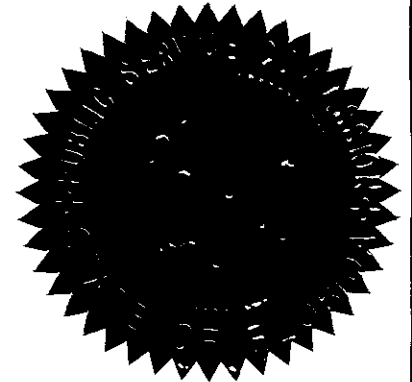


BEFORE THE
FLORIDA PUBLIC SERVICE COMMISSION

DOCKET NO. 080121-WS

In the Matter of:
APPLICATION FOR INCREASE IN WATER AND
WASTEWATER RATES IN ALACHUA, BREVARD,
DESOTO, HIGHLANDS, LAKE, LEE, MARION,
ORANGE, PALM BEACH, PASCO, POLK, PUTNAM,
SEMINOLE, SUMTER, VOLUSIA, AND WASHINGTON
COUNTIES BY AQUA UTILITIES FLORIDA, INC.



VOLUME 7

Pages 854 through 980

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A CONVENIENCE COPY ONLY AND ARE NOT
THE OFFICIAL TRANSCRIPT OF THE HEARING,
THE .PDF VERSION INCLUDES PREFILED TESTIMONY.

PROCEEDINGS: HEARING

BEFORE: CHAIRMAN MATTHEW M. CARTER, II
COMMISSIONER LISA POLAK EDGAR
COMMISSIONER KATRINA J. McMURRIAN
COMMISSIONER NANCY ARGENZIANO
COMMISSIONER NATHAN A. SKOP

DATE: Wednesday, December 10, 2008

PLACE: Betty Easley Conference Center
Room 148
4075 Esplanade Way
Tallahassee, Florida

REPORTED BY: JANE FAUROT, RPR
Official FPSC Reporter
(850) 413-6732

PARTICIPATING: (As heretofore noted.)

FLORIDA PUBLIC SERVICE COMMISSION
DOCUMENT NUMBER-DATE

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FPSC-COMMISSION CLERK

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P R O C E E D I N G S

(Transcript follows in sequence from Volume 6.)

CHAIRMAN CARTER: Okay. We are back on the record.

And when last we left, I kind of gently reminded everyone not to make any early dinner plans. Before we go with our next witness, staff, preliminary matters. You're recognized.

MR. JAEGER: Yes, Chairman Carter.

As Mr. Reilly was alluding to, we have a complete stipulation on Issue 6 concerning infiltration and inflow, and all the parties are agreed now that the appropriate percentage for infiltration and inflow for Holiday Haven is 12 percent; Beecher's Point, 38.85 percent; Florida Central Commerce Park, 9 percent; Summit Chase, 22 percent; Rosalie Oaks, 28 percent; Jungle Den, 37 percent; and zero percent for all others.

Also, the parties are agreed that all of the appropriate adjustments have already been made except for Beecher's Point, and the appropriate adjustment for purchased wastewater should be reduced by \$16,756. And that concludes staff's stipulation.

CHAIRMAN CARTER: Okay. Mr. May, is that your understanding?

MR. MAY: Yes, it is, Mr. Chairman.

CHAIRMAN CARTER: Mr. Beck. Mr. Reilly.

MR. REILLY: Yes, sir, it is.

CHAIRMAN CARTER: Ms. Bradley. Okay. And, staff,

1 you are recommending that we accept the stipulation, is that
2 your recommendation?

3 **MR. JAEGER:** Okay.

4 **CHAIRMAN CARTER:** Commissioner Edgar, you're
5 recognized.

6 **COMMISSIONER EDGAR:** Then, Mr. Chairman, with the
7 concurrence as we have heard from the parties, I would make a
8 motion in support of the stipulation as just described to us by
9 staff.

10 **COMMISSIONER McMURRIAN:** Second.

11 **CHAIRMAN CARTER:** It has been moved and properly
12 seconded. All in favor, let it be known by the sign of aye.
13 (Simultaneous aye.)

14 **CHAIRMAN CARTER:** All those opposed, like sign. Show
15 it done.

16 Staff, any further preliminary matters?

17 **MR. JAEGER:** There are two witnesses, I believe -- is
18 Ms. Walker here in the audience -- that have not been sworn
19 yet. You may want to just go ahead and get that out of the
20 way.

21 **CHAIRMAN CARTER:** Okay. Hold on before we do that.
22 Who's next? Who's on first?

23 **MR. JAEGER:** Mr. Poucher is over there in the jump
24 seat ready to go.

25 **CHAIRMAN CARTER:** Mr. Poucher, have you been sworn?

1 He has been sworn, so let's kind of mosey on through with what
2 we have got and then we will get with the unsworn.

3 **MR. JAEGER:** Okay.

4 **CHAIRMAN CARTER:** Okay. Is it Mr. Reilly or Mr.
5 Beck? Who's on first?

6 **MR. BECK:** It's me.

7 **CHAIRMAN CARTER:** Mr. Beck, you're recognized.

8 **MR. BECK:** Mr. Chairman, thank you. I also have two
9 preliminary matters.

10 **CHAIRMAN CARTER:** You're recognized.

11 **MR. BECK:** I wanted to confirm that we have moved in
12 Exhibit 86, which is Ms. Dismukes' schedules. I believe we
13 have.

14 **CHAIRMAN CARTER:** It has been moved in without
15 objections.

16 **MR. BECK:** And I have also talked with counsel for
17 Aqua. We have two exhibits that have come to us from
18 customers. One is a series of letters from the consumers in
19 Scottish Highlands, the second is two petitions by residents in
20 Astor, Florida, and we would ask that they be marked for
21 identification and would ask you to accept them into evidence.

22 **CHAIRMAN CARTER:** That is not 193, which is the
23 late-filed?

24 (Late-filed Exhibit 193 marked for identification.)

25 **MR. BECK:** Yes, it's different.

1 **CHAIRMAN CARTER:** Okay. So it would be 198.

2 Mr. May.

3 **MR. MAY:** Mr. Chairman, Mr. Beck and I did discuss
4 this. We have no problem. Charlie, in thumbing through this,
5 I did not see included in this package Aqua's response to some
6 of the Scottish Highland folks, and we would ask for an
7 opportunity to file a late-filed response to this.

8 **CHAIRMAN CARTER:** You have got 199.

9 **MR. MAY:** Thank you.

10 **MR. BECK:** And, Mr. Chairman, would 198 include both
11 Scottish Highlands and Astor?

12 **CHAIRMAN CARTER:** Absolutely. That would be -- and,
13 Commissioners, 198 would be for OPC letters. Let's just say
14 letters from customers. And on 199, which will be from Aqua,
15 will be response to letters. Response to letters from
16 customers.

17 Now, Mr. Beck, was that -- that was in the context of
18 Ms. Dismukes, so do you want to just move those in now?

19 **MR. BECK:** Better safe than sorry later.

20 **CHAIRMAN CARTER:** Yes. I think that is a good idea
21 to do that. Mr. May, any objection?

22 **MR. MAY:** Mr. Chairman, I must confess I didn't
23 follow that.

24 **CHAIRMAN CARTER:** Okay. Let me help you out here.
25 The letters from the customers, which we had given Number 198

1 to that Mr. Beck has, we are going to enter those into
2 evidence, and we were going to give you spot 199, which will
3 be --

4 **MR. MAY:** Absolutely. No problem here.

5 **CHAIRMAN CARTER:** -- responses for the company to the
6 letters.

7 **MR. MAY:** My apologies. No problem on our end.

8 **CHAIRMAN CARTER:** Okay. We are all on the same page?
9 Any objections?

10 **MR. MAY:** No, Your Honor.

11 **CHAIRMAN CARTER:** Without objection, show it done.

12 And also that will be a late-filed, but we will allow it for
13 the company, 199 to provide the answers to the letters,
14 responses to the letters.

15 (Late-filed Exhibit 199 marked for identification.
16 Exhibit Number 198 marked for identification and admitted into
17 the record.)

18 **CHAIRMAN CARTER:** Anything further, Mr. Beck?

19 **MR. BECK:** And with that we are prepared to call Mr.
20 Poucher.

21 **CHAIRMAN CARTER:** Any preliminary matters, Mr. May?

22 **MR. MAY:** No, Mr. Chairman.

23 **CHAIRMAN CARTER:** Ms. Bradley, any preliminary
24 matters before we go further?

25 **MS. BRADLEY:** No, sir.

1 **CHAIRMAN CARTER:** Okay. Mr. Beck, you're recognized.

2 **MR. BECK:** Thank you, Mr. Chairman.

3 The Citizens call Earl Poucher to the stand.

4 EARL POUCHER

5 was called as a witness on behalf of the Office of Public
6 Counsel, and having been duly sworn, testified as follows:

7 DIRECT EXAMINATION

8 BY MR. BECK:

9 **Q** Mr. Poucher, for the record, would you please state
10 your name and your business address?

11 **A** My name is Earl Poucher. My business address is
12 111 West Madison Street, Tallahassee, Florida, 32399-1400.

13 **Q** And did you prepare 28 pages of prefiled testimony?

14 **A** Yes, I did.

15 **Q** Do you have any changes or corrections to make to
16 your testimony?

17 **A** No, I do not.

18 **Q** If I were to ask you the same questions here today,
19 would your answers be the same?

20 **A** Yes, they would.

21 **MR. BECK:** Mr. Chairman, I move Mr. Poucher's
22 testimony into the record as though read.

23 **CHAIRMAN CARTER:** The prefiled testimony of the
24 witness will be entered into the record as though read.

25

DIRECT TESTIMONY**OF****EARL POUCHER**

1
2
3
4
5 **Q. PLEASE STATE YOUR NAME AND BUSINESS ADDRESS.**

6 A. My name is Earl Poucher. My business address is 111 W. Madison Street,
7 Tallahassee, FL 32399-1400.
8

9 **Q. WHO ARE YOU EMPLOYED BY, WHAT IS YOUR POSITION AND**
10 **HOW LONG HAVE YOU BEEN EMPLOYED THERE?**

11 A. I am a Senior Legislative Analyst with the Office of Public Counsel, State of
12 Florida where I have been employed for the past 17 years.
13

14 **Q. PLEASE SUMMARIZE YOUR UTILITY AND REGULATORY**
15 **EXPERIENCE.**

16 A. I graduated from the University of Florida in 1956 and I started employment with
17 Southern Bell that same year. I retired from the company (BellSouth) in 1987.
18 As a BellSouth/Southern Bell employee, I held a wide variety of regulatory and
19 operations management positions and I testified on behalf of the company in
20 Georgia and North Carolina dockets.
21

22 **Q. WHAT IS THE PURPOSE OF YOUR TESTIMONY?**

23 A. I am testifying on behalf of the Office of Public Counsel and the purpose of this
24 testimony is to describe customer responses regarding the quality of service and
25 quality of water provided by Aqua Utilities Florida, Inc. to its customers that has

1 been submitted in this docket via customer service hearings, customer
2 correspondence and responses to the company's efforts that are
3 described in the supplemental direct testimony of Christopher H. Franklin
4 submitted on behalf of Aqua Utilities Florida, Inc. in this docket.

5
6 **Q. WHAT SPECIFIC AREAS OF MR. FRANKLIN'S TESTIMONY ARE**
7 **YOU DISPUTING?**

8 A. Contrary to the testimony provided by Mr. Franklin, Aqua Florida customer
9 responses solicited by the Office of Public Counsel indicate that Aqua has failed
10 to adequately respond to the concerns of its customers. The testimony of
11 individual customers in service hearings throughout the state provides ample
12 proof that the company is failing to provide adequate quality of service and
13 acceptable quality of water to the Citizens of Florida. Mr. Franklin's elaborate,
14 color coded exhibit appears to be submitted to convince the Commission that the
15 company has adequately responded to the complaints expressed during the service
16 hearings. According to many of its customers, Aqua has failed to adequately deal
17 with the customer complaints that have been received by the company. Mr.
18 Franklin states that the prioritization of complaints in the color-coded charts "in
19 no way implies that AUF is not addressing all of the issues raised at the service
20 hearings." Mr. Franklin's testimony goes on to state: "Each and every issue
21 raised by a customer is extremely important to AUF." Close analysis of the Aqua
22 responses to the customer complaints heard at the hearing shows that the company
23 is failing to deal with the critical issues identified by customers. Our follow-up
24 contacts with the customers after Mr. Franklin filed his supplemental testimony
25 reveals that the company's actions have been rejected or refuted by many of their

1 customers.

2

3 **Q. WHAT FOLLOW-UP ACTIONS DID THE OFFICE OF PUBLIC**
4 **COUNSEL TAKE FOLLOWING THE FILING OF MR. FRANKLIN'S**
5 **SUPPLEMENTAL TESTIMONY?**

6 A. Mr. Franklin stated that 97 customers gave testimony that covered approximately
7 194 issues in the Gainesville, Palatka, Sebring, Lakeland, Mt. Dora, Oviedo and
8 Chipley hearings. Following the receipt of Mr. Franklin's testimony, Public
9 Counsel sent letters to all of the customers involved (Exhibit No. ___EP-1). We
10 provided a copy of the Aqua analysis included in Mr. Franklin's color-coded
11 spread sheet and we invited the customers to provide a response that included the
12 actions that the Company said it had taken, the customer's response to the actions
13 the company said it had taken and any additional comments the customers wanted
14 to make. Our office received 36 responses from the group of 97 customers who
15 complained at the hearings, (Exhibit No. ___EP2) and a description of each of
16 those responses is included in this testimony. While the company would
17 obviously want to assure the Commission that it has resolved all of the service
18 quality issues brought up by the customers in this docket, the customer responses
19 described in this testimony and the additional testimony provided by over 50
20 customers who testified at the New Port Richey hearing provide ample evidence
21 that the company has failed to deal adequately with customer complaints.

22

23 **Q. DID YOU ANALYZE ANY ADDITIONAL DATA REGARDING**
24 **CUSTOMER ISSUES?**

1 A. Yes, our witness Kim Dismukes has included the FPSC complaints that have been
2 handled by the Commission's Consumer Affairs office and she has analyzed those
3 complaints in her testimony. Ms. Dismukes testimony includes Public Counsel's
4 recommendations to the Commission regarding Aqua customer service in its
5 totality, including all of the available sources of data. In addition, KHD-1 is the
6 download of the Commission's customer correspondence files that contains all
7 written correspondence received from customers as of October 7, 2008. This file
8 is sequential and it contains customer input as received by the Commission
9 Clerk's office. Customers who attend service hearings are encouraged to provide
10 written input that the Commission promises to review and take into consideration
11 during the course of the proceeding. This is an ongoing file that grows each day
12 during the course of the docket. I reviewed every letter that was in the file and I
13 categorized the customer input, much the same way Mr. Franklin did in his
14 analysis and prioritization of complaints. My analysis of the customer
15 correspondence file is included in Exhibit No. ___(EP-3). The index of the file
16 that I prepared is found in the next Exhibit No. ___(EP-4).

17
18 **Q. IN ADDITION TO ANALYZING THE CORRESPONDENCE FILES AND**
19 **REVIEWING THE CUSTOMER RESPONSES TO YOUR LETTERS**
20 **WHAT ELSE DID YOU DO?**

21 A. I attended the customer service hearing on September 26 in New Port Richey.
22 The transcript of that hearing will not be completed prior to submission of this
23 testimony. However, I can tell you that the hearing lasted over 4 hours. Over 50
24 customers testified, and a number of customers left early because of the time and
25 length of the hearing. Not a single customer testified in support of the company.

1 The New Port Richey hearing attracted customers from Zephyrhills, Palm Forrest
2 and Jasmine Lakes who provided the details of their complaints that are strikingly
3 similar to those already received by the Commission in the previous customer
4 service hearings and through the correspondence side of the docket.

5
6 **Q. CONSIDERING ALL OF YOUR OBSERVATIONS AND ANALYSIS, DO**
7 **YOU HAVE ANY OBSERVATIONS TO MAKE?**

8 A. The most striking observation may be what we did not see. The transcripts from
9 the customer hearings, the customer correspondence, the responses received in
10 our office and the New Port Richey hearing are stepping stones that are extremely
11 important to guide this Commission in reaching a determination about whether
12 the company is providing adequate, efficient and safe water quality service to the
13 Citizens of Florida. There is an absolute dearth of any significant support for this
14 company from customers that has been placed into the record thus far. For
15 instance, I looked at the correspondence file and calculated that 99.5% of the
16 customer input in that file was negative towards the company's service and rate
17 request. I found that only two customers who showed any level of support for the
18 company's service or their requested rate increases. I recalculated the number
19 and I stretched it to a 2% approval rating for the company's positions. And the
20 customer comments are almost universally scathing.

21
22 **Q. WHAT OTHER OBSERVATIONS DID YOU MAKE?**

23 A. There is widespread concern from customers about the size of the requested
24 increase in rates. Sixty-one percent (61%) of the customer responses opposed the
25 rate proposals made by the company. Many, many customers suggested that any

1 increase at all should be rejected. Some other customers were more willing to
2 accept modest rate increases reflecting the increased costs of doing business.

3
4 The second most significant area of concern was the quality of the water. Many
5 of Aqua's customers have much more colorful language to describe the issue, but
6 it will suffice to say that Aqua has a statewide problem in delivering acceptable
7 and drinkable water to its customers. The single most exasperating issue for
8 customers based on their testimony at the hearings, in the correspondence they
9 have sent in and in their response to our office is the water quality. Finally, 42%
10 of the customer complaints lodged in the correspondence side of the docket deal
11 with service quality issues such as billing, meter reading, failure to return calls,
12 and other customer service issues.

13
14 **Q. ARE YOU A WATER QUALITY EXPERT?**

15 A. No, I am not a water quality expert. My area of expertise is customer service.
16 While employed by BellSouth, I worked as a Service Representative, Business
17 Office Supervisor, Business Office Unit Manager, Business Office District
18 Manager and General Commercial Supervisor in charge of the administration of
19 all Business Office operations in the State of Georgia. I also managed all of
20 BellSouth's operations forces in the Florida Panhandle involving installation,
21 repair, repair centers and construction. I retired from BellSouth after almost 30
22 years of service. I have worked for the Office of Public Counsel for the past 17
23 years involving, among other things, significant customer service evaluation and
24 testimony regarding customer service. My testimony in this docket is intended
25 primarily to summarize and identify clearly for the Commission what **customers**

1 have stated regarding the importance of the water quality and other customer
2 service issues in this case.

3
4 **Q. WITH THE LARGE CUSTOMER BASE THAT AQUA HAS IN FLORIDA,**
5 **ARE'NT THE NUMBER OF CUSTOMERS INVOLVED IN THE**
6 **COMPLAINTS SMALL AND INSIGNIFICANT?**

7 A. Without question, if there were only 97 or a couple hundred customers in Florida
8 who expressed dissatisfaction with Aqua service quality, then I would not be here
9 today. However, my experience in Commission cases such as this over the years
10 tells me that the complaints that have been received in this docket are serious and
11 they should be troubling to the Commission and the owners of Aqua. First, the
12 number of customers attending public hearings does not produce a truly
13 representative sample that will hold up to statistical scrutiny. But that is simply
14 the tip of the iceberg. The Commissioners heard fairly distinctly from customers
15 at the New Port Richey hearing that a public meeting on Friday afternoon in
16 September at 4 p.m. on Highway 19 (a popular parking lot at that time of day) is
17 difficult for many customers who want to participate in this process. Two
18 Commissioners were late for the hearing because of backed up traffic. Many
19 customers of the three systems located in the Pasco County area move to summer
20 homes up north and were unable to participate. Still, over 50 customers testified
21 at the hearing and many left after waiting over 4 hours to speak. The Commission
22 adjourned that hearing at 8:45 p.m., 4 hours and 45 minutes after the starting time.
23 Not a single customer at the New Port Richey hearing supported Aqua, and the
24 repetitive nature of the complaints reinforces the validity of the testimony
25 provided by the 97 who testified about service quality at earlier hearings and the

1 several hundred customer responses included in the correspondence side of the
2 docket.

3
4 **Q. ARE THERE OTHER INDICATORS THAT SUPPORT YOUR**
5 **OBSERVATIONS REGARDING AQUA'S POOR SERVICE QUALITY?**

6 A. Yes, Public Counsel Witness Kim Dismukes analyzes the total number of
7 complaints received by the Commission regarding Aqua service. Her thorough
8 analysis of those complaints simply reinforces a conclusion that Aqua customer
9 service is bad and the water quality is awful.

10
11 **Q. IS THERE ANY OVERLAP IN THOSE NUMBERS?**

12 A. It would not be surprising to find customers who are really unhappy who testified
13 at the hearings, wrote letters to the Commission, filed complaints and signed
14 petitions—all of the above. The Commission should not get caught up in the
15 numbers when someone finds the same customer on a petition opposing the
16 company's request that also filed a complaint or testified. Rather, the company
17 should be alarmed by the passion that we have all seen in customer opposition to
18 this request. However, the only two customers who I found who supported the
19 company's service quality efforts live in different cities, so there is no double
20 counting in my analysis of customers who support the company.

