 the analysis out beyond the year and a half that we're

1 talking about in this case, and I think you begin to  
2 approach the limits of this type of analysis based on  
3 the few number of observations that we're working with.  
4 You begin to have a self-fulfilling prophecy when you  
5 do that. (Pause)

6 Q Mr. Shafer, why do you not use the linear  
7 regression method in the Staff-assisted rate cases you  
8 mentioned?

9 A Because the Commission practice or convention  
10 or policy, if you will, that has been established in  
11 the past is the simple average method. And in typical  
12 Staff-assisted rate cases we would not depart in any  
13 way for Commission policy or practice. Those cases are  
14 not designed to set policy, they are simply designed to  
15 follow policy.

16 Q Can you provide any more substantive  
17 rationale than that as to distinguishing why you would  
18 use -- why you would not use linear regression with  
19 respect to a smaller water or wastewater system but you  
20 would recommend that it be used with larger systems?

21 A Mr. Hoffman, it has nothing at all to do with  
22 the size of the system, it simply has to do with what  
23 the program of Staff assistance was designed to do.

24 My personal opinion is that we ought to use  
25 it in Staff-assisted cases. Until the Commission has a

1 track record of adopting regression analysis as the  
2 right thing to do, I don't believe that a  
3 Staff-assisted rate case is the right place to bring  
4 that before them for their decision. And, therefore,  
5 we stick with what is the convention.

6 Q Mr. Shafer, wouldn't you agree that the  
7 Company's use of the five-year average was reasonable  
8 in this case?

9 A Mr. Hoffman, I believe you've asked me that  
10 question in several different ways on several different  
11 occasions and my answer has always been the same: No,  
12 I do not believe that that's the appropriate method to  
13 use.

14 Q So your testimony is that you think the  
15 Company's use of the five-year average was  
16 unreasonable?

17 A I don't know that I would characterize it as  
18 "unreasonable." I would simply say that I don't  
19 believe that that's the method that ought to be used.

20 Q Wouldn't you agree that the five-year average  
21 treats smaller and larger systems the same in terms of  
22 projecting growth and providing equal weight to upward  
23 and downward variations in growth?

24 A I would agree that it treats them the same.  
25 I wouldn't agree with the rest of what you said.

1 (Pause)

2 MR. HOFFMAN: Mr. Chairman, may I have a  
3 moment?

4 CHAIRMAN BEARD: Let me ask you a question,  
5 Greg, a little different.

6 In your Page 4 of 6, of GLS-1.

7 WITNESS SHAFER: Yes, sir.

8 CHAIRMAN BEARD: That is the example of  
9 Sanlando wastewater treatment at Wekiva?

10 WITNESS SHAFER: That's correct.

11 CHAIRMAN BEARD: It is your position that  
12 regression method is more representative in that  
13 particular example than the average method?

14 WITNESS SHAFER: I would say it's as  
15 representative. To the extent that the analysis is  
16 designed to measure a relationship and to the extent  
17 that the indicator of that relationship has some  
18 positive value, then I would say I would be more  
19 inclined to accept the regression analysis than the  
20 average method. But as I had indicated earlier, I  
21 think that it's incumbent on the Commission, when they  
22 have that analysis before them and they see that the  
23 relationship that's being measured is relatively small,  
24 that we find out more information about those points  
25 that lie so far off the line, and what was happening in

1 those years that was then, and what was the business  
2 cycle? Was there a condo that was hooked on in a  
3 particular area or a new development, or what? What  
4 was going on that caused those numbers to fluctuate  
5 like that? Before we make a final determination, and  
6 not just accept the simple average without asking those  
7 kinds of questions.

8 CHAIRMAN BEARD: In that particular instance,  
9 would we not want to not just accept the simple  
10 average, or not just accept the regression method,  
11 either one, without doing further analysis?

12 WITNESS SHAFER: I believe that that is the  
13 appropriate thing to do.

14 CHAIRMAN BEARD: And this particular example  
15 is the one I'm talking about.

16 WITNESS SHAFER: Yes.

17 CHAIRMAN BEARD: Obviously, a more extreme  
18 example, at least from my perspective. Okay.

19 Q (Mr. Hoffman) Mr. Shafer, would you agree  
20 that the results of the Company's use of the five-year  
21 average are reflected in the MFRs that were filed in  
22 this case?

23 A I will accept that they use that method in  
24 the MFRs. I have not reviewed the MFRs.

25 Q All right, sir. Have you provided any

1 evidence of the results of the application of the  
2 linear regression analysis to the 127 systems in this  
3 case?

