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BEFORE THE
FLORIDA PUBLIC SERVICE COMMISSION

: In the Matter of :
: : DOCKET NO. 940109-WU
: Petition for Interim and :
: Permanent Rate Increase in :
: Franklin County by St. George:
: Island Utility Company, Ltd. :
: _____:

FIRST DAY - MORNING SESSION

VOLUME 1

Pages 1 through 131

PROCEEDINGS: HEARING

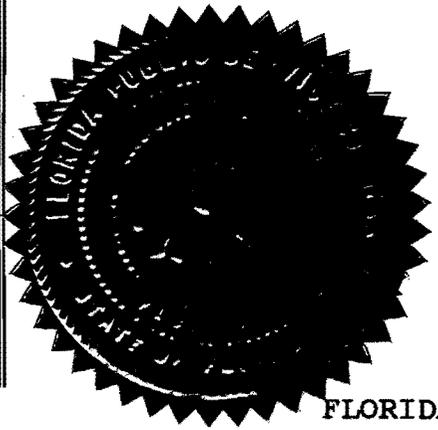
BEFORE: CHAIRMAN J. TERRY DEASON
COMMISSIONER DIANE K. KIESLING

DATE: Wednesday, July 20, 1994

TIME: Commenced at 9:40 a.m.

PLACE: Apalachicola Community Center
1 Avenue E
Apalachicola, Florida

REPORTED BY: JOY KELLY, CSR, RPR
Chief, Bureau of Reporting
SYDNEY C. SILVA, CSR, RPR.
Official Commission Reporters



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23

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P R O C E E D I N G S

(Hearing convened at 9:40 a.m.)

CHAIRMAN DEASON: Call the hearing to order.

Could we have the notice read, please?

MR. PIERSON: Pursuant to notice, this time and place has been set for a hearing in Docket No. 940109, the application of St. George Island Utility Company for increased rates.

CHAIRMAN DEASON: Take appearances.

MR. PFEIFFER: Steve Pfeiffer, the firm Apgar, Pelham, Pfeiffer and Theriaque in Tallahassee, representing St. George Island Utility.

MS. SANDERS: Barbara Sanders, on behalf of St. George Island Water and Sewer District.

MR. McLEAN: I'm Harold McLean, Office of Public Counsel, 111 West Madison Street, Tallahassee, Florida, appearing on behalf of the Citizens of the State of Florida, in opposition of this rate increase.

MR. PIERSON: Robert Pierson and Marc Nash, 101 East Gaines Street, Tallahassee, Florida, on behalf of the Commission Staff.

MS. HELTON: MaryAnne Helton, 101 East Gaines Street, Tallahassee, Florida, Counsel to the Commission.

CHAIRMAN DEASON: Okay. Mr. Pierson, are there any preliminary matters?

1 MR. PIERSON: Yes, sir. First of all, I would
2 like to inform the Commission that the Utility has
3 agreed to stipulate in all of the Staff witnesses
4 without their having to appear, if that is okay with the
5 Commission.

6 CHAIRMAN DEASON: Are the other parties to the
7 case part of that stipulation? Any objection to that?

8 MR. McLEAN: This is the first we've heard of
9 it and we're just discussing it. (Pause) Thank you,
10 Mr. Chairman, we can agree to it as well.

11 CHAIRMAN DEASON: Ms. Sanders.

12 MS. SANDERS: No objection, sir.

13 CHAIRMAN DEASON: Very, well. Commissioner,
14 any objection?

15 COMMISSIONER KIESLING: No.

16 MR. PIERSON: I would also like to point out
17 an error in the prehearing order. The final issue was
18 agreed at the prehearing conference to be a nonissue,
19 that's, does the Utility own the third well property and
20 its improvements.

21 CHAIRMAN DEASON: I'm sorry, what issue is
22 that?

23 MR. PIERSON: It's Issue 42. And we agreed to
24 remove it as an issue at the prehearing conference and I
25 just failed to do that in the final draft.

1 CHAIRMAN DEASON: Yes, I recall discussing
2 that at the prehearing conference. So you're just
3 suggesting that Issue 42 be deleted?