21
22 **Q. WHAT DO YOU MEAN BY "AWFUL" WHEN YOU DESCRIBE THE**
23 **WATER QUALITY?**

24 A. The specific customer language is included later in this testimony. However, the
25 number of customers who are afraid to drink the water and refuse to drink it, who

1 are forced to buy bottled water, is significant. As just a plain old Florida native
2 who is not a water expert, I believe that our minimal expectations for acceptable
3 water quality in Florida should include being able to drink the water that comes
4 out of your faucet. One of the customer witnesses in this docket, Gus Alexakos,
5 states that when the Florida CEO of operations visited his home, he refused to
6 drink the Aqua water when it was offered, but accepted bottled water (Page 11,
7 Lines 11-15). Customers consistently describe the water from many of the Aqua
8 systems as foul smelling, leaving a black ring around the toilet and creating grey
9 sediment in ice cube trays. That's what I mean by "awful".
10

11 **Q. IS THE DATA YOU ARE PRESENTING THE ONLY SOURCE OF**
12 **CUSTOMER COMPLAINTS?**

13 A. Not by a long shot. Docket correspondence, Commission complaints and
14 customer service hearing testimony are but a small sample of the sentiment of the
15 entire customer body. Aqua customer service operations in Florida, Indiana and
16 Pennsylvania maintain the individual customer records that should include all
17 customer complaints from all of the Aqua customers.
18

19 **Q. IS IT YOUR TESTIMONY THAT CUSTOMERS ARE CRITICAL OF**
20 **AQUA'S TOTAL CUSTOMER SERVICE OPERATIONS?**

21 A. No. In reading customer responses and personally listening to customers who
22 attended the New Port Richey hearing, there are some good references relating to
23 individual employees who work in Florida. I observed several comments that
24 praised some individual workers in Florida while at the same time criticizing the
25 company's overall service quality efforts.

1 Q. PLEASE SUMMARIZE THE CUSTOMER RESPONSES TO THE
2 LETTER SENT TO THEM BY THE COMPANY IN AUGUST.

3 A. The customer responses Exhibit No. ___ (EP-2) indicate that the customers are still
4 not satisfied with Aqua service or the company's explanations included in Mr.
5 Franklin's testimony. Mr. Franklin states that the company responded to every
6 customer complaint on an issue-by-issue basis. As noted by Ms. Van Wagnen in
7 her response, she stated: "I feel like the Aqua response letter was simply a form
8 letter with a personalized heading." She is exactly right. All of the Chuluota
9 customers who complained about their service received almost exactly the same
10 letter assuring the customers that the company was taking care of their problems.

11
12 Q. PLEASE SUMMARIZE THE RESPONSE OF GUS ALEXAKOS.

13 A. GUS ALEXAKOS

14
15 CEO Lihvarcik responded in writing to Gus Alexakos on August 28 regarding the
16 complaints registered by Mr. Alexakos in the Sebring customer hearing. The
17 letter contained a number of points which Mr. Alexakos challenges.

18
19 First, the company form letter response to all water quality complaints is included
20 in the letter to Mr. Alexakos. It states that "At times, we hear concerns about
21 hardness, calcification (a white residue), manganese (which could leave a purple
22 or black ring in your toilet), and a chlorine taste or smell. Please be assured that
23 water quality is of critical concern to us. We meet all state and federal standards
24 in your water system." In addition, the standard water quality form letter used by
25 Aqua references the annual water quality report that is on line and the fact that the

1 company has one of the nation's top water quality laboratories. The form letter
2 goes on to describe the water quality complaints voiced by Mr. Alexakos as
3 "aesthetic qualities you'd like from your water as opposed to meeting health and
4 safety standards." The form letter goes on to state "it would be extremely costly
5 for us—and you—to install water filtration at every community well site."
6

7 When Mr. Franklin states that the company has responded to every complaint it
8 received at the hearings, then this is the standard response received by the
9 customers who complain about water quality.
10

11 Mr. Alexakos rejects the company response, pointing out that when Mr. Lihvarcik
12 and Mr. Pellenz visited Zephyr Shores on April 18, 2008, they both refused to
13 taste or drink Aqua water, but they accepted bottled water. Mr. Alexakos states
14 that the water described in the company's letter to him is "the same dirty water
15 that's in our faucets. Can't drink it!"
16

17 In addition, Mr. Alexakos requests refunds for rates charged for wastewater, since
18 the company's sewage treatment plant was eliminated years ago and the
19 company's wastewater goes directly to Pasco County.
20

21 **Q. PLEASE SUMMARIZE THE RESPONSE OF JOHN BARZYK.**

22 **A. JOHN BARZYK**

23 "The company tried to explain away the problems in their letter. The company
24 does not deal with the real issue of a 300% increase that they have never
25 explained to the customers. Mr. Lihvarcik's letter dated August 28 asked that I

1 call him if I had questions. I made calls to him on Tuesday, September 2 and
2 several times after that and he never returned my calls. My calls are being
3 ignored.”

4
5 **Q. PLEASE SUMMARIZE THE RESPONSE OF FLOYD BERNARD.**

6 **A. FLOYD BERNARD**

7 Floyd Bernard is a Sebring Lakes resident who appeared at the hearings. Mr.
8 Bernard is another customer who complains about low water pressure and water
9 quality. Mr. Bernard says that between 7 and 9 p.m. every night, the water
10 pressure drops and the company only says that he has not complained. Mr.
11 Bernard does not think it is his responsibility to complain about a problem that is
12 the responsibility of the company. He would have to call every night to complain,
13 since it is a nightly event. Mr. Bernard also received the company’s standard
14 water quality complaint explanation, but he still objects to the water quality, that
15 he has to buy bottled water to drink, that they flush the lines and it does no good,
16 that the water is grey, leaves black rings in the toilet, has sediment, leaves spots
17 on clothes that are washed, leaves brown gunk on ice cube trays and is bad water.
18 While he received a notice about the hearing four or five of his neighbors did not.

19
20 **Q. PLEASE SUMMARIZE THE RESPONSE OF JAMES BURNS**

21 **A. JAMES BURNS**

22 James Burns is also a Sebring Lakes customer who complained about water
23 quality at the hearings and never received the standard company form letter that
24 Mr. Franklin claims to have been mailed. Mr. Burns states that their water has
25 more chlorine than most swimming pools, plus undissolved solids in large

1 amounts that not testing correctly seems to be Aqua Utility's way and that talking
2 to Aqua Utilities is a waste of time.

3
4 **Q. PLEASE SUMMARIZE THE RESPONSE OF STARLENE BURNS.**

5 **A. STARLENE BURNS**

6 Ms. Burns feels that she has lost her 7 year old Golden Retriever due to the water
7 and that Aqua water is related to her husband's health issues that recently resulted
8 in intestinal surgery. She states that Aqua water is poison and they pay three
9 times the price for water they cannot drink.

10
11 **Q. PLEASE SUMMARIZE THE RESPONSE OF LAWRENCE CARUSO.**

12 **A. LAWRENCE CARUSO**

13 Lawrence Caruso attended the Gainesville hearing, complaining about poor water
14 quality and low water pressure. He states that after the hearing the company
15 provided a credit from the 2007 Aqua docket. He refutes the company's
16 explanation that he was operating an illegal business that caused low pressure on
17 his water lines. Mr. Caruso says he raises dogs legally, that a leak on the
18 company side of the meter caused low pressure and the company fixed its leak.
19 Mr. Caruso's letter also included the standard response to water quality
20 complaints expressed by customers during the hearings.

21
22 **Q. PLEASE SUMMARIZE THE RESPONSE OF TAREESA COLETTI.**

23 **A. TAREESA COLETTI**

24 "The company said that they wanted to improve the product, service and utility
25 interaction. We cannot afford them doubling or even tripling the rate. I agree

1 about the quality, sediment, smell and what it is doing to the others and my
2 laundry. I believe a rate increase should happen, but a little at a time to improve
3 the quality.”

4
5 **Q. PLEASE SUMMARIZE THE RESPONSE OF NANCY CROOKS.**

6 **A. NANCY CROOKS**

7 Nancy Crooks is another Sebring Lakes customer who appeared at the customer
8 hearing. She states that the water quality has been better lately. During the
9 hearing she reported that on April 26, 2008 she drank a glass of Aqua water that
10 burned her throat. She reported the incident to Aqua’s call center on April 29, in
11 the event she suffered any after-effects from the chlorine overdose. Mr.
12 Franklin’s analysis indicates that the Call Center records show no record of the
13 call. In addition, the analysis of Ms. Crooks’ complaint of low water pressure
14 shows no record of a complaint call.

15
16 **Q. PLEASE SUMMARIZE THE RESPONSE OF MELANIE AND PATRICK**
17 **DAY.**

18 **A. MELANIE & PATRICK DAY**

19 Melanie and Patrick Day are definitely not satisfied with the response of Aqua
20 based on their three page letter that was sent to our office. They maintain that the
21 company failed to record the proper number for the meter that was installed at
22 their house when it was installed in February 2008. They point out that the AUF
23 letter failed to explain why they were not billed for five months between
24 November 2007 and February 2008. Between November 4, 2007 and March 21,
25 2008, Mr. Day called AUF sixteen times attempting to resolve their billing

1 problems. Mr. Day states: "I have found no evidence of improvement to this
2 system in Arredondo Estates.

3
4 **Q. PLEASE SUMMARIZE THE RESPONSE OF MICHAEL FLYNN.**

5 **A. MICHAEL FLYNN**

6 Mr. Flynn states the company finally fixed their meter reading error, issued a
7 credit and sent a note of apology for the inconvenience. Mr. Flynn goes on the
8 state: "We DO NOT want them to get ANY rate increase."

9
10 **Q. PLEASE SUMMARIZE THE RESPONSE OF ROBERT GOETZ.**

11 **A. ROBERT GOETZ**

12 Robert Goetz attended the Gainesville customer hearing and also complained
13 about the quality of the water and stated "water is terrible" in the hearing. Mr.
14 Franklin states that the company responded to his complaint. However, the
15 response to the water quality complaint was to send out the standard water quality
16 complaint form letter sent to Mr. Alexakos and all other customers who
17 complained about water quality. In addition, in the analysis of the customer
18 complaint included in Mr. Franklin's testimony, it states that Mr. Goetz never
19 complained about water quality issues. In every instance where a customer water
20 quality complaint is recorded, the company has taken great pains to note the
21 number of times, if any that the customer has complained about water quality.
22 The company appears, therefore, to be attempting to somehow shift the blame for
23 poor water quality to the customer as opposed to taking responsibility for the
24 water quality and doing something about it. Mr. Goetz' response asks again
25 "what is the company going to do about our terrible water?"

1

2 Q. PLEASE SUMMARIZE THE RESPONSE OF MARLENE HAAS.

3 A. MARLENE HAAS

4 Marlene Haas is an Oviedo customer who complained about numerous problems
5 at the customer hearing. Mr. Franklin's analysis states as follows:

6 "The customer entered into the record the TTHM reports for 2004-
7 2007. The customer who has lived in the area since 1988 has always had
8 "lousy" water quality but water was much cheaper then. Customer still
9 has "lousy" water pressure and water quality and is on dead-end. Because
10 of the water quality, customer must change her filter every 2 weeks.
11 Customer also mentioned having to replace faucet, hoses etc. due to
12 ongoing water quality issues. Customer also has to buy bottled water at a
13 cost of \$35 each month. Customer complained about water quality effect
14 on laundry, health issues (hair, skin)."

15 In response, Mr. Franklin's analysis shows "Noted" and points out that the
16 customer has no previous calls to the Call Center concerning water quality. Ms.
17 Haas received a special water quality complaint form letter that was sent to
18 Chuluota customers. Ms. Haas' response to Mr. Franklin's testimony states that
19 she has made many, many calls to the water company since 1988 and their lack of
20 call records does not excuse them from not providing good quality water. She
21 says that their letter makes no mention of if or when they would replace the 30+
22 year old pipeline and redesign the faulty dead end situation in the North Chuluota
23 section where she lives. She says this is an ongoing issue with the water company
24 that she has brought up over the past 20 years. She says that Aqua seems to think
25 that it is a legitimate cost for customers to need a water filtration system, replace

1 filters on a weekly or biweekly basis and replace plumbing components on a
2 highly accelerated rate. She says a technician came to her house and discovered
3 that her filter was clogged. She states that the filter had been replaced 8 days
4 prior to the service call. She states that in eight days, a \$20 water filter was so
5 clogged that the water pressure in her home was seriously lowered and that the
6 problem of dirty water was not addressed with her, only that she should have
7 replaced the filter more often. (The filter directions say to replace the filter every
8 month.) Regarding the successful TTHM test in Chuluota, she states that it took
9 many, many years to get ONE water sample that meets the Federal standards, one
10 test that was done by their employee with no assurance that it was not tampered
11 with.

12
13 **Q. PLEASE SUMMARIZE THE RESPONSE OF JEAN HAGGERTY.**

14 **A. JEAN HAGGERTY**

15 Jean Haggerty is a Mt. Dora customer who states that she has no problem with the
16 water, only the price of the water and she objects to the amount of the increase.

17
18 **Q. PLEASE SUMMARIZE THE RESPONSE OF ANGELICA M. HARRIS.**

19 **A. ANGELICA M. HARRIS**

20 Angelica Harris complained in the hearing about water quality, the amount of the
21 increase and being billed for 89,000 gallons of water for one month. The company
22 responded by issuing a \$280 credit and the company did not comment about the
23 amount of the rate increase or water quality at all.

24
25 **Q. PLEASE SUMMARIZE THE RESPONSE OF DEBORAH HEROD.**

1 A. **DEBORAH HEROD**

2 Deborah Herod is a Chuluota customer who attended the Oviedo hearing,
3 complaining about estimated bills and water quality, including sediment, black
4 sludge in toilet tanks, corroding water heater pipes, replaced toilets and tub,
5 billing problems due to the added 0 error, poor customer service and she suspects
6 that her dog died from drinking the water. The company's analysis simply says
7 "noted" regarding the water quality issue and the dead dog. Regarding the billing
8 problem, Ms. Herod states it took her six calls to reach a final resolution that the
9 company says happened in July, resulting in rebilling for 93 days of service.

10

11 Q. **PLEASE SUMMARIZE THE RESPONSE OF L. F. HINES.**

12 A. **L. F. HINES**

13 L. F. Hines, who is served by the Rosalie Lakes system, appeared at the Sebring
14 customer hearing complaining about bad bills in November after his meter was
15 exchanged, double billing, confusing billing, being placed on hold by a customer
16 service representative who never came back, requesting supervisor callbacks that
17 were never returned and the amount of the rate increase. The company analysis
18 agrees that there were many confusing billing issues, that the problems were
19 created by an undocumented meter exchange in July 2007, that a Supervisor (K.
20 Brown) spoke with the customer multiple times in December, January and
21 February and that the customer's concerns have been satisfied. Mr. Hines states
22 he spoke with a supervisor in late November or early December and it is the only
23 time he ever spoke with a supervisor. Mr. Hines received the letter sent to him
24 from Jack Lihvalcik on August 28, 2008 and Mr. Hines "strongly disagrees with
25 his explanation." Mr. Hines states that "I told the CSR that it would be so simple

1 to correct all these bills from Aug.-Jan. Take a current meter reading and go back
2 to July 18 when the new meter was installed starting at 0 gallons and average out
3 the gallons for six months. The February bill showed this had been done. This is
4 how and when the problem got fixed.

5
6 **Q. PLEASE SUMMARIZE THE RESPONSE OF HARLEY HOFFMAN.**

7 **A. HARLEY HOFFMAN**

8 Harley Hoffman is a Tomoka customer who complained about taste and odor
9 issues, the reasons for the 350% increase in rates, the company's "colossal"
10 service and billing problems and poor service provided to his neighbor who does
11 not speak English. The company's analysis included in Mr. Franklin's testimony
12 notes that the customer has called three times about taste and odor and each time
13 the company has flushed the lines. Apparently, flushing water lines is not the
14 result of the company's testing program or a standard system operational
15 procedure, but a response to a customer complaint. The neighbor, who was billed
16 for 94,000 gallons in one month last year, was told by the company that there was
17 a leak on his side of the water meter and that he should fix it. After spending
18 \$3000 to dig up and inspect his water lines, it was determined that the error was the
19 "extra 0" problem that has resulted in many Florida Aqua customers being billed
20 10 times the actual amount of usage.

21
22 **Q. PLEASE SUMMARIZE THE RESPONSE OF MARIA HURLEY.**

23 **A. MARIA HURLEY**

24 Maria Hurley is a Gainesville customer who complained about water quality and
25 increased rates. Mr. Franklin "notes" her water quality and points out that she has

1 never complained before. He also "notes" her concerns about the amount of the
2 increase. Ms. Hurley is not satisfied with the company's response (or lack
3 thereof). She feels she wasted her day by attending the hearing if the company is
4 not planning to do anything.

5
6 **Q. PLEASE SUMMARIZE THE RESPONSE OF JANET MCLAURIN.**

7 **A. JANET MCLAURIN**

8 Janet McLaurin is another Rosalie Oaks customer who complained about
9 estimated bills and billing errors, never having received the interim refund, the
10 amount of rate increase and water quality. Ms. McLaurin's response to the
11 company letter includes the statement that "They want more money and sell water
12 that is not suitable to drink. If the water is dirty in appearance, smells bad, then in
13 my opinion it is not drinkable and merits no increase to customers. Most of us
14 have to spend additional money to purchase water to drink.

15
16 **Q. PLEASE SUMMARIZE THE RESPONSE OF MATHEW MALASPINA.**

17 **A. MATHEW MALASPINA**

18 Mathew Malaspina is another Chuluota customer who received the standard
19 company response for Chuluota customers. His response states, "unclean water
20 and high fees. The company is lying to us and not trying to make this better."

21
22 **Q. PLEASE SUMMARIZE THE RESPONSE OF GARY MCKNIGHT.**

23 **A. GARY MCKNIGHT**

24 In response to the company letter and a phone call, Mr. McKnight, a Lake Gibson
25 Estates customer, states that his complaint is about poor service, low water

1 pressure, a fire hydrant that is too far away, poor water quality and no sewer
2 service available for people who want it. Mr. McKnight went on to state that his
3 water pressure drops to 28-30 pounds between 6 and 8 p.m. and 6 and 8 a.m. and
4 that they can't run either the washing machine or dishwasher at that time. He
5 states the company won't install the fire hydrant because there is an insufficient
6 grade but the fire marshal says the grade is o.k. He states that all of the people on
7 his street are unhappy, that they want sewer service and can't get it, the company
8 doesn't flush its lines, there are black rings on the toilets and you must filter it in
9 order to drink it. The company failed to respond to his complaints and he is not
10 satisfied.

11
12 **Q. PLEASE SUMMARIZE THE RESPONSE OF RUSS MOYER.**

13 **A. RUSS MOYER**

14 Russ Moyer, an Astor resident served by the Holiday Haven system received a
15 letter from the company two months after the hearing on August 28. His lengthy
16 response dated September 12 is attached. Mr. Moyer states that his water usage
17 has decreased by 50% with the new meters and the other neighbors have
18 experienced the same phenomena. He wonders how much he was overbilled in
19 the past because of the old meters and he wonders why those in Astor must pay 3
20 times as much for water than their neighbors next door for the same water coming
21 from the same source.

22
23 **Q. PLEASE SUMMARIZE THE RESPONSE OF ROBERT NICOLA.**

24 **A. ROBERT NICOLA**

25

1 Robert Nicola's complaint at the customer hearing for Chuluota customers was
2 primarily directed toward the amount of the rate increase and was duly "noted" in
3 Mr. Franklin's analysis. However, when responding to the company's letter dated
4 August 29, he states: "I still don't understand why Chuluota rates are so much
5 higher than surrounding communities." In addition, he states: "Really don't
6 appreciate the fact that Jack Lahvarcik, the chief operating officer from Aqua, was
7 quoted on WFTV on 7/17/08 as saying 'We've been meeting all DEP and EPA
8 standards for the water that we're providing for the customers.' He is either
9 misinformed or lying, as I have record of 12 straight quarters of Aqua failing the
10 EPA TTHM standards. I don't understand how he can get away with that
11 statement when it simply is not true."

12
13 **Q. PLEASE SUMMARIZE THE RESPONSE OF ELAINE PANOZZO.**

14 **A. ELAINE PANOZZO**

15 Sebring Lakes customer Elaine Panozzo responded to the August 27 letter from
16 Aqua by stating that the case was closed and the company had apologized in
17 writing and by telephone.