4 A No, sir, I have not.

5 Q Have you even conducted the analysis?

6 A No, sir.

7 Q Is it fair to say, then, that since you have  
8 not conducted the analysis, that you have no basis for  
9 comparing the results with the results reached by the  
10 Company in using the historical average?

11 A Since I have not conducted the analysis, I  
12 have no basis for comparison other than on the  
13 philosophical level. And from that level, I would  
14 certainly say that you need to do this analysis and  
15 apply it to the information that was provided and then  
16 make the comparison to the simple average.

17 Q Certainly, the Company has not had an  
18 opportunity to study, evaluate and cross examine you on  
19 what those results would be because they have not been  
20 presented, is that correct?

21 A That's correct.

22 MR. HOFFMAN: Mr. Chairman, I'm going to move  
23 to strike Mr. Shafer's testimony.

24 Mr. Shafer's testimony recommends the use of  
25 the linear regression analysis. There is no evidence

1 -- he has provided no evidence in this record as to  
2 what the results of the linear regression output would  
3 be. The Company has had no opportunity to evaluate and  
4 cross examine on the results of what the linear  
5 regression analysis would be.

6 I think we've been deprived of our due  
7 process rights. There's no foundation in the record to  
8 support Mr. Shafer's opinion.

9 CHAIRMAN BEARD: Before we get there, let me  
10 ask Mr. Shafer a question because I don't understand  
11 something.

12 If you have not done the linear regression  
13 analysis in this instance, what data is it that we will  
14 review to determine that we should -- I mean, that  
15 obviously produces a number of results. Where is that  
16 results?

17 WITNESS SHAFER: Commissioner, I don't have  
18 the results. What I'm simply suggesting is that, given  
19 the information, the raw data that comes in in the  
20 MFRs, that we apply this methodology and look at the  
21 results.

22 CHAIRMAN BEARD: And my question is when?

23 WITNESS SHAFER: In the process, as the Staff  
24 would analyze any factor that comes to them in the  
25 MFRs.

1           CHAIRMAN BEARD: I guess what I'm trying to  
2 understand, I mean, the brief conversation you and I  
3 had is we should look at the results in the  
4 relationship, both average and linear, to determine if  
5 there's something that appears "out of whack" -- that's  
6 probably not the right term, but some extreme that we  
7 ought to review and see if there's a rationale for  
8 that. And if I'm hearing you correctly, the  
9 Commissioners, at least, would not get a chance to do  
10 that and review that as part of this hearing.

11           WITNESS SHAFER: Commissioner Beard, I think  
12 it would be analogous to the fact that you won't get an  
13 opportunity to look at the Staff-recommended revenue  
14 requirement in this case until the analysts have had an  
15 opportunity to review the record, put together their  
16 adjustments based on the testimony and their analysis  
17 and manipulation of the numbers based on the testimony  
18 in this case. And at that time you will get an  
19 opportunity to look at the revenue requirement and all  
20 the adjustments that have been made by the Staff and  
21 evaluate that in the recommendation process. And, to  
22 me, that's an analogous situation.

23           CHAIRMAN BEARD: I'm thinking out loud  
24 through this.

25           We do not see the Staff recommendation on the



1 revenue recommendations, but we have had opportunity to  
2 question issues associated with the parts and pieces of  
3 that as we have gone along.

4           Okay. That was his motion to strike. It's  
5 your response.

6           MR. FEIL: Commissioner, Staff's position,  
7 obviously, is there is no reason to strike Mr. Shafer's  
8 testimony.

9           I can't see any correlation whatsoever  
10 between the Utility's alleged violation of due process  
11 rights and Mr. Shafer's decision or election not to  
12 apply the linear regression analysis to the 127  
13 systems. There simply is no correlation between the  
14 two.

15           COMMISSIONER EASLEY: Mr. Chairman, I'd like  
16 to call your attention to Issue 4, which Mr. Shafer is  
17 addressing his testimony.

18           In the Prehearing Order, Mr. Shafer's  
19 position for the Staff is linear regression should be  
20 used. I'm not sure the Company can now argue due  
21 process when the position has been in the Prehearing  
22 Order ever since the beginning.

23           Now, the results of it are not what is  
24 stated. I'm not sure that this doesn't come under the  
25 heading "something similar to is admitted into evidence

1 and take it for what it's worth." I'm not sure that  
2 the legal terminology is right, but I think I'm pretty  
3 close.

4 CHAIRMAN BEARD: I guess where I was -- the  
5 questions I was asking was related to the fact that and  
6 -- and let me just say from what testimony I've heard,  
7 the Staff position in this instance appears reasonable,  
8 because it says "where there is a trend, where there is  
9 no regular growth pattern, a five-year average should  
10 be used."

11 I don't know which has occurred in this  
12 instance because I have not seen a data. I have not  
13 seen the analysis.

14 COMMISSIONER EASLEY: I haven't either. In  
15 which case, we can't use it.

16 CHAIRMAN BEARD: And until I see the  
17 analysis, -- and now, I was thinking, have the  
18 opportunity to ask questions about that analysis so I  
19 could determine which I'm more comfortable with in this  
20 instance, is my concern.

21 I have no problem with the issue as it's  
22 stated. And I'm not sure we're in a position to be  
23 striking testimony here. My concern would be when we  
24 get to making a decision.

25 COMMISSIONER EASLEY: The decision has to be

1 made on the record we have in front of us, Mr.  
2 Chairman.

3 CHAIRMAN BEARD: Well, the problem that I  
4 guess I'm struggling with -- and you all help me  
5 because I'm asking this out loud trying to think  
6 through this. There will be, in that sense, data added  
7 to the record as a part of the Staff's analysis at some  
8 point in time.

9 COMMISSIONER EASLEY: It will not be added  
10 data; they can analyze what's on the record just like  
11 any party can, but they can't add data.

12 COMMISSIONER CLARK: Well, I think it seems  
13 to me that there is data in the record that covers a  
14 period of time with respect to growth. And what you  
15 would simply do is use the methodology suggested by Mr.  
16 Shafer.

17 CHAIRMAN BEARD: Let me try this differently.  
18 Your testimony supports the Staff position on  
19 Issue No. 4?

20 WITNESS SHAFER: Yes, sir.

21 CHAIRMAN BEARD: To that extent, you and/or  
22 Staff -- and I understand they're separate entities in  
23 this instance -- for recommendation purposes, have not  
24 made a determination which of those two methods is the  
25 most appropriate for this case?

1           WITNESS SHAFER: I would assume that the  
2 Staff will base their decision on the record.

3           CHAIRMAN BEARD: Well, you have, in essence,  
4 raw data right now, is that correct?

5           WITNESS SHAFER: Yes, sir.

6           CHAIRMAN BEARD: It has not been analyzed  
7 using linear regression. Obviously, I assume the  
8 Company has done their five-year average, that analysis  
9 has been done?

10          WITNESS SHAFER: I have not personally done  
11 the analysis, but I have no knowledge as to whether the  
12 Staff has done that analysis at this point or not.

13          COMMISSIONER EASLEY: We got to get it in the  
14 record if they have.

15          CHAIRMAN BEARD: I'm going to allow the  
16 testimony to stand, because to the extent that it  
17 supports the Staff's position on Issue No. 4, then  
18 that's what it is. The issue is clearly there.

19                 To the extent that Mr. Shafer has not made a  
20 determination of which is appropriate in this instance,  
21 because not having done the analysis himself -- and  
22 that's what I'm understanding your position to be?

23          WITNESS SHAFER: I have not done the analysis  
24 myself.

25          CHAIRMAN BEARD: And, therefore, in this

1 case, you have not made a decision on which one is  
2 appropriate.

3 WITNESS SHAFER: That's correct.

4 CHAIRMAN BEARD: I'm going to allow the  
5 testimony to stand.

6 MR. HOFFMAN: I'm sorry, Mr. Chairman. I  
7 didn't hear his answer to your last question.

8 CHAIRMAN BEARD: "That is correct" was his  
9 answer.

10 MR. HOFFMAN: I'm sorry. And I didn't hear  
11 the question.

12 Your question was he hasn't determined which  
13 is the more appropriate for this case? That's his  
14 testimony?

15 CHAIRMAN BEARD: That is correct.

16 MR. HOFFMAN: Okay. Testimony stands.

17 Do you have any more questions? (Pause)

18 Q (By Mr. Hoffman) Mr. Shafer, are you  
19 familiar with the 127 systems in this case and their  
20 growth characteristics?

21 A No, sir, I'm not.

22 Q If you could turn to Page 5, Lines 12 through  
23 14 of your testimony.

24 A Yes, sir.

25 Q You state that in the absence of any

1 compelling evidence to the contrary, you believe linear  
2 regression is the appropriate method of calculating  
3 margin reserve in this case.