18
19 **Q. PLEASE SUMMARIZE THE RESPONSE OF JIM AND MARY PIERCE.**

20 **A. JIM AND MARY PIERCE**

21
22 Mr. and Mrs. Pierce are served by the Rosalie Oaks system and they appeared at
23 the hearing and complained about their high rates and that they had no
24 consumption but still had a high bill. They also complained about water quality
25 and a dark toilet ring, according to the analysis in Mr. Franklin's exhibit. The

1 company states that they resolved the issue at the hearing. This customer does not
2 live full time in Rosalie Oaks, but they stated they were billed \$68 per month,
3 even when they are gone. Our letter was returned, and therefore the company's
4 August 28 letter that Mr. Franklin states was sent to the customer, was not
5 received either, since the address used by the company and the address used by
6 Public Counsel are identical.

7
8 **Q. PLEASE SUMMARIZE THE RESPONSE OF JOHN AND MARTHA**
9 **POITEVENT.**

10 **A. JOHN AND MARTHA POITEVENT**

11 Mr. and Mrs. Poitevent asked numerous questions at the hearing, acknowledged
12 that water quality had improved and that customer service personnel were not
13 well trained. The Poitevents received the standard form letter and they did not
14 feel that the company responded to their complaints and questions.

15
16 **Q. PLEASE SUMMARIZE THE RESPONSE OF RON SANTOMAURO.**

17 **A. RON SANTOMAURO**

18 Chuluota customer Ron Santomauro responded to the company's letter that he
19 appreciated the response of the company but he does not agree with the reasoning.
20 During his testimony at the hearing, he was suggesting an independent agency test
21 of water quality was needed, not a company test.

22
23 **Q. PLEASE SUMMARIZE THE RESPONSE OF ERICA SKIPPER.**

24 **A. ERICA SKIPPER**

25

1 Erica Skipper, a Webster resident served by The Woods system, stated at the
2 hearing the she did not receive the correct refund from interim rates, that she was
3 concerned about water quality, had received four boil water notices in one month,
4 that the water has a terrible odor and tastes bad, that in the past three months her
5 water has been shut off for repairs in the middle of the day for hours at a time and
6 that she opposes the rate increases. The company states that the refund was
7 calculated properly and makes "note" of the water quality complaints and in the
8 letter they sent to her on August 28, the company stated that they had installed a
9 new water treatment plant and new filters in The Woods during the summer. Ms.
10 Skipper's response that was received by Public Counsel on September 12 states:
11 "The company is full of crap. The water has been shut off several times, water
12 tastes and smells horrid and we don't know if we received any money back
13 properly or not. Since the meeting, our water has been interrupted (no water)
14 twice already. We have had red sign on mailbox "water is not drinkable boil
15 water" and we still see workers at restaurants and our local WalMart."

16
17 **Q. PLEASE SUMMARIZE THE RESPONSE OF KELLY SULLIVAN.**

18 **A. KELLY SULLIVAN**

19 Kelly Sullivan, another Chuluota customer, complained about water quality, she
20 believes that TTHM is up again, has health issues, noted a coliform bacteria
21 notice, unreliable service and she opposed the rate increase. The analysis
22 provided by Mr. Franklin takes "note" of the water quality complaint and the rate
23 increase complaint, and it also states that the boil water notices meet the
24 expectations set by local authorities. Kelly Sullivan states as follows:

25

1 "Aqua Utilities has so undermined the trust of the residents of Chuluota
2 that they will never recover. These residents are forced to pay thousands
3 of dollars to buy home filtration systems and irrigation pumps. Otherwise,
4 they live in fear for their health and pay extraordinary prices for poor
5 quality water. The monopoly power of this utility results in low quality,
6 high prices. We are weary of the many state agencies pointing the finger
7 of responsibility to another. Enough already! Revoke Aqua's certificate
8 of authority for Seminole County. Let us find an alternate source.
9 Revocation will level the playing field and force Aqua to negotiate an
10 acceptable way forward for the residents of Chuluota!"

11
12 **Q. PLEASE SUMMARIZE THE RESPONSE OF DR. DAVID TARDIFF.**

13 **A. DAVID TARDIFF MD**

14 Dr. Tardiff stated that the proposed rate increase was unfair, that his water smells
15 and is very polluted. He has a soft water filtering system at his house and it is still
16 not enough.

17
18 **Q. PLEASE SUMMARIZE THE RESPONSE OF DIANE TWIFORD.**

19 **A. DIANE TWIFORD**

20 Ms. Twiford says the company letter did not address anything new. She has spent
21 \$4100 to protect her family from TTHM's. She believes the Aqua water is
22 responsible for her husband's health issues and that she cannot afford further
23 increased rates. Before the rate increase she was already paying three times the
24 amount she paid for water in Oviedo and cannot afford more.

25

1 Q. PLEASE SUMMARIZE THE RESPONSE OF WALTER TOMCZAK.

2 A. WALTER TOMCZAK

3 Leesburg customer Walter Tomczak, served by the Silver Lake Estates system,
4 complained at the hearing about high usage of 46,000 gallons per month and was
5 told by the company that he may have a leak. He hired an irrigation engineer to
6 check the sprinkler system. He suggested to the company the possibility that the
7 meter was misread and was told "we never make a mistake on our meters". Mr.
8 Tomczak questioned the meter standards and how often the company checks
9 them. The company stated customer's usage is fluctuating, they have exchanged
10 his meter 3 times, visited the property 4 times, make note that he is 87 years old,
11 this is not a case of an "added zero", that the meters meet or exceed industry
12 standards and they are swapped out every 10 years. Mr. Tomczak received a
13 \$40.85 credit on his bill after 8 calls to the company over three months. Mr.
14 Tomczak is now reading his meter daily and recording the results. He thinks he
15 was remiss in not doing so earlier. The company wanted to charge him to test his
16 meter. He is using 10 gallons of water per day.

17
18 Q. PLEASE SUMMARIZE THE RESPONSE OF WILLIAM F. WEBB.

19 A. WILLIAM F. WEBB

20 William F. Webb says the company promised them a check for their refund of the
21 overbilling amounts and the company, instead, issued a credit on their bill. He
22 states that the family is struggling, that they are careful not to waste water, that
23 they do not water their grass and they can't afford the high increase the company
24 is requesting.

25

1 Q. PLEASE SUMMARIZE THE RESPONSE OF COWBOY WHITMAN.

2 A. COWBOY WHITMAN

3 Chuluota customer Cowboy Whitman complained at the hearing about water
4 quality, that the water stinks and that the company does not deserve a rate
5 increase. The company sent him the form letter prepared for Chuluota residents
6 on August 29th and in the analysis presented by Mr. Franklin they "noted" his
7 complaints. Mr. Whitman reiterated his complaints in his response to Public
8 Counsel received September 10, 2008.

9
10 Q. PLEASE SUMMARIZE THE RESPONSE OF DIANA WOOD.

11 A. DIANA WOOD

12 Ms. Wood sent us a two page response to our letter. I will not be able to cover
13 each specific item in her response, however she specifically cites her deep
14 concern regarding the water quality in Sunny Hills, problems with the casing of
15 Well No. 1 that caused test results showing the maximum contamination level of
16 iron had been exceeded, that the water continues to have a purple or black ring,
17 that the FDEP found there was insufficient storage capacity to provide fire
18 protection, that she continues to have problems with meter reading and has been
19 forced to read the meter herself and she states: "I cannot see what has been done
20 to warrant the increase as the same problems continue."

21
22 Q. PLEASE SUMMARIZE THE RESPONSE OF HEIDI VAN WAGNEN.

23 A. HEIDI VAN WAGNEN

24 Heidi Van Wagnen is another Chuluota resident that took issue with the proposed
25 rate increase in the customer hearing. The company sent her a response letter

1 dated August 29, 2009. In her letter dated September 21, 2008 to Public Counsel,
2 she stated the following:

3
4 "To begin with, I feel like the Aqua response letter was simply a form
5 letter with a personalized heading. The company said they must increase
6 water rates to maintain and improve our water. My response is, how can I
7 and other fixed income households afford to live on their increased rates in
8 the future? Are they going to pay our medical and vet bills while they
9 (Aqua) maintain the status quo or practice on improvements? Are they
10 going to take financial responsibility for our 'Love Canal' ailments?"

11
12 Ms. Van Wagnen's response from the company was indeed the regular form letter
13 prepared for Chuluota residents. The analysis presented by Mr. Franklin in his testimony
14 simply says: "Noted"—twice.

15
16 **Q. DOES THIS CONCLUDE YOUR TESTIMONY?**

17 **A. Yes.**

1 BY MR. BECK:

2 Q And, Mr. Poucher, you also have four exhibits, do you
3 not?

4 A EP-1, 2, 3, and 4.

5 Q And they have been preidentified as Hearing Exhibits
6 89 through 92?

7 A Yes.

8 Q Do you have any changes to make to them?

9 A No, I do not.

10 Q Have you prepared a summary of your testimony?

11 A Yes, I have.

12 Q Would you please provide it.

13 A The purpose of my testimony is to provide the
14 customer responses regarding Aqua Utilities' follow-up contacts
15 with customers following the public hearings as described in
16 Mr. Franklin's supplemental. I have documented the customer
17 responses to the company actions, and I have provided my
18 thoughts regarding the adequacy of the company's follow-up
19 efforts.

20 Following the hearings, Aqua sent letters to the
21 customers and made numerous phone calls, many of them. Our
22 office sent letters to each of those customers that appeared at
23 the hearings asking them to provide a response to the testimony
24 of Mr. Franklin that describes the company actions, and I
25 summarized that feedback in my testimony, and the actual

1 responses from the customers are included in EP-1.

2 In addition, I have provided analysis of the contents
3 of the 583 pages of customer correspondence that are filed in
4 your Commission Clerk's Office, and those actual responses are
5 included in EP-1, and my analysis of those responses is
6 included in my Exhibit EP-3.

7 My analysis of the hearing transcripts, my attendance
8 at the New Port Richey hearing, my review of the correspondence
9 files, and the responses by the customers regarding the
10 company's follow-up efforts described by Mr. Franklin lead me
11 to conclude that the company continues to fail to deal
12 adequately with the customer complaints and that its remedial
13 efforts are inadequate.

14 The best description of the current status of Aqua
15 customer service in the minds of its customers is that service
16 is awful. During the course of the public hearings, the
17 Commissioners heard directly from those customers. This is
18 what you heard. They objected to the rate increase, they
19 objected to the service quality provided by Aqua, and they
20 objected to the quality of the water.

21 I am not going to bother you by repeating or even
22 attempting to repeat all that they said, but I could summarize
23 it to say that these customers told you it took months to
24 resolve their billing problems. The person they spoke to was
25 not knowledgable. The person they spoke to was rude. They

1 were promised a call-back from a supervisor and it never came.
2 Their water pressure is constantly low. The water has a foul
3 odor, heavy sediment, and is overly chlorinated. They have
4 black rings around their toilets and they can't drink the
5 water.

6 Now, when one person makes these statements in a
7 hearing, then you, as Commissioners, should be concerned. But
8 when hundreds of customers make the same statements, then you
9 should be alarmed and you should take action. When I filed my
10 testimony, we had transcripts from the first group of the
11 hearings where 97 customers testified to object to the proposed
12 rates, to the water quality, and to the service quality. Not
13 every customer testified in regard to all three of these areas.
14 Each of them had their special concerns and most of them had a
15 story to tell.

16 When I filed my testimony, we had just finished the
17 New Port Richey hearings. We had no transcripts, but it was
18 the last and one of the largest. Fifty-two customers testified
19 to a full house. They were joined by Senator Fasano and
20 Representative Legge, who also supported the customers. Not
21 one of the customers at that hearing supported the company.

22 During the course of the New Port Richey hearing and
23 all the other hearings, the customers were encouraged by you to
24 submit their comments in writing to the Commission and they
25 were promised that it would be inserted into the record in this

1 docket and considered by the Commissioners. When I filed my
2 testimony in mid-October, I summarized that consumer file for
3 you, and I provided two exhibits that are in my testimony.

4 EP-4 is the exhibit that lists the name of every one
5 of those customers that wrote to you, the page number on the
6 file at that time, and the specific category of complaints.
7 Those are the 583 pages of consumer correspondence that are
8 included in Kim Dismukes' testimony as an exhibit. That file
9 today, as of about 20 minutes ago, included 1,138 pages of
10 customer correspondence.

11 My Exhibit EP-3 shows the breakdown, .5 percent,
12 one-half of one percent of the customers were favorable to the
13 company. And that is EP-3 right there, Commissioners.
14 99.5 percent of the responses were negative to the company's
15 request. Sixty-one percent of those letters opposed the rate
16 increases, 27 percent of those letters cite poor water quality,
17 and 11 percent of those letters cite poor service quality.

18 My overall description of the customer opinions
19 regarding Aqua's service quality, their water quality, and the
20 follow-up contacts made by the company is that all three can be
21 accurately described as awful. Our lead witness, Kim Dismukes,
22 has already provided you with Public Counsel's basic testimony
23 on service quality. I support her recommendations. And that
24 concludes my summary.

25 **MR. BECK:** Thank you, Mr. Poucher.

1 Mr. Poucher is available for cross-examination.

2 **CHAIRMAN CARTER:** Thank you.

3 Ms. Bradley.

4 **MS. BRADLEY:** Thank you.

5 CROSS EXAMINATION

6 BY MS. BRADLEY:

7 **Q** Mr. Poucher, you indicated that you took the people
8 that had responded at the hearing and wrote them follow-up
9 letters, correct?

10 **A** Yes.

11 **Q** Okay. And did you do any further follow-up? I mean,
12 did you make any phone calls to any of those people or anything
13 like that?

14 **A** Following -- well, I spoke with a lot of customers,
15 because customers tended to try to call us and provide
16 additional input, which we gladly accepted. But on a
17 methodical basis, there were 97 customers identified in
18 Mr. Franklin's testimony. We sent letters to 97 of them, we
19 got 37 back. They were included in my testimony. An
20 additional six or seven came in later, and are not part of the
21 testimony, but they are all consistent. They are basically
22 responses to our letters. The correspondence file, the
23 hearings transcripts tell the same story, and that is the story
24 that I just described to you a few minutes ago.

25 **Q** I guess what I am getting at is I noticed there is

1 some folks that are conspicuously absent from your summary of
2 complaints, such as Ms. Nancy Evans, who has been up here, I
3 think, and testified a couple of times already, and came to the
4 public hearings and was there with her husband who testified
5 later. And is there some reason that you left out people like
6 that?

7 **A** Yes. We summarized in my testimony only those
8 customers that responded and sent letters back.

9 **MR. MAY:** Mr. Chairman, I think this goes beyond the
10 scope of Mr. Poucher's testimony.

11 **MR. BECK:** I don't know how. He is describing -- as
12 we spoke, he is speaking about his testimony and what he did.
13 How does it go beyond the bounds?

14 **MR. MAY:** I thought that Ms. Bradley just asked him
15 if -- she did not see Ms. Nancy Evans' complaint in the
16 testimony that he filed.

17 **MR. BECK:** And he is responding by what he has done
18 and what is in his file.

19 **CHAIRMAN CARTER:** Let's proceed. I will allow it.

20 **MS. BRADLEY:** Thank you.

21 BY MS. BRADLEY:

22 **Q** Mr. Poucher, I think he interrupted you. Can you
23 finish why people like Ms. Evans was not included? I mean,
24 that was a pretty -- a very emotional situation for them.

25 **A** Yes. We summarized in my testimony only those

1 customers that sent back their response to the follow-up
2 contacts by the company.

3 **Q** Did you do any check -- I'm sorry.

4 **A** So we did not go back out and try to drum up more
5 letters or make any other phone calls. We took what they sent
6 back to us, because we really wanted to see, well, okay, this
7 is what the company says; I wonder what the customers' response
8 might be to that, and that is included in my testimony.

9 **Q** I know Ms. Evans at some of these hearings testified
10 recently that she had abandoned her home and moved. Did you
11 check to make sure that you had the current addresses for any
12 of these people, or did you just use what was provided at the
13 hearing?

14 **A** We used the addresses that the company used. They
15 were fairly reliable except one of them came back that -- this
16 was the company's database, the customer was deceased and
17 another was moved. So obviously the company wasn't able to
18 follow up with that customer, either.

19 **Q** Have you followed up with any of the -- well,
20 actually I should ask you -- or you said something about some
21 additional people had called your office. Have you followed up
22 with those people?

23 **A** We are not calling those customers back. For
24 instance, the 1,100 pages of the correspondence file have been
25 provided to the Commission. The Commission staff has full

1 access to those, and a number of them are specifically PSC
2 complaints. The company has access to that file, as well. And
3 it is not our job -- we don't have the manpower frankly to call
4 back 1,000 customers to find out the ultimate resolution of
5 their problem.

6 We wanted to make sure that we knew whether the
7 customer was fully satisfied with the explanations that they
8 got from the company, and if they weren't, we gave them an
9 opportunity to make sure that this Commission had a full and
10 complete record regarding quality of service.

11 Q Of the people that responded and are summarized in
12 your letter, I think Mr. Franklin said something about all but
13 three had been satisfied, or taken care of, something along
14 those lines. Was that your experience?

15 A I am amazed that three of them haven't been dealt
16 with. The company still apparently has three of them out there
17 that there has been no resolution on as of this date, months
18 after we filed our testimony. There shouldn't be any.
19 This company should have closed the files on all of those
20 customer complaints, and so only three open cases is an
21 indictment of the company. I can't understand why they can't
22 resolve customer complaints in a timely fashion, satisfy the
23 problem, and deal with it.

24 Now, I will also point out that when the customers in
25 Mr. Franklin's supplemental testimony, which is basically what

1 I reviewed there, when the customers complained about water
2 quality, there was no follow-up. Mr. Franklin in his exhibit
3 says noted, which means they did nothing. When they talked
4 about the size of the rate increase and the impact of the rate
5 increase, Mr. Franklin in his exhibit shows noted. And when
6 they talked about water quality, once again, those complaints
7 were noted, which means the company in my opinion did nothing.

8 There were 131 instances where in the company's
9 analysis of just those 97 customers that testified at the
10 hearing where the company simply said we take note of your
11 objections. So there was no resolution there whatsoever. The
12 company did nothing on those 131 cases.

13 **Q** Did that include any of the folks that were sent to
14 the back to be taken care of at the hearing?

15 **A** No, it did not. A number of customers -- well, the
16 Commissioners were there, they saw what was happening. A
17 number of customers we were able to route to the back of the
18 room where customer service representatives were there. They
19 missed half of the hearing in New Port Richey, but I assume
20 they were there at the others, and they were there to go
21 on-line into the database and attempt to resolve some of the
22 complaints. And I think they did a pretty good job.

23 I know we had -- in New Port Richey we had a customer
24 that came in who had children, and somebody was on dialysis in
25 the house and they had been disconnected that day, and Mr.

1 Lihvarcik following the hearing had that customer cut back on
2 that night. They really took seriously trying to deal with the
3 problems as best they could, and I congratulate them for doing
4 that. I appreciate it.

5 Q What about in Chuluota, was that true in Chuluota?

6 A I was not at the Chuluota hearing, so I can't really
7 tell you what happened at Chuluota. But I know the process in
8 all of these kind of rate cases is that the companies always
9 bring service reps, so they always attempt to deal with
10 customer problems. So what they did was not unusual or unique.

11 Q Did you have any follow-up with those in Chuluota to
12 see if their issues had been resolved?

13 A We are not following up at this point in time with
14 those customers. However, the Chuluota customers are following
15 up with the Commission, and you will find those follow-up
16 complaints coming in every day into the Commission files
17 regarding the quality of service in Chuluota.

18 Q Is there an indication that there has been
19 improvement in the quality of water?

20 A I don't see any difference in the -- we had 538 pages
21 of correspondence in the file when I looked at it the first
22 time and reviewed it. We did that analysis. It is
23 1,138 pages. These are additional data that has come into the
24 Commission. Here is additional PSC complaints since we filed
25 our testimony. It continues to come in. I don't see any

1 significant improvement whatsoever.

2 **Q** What about those complaints as they relate to
3 customer service, do they indicate any improvement in that
4 area?

5 **A** No. The correspondence files, the PSC complaints,
6 this is just the recent ones that are not in the record. The
7 first one starts off with snippy and rude customer service rep.
8 Three of them are complaining about service quality from the
9 service centers. Delayed billing. We got one in last week
10 from the -- well, it was part of the previous testimony about
11 the Scottish Highlands. They complained in May their meter
12 hadn't been read since 2006. We got the letter in my office in
13 November. It still had not been resolved five months later.

14 And so those kind of horror stories of customers
15 having to spend months and months and months to argue and
16 haggle regarding the company's failure even to read its meters
17 for two years, during which time this company billed a million
18 and a half gallons over the actual usage when they actually got
19 out and read the meter. They apparently paid that bill for
20 over two years. So, I don't see a great deal happening thus
21 far to improve service quality based on the record that is in
22 this docket, or the record that I reviewed, and the record
23 evidence that you Commissioners have to look at when you make
24 your decision.

25 **Q** I haven't had a chance to read all the complaints

1 that are in the handouts, but at the hearings I know we had
2 testimony from some of the people that were on fixed incomes
3 that complained that, you know, in addition to not being able
4 to drink the water, if this rate increase goes through they
5 simply won't be able to pay it. Did you see that in the
6 complaints that have been coming in?

7 **A** Sixty-one percent of the correspondence file deals
8 with the impact of the size of the rate increase. The most
9 predominant complaint that customers put forth first is the
10 impact that that rate increase is going to have on their lives
11 and their inability to pay it. The only -- well, 42 percent of
12 the people who have bothered to write in and correspond to us
13 talk about service quality, and many of them talk about all of
14 those things.

15 **Q** Based upon your experience and the complaints that
16 you have reviewed, people that you have talked to, do you have
17 a recommendation to this Commission as to what the customers
18 would like and what you would recommend as far as handling
19 this?

20 **A** Well, yes, in answer to your question I do have a lot
21 of experience in ratemaking. I spent almost 30 years with
22 BellSouth, Southern Bell, working about half of that time in
23 the regulatory process, these kind of hearings, and the other
24 half of that service career was basically delivering service
25 from the operations side where customer service was always the

1 first priority of our operations.

2 So, I have a lot of experience in that area. And I
3 have worked 17 years for Public Counsel primarily in the area
4 of quality of service that I have testified in electricity,
5 telephone, and water cases. And I think as I review the record
6 in this docket, our goal was to make sure that you
7 Commissioners had everything that you possibly could get in the
8 record to deal with when you make your final decision. And
9 what is not in the record, however, is what -- if you should
10 decide for Public Counsel's positions regarding penalties,
11 well, what are you going to do then?

12 Nobody has really discussed how you should go about
13 solving a service problem on a water company that is this
14 large. And so before I came here I did, I ticked off, well,
15 what should they do.

16 Our recommendation is that you penalize this company
17 to the maximum extent. But if you just close the docket, which
18 your staff recommends and all the parties agree to, if we just
19 close that docket, then I don't think you will have adequately
20 dealt with your responsibilities that are clearly defined in
21 the statutes and in your rules regarding the quality of service
22 when you are dealing with rate cases.

23 I think you should consider and get into the record
24 those alternatives that you ought to be thinking about as you
25 go to the final decision on this case. If it were up to me, I

1 would require the company to put the PSC Consumers Affairs
2 number on the face of its bills. Surely I would say call the
3 company first, but if they don't satisfy you, here is the
4 number that you need to call, and it would be your Consumer
5 Affairs number.

6 I would not close the docket. I would require the
7 company to make a monthly report of every customer complaint
8 from Florida that they receive in the company. I would require
9 them to tell you the resolution of that complaint and what the
10 company is doing about it to fix it from happening in the
11 future.

12 Even with the evidence that we have in this case, it
13 is the tip of iceberg on customer service. The real documents
14 lie in the customer call centers in Philadelphia, Indiana,
15 North Carolina. That is where the total record is, and I would
16 require them to report to you what the actual numbers are from
17 their records.

18 I would require them to summarize their complaints on
19 a monthly basis. I would require them to -- by category, such
20 as water quality, failure to call back, all of the things that
21 are basic issues that are already identified. I would require
22 your staff to analyze those reports to make sure that the
23 company is taking effective action.

24 I would require that staff to visit their call
25 centers to make sure that the good testimony that we have

1 received from Mr. Franklin, what is actually happening up
2 there. That they have an adequate monitoring program, that
3 they have an adequate way to keep track of their records, that
4 they analyze their complaints and do something about them.

5 I would establish a moratorium on extension of their
6 plant facilities for all of their systems. I would not allow
7 them to expand in a new territory until they prove definitely
8 to you that they can provide good service to the customers that
9 they already have.

10 I would require at the end of the first year that
11 your staff make a complete report of their progress and
12 recommend specific action, and that would include whether you
13 should withdraw any of their certificates or all of them based
14 on their progress in providing good service. I would follow up
15 those same procedures for year two, and at the end of year
16 three I would allow the company to come back in and prove to
17 you that they have taken care of their service problems, and I
18 would remove the penalty if that is the case.

19 This Commission has to have more than just a decision
20 in this docket in order to ensure that you have fulfilled your
21 obligations as warriors for the customers, to preserve and
22 protect the public interest, and make sure that service quality
23 is provided to every one of these customers. That would be my
24 recommendation.

25 Q Let me ask you one more thing. How long are you

1 aware of complaints coming from areas like Chuluota about water
2 quality?

3 **A** How long?

4 **Q** Yes, sir.

5 **A** I believe that there has been a general knowledge for
6 a number of years that Chuluota water was a serious problem.
7 But when we go into a new docket at Public Counsel's office we
8 truly don't know and we really do attempt to be totally neutral
9 until we hear the evidence from the customers.

10 I can remember a Sebring hearing on gas. None of you
11 were there, but Terry Deason was. Every single customer
12 supported the company and the company got everything it asked
13 for. We never found any customers that were unhappy and that
14 gave us the key to not go further.

15 Progress Energy's rate case around 2000, we had no
16 indication that there were serious problems with Progress
17 Energy until the Winter Park hearings, and all of a sudden we
18 found out differently. We ended up filing testimony in that
19 case, and Progress Energy was penalized in the case in our
20 settlement. They suffered a significant hit as a result of
21 providing bad service based on the customer record, and that
22 penalty extended for two years where money was put at risk
23 based on their accomplishment of the goals for service
24 improvement that they promised as a result of that settlement.

25 FPUC, the other case. Customers showed up in

1 Marianna and Fernandina Beach. They supported the company. We
2 did not oppose the company because of quality of service. The
3 Commission ended up giving that Commission higher ROE,
4 earnings, based on the good customer service testimony that was
5 provided in that docket.

6 So, we knew about Chuluota. We had no idea that the
7 same problems existed through most all of the systems that this
8 company services in Florida based on the results of those
9 customer hearings and the other documents that have been filed
10 in this case.

11 **MS. BRADLEY:** I don't think I have any further
12 questions, Mr. Chairman.

13 **CHAIRMAN CARTER:** Thank you. Mr. May.

14 **MR. MAY:** Just very briefly.

15 CROSS EXAMINATION

16 BY MR. MAY:

17 **Q** Good afternoon, Mr. Poucher.

18 **A** Good afternoon.

19 **Q** I'm Bruce May with the law firm of Holland and Knight
20 appearing on behalf of Aqua. Just a couple of questions. You
21 are aware of Mr. Franklin's rebuttal testimony, are you not?

22 **A** You mean the one where he calls me naive?

23 **Q** The rebuttal testimony he filed on November 19th?

24 **A** His rebuttal, yes.

25 **Q** You were critical in response to Ms. Bradley's

1 question that there were still three customers whose complaints
2 had been unresolved, is that correct?

3 **A** Yes. No, I was not critical; I was amazed. I think
4 that is what my word was.

5 **Q** You are aware, are you not, that those three
6 customers had raised new issues that had come up after the
7 service hearings and involved such things as fire protection
8 ratings, et cetera, are you not?

9 **A** Could you be specific?

10 **Q** Yes. The three customers, they raised new issues
11 that were not raised at the service hearings, and that is why
12 that they required -- that is why it is requiring additional
13 time to resolve those.

14 **A** No, I wasn't aware of that. And I don't believe that
15 was included in Mr. Franklin's testimony, frankly.

16 **Q** I would point you to Page 4, Lines 15 through 19.
17 Can you bring that up?

18 **A** Of his testimony?

19 **Q** Yes. You said you were familiar with it. Page 4,
20 Lines -- the sentence starts on Line 15 and it runs through
21 Line 19. Could you read that for the record?

22 **A** Do you want me to start at Line 15, "After careful
23 review"?

24 **Q** Yes, sir.

25 **A** "After careful review of those responses, I could

1 find only three customers that possibly needed some level of
2 follow-up. I would also note that all of the follow-up
3 associated with these three customers was not to address the
4 service issues originally raised, but revolved around newly
5 raised issues, such as fire protection ratings."

6 **Q** Thank you. Let me understand what you are saying
7 here. You are not suggesting that the company shouldn't have
8 attempted to follow up with the customers after the service
9 hearing, are you?

10 **A** Oh, absolutely not. I think they should have.

11 **Q** And you are not suggesting, are you --

12 **MR. BECK:** Mr. Chairman.

13 **THE WITNESS:** The answer to your question --

14 **CHAIRMAN CARTER:** Let him finish. Hang on. Let him
15 finish.

16 **MR. MAY:** I apologize.

17 **THE WITNESS:** The answer to your question is no, and
18 I would explain further that the company has a clear obligation
19 in my opinion to follow up with every customer that complained,
20 and not to ignore the 131 complaints that they just simply
21 noted, but to attempt to deal with every one of those customers
22 and every one of their complaints.

23 I am concerned that that is all they did.
24 Ninety-seven customers, that is all the follow-up. There is a
25 lot more customers than that out there who --

1 **MR. MAY:** Let me see --

2 **THE WITNESS:** I'm going to finish if you would quit
3 interrupting. There's a lot more customers out there who need
4 to be followed up with, and I'm sure that this company
5 hopefully has a plan to do that.

6 **MR. MAY:** Thank you. And I apologize for
7 interrupting. I thought you were finished.

8 **THE WITNESS:** Apology accepted.

9 BY MR. MAY:

10 **Q** Let me see if I understand the purpose of your
11 follow-up letters. Is my understanding correct that after the
12 company followed up with the customers you went out and then
13 followed up with the customers for what purpose?

14 **A** Mr. Franklin provided testimony that indicated that
15 they had followed up with every one of these customers. Based
16 on the company's record, poor record in following up in the
17 past, we simply wanted to make sure that those customers had an
18 opportunity to respond to the quality of the follow-up that
19 they received, and that is what they did, and that is included
20 in my testimony. We had no idea what they would say, but we
21 wanted to be assured that they had actually been contacted and
22 that their complaints had been resolved.

23 **Q** So, am I correct that one of the purposes of your
24 follow-up with the customers is to make sure that the
25 customers' problems were solved?

1 **A** Correct.

2 **Q** And do you consider yourself a finger pointer or a
3 problem solver?

4 **A** Well, certainly we don't have the resources in Public
5 Counsel to respond anywhere close to all of the unhappy
6 customers that reside in your territory. That is your
7 responsibility.

8 **Q** Excuse me, go ahead.

9 **A** That was it.

10 **Q** If you are truly interested in solving problems, why
11 didn't you copy the company on your follow-up letter?

12 **A** I filed my testimony immediately after we got those
13 letters. My testimony was in the record right away, and if the
14 company failed to read my testimony and the response of those
15 customers, that is their problem.

16 **Q** But you did not copy the company on your follow-up
17 correspondence with the customers, did you?

18 **A** I copied the company on my testimony. I mean, we
19 received those letters and I filed my testimony almost
20 simultaneously.

21 **MR. MAY:** That's all the questions I have.

22 **CHAIRMAN CARTER:** Thank you.

23 Commissioners, I'm going to go to staff now. Staff.

24 **MR. JAEGER:** Staff has no questions.

25 **CHAIRMAN CARTER:** Anything from the bench?

1 Mr. Beck.

2 **MR. BECK:** No redirect.

3 **CHAIRMAN CARTER:** No redirect. Thank you very
4 kindly. Let's deal with our exhibits. Mr. Beck, we have got
5 Exhibit Numbers 89 through 92, is that correct?

6 **MR. BECK:** Yes.

7 **CHAIRMAN CARTER:** Any objection, Mr. May?

8 **MR. MAY:** No, Mr. Chairman.

9 **CHAIRMAN CARTER:** Without objection, show it done,
10 Exhibits 89 through 92.

11 (Exhibit Numbers 89 through 92 admitted into the
12 record.)

13 **CHAIRMAN CARTER:** Let me just back up for a second.
14 That is a late-filed, Number 199 is a late-filed, right? Wait
15 a minute, 198. I think I got my numbers mixed up here, guys.

16 Mr. Beck, this was the letters from Scottish
17 Highlands. We gave that -- I think I wrote the wrong number on
18 here, because 199 is Mr. May's opportunity to respond.

19 **MR. BECK:** Right. It is my understanding 198 is both
20 the Scottish Highlands letters and the two petitions from the
21 customers in Astor.

22 **CHAIRMAN CARTER:** Okay. Thank you.

23 Commissioners, I hope I didn't throw you all a
24 curveball on that one. So this should be 198, and 199 is the
25 place holder for the late-filed that we allowed for the company

1 to file as a response to those.

2 Are there any other matters for this witness? Thank
3 you very kindly. Go Gators.

4 **THE WITNESS:** Could I be excused?

5 **MR. MAY:** Mr. Chairman, I have to tell Mr. Poucher I
6 broke the code. I cross-examined a fellow Gator. I apologize.

7 **CHAIRMAN CARTER:** Mr. Beck, I think we have a
8 stipulated agreement on all the parties for Ms. Merchant. At
9 this point in time you wanted to move her testimony into the
10 record?

11 **MR. BECK:** I do so, Mr. Chairman.

12 **CHAIRMAN CARTER:** The prefiled testimony of the
13 witness will be entered into the record as though read. And
14 did we have any exhibits for Ms. Merchant?

15 **MR. BECK:** We do.

16 **CHAIRMAN CARTER:** I think that is in our staff
17 exhibit list. I think it is listed as Number 87 and 88, is
18 that correct?

19 **MR. BECK:** Yes, sir. And we would move them into the
20 record.

21 **CHAIRMAN CARTER:** Without objection, show it done.

22 (Exhibit Numbers 87 and 88 admitted into the record.)

23 **CHAIRMAN CARTER:** Okay, then. Thank you, Earl.
24
25

1 Water and Sewer as an analyst in the Bureau of Accounting. From May, 1989
2 to February, 2005 I was a regulatory supervisor in the Division of Water and
3 Wastewater which evolved into the Division of Economic Regulation.

4

5 **Q. HAVE YOU PREVIOUSLY TESTIFIED BEFORE THE FLORIDA**
6 **PUBLIC SERVICE COMMISSION?**

7 A. Yes, I have testified numerous times before the PSC. I have also testified
8 before the Division of Administrative Hearings as an expert witness.

9

10 **Q. ARE YOU SPONSORING ANY EXHIBITS IN THIS CASE?**

11 A. Yes. I am sponsoring Exhibit PWM-1, a summary of my regulatory
12 experience and qualifications, which is attached to my testimony. I also have
13 attached Exhibit PWM-2, which supports calculations for some of my
14 recommended adjustments.

15

16 **Q. WHAT IS THE PURPOSE OF YOUR TESTIMONY?**

17 A. The purpose of my testimony is to address accounting issues and adjustments
18 in this docket that the Office of Public Counsel believes are necessary in order
19 to establish base rates for Aqua Utilities Florida, Inc. (AUF) on a going
20 forward basis. I am also providing testimony on the company's requested
21 charges for Allowance for Funds Prudently Invested (AFPI).

22

23 **Q. ARE ANY ADDITIONAL WITNESSES APPEARING ON BEHALF OF**
24 **THE FLORIDA OFFICE OF PUBLIC COUNSEL IN THIS CASE?**

25 A. Yes. Kimberly A. Dismukes, James A. Rothschild, Andrew T. Woodcock, and

1 Earl Poucher are also presenting testimony.

2

3 Recommended Adjustments

4 **Q. WOULD YOU PLEASE DISCUSS EACH OF THE ADJUSTMENTS**
5 **TO AUF'S FILING YOU ARE SPONSORING?**

6 A. Yes, I am addressing issues related to amortization of contributions in aid of
7 construction (CIAC), working capital, deferred income taxes and Allowance
8 for Funds Prudently Invested. I will address each adjustment I am sponsoring
9 below.

10

11 Amortization of CIAC

12 **Q. HAVE YOU RECOMMENDED ADJUSTMENTS TO TEST YEAR**
13 **AMORTIZATION OF CONTRIBUTIONS IN AID OF**
14 **CONSTRUCTION (CIAC)?**

15 A. Yes I have recommended two types of adjustments to the test year balances of
16 amortization of CIAC. The first adjustment corrects a calculation error in the
17 MFRs in which the company failed to correctly amortize all CIAC balances.
18 The second adjustment relates to a cloaked adjustment that the company made
19 to reduce test year amortization of CIAC as a part of its non-used and useful
20 depreciation expense adjustment.

21

22 **Q. PLEASE DESCRIBE THE CONCEPT OF CIAC.**

23 A. CIAC is part of a company's service availability policy that requires new
24 customers and/or developers to contribute an upfront portion of the total
25 investment on a per customer basis. This upfront contribution is similar to a

1 down payment on a loan. Because the CIAC is paid by or on behalf of a
2 customer, through a service availability charge or the plant is contributed by a
3 developer, the utility is prohibited by statute to earn a rate of return on any
4 contributed portion of property. Typical service availability charges that are
5 collected include plant capacity fees, meter installation fees, and main
6 extension fees. Typical contributed plant components received by a utility
7 (mostly from developers) are water distribution or wastewater collection
8 mains, and pumping or lift station equipment. When CIAC cash or property is
9 received, it is recorded on the utilities books as a credit balance on the same
10 side of the balance sheet as debt and equity. The CIAC is grouped into
11 subcategories according to what type of charge was collected or physical plant
12 assets contributed. In the rate base calculation, the CIAC recorded offsets the
13 cost of plant and is shown as a reduction to rate base (plant is reflected as a
14 positive balance and CIAC is reflected as a negative balance. Plant is offset
15 by accumulated depreciation (negative balance) and CIAC is offset by
16 accumulated amortization of CIAC (positive balance) in the rate base
17 calculation.

18
19 **Q. PLEASE EXPLAIN HOW CIAC IS AMORTIZED.**

20 A. Amortization of CIAC is similar to depreciation of plant. When plant is added
21 by a company, that plant is depreciated over its useful life and each year's
22 annual depreciation expense is added to the balance of accumulated
23 depreciation. For example, if a meter is added to plant at a cost of \$1,000 and
24 the useful life of that pump is 10 years, the annual depreciation expense would
25 be \$100 ($\$1,000/10$). At the end of the first year, the accumulation

1 depreciation balance for that pump would be \$100. The net book value (or
2 rate base assuming no CIAC) of the pump at the end of year one would be
3 \$900 (\$1,000 - \$100). At the end of 3 years, the accumulated depreciation
4 balance for that pump would be \$300 (3 years x \$100), with a net book value
5 of \$700. Similar to how plant is depreciation over its useful life, CIAC is also
6 amortized over the related plant asset lives according to the type of CIAC
7 charge collected or plant received. For example, the CIAC subaccount for
8 meter installation fees would be amortized over the depreciable life of meters
9 and meter installations. Contributed water mains would be amortized over the
10 useful life of water transmission and distribution mains.

11
12 CIAC Amortization Error

13 **Q. PLEASE EXPLAIN THE ADJUSTMENT TO CORRECT THE**
14 **COMPANY'S CALCULATION ERROR IN THE MFRS IN WHICH**
15 **THE COMPANY FAILED TO CORRECTLY AMORTIZE ALL CIAC**
16 **BALANCES.**

17 A. In response to OPC's Interrogatory No. 115, the company stated that it
18 inadvertently failed to amortize one or more subaccounts for CIAC for 34
19 water and/or wastewater systems. In its response to OPC Interrogatory 116,
20 the company provided a corrected calculation of the test year amortization of
21 CIAC. In Schedule 1 of Exhibit PWM-2, I have reflected the per system
22 adjustment that is necessary to correct the test year balances of amortization of
23 CIAC. The total company adjustment is an increase to amortization (decrease
24 to operating expenses) of \$176,456. The corresponding increase to
25 accumulated amortization of CIAC for the total company is \$95,580.

1

2

Adjustment for non-used and useful Amortization of CIAC

3

Q. PLEASE EXPLAIN YOUR ADJUSTMENT TO AMORTIZATION OF CIAC RELATED TO THE COMPANY'S NON-USED AND USEFUL DEPRECIATION EXPENSE.

4

5

6

A. On MFR Schedule B-3, the company reflects its adjustments made to non-used and useful depreciation expense. These adjustments should correspond to the adjustments made to non-used and useful plant and accumulated depreciation in rate base. The adjustments to non-used and useful depreciation expense shown on MFR Schedule B-3, Adjustments to Operating Income, should tie to the adjustments calculated on MFR Schedules B-13 and B-14, Depreciation Expense. However, the company changed the column titles and format on MFR Schedules B-13 and B-14 to reflect used and useful as opposed to non-used and useful depreciation expense. While this might seem innocuous, the change in format reflected the beginning and ending amount and did not show the non-used and useful adjustment in total or by subaccount.

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In order to tie the adjustment back to the NOI adjustment schedule (B-3), you have to subtract the individual accounts and totals to calculate the adjustment and then compare that to the adjustment made on the operating statement Schedule B-3. When I made this calculation, I found that in addition to the non-used and useful adjustments to depreciation expense, the Company also reduced test year amortization of CIAC. The company did not disclose on any schedule or testimony that it made a non-used and useful adjustment to test

1 year amortization of CIAC.