4 Are you with me, sir?

5 A Yes, sir.

6 Q Would you agree that since the Company has  
7 not been provided the results of the linear regression  
8 method, it makes it awfully difficult for the Company  
9 to provide evidence of any sort which would counteract  
10 the results of that analysis?

11 A I don't know what prevents the Company from  
12 applying the methodology on their own to determine what  
13 those results are.

14 Q So your answer basically is it would be up to  
15 the Company to do its own linear regression analysis?

16 A To the extent that they have a problem -- if  
17 it were my company, I would certainly want to do that  
18 analysis to make sure what was happening to me.

19 Q Mr. Shafer, are you going to be doing an  
20 analysis under the linear regression method?

21 A For this case?

22 Q Yes.

23 A No, sir. Having testified, I don't believe  
24 it would be appropriate for me to do the analysis.

25 Q Would you agree that in order to render an

1 opinion as to whether the linear regression method or  
2 the historical average method is appropriate, one would  
3 need to be knowledgeable of system and its components?

4 A I stand by my statement that you alluded to a  
5 moment ago. In the absence of any compelling evidence  
6 to the contrary, I would recommend that the linear  
7 regression methodology be used over the average method.

8 MR. HOFFMAN: Thank you, Mr. Shafer.

9 CHAIRMAN BEARD: Questions?

10 MR. MCLEAN: No questions.

11 CHAIRMAN BEARD: Commissioners, redirect?

12 MR. FEIL: One moment please. (Pause)

13 No questions.

14 CHAIRMAN BEARD: Witness may step down.

15 MR. FEIL: May Mr. Shafer be excused,

16 Mr. Chairman?

17 CHAIRMAN BEARD: Oh, well, okay.

18 MR. FEIL: He said something about a football  
19 game.

20 CHAIRMAN BEARD: Change that. (Laughter)

21 (Witness Shafer excused.)

22 - - - - -

23 CHAIRMAN BEARD: Exhibits?

24 MR. FEIL: Commissioner, I'd move Exhibit No.

25 90.

1 CHAIRMAN BEARD: Without objection. 90 is  
2 approved.

3 (Exhibit No. 90 received into evidence.)

4 CHAIRMAN BEARD: Next witness is Mr. Sweat by  
5 my record.

6 While Mr. Sweat is coming up, we're going to  
7 break for dinner at 6:00 and that will last until about  
8 6:30. We'll give you 30 minutes. So if you want to  
9 make some advance preparations so that you'll have 30  
10 minutes to sit quietly and eat, so be it.

11 COMMISSIONER CLARK: Mr. Chairman, for my  
12 benefit, could we do an updated list of the order of  
13 witnesses from this point on?

14 COMMISSIONER BEARD: By my books, if I'm  
15 correct, it is Sweat, and then Hartman, and then Morse,  
16 then Lewis and then L-O-U-C-K-S, that's Loucks; then  
17 Jones, then Dismukes, then Montanaro, then Williams --

18 COMMISSIONER CLARK: Montanaro's testimony has  
19 not been stipulated into the record?

20 MR. McLEAN: Not to my knowledge.

21 COMMISSIONER EASLEY: Not in this case. It  
22 was in the other one.

23 MR. McLEAN: Yes, ma'am.

24 CHAIRMAN BEARD: Then Williams, Chapdelaine  
25 and Todd.



1 COMMISSIONER EASLEY: Todd is on Thursday.

2 Well, we won't get there before that.

3 CHAIRMAN BEARD: I'm just saying --

4 COMMISSIONER EASLEY: Yes, order of, sorry.

5 CHAIRMAN BEARD: Barring something unusual,  
6 that's the current trend. And then --

7 CHAIRMAN BEARD: Williams, Chapdelaine, and  
8 who was next after that?

9 COMMISSIONER EASLEY: Todd.

10 CHAIRMAN BEARD: Then Todd --

11 COMMISSIONER CLARK: Okay.

12 CHAIRMAN BEARD: -- and then Kimball and then  
13 Wood.

14 COMMISSIONER CLARK: Okay.

15 CHAIRMAN BEARD: And if that's not right, let  
16 me know. It's got to be right because I made it up.

17 (Pause)

18 COMMISSIONER EASLEY: That's right.

19 CHAIRMAN BEARD: Let's go.

20 (Transcript follows in sequence in Volume  
21 IX.)

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