2

3 **Q. IS THE COMPANY REQUIRED TO SHOW THE ADJUSTMENTS**
4 **FOR NON-USED AND USEFUL?**

5 A. Yes. The official MFR instructions for Schedules B-13 and B-14 requires
6 companies to reflect the amount of non-used and useful depreciation expense
7 and the percentages applied to each account. The company in this case altered
8 the schedule to reflect the used and useful percentages instead of non-used and
9 useful depreciation. This would not have been a problem if the company had
10 added a column to show the non-used and useful adjustment by amount and in
11 total.

12

13 **Q. IS A NON-USED AND USEFUL ADJUSTMENT TO TEST YEAR**
14 **AMORTIZATION OF CIAC APPROPRIATE?**

15 A. No, it is inappropriate for several reasons. First, as a general rule, it is
16 improper to make non-used and useful adjustments to CIAC. CIAC is a
17 payment made by or for current customers and proper matching reflects that
18 the customers that paid CIAC also pay current rates for service and by
19 definition are "used and useful." There are rare circumstances when a used
20 and useful adjustment would be made to prepaid CIAC, but the burden is on
21 the company to show that prepaid CIAC relates to connections outside of the
22 5 year margin reserve period. The company has not provided any justification
23 in this case that making a used and useful adjustment to CIAC or amortization
24 of CIAC is justified or appropriate.

25

1 Q. WHAT IS THE SECOND REASON YOU BELIEVE A NON-USED
2 AND USEFUL ADJUSTMENT TO TEST YEAR AMORTIZATION OF
3 CIAC IS INAPPROPRIATE?

4 A. In making used and useful adjustments, it is appropriate to apply the same
5 non-used and useful percentage to the plant primary accounts, with
6 corresponding adjustments in the same percentages to accumulated
7 depreciation, depreciation expense for those same accounts. Non-used and
8 useful property tax adjustments are also made based on a composite
9 percentage of non-used and useful plant to total taxable plant. Adjustments
10 should be applied to the same primary accounts in the same percentages for
11 plant, accumulated depreciation and depreciation expense. Furthermore, it
12 would also be inappropriate to calculate a non-used and useful adjustment to
13 one component without consistent adjustments to the corresponding accounts.
14 Accordingly, without an adjustment to CIAC, it is inappropriate to apply a
15 non-used and useful adjustment to test year amortization of CIAC. Also,
16 using a composite rate applied to all amortization of CIAC violates the
17 account by account consistency that I mentioned above.

18
19 Q. IN WHICH SYSTEMS DOES AN ADJUSTMENT TO TEST YEAR
20 AMORTIZATION OF CIAC NEED TO BE MADE TO REMOVE THE
21 COMPANY'S ERRONEOUS USED AND USEFUL ADJUSTMENT?

22 A. There are 22 systems in which the company made this inappropriate
23 adjustment. The systems are identified in my Exhibit ___ PWM-2, Schedule
24 2. Based on my review of the MFRs, the total adjustment to increase test year
25 amortization of CIAC (which results in a decrease to test year operating

1 expenses) is \$12,368 for water and \$126 for wastewater. The three most
2 material adjustments to correct this error will result in a reduction to expenses
3 for Sunny Hills Water by \$9,284, Sebring Lakes Water by \$1,400 and Carlton
4 Village Water by \$998.

5
6 Working Capital Allowance

7 **Q. PLEASE DESCRIBE HOW THE COMPANY CALCULATED ITS**
8 **WORKING CAPITAL ALLOWANCE THAT IT HAS REQUESTED IN**
9 **THIS CASE.**

10 A. In its MFRs, the company calculated its total company working capital using
11 the following accounts:

12
13 Assets (positive balances): Accounts Receivable Customer, Allowance for
14 Bad Debts, Unbilled Revenue, Prepayments, and Other Current Assets;
15 and

16 Liabilities (negative balances): Accounts Payable, Accrued Taxes, Accrued
17 Interest, and Miscellaneous Current & Accrued Liabilities.

18
19 Once the total amounts from the above accounts were added together, the
20 company allocated the sum to all AUF systems, including the non-regulated
21 systems. The Company then made three types of adjustments for direct
22 assignments to individual water and wastewater systems in this docket. The
23 first adjustment was to allocate the deferred rate case expense for the current
24 docket. I will address deferred rate case expense on page 23 of my testimony.
25 The second adjustment was to reflect the Other Regulatory Assets approved

1 by the Commission on a system-specific basis related to the purchase by Aqua
2 of some of the former Florida Water Services Corporation systems. These
3 regulatory assets were approved by Order No. PSC-05-1242-PAA-WS, issued
4 on December 20, 2005, in Docket No. 040952-WS. I have reviewed these
5 amounts and the average balance reflected is consistent with the ten-year
6 amortization period approved by the Commission, which was to commence
7 amortization on January 1, 2006. The third specific adjustment related to the
8 company's request to add Other Deferred Debits to working capital to
9 individual systems based on the requested balances of deferred maintenance.

10

11 **Q. PLEASE DESCRIBE THE ADJUSTMENTS THAT YOU HAVE**
12 **RECOMMENDED TO AQUA'S WORKING CAPITAL ALLOWANCE.**

13 A. I have recommended adjustments to the Company's requested Working
14 Capital Allowance for Accounts Receivable for Officers and Employees,
15 Other Deferred Debits, Deferred Rate Case Expense, Accrued Taxes, and
16 Pensions & Other Operating Reserves. Exhibit ___ (PWM-2, Schedules 3(a)
17 to 3(e), attached to my direct testimony, reflect the working capital
18 calculations that I use.

19

20 Accounts Receivable for Officers and Employees

21 **Q. PLEASE EXPLAIN THE ADJUSTMENT THAT YOU HAVE MADE**
22 **TO ACCOUNTS RECEIVABLE FOR OFFICERS AND EMPLOYEES.**

23 A. In its Accounts Receivable balance the company included \$1,000 for both
24 2006 and 2007 for Accounts Receivable for Officers and Employees. These
25 are amounts that the company has loaned to its officers and employees that

1 have not yet been paid. I believe that these receivables are not necessary and
2 do not relate to the delivery of water and wastewater services and should not
3 be included in the working capital calculation. Accordingly, I have removed
4 this \$1,000 from the balance of Customer Accounts Receivable to be allocated
5 to all AUF systems. This is consistent with the treatment approved by the
6 Commission for accounts receivable in the recent rate case of Florida Public
7 Utilities Company. See Order No. PSC-08-0327-FOF-EI, page 28, issued on
8 May 19, 2008 in Docket Nos. 070300-EI and 070304-EI. (See Exhibit ____
9 (PWM-2, Schedule 3(d)).

10
11 Other Deferred Debits

12 **Q. WHAT ADJUSTMENT HAVE YOU MADE TO OTHER DEFERRED**
13 **DEBITS?**

14 A. I have made two types of adjustments related to the amount of Other Deferred
15 Debits that the Company has requested to be recovered through working
16 capital. I have made adjustments to the balances of deferred maintenance and
17 I have also recommended a change in how the company should be able to
18 collect the balance of other deferred debits as part of the working capital
19 allowance.

20
21 **Q. PLEASE DESCRIBE THE FIRST ADJUSTMENT THAT YOU**
22 **MENTIONED THAT IS RELATED TO THE COMPANY'S**
23 **REQUESTED DEFERRED MAINTENANCE PROJECTS.**

24 A. Consistent with the testimony of OPC Witness Dismukes, I have taken her
25 recommended adjustments to amortization of deferred maintenance and

1 determined the impact of those adjustments on the average balance included
2 in working capital. The Company has requested a total balance of Other
3 Deferred Debits of \$229,104. Based on Ms. Dismukes' adjustments, the
4 requested balance of Other Deferred Debits should be reduced by \$11,213.
5 This reflects a net balance of Other Deferred Debits of \$217,890. I have
6 attached Exhibit ___ PWM-2, Schedule 3(e), which reflects the adjustments
7 made to each system based on Ms. Dismukes' adjustments.

8
9 **Q. PLEASE DESCRIBE THE SECOND ADJUSTMENT THAT YOU ARE**
10 **RECOMMENDING TO OTHER DEFERRED DEBITS.**

11 A. I am recommending that the approved balance of deferred maintenance should
12 be included in the overall working capital allowance that is spread to the total
13 company. I believe that it is improper to specifically add these deferred debits
14 to each system's previously allocated working capital allowance. These
15 deferred debits relate to maintenance projects were performed on a plant
16 specific basis and the amortization, where appropriate, should be specifically
17 assigned to each individual system. However, once the project is deferred the
18 deferral is recorded on a total company balance sheet where the asset is used
19 by the company as a whole. This is no different than how net income or debt
20 is recorded on the total company balance sheet and allocated to individual
21 systems. By adding the deferred maintenance to working capital on an
22 individual system basis overstates the investment of that one system when the
23 whole company is allowed to benefit from this deferral. The true nature of
24 working capital for a company of this size and with the large number of
25 systems is that working capital funds are included in one big "fund" that is

1 used to serve all systems in the company. In any given period, a system may
2 be a contributor to the "fund" while another system is a user. This is a
3 constantly flowing system of deposits and withdrawals and it is improper to
4 single out just the deposits for individual systems that may have deferred debit
5 balances at one point in time. If one were to take the company's methodology
6 to the extreme, we could ask the company to analyze its accounts to
7 specifically indentify any working capital account such as accounts
8 receivables or payables, unbilled revenues or insurance prepayments.
9 Allocating common accounts that are utility-related on a consistent basis is the
10 most economical and accurate basis, which generates a reasonable estimate of
11 the working capital needs of the total company.

12
13 **Q. HAVE YOU INCLUDED ANY OTHER DEFERRED DEBITS BESIDES**
14 **THOSE ASSOCIATED WITH MAINTENANCE IN YOUR WORKING**
15 **CAPITAL CALCULATION?**

16 A. No, I have not. Upon review of the company's 2006 and 2007 annual reports,
17 I was unable to reconcile the amounts reported by the company as other
18 deferred debits. If the company wishes to request recovery of any additional
19 amount, it should be required to submit competent support to reflect the
20 purpose of each item deferred, and whether the amounts are utility-related and
21 reasonable to be recovered by the customers on a going-forward basis.

22
23 **Q. WHAT IS THE TOTAL BALANCE OF OTHER DEFERRED DEBITS**
24 **THAT YOU HAVE INCLUDED IN WORKING CAPITAL?**

25 A. As addressed above, the adjusted balance of \$217,890 should be added to the

1 total company working capital to be allocated among all AUF systems,
2 including the systems not regulated by the Florida PSC. I did not make an
3 adjustment to remove these specific adjustments from each system's working
4 capital as I made one combined adjustment to reflect the total working capital
5 adjustment per system.

6
7 Accrued Taxes

8 **Q. PLEASE EXPLAIN THE ACCOUNTING CONCEPT OF ACCRUED**
9 **TAXES.**

10 A. The accrued taxes account is a short-term liability that represents the amount
11 of tax expense that has been recorded on the company's books but has not yet
12 been paid. The term accrual describes an accounting concept where a revenue
13 or expense is recorded at the time that the revenue or expense is measured or
14 becomes known, not when the payment is received or paid. The accrued taxes
15 account includes taxes other than income (real estate, personal property,
16 payroll, regulatory assessment fees, etc.) as well as income taxes. When a tax
17 expense is recorded but not paid, accrued taxes are increased (credited) and
18 when the tax payment is made, accrued taxes are decreased (debited).
19 Estimates are used to spread the expected tax expense out on a monthly basis
20 and then the total is adjusted when the actual amount becomes known. Since
21 the accrued tax account is a liability account, the balance in the account
22 normally will be a credit balance similar to other liability accounts.

23
24 **Q. WHAT ARE THE BALANCES OF ACCRUED TAXES THAT AUF**
25 **REPORTS ON ITS BALANCE SHEET?**

1 A. As reflected on Schedule A-19 of each system's MFRs, accrued taxes for
2 December 2006 has a negative balance of \$601,457. December 2007 reflects
3 a negative balance of \$2,860,234, and the 13-month average has a negative
4 balance of \$1,155,342. Instead of reflecting a liability account as a credit
5 balance, AUF's books reflect essentially an asset or debit balance. Since this
6 account is normally a credit balance, having a negative (debit) balance in the
7 accrued tax account reflects an anomaly that an unusual event has occurred to
8 change the direction in which this account usually appears.

9

10 **Q. WHY DO BELIEVE THAT THE COMPANY HAS SUCH A LARGE**
11 **DEBIT BALANCE IN ACCRUED TAXES?**

12 A. I believe that the company's accrued taxes are negative (a debit balance)
13 because of the large amounts of negative income taxes expensed during 2007.
14 Looking at the 2007 PSC Annual Report, the company had a positive expense
15 of \$1.6 million in taxes other than income (real estate, payroll, regulatory
16 assessment fees, etc.) but recorded negative income taxes of approximately \$2
17 million. Of this \$2 million, only \$478,000 reportedly related to PSC-regulated
18 systems. One reason that the company incurred such a large negative income
19 tax expense in 2007 most certainly had to relate to the fact that the company
20 had to write-off \$2.07 million in rate case expense related to the prior rate
21 case in Docket No. 060368-WS. The income tax impact of this below-the-line
22 adjustment alone is almost \$800,000.

23

24 **Q. EXPLAIN WHAT HAPPENS WHEN A COMPANY INCURS**
25 **NEGATIVE INCOME TAX EXPENSE.**

1 A. When a company incurs a loss in a given period, it normally would not owe
2 income tax expense on a stand-alone basis and would be able to use some of
3 those losses to offset income for future periods for that company. This
4 concept of using losses in past periods to offset income in future periods is
5 referred to as a net operating loss carry-forward tax benefit. If the company is
6 a subsidiary that belongs to an entity that participates in filing a consolidated
7 tax return, the losing company's losses are used by the parent company to
8 offset the income tax expense owed in other areas of the company. For book
9 purposes, the losing company records that loss as a negative income tax
10 expense on its operating income statement. Assuming that the losing
11 company's losses were offset by the parent company who ultimately paid less
12 income taxes, no net operating loss carry-forward benefit was provided to the
13 parent, and thus none was passed down to the losing company. The negative
14 income tax expense described above is what created AUF's negative balance
15 in accrued taxes.

16
17 **Q. EXPLAIN THE IMPACT THAT A NEGATIVE BALANCE IN**
18 **ACCRUED TAXES HAS ON THE WORKING CAPITAL**
19 **ALLOWANCE.**

20 A. Normally, the balance in accrued taxes serves to decrease the amount of the
21 company's investment in working capital. A negative balance in accrued
22 taxes not only doesn't decrease the working capital but exacerbates the
23 company's investment in working capital requirement. If the Commission
24 were to allow a negative balance in accrued taxes to be included in the
25 working capital calculation for a rate case proceeding, then the customers

1 would be paying a return on an investment that is based on an anomaly and a
2 non-recurring event. The non-recurring event is that the company has
3 petitioned the Commission for a rate increase which would be designed to
4 generate sufficient income with a corresponding positive income tax
5 obligation.

6
7 **Q. HAS THE PSC STAFF COMMUNICATED ANY CONCERNS ABOUT**
8 **THE NEGATIVE BALANCE IN ACCRUED TAXES FOR THIS CASE?**

9 A. Yes. The PSC staff auditors also questioned the appropriateness of such a
10 large negative balance for accrued taxes in Staff Audit Finding No. 7. The
11 staff auditors noted in that finding the following:

12 The ending balance for accrued taxes, as included in the
13 working capital allowance, for all systems has a year-end debit
14 balance of \$2,860,234 and a 13-month average balance of
15 \$1,155,342. Per the utility "The accrued liabilities section on
16 the balance sheet in the MFR reports the liabilities owed and
17 since more taxes are due to the company and not owed from
18 the company a negative amount appears on the accrued taxes
19 section of the balance sheet." The utility provided a detailed
20 listing of system balances, however, this response did not
21 address why the accrual has a substantial debit balance. The
22 company should reconcile the accrued taxes so that it is clear
23 how much is owed for each type of tax and how much is a
24 receivable for each type of tax. This information will need to
25 be reviewed by the analyst to determine what balances relate to

1 a normalized expense for the test year. Any additional balance
2 should be reviewed for appropriate disposition.
3

4 **Q. WHAT REGULATORY ADJUSTMENT SHOULD BE MADE TO**
5 **ACCRUED TAXES?**

6 A. I agree with the staff auditors that the balance in accrued taxes should be
7 normalized to recognize that the company will be given a fully compensatory
8 income tax expense through its revenue requirement. While the company
9 reported losses in 2006 and 2007, the parent and AUF have benefitted from
10 the net operating losses that AUF has generated. If the Commission finds that
11 some rate relief is required, the company will be given the opportunity to
12 collect compensatory rates including income tax expense. This rate increase
13 will include a revenue increase that commonly takes the negative income tax
14 expense up to a positive expense on the revenue requirement calculated.
15 Because the customers have to pay rates sufficient to bring the negative
16 income tax expense up to the positive level on the new revenue requirement, it
17 would be unfair for the customers to also pay a return on negative accrued
18 taxes. To remedy this, I have made a pro forma adjustment to reflect the
19 balance of accrued taxes related to income tax expense will be generated when
20 the company receives fully compensatory income tax expense in this docket.
21

22 **Q. PLEASE EXPLAIN YOUR ADJUSTMENT RELATED TO ACCRUED**
23 **TAXES IN THE WORKING CAPITAL ALLOWANCE.**

24 A. I have recommended that the company's requested negative (debit)
25 \$1,155,342 balance of accrued taxes be adjusted to properly reflect a positive

1 (credit) balance to reflect the type of balance that would normally belong in
2 accrued taxes.

3
4 **Q. HOW DID YOU MAKE YOUR PRO FORMA ADJUSTMENT TO**
5 **ACCRUED TAXES?**

6 A. First, I calculated the incremental difference between the 2007 book income
7 tax expense to the requested final income tax expense that AUF has requested
8 in this rate case. I then calculated the incremental income tax expense that the
9 company received as part of its rate case proceeding for a non-PSC
10 jurisdictional system that was just finalized with Sarasota County. This
11 calculation generated an estimated balance of accrued taxes of \$1.6 million.
12 As a sanity check, I compared this result with the 2007 projected balance of
13 \$693,933 for accrued taxes that the company used in Docket No 0060368-
14 WS. After conducting this sanity check, it appeared that \$1.6 million in
15 accrued taxes was too high of an estimate to use as a proxy of what a normal
16 balance of accrued taxes for this company would be. To compensate for this I
17 reduced the income tax effect on the requested revenue increase by 30%.
18 After making this calculation, I generated a proforma balance of accrued taxes
19 of \$657,340. Comparing this amount to the prior case projected balance of
20 \$693,933 provided by the company, I believe that the end result of my
21 calculation of proforma accrued taxes is reasonable to use to calculate
22 working capital for AUF. Exhibit ___ (PWM-2, Schedule 3(e)), reflects my
23 calculations related to accrued taxes.

24
25 **Q. WHICH PARTY HAS THE BURDEN TO PROVE THE**

REASONABLENESS OF ITS REQUESTED COSTS?

A. Ultimately, the burden is on the utility to show why its requested accrued tax balance should be allowed, and I do not believe that the company has met this burden in this case. Absent this showing, I believe that my recommended balance is an estimate of what is a reasonable level of accrued taxes to be used to set future rates. This is confirmed by the projected balance that the company requested in its last rate case. Based on the above, the balance of accrued taxes to include in the working capital calculation should be \$657,340.

Pensions and Other Operating Reserves**Q. WHAT ADJUSTMENT HAVE YOU MADE TO PENSIONS AND OTHER OPERATING RESERVES?**

A. I have reflected the average balance of Pension & Other Operating Reserves as an additional liability to the working capital calculation as the accounts relate to utility operations. The company has already included the balance of its Pension Reserve as part of in its 2006 balance of Miscellaneous Current and Accrued Liabilities. However, it did not include the balance of Pension Reserves or Other Operating Reserves in its 2007 liabilities. Accordingly, I have increased Pensions & Other Operating Reserves by an average balance of \$84,225. Because the Pensions Reserves were already included in the 2006 Miscellaneous Current & Accrued Liabilities, I reflected the balance of Pension Reserves as zero for 2006 to not double count the amount that was already included in the 2006 balance. Exhibit ___ PWM-2, Schedule 3(d), attached to my direct testimony reflects the supporting calculation for this

1 adjustment.

2

3 Deferred Rate Case Expense

4 **Q. WHAT ADJUSTMENT HAVE YOU MADE TO DEFERRED RATE**
5 **CASE EXPENSE?**

6 A. I have removed the deferred rate case expense for this current case from the
7 working capital calculation. This is based on the testimony of OPC witness
8 Dismukes who has recommended that rate case expense be zero at this time.
9 Witness Dismukes is waiting until all documentation for rate case expense is
10 received from the Company and will update her recommendation when that
11 support is received.

12

13 **Q. IF THE COMMISSION DOES ALLOW RATE CASE EXPENSE TO**
14 **BE RECOVERED BY CUSTOMERS, WHAT METHOD SHOULD BE**
15 **USED TO REFLECT THE UNAMORTIZED BALANCE IN THE**
16 **WORKING CAPITAL CALCULATION?**

17 A. I believe that one-half of the total rate case expense allowed by the
18 Commission should be included in working capital. This reflects that working
19 capital will only be increased by the average, unamortized balance of deferred
20 rate case expense that will be in affect during the 4-year amortization period.
21 This is consistent with the treatment that the Commission has allowed in the
22 past, most recently in the 2007 rate case for Florida Public Utilities Company.
23 See Order No. PSC-08-0327-FOF-EI, issued on May 19, 2008 in Docket Nos.
24 070300-EI and 070304-EI. On page 33 of the order, the Commission stated:
25 "Our practice in prior rate cases, including FPUC's, is to allow one-half of the

1 rate case expense in Working Capital.” If the Commission ultimately
2 determines that AUF has shown that any of its requested rate case expense is
3 prudent, then only one-half of the total balance of rate case expense approved
4 should be included in the working capital calculation.

5
6 Total Recommended Working Capital Allowance

7 **Q. WHAT IS THE TOTAL BALANCE OF WORKING CAPITAL THAT**
8 **YOU ARE RECOMMENDING SHOULD BE INCLUDED IN THIS**
9 **RATE CASE?**

10 A. Based on the adjustments that I have discussed above, working capital that
11 should be allocated to all AUF systems should be \$646,660. The allocated
12 share of working capital for the systems in the current rate case is \$425,797.
13 Additionally, the balance of regulatory assets approved by Order No. PSC-05-
14 1242-PAA-WS, which total \$564,563, should be added on a system-specific
15 basis. This results in a total working capital for the combined systems of
16 \$990,360. In its MFRs AUF requested a total working capital allowance of
17 \$3,345,346 and my adjustments reflect a decrease to the requested amount of
18 \$2,354,986.

19
20 Accumulated Deferred Income Taxes

21 **Q. DO YOU RECOMMEND ANY ADJUSTMENTS TO ACCUMULATED**
22 **DEFERRED INCOME TAXES WHICH ARE INCLUDED IN THE**
23 **CAPITAL STRUCTURE?**

24 A. Yes. In its response to OPC Interrogatory No. 102, the company admitted that
25 it did not consider the deferred taxes related to the proforma additions to plant

1 when the MFRs were originally filed. AUF stated that the appropriate amount
2 of deferred income taxes associated with its proforma plant adjustment was
3 provided on a compact disc labeled "AUF's 7-28-08 Answers to OPC 2nd
4 ROGs." According to this spreadsheet, the total company amount of deferred
5 income taxes should be increased by \$830,318 (\$117,477 related to IT
6 equipment and \$712,841 related to other 2008 proforma plant additions).
7 Also, in response to OPC Interrogatory 103, the company provided the
8 December 2006 and 2007 balances of deferred income taxes associated with
9 Corporate IT and Corporate Structure and Improvements. The December
10 2006 balance was \$23,453 and December 2007 balance was \$20,675,
11 reflecting an average balance of \$22,064, which should be added to the capital
12 structure. In total, accumulated deferred income taxes should be increased by
13 \$852,382. My calculations are reflected on Exhibit ___ (PWM-2, Schedule 4)
14 attached to my direct testimony.

15
16 Allowance for Funds Prudently Invested (AFPI)

17 **Q. CAN YOU EXPLAIN THE CONCEPT OF AFPI?**

18 A. Yes. AFPI allows the utility the opportunity to collect revenues from future
19 customers to pay for the portion of plant and expenses that have been removed
20 from the rate case revenue requirement calculation by non-used and useful
21 adjustments. This revenue is collected when the prospective customers
22 connect onto the system and is in addition to the amount of service availability
23 charges (CIAC) that the new customer is required to pay. This revenue is
24 considered as below the line, meaning that it is not added into utility operating
25 revenues when rates are set in a rate proceeding.

1

2 **Q. HAVE YOU REVIEWED THE COMPANY'S REQUESTED AFPI**
3 **CHARGES?**

4 A. Yes. The company originally filed AFPI charges with its MFRs on a system
5 specific basis for each system in which the company calculated a non-used
6 and useful adjustment in this case. The original requested AFPI petition and
7 calculations submitted contained numerous methodology errors. After
8 responding to OPC discovery, the company filed revised AFPI charges and
9 corrected many of those errors. The revised tariffs are what I will address in
10 my testimony.

11

12 **Q. DO YOU HAVE ANY GENERAL COMMENTS ABOUT THE**
13 **COMPANY'S REVISED AFPI CHARGES?**

14 A. Yes I do. There are several fall-out adjustments that need to be considered by
15 the Commission. First, I believe that the Commission should adjust each
16 AFPI calculation for all corresponding changes in the revenue requirement
17 calculations. These include adjustments made to used and useful for plant,
18 accumulated depreciation, depreciation expense, property taxes, and future
19 customers. Further, if the Commission makes adjustments to the company's
20 requested rate of return on equity or other cost of capital components
21 impacting the overall rate of return, these percentages should be changed in
22 the AFPI calculation. Second, there are several limiting factors that I believe
23 that the Commission should consider. Most of the plants in which the
24 company has requested new AFPI charges are systems that currently have a
25 tariff and are former Florida Water Services Corp. systems. For a given

1 system, if the company has not shown that it has added any new growth-
2 related plant that is subject to a non-used and useful adjustment above what
3 was approved in the last rate case, the charge should be limited to the charge
4 that exists in the current tariff. Further, in several instances the company has
5 requested new charges which are less than those approved in the current tariff.
6 Likewise, those charges should be limited to the charges requested.

7
8 **Q. WHAT CONCERNS DO YOU HAVE ABOUT THE INFORMATION**
9 **SUBMITTED ON THE COMPANY'S REQUESTED TARIFF**
10 **SHEETS?**

11 A. The company's requested tariff sheets for AFPI do not state the number of
12 remaining connections to which each charge applies. If the Commission
13 approves a new tariff or revises a prior tariff, the tariff should provide this
14 crucial information. While this information was left off of the company's
15 proposed tariffs submitted in this case, the future connections to which the
16 charges apply are currently shown on Aqua's existing AFPI tariff page. The
17 purpose for having this notation on the tariff is to place the company on notice
18 that the charges are not unbounded and will expire when the stated numbers of
19 connections have paid the charge.

20
21 **Q. DO YOU HAVE ANY SPECIFIC COMMENTS ON ANY AFPI**
22 **CHARGES REQUESTED?**

23 A. Yes. There are two instances in which the company has used incorrect
24 numbers for future equivalent residential connections (ERCs) customers. This
25 happened on the AFPI calculations for Hermits Cove water treatment plant

1 and on Village Water wastewater treatment plant. These systems will need to
2 be corrected prior to determining whether the requested AFPI charge for
3 treatment plant should be approved.

4
5 **Q. ARE THERE ANY AFPI TARIFFS THAT NEED TO BE**
6 **CANCELLED?**

7 A. Yes. There are numerous systems that have existing AFPI tariffs which the
8 company did not include in its AFPI petition. These systems are also shown
9 as 100% used and useful in the company's MFRs. Unless, the Commission
10 makes non-used and useful adjustments to these systems, the following AFPI
11 tariffs should be cancelled:

12 Beecher's Point, Chuluota, FL Central Commerce Park, Friendly Center,
13 Hobby Hills, Jungle Den, Kingswood, Morningview, Palm Terrace, Piney
14 Woods, Quail Ridge, River Grove, Silver lake Est/Western, Valencia Terrace,
15 and Zephyr Shores.

16
17 **Q. DOES THIS COMPLETE YOUR TESTIMONY?**

18 A. Yes, it does.

1 **CHAIRMAN CARTER:** Staff, you're recognized.

2 **MS. KLANCKE:** At this time, staff would like to call
3 Witness Debra Dobiac to the stand.

4 **CHAIRMAN CARTER:** Debra Dobiac. And has Ms. Dobiac
5 been sworn?

6 **MS. KLANCKE:** Yes, she has. She was sworn in on the
7 first day.

8 **CHAIRMAN CARTER:** Oh, good.

9 **MS. KLANCKE:** Chairman, at this time --

10 **CHAIRMAN CARTER:** Hold the phone. Hold up before
11 you -- before we get to this witness. Mr. Reilly, I've got --
12 oh, these are the additional letters that goes with 198, is
13 that correct?

14 **MR. REILLY:** Yes, sir.

15 **CHAIRMAN CARTER:** Okay, good. Commissioners, that is
16 separate. I did not mark that. That goes with 198. Thank
17 you.

18 Staff, you're recognized.

19 **MS. KLANCKE:** At this time, Mr. Sayler is passing out
20 a demonstrative exhibit, including the changes for your ease of
21 reference that Ms. Dobiac will be making to her testimony and
22 exhibits.

23 **CHAIRMAN CARTER:** Okay. Just give us one second
24 here.

25 You may proceed.

1 DEBRA M. DOBIAC

2 was called as a witness on behalf of the Staff of the Florida
3 Public Service Commission, and having been duly sworn,
4 testified as follows:

5 DIRECT EXAMINATION

6 BY MS. KLANCKE:

7 Q Good afternoon, Ms. Dobiac. As you know, I am
8 Caroline Klancke. Thank you for joining us today. Could you
9 please state your name and business address for the record?

10 A My name is Debra M. Dobiac, and my business address
11 is 2540 Shumard Oaks Boulevard, Tallahassee, Florida 32399.

12 CHAIRMAN CARTER: Hang on a second. Would you get a
13 little closer to the mike.

14 THE WITNESS: Can you hear me now?

15 CHAIRMAN CARTER: Yes. And do you mind taking it
16 from the top, again, please? You have such a lovely and soft
17 voice.

18 THE WITNESS: I'm sorry. My name is Debra M. Dobiac,
19 and my business address is 2540 Shumard Oak Boulevard,
20 Tallahassee, Florida 32399.

21 BY MS. KLANCKE:

22 Q By whom are you employed and in what capacity?

23 A I am a professional accountant with the Florida
24 Public Service Commission.

25 Q And have you prefiled direct testimony in this docket

1 consisting of nine pages?

2 **A** Yes, I have.

3 **Q** Do you have any changes or corrections to your
4 prefiled testimony at this time?

5 **A** Yes, I do.

6 **Q** Could you please provide us with those corrections?

7 **A** Okay. On Page 2 of my direct testimony, Line 18, I
8 want to adjust the amount of \$534,219 to \$526,322. Also on
9 Page 2, Line 20 --

10 **CHAIRMAN CARTER:** Hang on a second.

11 **THE WITNESS:** I'm sorry.

12 **CHAIRMAN CARTER:** On Page 2, just give the first one,
13 again.

14 **THE WITNESS:** Okay. Page 2, Line 18, there is an
15 amount of 534,219, it needs to be changed to 526,322.

16 **CHAIRMAN CARTER:** I'm sorry, Ms. Dobiac. I apologize
17 to you. Staff has given us an errata sheet. So, thank you.

18 **THE WITNESS:** Okay.

19 **CHAIRMAN CARTER:** I think if the corrections are on
20 the errata sheet, we probably can just adopt the errata sheet
21 without her having to go through that.

22 **MS. KLANCKE:** It was not our intention to enter this
23 into the record.

24 **CHAIRMAN CARTER:** Why don't we do that? Is there any
25 objection of the parties? Why don't we just do that. We will

1 just make this Number -- actually it will be 200. Okay. See
2 how easy that was?

3 **MS. KLANCKE:** Indeed.

4 **CHAIRMAN CARTER:** And without objection, Exhibit
5 Number 200 is entered into the record.

6 (Exhibit Number 200 marked for identification and
7 admitted into the record.)

8 BY MS. KLANCKE:

9 **Q** Ms. Dobiac, with the corrections that are contained
10 in this errata sheet, if I were to ask you the same questions,
11 would your testimony be the same today?

12 **A** Yes, it would.

13 **MS. KLANCKE:** Mr. Chairman, with the corrections that
14 have been made to the prefiled testimony of Debra Dobiac, I
15 would like this testimony inserted into the record as though
16 read.

17 **CHAIRMAN CARTER:** With the errata sheet with the
18 changes filed, the prefiled testimony will be entered into the
19 record as though read.

20 BY MS. KLANCKE:

21 **Q** Ms. Dobiac, did you also file exhibits to your
22 testimony, DMD-1 through DMD-5?

23 **A** Yes, I did.

24 **Q** And, Ms. Dobiac, with the corrections -- do the
25 corrections that are contained in your errata sheet accurately

1 reflect the corrections that you would make to your exhibits to
2 your testimony, DMD-1 through 5?

3 **A** Yes, they would. They do.

4 **MS. KLANCKE:** Mr. Chairman, these exhibits have been
5 identified as Exhibit Numbers 119 through 123 on the
6 Comprehensive Exhibit List.

7 **CHAIRMAN CARTER:** Thank you. Commissioners, for the
8 record, Exhibit Numbers 119 through 123 on Staff's
9 Comprehensive Exhibit List.

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DIRECT TESTIMONY OF DEBRA M. DOBIAC

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Q. Please state your name and business address.

A. My name is Debra M. Dobiac and my business address is 2540 Shumard Oak Blvd., Tallahassee, Florida, 32399.

Q. By whom are you presently employed and in what capacity?

A. I am employed by the Florida Public Service Commission (FPSC or Commission) as a Professional Accountant in the Division of Regulatory Compliance.

Q. How long have you been employed by the Commission?

A. I have been employed by the Commission since January, 2008.

Q. Briefly review your educational and professional background.

A. I have a Bachelor of Arts degree in Accounting from Lakeland College. Prior to my work at the Commission I worked for six years in internal auditing at the Kohler Company and First American Title Insurance Company as well as approximately 11 years of accounting manager and controller experience.

Q. Please describe your current responsibilities.

A. Currently, I am a Professional Accountant with the responsibilities of assisting in the audits of regulated companies and working as an audit manager on small, focused audits.

Q. What is the purpose of your testimony today?

A. The purpose of my testimony is to address specific findings in the staff audit

1 report of Aqua Utilities Florida, Inc. (Utility) which involves the Utility's application for
2 an increase in water and wastewater rates in Alachua, Brevard, DeSoto, Highlands, Lake,
3 Lee, Marion, Orange, Palm Beach, Pasco, Polk, Putnam, Seminole, Sumter, Volusia, and
4 Washington Counties. This audit report is filed with the testimony of Charleston Winston
5 and is identified as Exhibit CJW-1. I am only testifying on Audit Findings 1-5, 11, and
6 18. The remaining findings will be addressed by witnesses Charleston Winston and
7 Intesar Terkawi.

8
9 **Q. Were you responsible for the audit procedures related to these issues?**

10 **A.** Yes.

11
12 **Q. Please review the audit findings in the audit report, that are you are testifying**
13 **on.**

14 **A. Audit Finding 1**

15 Audit Finding 1 addresses the Lake Suzy water system rate base. The Utility
16 balance for Utility Plant in Service (UPIS) for the Lake Suzy water system as of
17 December 31, 2007 was \$905,752. We requested supporting documentation for a sample
18 of plant additions. The Utility did not provide supporting documentation for \$534,219 in
19 plant additions. Therefore, I recommend that this amount be removed from UPIS. This
20 further results in a decrease to accumulated depreciation of \$108,901 and depreciation
21 expense of \$13,417. Since a portion of these plant in service assets are contributed
22 property, CIAC should also be decreased by \$137,077, accumulated amortization of
23 CIAC should be decreased by \$8,891, and amortization expense should be decreased by
24 \$3,188. The audit work papers that are associated with Audit Finding 1 and 2 are filed
25 with my testimony and are identified as Exhibit DMD-1.

1 **Audit Finding 2**

2 Audit Finding 2 discusses the Lake Suzy wastewater system rate base. The Utility
3 balance for UPIS for the Lake Suzy wastewater system at December 31, 2007 was
4 \$2,264,137. We requested supporting documentation for a sample of plant additions.
5 The Utility did not provide supporting documentation for \$1,119,520 in plant additions.
6 Therefore, I recommend that this amount be removed from UPIS. This further results in
7 an adjustment to accumulated depreciation of \$359,506 and depreciation expense of
8 \$36,147.

9
10 **Audit Finding 3**

11 Audit Finding 3 discusses the Rosalie Oaks and Village Water water and
12 wastewater systems. The Rosalie Oaks water and wastewater systems were
13 grandfathered-in pursuant to FPSC Order No. PSC-98-0381-PAA-WS, issued March 6,
14 1998. The Utility provided an original cost study that was conducted as of December 31,
15 2005. The Village Water water and wastewater systems were grandfathered-in pursuant
16 to FPSC Order No. PSC-99-1882-PAA-WS, issued September 21, 1999. The Utility
17 provided an original cost study that was conducted as of December 31, 2004. The plant
18 balances in the original cost study do not match the balances contained in the MFRs.

19 In addition, the Utility provided a warranty deed and a title insurance policy in
20 support of a land purchase for Rosalie Oaks - Wastewater, but included \$-0- for land in its
21 plant in service balance.

22 We were unable to determine the appropriate plant and land balances because the
23 Utility did not provide sufficient source documentation to support the recorded amounts.
24 The audit work papers that are associated with this issue are filed with my testimony and
25 are identified as Exhibit DMD-2.

1 **Audit Finding 4**

2 Audit Finding 4 discusses plant in service and accumulated depreciation balances
3 for several systems. The audit work papers that are associated with this issue are filed
4 with my testimony and are identified as Exhibit DMD-3. For the Lake Josephine water
5 system, the Utility included \$329,672 in the MFR plant in service balance without
6 appropriate supporting documentation. This further results in an overstatement of
7 accumulated depreciation by \$65,463 and depreciation expense by \$10,615.

8 However, subsequent to the issuance of the audit report, the Utility provided
9 additional supporting documentation to support the \$329,672. The Utility documented in
10 its response that \$258,695 was included in the prior order, but not booked until a later
11 period. The utility also provided a capital project schedule to support an addition of
12 \$127,482. The difference is related to retirements. These adjustments would also need to
13 include an adjustment to accumulated depreciation and depreciation expense.

14 For the same system, the Utility included \$17,395 in the MFR accumulated
15 depreciation balance from 1997 and 1998. This amount was not included in Commission
16 Order No. PSC-00-1389-PAA-WU, issued July 31, 2000, in a transfer application
17 proceeding (Docket No. 991001-WU). Therefore, this amount should also be removed
18 from accumulated depreciation.

19 For the Sebring Lakes water system, the Utility included in the MFR \$10,670 in
20 Account 331 Transmission and Distribution Mains, \$3,222 in Account 333 Services, and
21 \$6,230 in Account 334 Meters and Meter Installation. These amounts were unsupported
22 additions noted in a prior docket but excluded from rate base in Commission Order No.
23 PSC-02-0651-PAA-WU, issued May 13, 2002, in a transfer application proceeding
24 (Docket No. 011401-WU). Therefore, these amounts should also be removed from the
25 current filing. The related adjustment to accumulated depreciation is a reduction of

1 \$4,005 and a corresponding reduction to depreciation expense of \$640.

2 For the Lake Osborne Estates water system, the Utility included a net
3 overstatement of \$3,289 in the MFR plant in service balance dating back to the last rate
4 case. This amount was not included in Commission Order No. PSC-97-1149-FOF-WU,
5 issued September 30, 1997, in a transfer application proceeding (Docket No. 961535-
6 WU). The related adjustment to accumulated depreciation is a reduction of \$941 and a
7 corresponding reduction to depreciation expense of \$84.

8 For the Arrendondo Estates/Farms water system, the Utility included \$16,992 in
9 the MFR accumulated depreciation balance. This amount was unsupported dating back to
10 the last rate case. This amount was not included in FPSC Order No. PSC-96-0728-FOF-
11 WS, issued May 30, 1996, in a staff-assisted rate case proceeding (Docket No. 951234-
12 WS).

13 For the Jasmine Lakes water system, the staff audit calculation of accumulated
14 depreciation differs from the Utility calculation by \$35,249. Therefore, the accumulated
15 depreciation should be reduced by \$35,249.

16

17 **Audit Finding 5**

18 Audit Finding 5 discusses Accumulated Amortization of CIAC for the Ocala Oaks
19 water system. Commission Order 21349, issued June 7, 1989, stated that the
20 Accumulated Amortization of CIAC balance was \$67,362 as of December 31, 1987.
21 MFR Schedule A-13 starts with a December 31, 1998 balance of \$252,423. The MFRS
22 did not begin with the balance from Order No. 21349 nor did they provide the yearly
23 additions from January 1, 1988 through December 31, 1998. Audit staff updated the
24 Order balance through December 1998 for a balance of \$241,005. This is \$11,418 less
25 than the MFR balance. We requested a reconciliation and the Utility did not provide a

1 reconciliation or other supporting documentation. Therefore, audit staff recommends
2 decreasing Accumulated Amortization of CIAC by \$11,418.

3 For the Tangerine water system, Commission Order No. PSC-05-1242A-PAA-
4 WS, issued February 27, 2006, in a transfer application proceeding (Docket No. 040951-
5 WS) made an adjustment to Accumulated Amortization of CIAC in the amount of \$2,830.
6 The Utility reduced the MFR accumulated amortization of CIAC balance by \$2,830
7 twice. Therefore, Accumulated Amortization of CIAC should be increased by \$2,830.
8 The audit work papers that are associated with Audit Finding 5 are filed with my
9 testimony and are identified as Exhibit DMD-4.

10

11 **Audit Finding 11**

12 Audit Finding 11 discusses operation and maintenance (O&M) expenses in the
13 Imperial Mobile Terrace water system that should have been capitalized. The Utility
14 included \$4,986 in Account 636 Contractual Services – Other for the period ended
15 December 31, 2007. This amount represents an installation of 2” gate valves with valve
16 boxes and valve pads. This expense should be capitalized.

17 This amount also represents a replacement. In Order No. PSC-03-1250-PAA-
18 WU, issued November 6, 2003, in Docket No. 030250-WU, In re: Application for staff-
19 assisted rate case in Pasco County, by Floralino Properties, Inc. , and Order No. PSC-01-
20 1574-PSS-WS, issued July 30, 2001, in Docket No. 000584-WS, In re: Application for a
21 staff-assisted rate case in Martin County by Laniger Enterprises of America, Inc., the
22 Commission found that, where original cost is not available for a retirement, 75 percent of
23 the replacement cost is a reasonable estimate of original cost. Therefore, 75 percent of the
24 \$4,986 should be considered the original cost to be retired.

25

1 **Audit Finding 18**

2 Audit Finding 18 discusses the Lake Suzy wastewater system. The audit work
3 papers that are associated with this issue are filed with my testimony and are identified as
4 Exhibit DMD-5. Commission Order No. PSC-97-0540-FOF-WS, issued May 12, 1997,
5 in Docket No. 960799-WS, established the cost of wastewater land to be included in rate
6 base. The order addressed 25.52 acres of land.

- 7 • 5.97 acres was included in rate base at a value of \$62,381,
8 • 19.55 acres was valued at \$294,856 but was reduced by \$94,656 to reflect the 6.32
9 acres held for future use, for an adjusted balance of \$200,200,
10 • Net land value for the 19.20 acres (5.97 + 19.55 – 6.32) of \$262,581.

11 In June 2005, the prior owner of the Utility entered into litigation proceedings
12 with Aqua regarding the wastewater land. In December, 2007, as part of a settlement
13 agreement regarding this litigation, the Utility sold the 5.97 acres to Mr. Dallas Shepard
14 for \$100,000. The settlement agreement also required Aqua to pay annual rent of
15 \$10,000, and required retroactive payments beginning in June 2005.

16 **Land Value**

17 The Utility's general ledger reflects a wastewater land balance of \$442,800, as of
18 November 30, 2007. As stated above, the Commission previously established land at a
19 value of \$262,581. The Utility had not reflected the Commission's adjustments to land in
20 the general ledger.

21 At December 31, 2007, the Utility's general ledger reflected a land balance of
22 \$269,366, which reflects the November 30, 2007 balance of \$442,800 less the Utility-
23 calculated land value of \$173,434. The MFRs included a thirteen-month average of
24 \$429,459, which includes the land sold in the balance for the majority of the year.

25 I recommend that the land balances be adjusted to reflect the prior Commission

1 order as well as the sale of the land. The year-end balance should reflect the value of the
2 remaining acres, as stated above, as \$200,200. The 13-month average for land should
3 also be adjusted to remove all of the land sold for the entire year. Otherwise, the utility
4 will earn a return on a portion of the land sold as well as pay rent on the land for the year.
5 Using the Commission approved balances, the 13-month average balance should be
6 \$200,200. If the land cost is included in the 13-month average, the rent expense should
7 be reduced for the number of months that the balance is included in average rate base, so
8 there is no double recovery.

9 **Gain/Loss on Sale of Land**

10 As part of the sale of the land, the Utility incurred legal and other costs of
11 \$33,649. This results in net proceeds from the sale of \$66,352 (\$100,000 - \$33,649.) The
12 Utility valued the land at \$173,434 at the time of the sale and calculated a loss on the sale
13 of \$107,083 (\$173,434 - \$66,352). However, staff believes that the net proceeds should
14 be compared to the value included in rate base in the prior order and recommends that a
15 gain occurred on the sale, in the amount of \$3,934 (\$66,352 - \$62,381).

16 The National Association of Regulatory Utility Commissioners' (NARUC)
17 Uniform System of Accounts (USOA) states that Account 414 should include, **when**
18 **authorized by the Commission**, gains and losses from the sale of Utility property.
19 Therefore, pending Commission approval, the staff calculated gain should be booked to
20 Account 414 – Gain (Losses) from Disposition of Utility Property and the loss booked by
21 the Utility should be removed. As stated above, the Utility booked a loss of \$107,083.
22 The Utility is amortizing this loss over 25 years at a rate of \$357 per month.

23 **Rental of Building/Real Property**

24 The Utility included \$36,899 in Account 741 – Rental of Building/Real Property
25 for the period ended December 31, 2007. This amount represents:

- 1 • \$11,066, amortization of the loss for the period June 2005 through December
2 2007,
- 3 • \$15,833, rent for the period June 2005 through December 2006,
4 • \$10,000, rent for the year ended December 31, 2007.

5 As recommended above, I believe that there is a gain on the sale of the land, so the
6 amortization expense should be removed from the expense. If the Commission approves
7 the gain and it is amortized over the same 25-year period, only twelve months of the
8 amortization should be included in the test year. This would result in removing the
9 \$11,066 and reflecting \$157 as the amortization of the gain.

10 Even though the Utility owned the land during the test year, it will not own the
11 land for the period that rates will be established. Therefore, I believe that it is reasonable
12 to include the lease payments in test year expenses. However, only 12 months of lease
13 payments should be included in a test year. Therefore, the \$15,833 should be removed.

14 **Land Lease**

15 The settlement agreement in the court case established a 20-year lease for the land
16 sold. Commission Rule 25-30.433(10), Florida Administrative Code, requires a utility to
17 own the land upon which the Utility treatment facilities are located, or possess the right to
18 the continued use of the land, such as a 99-year lease. I believe that the 20-year lease may
19 not be consistent with Rule 25-30.433(10), Florida Administrative Code.

20

21 **Q. Does this conclude your testimony?**

22 **A. Yes.**

23

24

25

1 BY MS. KLANCKE:

2 Q Ms. Dobiac, have you prepared a summary for this
3 Commission?

4 A Yes, I have.

5 Q Would you please read that summary at this time?

6 A Good afternoon, Commissioners. My name is Debra M.
7 Dobiac. I participated in the audit of the MFRs filed by Aqua
8 Utilities Florida for the test year 2007. I reviewed the
9 applicable MFR schedules in accordance with the agreed upon
10 procedures from staff's audit service request, and I was
11 primarily responsible for the audit work pertaining to rate
12 base excluding working capital. The description of my audit
13 findings is contained within my prefiled testimony. This
14 concludes my summary.

15 MS. KLANCKE: Mr. Chairman, this witness is tendered
16 for cross-examination.

17 CHAIRMAN CARTER: Mr. Beck.

18 MR. BECK: No questions, Mr. Chairman.

19 CHAIRMAN CARTER: Ms. Bradley.

20 MS. BRADLEY: No questions.

21 MS. ROLLINI: No questions.

22 CHAIRMAN CARTER: I started to say Mr. May, but you
23 are not Mr. May. But you still have no questions, right?

24 MS. ROLLINI: No questions.

25 CHAIRMAN CARTER: Commissioners, any questions for

1 Ms. Dobiac? I suppose you don't have any redirect, right?

2 **MS. KLANCKE:** No, sir.

3 **CHAIRMAN CARTER:** Okay. Let's deal with the
4 exhibits. For the record, Commissioners, Exhibit Numbers
5 119 through 122. Any objection from the parties?

6 **MS. KLANCKE:** It is 123, through 123.

7 **CHAIRMAN CARTER:** Okay. Exhibits 119 through 123,
8 correction. Are there any objections from the parties?

9 **MS. ROLLINI:** No objections.

10 **CHAIRMAN CARTER:** Without objection, show it done.
11 (Exhibit Numbers 119 through 123 admitted into the
12 record.)

13 **CHAIRMAN CARTER:** And also we have already admitted
14 Exhibit 200, which is the errata sheet with the corrections.
15 Anything further for this witness?

16 **MS. KLANCKE:** No, sir.

17 **CHAIRMAN CARTER:** Thank you, Ms. Dobiac.

18 **THE WITNESS:** Thank you.

19 **CHAIRMAN CARTER:** Have a lovely afternoon.

20 **THE WITNESS:** You, too.

21 **CHAIRMAN CARTER:** Great job, by the way. Okay.

22 Let's do this, let me kind of check on a second here. I know
23 that we had said that -- hang on. I need to take -- staff, we
24 need to get ourselves together for a moment here, because our
25 next two witnesses on the schedule is Ms. Catherine Walker with

1 the water management district and Ms. Kimberly Dodson with the
2 DEP. Let me just kind of take a minute to check with Chris on
3 our telecommunications system here before we go further.

4 Commissioners, we will take about seven minutes and
5 we will be right back.

6 (Recess.)

7 **CHAIRMAN CARTER:** We are back on the record. And
8 when we last left I gave everyone a heads-up that we will be
9 going first with Ms. Catherine Walker from the water management
10 district and then we will have Kimberly Dodson from DEP.

11 Staff, you're recognized.

12 **MS. FLEMING:** Commissioners, our witness Catherine A.
13 Walker is on the stand. She has not been sworn yet.

14 **CHAIRMAN CARTER:** Ms. Walker, would you please stand
15 and raise your right hand. Kimberly Dodson, are you here, as
16 well? We will just swear both of you at once.

17 (Witnesses sworn.)

18 **CHAIRMAN CARTER:** You may proceed.

19 CATHERINE A. WALKER
20 was called as a witness on behalf of the Staff of the Florida
21 Public Service Commission, and having been duly sworn,
22 testified as follows:

23 DIRECT EXAMINATION

24 BY MS. FLEMING:

25 Q Good afternoon, Ms. Walker.

1 **A** Good afternoon.

2 **Q** Please state your name and business address for the
3 record, please.

4 **A** My name is Catherine Walker. My business address is
5 4049 Reed Street, Palatka, Florida.

6 **Q** By whom are you employed and in what capacity?

7 **A** I am employed by the St. Johns River Water Management
8 District as the Director of the Division of Water Use
9 Regulation in the Department of Resource Management.

10 **Q** Have you prefiled direct testimony in this docket
11 consisting of nine pages?

12 **A** Yes, I have.

13 **Q** Do you have any changes or corrections to your
14 testimony?

15 **A** No, I do not.

16 **MS. FLEMING:** Chairman, may we have the prefiled
17 testimony of Catherine A. Walker inserted into the record as
18 though read?

19 **CHAIRMAN CARTER:** The prefiled testimony of the
20 witness will be entered into the record as though read.

21

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1 DIRECT TESTIMONY OF CATHERINE A. WALKER

2 Q. Please state your name and business address.

3 A. My name is Catherine Walker. My business address is 4049 Reid Street, Palatka,
4 Florida.

5 Q. By whom are you employed and in what capacity?

6 A. I am employed by the St. Johns River Water Management District (SJRWMD or
7 District) as the Director of the Division of Water Use Regulation in the Department of
8 Resource Management.

9 Q. How long have you worked in that position?

10 A. Since February 2008.

11 Q. What are your duties in that position?

12 A. I am responsible for oversight of the Division of Water Use Regulation. I supervise a
13 staff of hydrologists, engineers, environmental specialists, and water resource representatives
14 in Palatka and in the District's Service Centers regarding consumptive use permitting,
15 compliance and enforcement, and well construction. In addition, I coordinate the consumptive
16 use permitting activities with other District divisions and departments including water supply
17 planning, ground water programs, government and communications. The five functional areas
18 within the Division of Water Use Regulation include consumptive use permit review,
19 consumptive use permit compliance and enforcement, water well construction permitting,
20 water well construction permit compliance and enforcement, and water well contractor
21 licensing. Prior to my appointment as the Division Director, I worked as an Assistant Division
22 Director from November 2003 to February 2008. My primary role in that position was to
23 oversee the consumptive use permit compliance and enforcement activities. In addition, I
24 assisted the Division Director in supervising, reviewing, revising, and approving the work of
25 hydrologists, engineers, and other staff throughout the Division regarding consumptive use

1 permitting, compliance and enforcement; water well construction permitting, compliance and
2 enforcement; and water well contractor licensing. I also assisted the Director in coordinating
3 the consumptive use permitting program with the District's water supply planning, ground
4 water evaluations, and other programs, among other duties.

5 Q. Please summarize your educational background and professional experience before
6 you joined the District.

7 A. I graduated from the University of Central Florida in 1989 with a Bachelor of Science
8 degree in Environmental Engineering. In 2002, I received a Master's of Business
9 Administration from the University of Phoenix (at the Maitland, Florida campus). I am a
10 Professional Engineer registered in the State of Florida and have more than twenty years of
11 experience in project management for water and wastewater utility operations and
12 engineering.

13 I began my professional employment in 1985 as a laboratory technician in the City of
14 Orlando's Wastewater Bureau. I worked there for approximately one year at the City's Iron
15 Bridge Wastewater Treatment Facility. I accepted a position as an engineer intern in the
16 City's Project Management Department in 1986 and worked there for two years on public
17 works improvement projects and in developing the five-year capital improvement program.
18 From 1988 to 1990, I worked as an Engineer Intern with Commonwealth Engineering
19 Associates, a private consulting firm, on projects for public and private utilities that included
20 water conservation planning, consumptive use permitting, and the design and permitting of
21 wastewater collection, treatment, and reuse systems. Following my employment with
22 Commonwealth Engineering, I went to work for Seminole County Utilities in the
23 Environmental Services Department. I worked there as a utilities engineer, supervising a staff
24 of 35, operating ten water treatment plants, and three wastewater treatment facilities and
25 associated distribution and collection systems. After that, I served as a senior permitting and

1 compliance engineer for ten years at Florida Water Services Corporation, the prior owner of
2 many of the utility systems that are the subject of this case. While at Florida Water Services, I
3 had a major role in the development and implementation of the company's corporate
4 compliance program and in the handling of all aspects of environmental permitting for water
5 and wastewater facilities throughout the state.

6 Q. Have you ever filed or presented expert testimony before this Commission or any other
7 regulatory agency?

8 A. Yes, in 2007 I filed testimony on behalf of the staff of the Florida Public Service
9 Commission in the Aqua Utilities water and wastewater rate case (Docket No. 060368-WS). I
10 have also testified as an expert in wastewater facility permitting in support of the permittee
11 (Florida Water Services) in a case filed with the Division of Administrative Hearings to
12 challenge a proposed permit for a wastewater facility in Martin County.

13 Q. What is the purpose of your testimony in this proceeding?

14 A. The purpose of my testimony is to address the District's requirements for utilities to
15 implement a rate structure that promotes water conservation, discuss the importance of water
16 conservation, and address Aqua Utilities Florida, Inc. (AUF or utility) systems' compliance
17 with District permit requirements.

18 Q. Have you attached any exhibits to your testimony?

19 A. Yes, I have attached four exhibits to my testimony.

20 (a) Exhibit CAW-1 is my professional resume.

21 (b) Exhibit CAW-2 is a map showing the AUF systems in this case which hold
22 District permits and are located within Priority Water Resource Caution Areas.

23 (c) Exhibit CAW-3 is a summary of the AUF systems located in the SJRWMD and
24 indicates whether those systems are in compliance with District permits and
25 rule criteria.

1 (d) Exhibit CAW-4 contains copies of Consent Orders entered into with AUF for
2 their Chuluota and Imperial Mobile Terrace systems.

3 Q. What constitutes a water-conservation-promoting rate structure?

4 A. Any structure which sends a significant price signal to reduce water demand can be
5 characterized as a water-conservation-promoting rate structure.

6 Q. Please describe the District's rules regarding conservation-promoting rate structures.

7 A. Section 12.2.5.1(f) of the Applicant's Handbook, which is incorporated by rule,
8 Chapter 40C-2.101(1), Florida Administrative Code, requires that an applicant for a
9 consumptive use permit "submit a written proposal and implement a water-conservation-
10 promoting rate structure, unless the applicant demonstrates that the cost of implementing such
11 a rate structure is not justified because it will have little or no effect on reducing water use. In
12 the event that the applicant has a water-conservation-promoting rate structure in effect, the
13 applicant must submit a written assessment of whether the existing rate structure would be
14 more effective in promoting water conservation if it were modified, and if so, describe and
15 implement the needed changes."

16 Numerous studies have documented that a water-conservation-promoting rate structure
17 has a significant effect on reducing water use; therefore, the District requires its
18 implementation in almost all cases.

19 Q. Does the District have a preference regarding the percentage of fixed versus variable
20 charges to be recovered through the rates?

21 A. Yes. The higher the percentage of costs associated with usage, the greater the price
22 signal to reduce demand. Therefore, the maximum percentage of charges that the District
23 prefers to see in the base facility charge (BFC) is 40%. The reason for this limit is that the
24 District wants to have at least 60% of the cost to the customer tied to actual water use (i.e., in
25 the gallonage charge), because charging for the actual amount of water used promotes

1 conservation. In addition, the 40% maximum in the BFC is consistent with a specific
2 recommendation arising from the statewide Water Conservation Initiative (WCI). The goal of
3 the WCI was to find ways to improve efficiency in all categories of water use.

4 Q. Are you familiar with the water and wastewater rate case pending before the Florida
5 Public Service Commission in which the rate structure and rates to be approved for AUF
6 Utilities Florida, Inc. are at issue?

7 A. Generally, yes. In particular, I am familiar with respect to the proposed rate structure
8 and its potential to promote the conservation of water and compliance with District rules
9 related to water conservation.

10 Q. Have you reviewed the proposed rates and rate structures that are the subject of this
11 proceeding?

12 A. Yes. I have reviewed AUF's proposed rates and rate structures for the systems located
13 within the St. Johns River Water Management District.

14 Q. Please describe the utility's proposed rate structure request.

15 A. The utility's proposed rate structure for each system in the District consists of a BFC
16 and a two-tiered inclining block rate. The first usage block is proposed for monthly
17 consumption of 5,000 gallons or less, while the second block would be for monthly
18 consumption in excess of 5,000 gallons per month. The utility's proposed rate provides for
19 the fixed fraction of the bill to be greater than 40% until consumption reaches 9,000 gallons
20 per month.

21 Q. Does the District support the utility's request for a BFC and a two-tiered inclining
22 block gallonage charge rate?

23 A. Generally, yes. As mentioned previously, conservation-promoting rate structures
24 generally contain three or four tiers of inclining rates. The District encourages a multi-tiered
25 inclining block rate structure that progressively increases the cost to the user with increasing

1 consumption. However, the District does approve one- or two-tiered structures if the
2 gallonage charge is sufficiently high relative to the BFC, to send a clear price signal to
3 discourage use. Furthermore, 5,000 gallons per month is a reasonably conservative quantity
4 for essential domestic use. An average household with a reasonable conservation ethic should
5 be able to keep their usage in the first usage block. In this case, the tiers appear to support the
6 District's conservation goals.

7 However, with the statewide consolidated rates, many systems will see an increase in
8 the fixed portion of the bill, with a reduction in the variable portion of the bill. In some cases,
9 the price signal to conserve occurs at a much higher consumption level under the utility's
10 proposed rate structure, compared to the utility's existing rate structure. A review of those
11 systems which hold permits in the SJRWMD indicates that customers of about half of those
12 systems would see the fixed fraction of the bill increase relative to the total bill. This is true
13 for usage from zero to approximately 10,000 gallons, at which point the variable fraction of
14 the total bill dominates.

15 Q. Does the District recommend that AUF's current rate structure be changed in this
16 proceeding to be consistent with the District's requirements?

17 A. In some instances yes, and in others, no. Currently, AUF's rate structure consists of
18 only a BFC and a single-tiered (uniform) gallonage charge for each of its water systems. In
19 some instances, the existing rate structure is more heavily weighted on the BFC, and in others,
20 the existing rate is more heavily weighted in the gallonage charge. The proposed rate provides
21 for the fixed fraction of the bill to be greater than 40% until consumption reaches 9,000
22 gallons per month. The higher cost to the customer using more than an essential, efficient
23 amount of water would be most noticeable above the 10,000 threshold.

24 Q. Would you please describe a Priority Water Resource Caution Area?

25 A. Yes. Priority Water Resource Caution Areas (PWRCA's) are described in the District

1 Water Supply Plan as areas where existing and reasonably anticipated sources of water and
2 conservation efforts may not be adequate to: (1) supply water for all existing legal uses and
3 reasonably anticipated future needs; and (2) sustain the water resources and related natural
4 systems. In more general terms, these are areas in which the projected demands exceed the
5 resource capacity to supply the water without unacceptable environmental impacts.

6 Q. What is the frequency of the District's determination of PWRCAs?

7 A. Priority Water Resource Caution Areas are established based on the District's Water
8 Supply Assessments (WSAs), which are conducted every five years. The last WSA was
9 completed in 2003. The 2008 WSA is anticipated to be presented to the District's Governing
10 Board at the December 9, 2008 Governing Board meeting.

11 Q. Are any AUF systems in the SJRWMD located in PWRCAs?

12 A. Yes. Those systems and their respective District permit numbers are shown on Exhibit
13 CAW-2 and include the following: Carlton Village (2605), East Lake Harris Estates (2607),
14 Fern Terrace (2611), Hobby Hills (2613), Morningview (2610), Palms Mobile Home Park
15 (2612), Picciola Island (2609), Skycrest (2614), Stone Mountain (2606), Valencia Terrace
16 (2632), Venetian Village (2608), Piney Woods/Spring Lake (2604), Quail Ridge (4545),
17 Silver Lake Estates/Western Shores (2644), Tangerine (51073), Chuluota (8362) and
18 Harmony Homes (8357). This information is based on the 2003 Water Supply Assessment.
19 We anticipate that there will be a significant expansion of the PWRCAs based on the 2008
20 WSA.

21 Q. What is the effect, if any, of a utility or system being located within a Priority Water
22 Resource Caution Area?

23 A. Water conservation is critically important in these areas in order to extend the
24 timeframe within which relatively inexpensive fresh groundwater supplies can be sustained
25 before more expensive alternative water sources must be developed.

1 Q. For each AUF system covered in this proceeding that is located in the SJRWMD,
2 would you please summarize the consumptive use permit compliance status?

3 A. Yes. We reviewed the compliance history from 2005 to the present of each of the
4 systems located within the SJRWMD that are the subject of this proceeding. A summary table
5 is attached as exhibit CAW-3.

6 Several of the systems do not currently hold District Permits. The following systems
7 do not hold District permits and appear to be required to; therefore, they are in significant
8 noncompliance with District requirements: J. Swiderski – Summit Chase, Ravenswood, and
9 Tomoka. Summit Chase has been incorporated into the Tavares Ridge permit held by J.
10 Swiderski. That permit expired on April 28, 2007, and an application for renewal has not been
11 received by the District. Therefore, these systems are in significant noncompliance as well.

12 Other AUF systems are not required to have District permits, either because they fall below
13 permitting thresholds or because they are interconnected with other systems and do not have
14 withdrawal facilities. Interconnected systems include Kingswood (interconnected with
15 Brevard County), Oakwood (interconnected with Brevard County), Friendly Center
16 (interconnected with East Lake Harris), Holiday Haven (interconnected with Astor Water
17 Association), Beecher's Point (Interconnected with Town of Welaka), Hermits Cove
18 (interconnected with St. John's Highland) and Jungle Den (interconnected with Astor Water
19 Association). St. John's Highland is subthreshold and does not require a District Permit.

20 As of the time of this filing, however, we have not determined whether or not permits are
21 required for J. Swiderski – 48 Estates, and J. Swiderski - Kings Cove. These systems fall
22 below the volumetric thresholds for permit requirements, but if they have wells equal to or
23 greater than 6-inches in diameter, then they are required to obtain District permits. Pomona
24 Park, Silver Lake Oaks, and Wootens are subthreshold and do not require permits.

25 Q. Will you please characterize the nature of the AUF systems' violations identified and

1 their relevance to this proceeding?

2 A. All of the systems that have District permits have at least one minor violation for
3 failure to timely submit meter test results. For many of these, the reports were submitted
4 within a couple of weeks of the due date. However, Notices of Violation (NOVs) were sent to
5 several of the systems including Hobby Hills, Picciola Island, Skycrest, Stone Mountain,
6 Venetian Village, Quail Ridge, Silver Lake Estates/Western Shores, and Tangerine. These
7 NOVs were for various violations, including allocation exceedances along with other
8 reporting violations. The District entered into Consent Orders with AUF for violations at
9 Chuluota and Imperial Mobile Home Terrace. These Consent Orders are attached as Exhibit
10 CAW-4.

11 The Arredondo Estates system has a permit that is issued to Arredondo Utility Co., Inc.
12 d/b/a AquaSouce Utilities. If this system is owned by AUF, the permit should be transferred
13 to Aqua Utilities Florida, Inc.

14 Q. Does that conclude your testimony?

15 A. Yes.

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1 BY MS. FLEMING:

2 Q Ms. Walker, did you also file Exhibit Numbers
3 CAW-1 through CAW-4?

4 A Yes.

5 Q Do you have any changes or corrections to any of
6 those exhibits?

7 A No, the exhibits are correct and current to the best
8 of my knowledge.

9 MS. FLEMING: Chairman, Witness Walker's exhibits
10 have been identified as Numbers 127, 128, 129, and 130 on the
11 Comprehensive Exhibit List.

12 CHAIRMAN CARTER: For the record, Commissioners, from
13 the Comprehensive Exhibit List, 127 through 130.

14 MS. FLEMING: Chairman and Commissioners, Witness
15 Walker is the water management district witness available to
16 respond to certain questions that were raised by Commissioner
17 Argenziano in response to the public testimony of Kelly
18 Sullivan. Specifically, questions regarding what, if any,
19 impact there is on the wetlands if line flushing is disposed
20 into the wetlands, and also how development impacts water
21 resources.

22 COMMISSIONER ARGENZIANO: Mr. Chair?

23 CHAIRMAN CARTER: You're recognized.

24 COMMISSIONER ARGENZIANO: Thank you, but I know how
25 development impacts water resources. That wasn't the question.

1 The question correctly was is the utility granted a permit and
2 by whom to release water into the wetlands or out in the street
3 as we heard testimony of yesterday? And if they are, who are
4 they permitted by? Is it the water management district and is
5 it considered stormwater runoff, or what treatment level is it
6 before it is allowed to be released?

7 And another question was that Ms. Sullivan had
8 indicated that the St. Johns Water Management District had told
9 her that if individuals sunk irrigation wells it would be
10 detrimental other than detrimental in the respect to
11 conservation efforts, and I would like for the water management
12 district to elaborate to me what the concern is on sinking
13 irrigation wells other than the fact of the possibility that
14 people may use more water than less because they are not tied
15 to it being charged. With that I hope I've got all the
16 questions in there and I hope that they are able to answer
17 that.

18 **CHAIRMAN CARTER:** You may proceed, Ms. Fleming.

19 BY MS. FLEMING:

20 **Q** Ms. Walker, have you prepared a summary of your
21 testimony?

22 **A** Yes, I have.

23 **Q** Could you please provide it at this time?

24 **A** Well, the purpose of my testimony is to address the
25 district's requirements for utilities to implement a rate

1 structure that promotes water conservation, and to discuss the
2 importance of water conservation, and to address Aqua
3 Utilities' Florida systems compliance with district permit
4 requirements.

5 And, in addition, I am here to provide a different
6 perspective of the public testimony of Ms. Sullivan given on
7 Monday, December 8th, as well as to correct some inaccuracies
8 contained in her testimony. And I plan to respond to questions
9 raised by Commissioner Argenziano that arose as a result of
10 that testimony and the questions that we just heard just a
11 minute ago.

12 I will start by kind of going through the thoughts
13 that I have prepared, you know, prior to coming here, and
14 clarification based on what Commissioner Argenziano just
15 pointed out. I reviewed a draft of the written transcript of
16 Ms. Sullivan's testimony, and Ms. Sullivan testified regarding
17 the potential for the proliferation of irrigation wells that
18 would result from the imposition of water rates by Aqua
19 Utilities.

20 And I want to comment that district staff attended a
21 meeting with the residents on October 15th of 2007, and at that
22 meeting the district staff discussed the water use projections
23 for the Chuluota region. Basically, the east central Florida
24 region, as well as the projections for Chuluota, and we
25 discussed the need for conservation.

1 We informed the residents that there was a
2 significant need to reduce water consumption, particularly
3 irrigation consumption, because the irrigation demand and the
4 increase in demand that was projected for the area was
5 contributing to adverse regional resource impacts. When staff
6 was asked about the potential to shift demand over to
7 irrigation wells, staff commented that if the demand were
8 shifted to wells rather than from the utility that that could
9 potentially be more harmful to the resource than if the demand
10 were otherwise pumped from the utility's wells.

11 And, Ms. Sullivan stated I think in her testimony
12 that she felt like the resources would be further harmed
13 because of the imposition of rates. The resources are expected
14 to be harmed based on the increase in demand, partially more so
15 if the demand were shifted to irrigation wells, and the reason
16 for that is based on the specific hydrogeology of that region.

17 We also heard from Ms. Sullivan that neighboring
18 Oviedo has the capacity to serve Chuluota and that they have
19 superior water quality than that of Aqua's system, and she also
20 mentioned that Oviedo doesn't have a CUP to serve Chuluota.

21 Oviedo does not have the capacity to serve Chuluota
22 in the sense that there is not a sufficient of water allocated
23 in their consumptive use permit to serve Chuluota. And, in
24 fact, it is not clear to us if Oviedo applied for a CUP to
25 expand their service area to deal with Chuluota whether or not

1 we would be able to grant that allocation from groundwater
2 because of the concerns in the region on impacts to the water
3 resources.

4 **COMMISSIONER ARGENZIANO:** Excuse me, Mr. Chair.

5 **CHAIRMAN CARTER:** You're recognized.

6 **COMMISSIONER ARGENZIANO:** First, let me just ask Ms.
7 Walker if she could take a step back. You just mentioned that
8 due to the specific hydrogeologic status, I guess, of that area
9 individual wells would be more harmful. Can you elaborate,
10 because if the water is coming from the same place as the
11 utility's wells, that doesn't make any sense, unless the
12 concern was, as I stated before -- and I'm not putting words in
13 your mouth, but you need to be specific with me.

14 If the wells are coming from the same place as the
15 utility's wells, as a matter of fact, they are more spread out,
16 so there would be more of a rotating, I guess, is it the water
17 management district's opinion that the individual wells
18 regardless of hydrogeological differences, the individual wells
19 may be pumped more than on a conservation rate?

20 **THE WITNESS:** That is not the sole reason that we
21 would anticipate that the impacts might be accelerated.

22 **COMMISSIONER ARGENZIANO:** Can you then be specific as
23 to what they would be, because the water is coming from the
24 same area.

25 **THE WITNESS:** Yes, ma'am. I will try to describe the

1 best I can the relationship. It is kind of hard to do without
2 a visual image, but as you may have seen from Ms. Sullivan's
3 testimony, there are a few of the utility's production wells in
4 the area that create a certain drawdown cone of influence. And
5 because of the volume of water that is withdrawn from those
6 wells, the drawdown cone would be significantly larger than
7 what you would anticipate from irrigation wells.

8 Because of the nature of the hydrogeology there, if
9 you replace some of the demand from the larger public supply
10 wells with pumpage from smaller irrigation wells, you would
11 essentially be creating a number of smaller shallower drawdown
12 curves. If the drawdown from the public supply wells cannot
13 expand laterally, which it would in the absence of these other
14 drawdrawns, it would expand vertically. And in that case you
15 would either have the cone becoming lower below wetlands or it
16 would become expanded at the bottom such that it would cause
17 upconing of the saline water below the production wells.

18 The point of our meeting with the residents out there
19 in Chuluota was to let them know that there were significant
20 anticipated resource impacts in that area, and the best thing
21 that that they could do to reduce their cost was to reduce
22 their consumption.

23 **COMMISSIONER ARGENZIANO:** Mr. Chairman.

24 **CHAIRMAN CARTER:** You're recognized.

25 **COMMISSIONER ARGENZIANO:** I know that, and I know you

1 are saying -- that doesn't get to what I'm talking about. Of
2 course if you use less there is less impact, and that also has
3 to coordinate with how much building is allowed to be done in
4 the area and how many CUPs you give.

5 Quite frequently, the water management districts
6 allow CUPs for much greater amounts than they actually allow
7 usage. But, I want to go back to the issue of the irrigation
8 wells, because somehow that is just not getting through to me
9 the right way.

10 When you talk about upconing, are you talking about
11 the utility's wells being in a separate watershed than the
12 irrigation wells would be, or a separate zone in the aquifer?

13 **THE WITNESS:** No.

14 **COMMISSIONER ARGENZIANO:** Okay. Then how are they
15 not commingled? How is the water not commingled, whether it is
16 an irrigation well or the utility's well?

17 **THE WITNESS:** Well, it is commingled.

18 **COMMISSIONER ARGENZIANO:** Okay. Well, that's where
19 I'm having a hard time --

20 **THE WITNESS:** What I am suggesting, Commissioner, is
21 the shape of the drawdown curve is going to look a little bit
22 different based on the way you distribute the withdrawals.

23 **COMMISSIONER ARGENZIANO:** So what you are indicating
24 then is that the utility's well is in a deeper area, a more
25 shallow area, and the irrigation wells would be higher up. So

1 what you're saying is the individual irrigation wells would be
2 pulling from a thinner area and/or lens in the aquifer. Is
3 that what you are indicating?

4 **THE WITNESS:** I don't think so. Can you please say
5 that again? I was trying to follow.

6 **COMMISSIONER ARGENZIANO:** Okay. The point I'm trying
7 to get at is that normally if there is -- all the wells are
8 coming from the same area in that aquifer unless it is a
9 separate basin, or unless those irrigation wells would be at a
10 spot where the aquifer is thinner and is higher, at a higher
11 level than the utility's wells, then I can understand some
12 impact from the irrigation wells. But if the utility's well or
13 wells are still pumping, they are going to have the same impact
14 after awhile to the lens of the fresh water in that aquifer.

15 So I guess what I'm trying to ask you is be a little
16 more specific as to the irrigation wells having a negative
17 impact if the water is coming from the same source of water
18 that the utility's water is coming from in the same basin
19 without being in a separate watershed. And I'm not sure if you
20 understand.

21 **THE WITNESS:** Well, I think I understand your
22 question, and I think as I mentioned when I started to try to
23 explain this it is kind of hard to do without a picture, but
24 the difference has to do with kind of a three dimensional
25 boundary of water coming out of a certain geographic area. And

1 if you are pulling water from a well, I am fairly sure that you
2 are familiar with the shape of a drawdown curve, what it looks
3 like. If you pull more water, the drawdown curve gets bigger.

4 **COMMISSIONER ARGENZIANO:** Right.

5 **THE WITNESS:** Okay. So the way that curve moves is
6 it expands laterally without -- you know, if there is not a lot
7 of -- if there is a lot of features of the aquifer that would
8 allow it to draw water from horizontally around the well, that
9 drawdown curve would flatten out and it wouldn't be quite as
10 deep, okay. If you have a number of low volume wells in the
11 area that would essentially create small drawdown curves such
12 that the larger well drawdown curve could not expand
13 horizontally, then you are either going to have to get --

14 **COMMISSIONER ARGENZIANO:** Excuse me, what you are
15 describing is exactly what I said, it would be thinner in those
16 areas. And we are on the same wavelength. I understand what
17 you are saying, but it is still -- and this is a question that
18 you may have to take back and maybe get back with me on.

19 What you are saying is that the utility then will
20 have a harder time taking that water because it would be in a
21 thinner zone, which now the individual wells would be drawing
22 from, so there would be less for the utility to take. But, it
23 still comes from the same place and regardless of whether they
24 are individual wells or the utility is taking it. If the
25 utility were right now without those individual wells to pump

1 more to supply more homes with, they would have the same effect
2 as those individual wells, am I correct?

3 **THE WITNESS:** It would -- if the utility had to pump
4 more, theoretically that drawdown curve would expand
5 horizontally before it would expand vertically, and --

6 **COMMISSIONER ARGENZIANO:** Dependent on, of course,
7 weather conditions.

8 **THE WITNESS:** Right. And part of the problem with
9 the irrigation wells is it would intercept a lot of the
10 recharge that might occur that would delay --

11 **COMMISSIONER ARGENZIANO:** There you go. There is the
12 word, intercept. So what I'm trying to say, Mr. Chairman and
13 Commissioners, is that it is just that those irrigation wells
14 would be in a higher level, in a thinner zone, and, of course,
15 it would intercept what the utility is taking now first. And
16 that is the whole point I was trying to make.

17 It still means -- and this is a strange way that the
18 water management district puts that -- but it still means that
19 the adverse impacts would be the same to the broader resource,
20 whether it was an individual well, irrigation well that was
21 sunk, or if the utility pumped the water. It would just make
22 it harder for the utility to get at that water because it is in
23 a different level, so to speak.

24 And that is the point I was trying to make, which has
25 a big -- it makes a big difference in the way it was stated

1 previously to the way it really is. And I may be making it
2 more difficult, and I hope some people in that room understand
3 what I'm talking about, and I'm sure they do. And I don't mean
4 to make it sound like you don't, but other than the utility
5 issue, the water issue, which is an issue of concern, the way
6 Mrs. Sullivan had presented that is not exactly correct. It is
7 correct to the point that if you put those individual wells
8 there they would impact the utility well, but not that the
9 utility -- that is not going to happen without those individual
10 wells. It could happen with the utility using more water
11 anyway. And I just had to make that point, and I apologize.

12 To the other point that I need the water management
13 district to answer, and that is on the allowing -- what I heard
14 from customers yesterday was that the utility just flushes
15 water out either -- one customer had said it was out in the
16 street and the other said it was out in the wetlands, and I
17 would like Ms. Walker to respond to that, please.

18 **THE WITNESS:** Okay, Commissioner. Just as a
19 follow-up to what you were just discussing, and you were
20 talking about the impact affecting the utility's wells
21 beforehand, our concern really is with the resource.

22 **COMMISSIONER ARGENZIANO:** I understand that. I
23 really do, but it is a fine line in the way that Mrs. Walker
24 (sic) had stated that, and as the water management district
25 told her that. It is not exactly the same meaning if you are

1 really looking at it as the water coming from the same source.

2 If you have wells that are a little higher up
3 somewhere and they are in a thinner zone, although the same
4 watershed, of course they are going to impact laterally because
5 they are taking from that thinner zone where the water is now.
6 And unless the water replenishes it, and that is rain in a
7 timely manner, it is going to impact the utility's pumping at a
8 deeper lower level. That is the only thing I was mentioning.

9 But I understand your approach is looking at the
10 resource. That really wasn't my point. My point was making
11 sure that it was understood that it really wasn't -- there was
12 a different type of impact. It wasn't that the individual
13 irrigation wells are destroying the resource. It is overall
14 pumping that is destroying the resource, and that is where I'm
15 trying to make a distinction. At least I think I did.

16 **THE WITNESS:** Well, I would agree with that. I would
17 concur. With respect to the flushing of the distribution
18 system mains, the district does look at flushing activity as a
19 water utility type use when we look at a consumptive use
20 permit, and we recognize that it is necessary for public health
21 and safety to flush the lines periodically to maintain
22 distribution system water quality with respect to the
23 disinfectant residual. We do have a procedure to analyze the
24 water utility use with respect to the overall request for an
25 allocation, and it is authorized as a reasonable beneficial

1 consumption use provided that it is not excessive.

2 **COMMISSIONER ARGENZIANO:** What are the limits, or who
3 tests to make sure that the flushing does not exceed the limits
4 allowed in whatever they are flushing out, whatever chemicals
5 or whatever it can be? And is it the same for flushing out in
6 the street as it is for the wetlands?

7 **THE WITNESS:** I think I heard you ask a couple of
8 questions in that sentence, and I think in terms of
9 establishing a quantity that is -- whether it is excessive or
10 not excessive, it is really dependent upon the distribution
11 system characteristics and the frequency and volume of water
12 that needs be flushed to maintain the adequate quality.

13 When we look at the quantity in terms of its
14 reasonableness, we basically compare it to what is going on in
15 other utilities of similar characteristics.

16 (Transcript continues in sequence with Volume 8.)

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STATE OF FLORIDA)

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CERTIFICATE OF REPORTER


COUNTY OF LEON)

I, JANE FAUROT, RPR, Chief, Hearing Reporter Services Section, FPSC Division of Commission Clerk, do hereby certify that the foregoing proceeding was heard at the time and place herein stated.

IT IS FURTHER CERTIFIED that I stenographically reported the said proceedings; that the same has been transcribed under my direct supervision; and that this transcript constitutes a true transcription of my notes of said proceedings.

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

DATED THIS 11th day of December, 2008.



JANE FAUROT, RPR
Official FPSC Hearings Reporter
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