4 MR. PIERSON: Yes, sir.

5 CHAIRMAN DEASON: Show that Issue 42 is
6 deleted. Any other preliminary matters?

7 MR. PIERSON: Yes, sir. There are a number of
8 proposed stipulations. If I can find them.

9 And I was just wondering if it's the
10 Commission's desire to take up those stipulations at
11 this time, or when we do the final recommendation?

12 CHAIRMAN DEASON: Is there a preference, that
13 either Staff or the parties have concerning the
14 stipulations?

15 MR. PIERSON: It probably would be cleaner to
16 do it up-front.

17 MR. PFEIFFER: Certainly, if they're not going
18 to be --

19 CHAIRMAN DEASON: I understand there is no
20 need to take evidence on them if they're -- any
21 objection to the Commission taking up the stipulations
22 at this time by any party?

23 MR. McLEAN: Not to your taking them up at
24 this time; we may object to one of the stipulations.

25 CHAIRMAN DEASON: Okay. Well, let me ask

1 then. We will go ahead and take up the proposed
2 stipulations and if there are any objections to those
3 proposed stipulations, we will hear those at this time.

4 Mr. McLean.

5 MR. McLEAN: Yes, sir. There is a general
6 stipulation regarding the issue of used and useful.

7 An argument has been advanced by the Utility
8 that we should not relitigate issues of original cost.
9 It seems to me -- I'm not sure that it's a good-faith
10 argument but I don't want to characterize it as bad
11 faith. If we're going to open up the issue to
12 relitigation of used and useful, it appears to me that
13 the party that seeks the relitigation of that issue can
14 hardly object to the relitigation of original cost,
15 particularly where the Commission, itself, had serious
16 and articulated reservations about original cost. So to
17 the extent that we are expected to join in the used and
18 useful stipulation, we will not do so if the Utility
19 continues to object to opening up original cost to
20 relitigation.

21 CHAIRMAN DEASON: Mr. Pierson, did you hear
22 that objection?

23 MR. PIERSON: Yes, sir, I did, and I'd like to
24 point out that it's my understanding that original cost,
25 valuation of plant, is always an issue up for grabs in a

1 rate case.

2 CHAIRMAN DEASON: And that the stipulation of
3 used and useful would have no bearing on that being a
4 question of original cost and that being a potential
5 issue?

6 MR. PIERSON: Yes, sir. That would be Staff's
7 position.

8 CHAIRMAN DEASON: Mr. Pfeiffer.

9 MR. PFEIFFER: I don't believe that the issues
10 are logically tied. They are separate factual issues.
11 The issue with regard to original cost was one that in
12 the last rate case order the Commission expressly made
13 reservations and I sort of, I guess, invited new
14 evidence to be presented.

15 I would point out that in the testimony of
16 Public Counsel's witness, there are no issues raised
17 about used and useful in that and no issues have been
18 raised by Public Counsel during the course of this
19 entire proceeding with regard to used and useful.

20 CHAIRMAN DEASON: Ms. Sanders.

21 MR. McLEAN: That's true. Commissioner, if
22 original cost is going to be fairly debated here, then
23 we have no problem.

24 CHAIRMAN DEASON: You want to clarify that the
25 proposed stipulation concerning used and useful is not

1 dispositive of any questions concerning original cost.

2 MR. McLEAN: Of course, not. But the issue of
3 whether we're going to relitigate is related. Their
4 witnesses, from time to time, suggest that you should
5 not consider original cost evidence because you've
6 already considered it. But if we're going to debate
7 original cost in this proceeding, then I have no problem
8 with any of the stipulations.

9 MR. PFEIFFER: We certainly contend that there
10 is no new evidence that has been offered by anyone in
11 this proceeding with regard to original cost of issues
12 that was not before the Commission in 1989. And that is
13 our position with regard to original cost.

14 CHAIRMAN DEASON: Well, I think what I hear
15 you all saying is that you don't want the stipulation on
16 used and useful to preclude or eliminate any questions
17 concerning original cost.

18 MR. McLEAN: That's correct.

19 CHAIRMAN DEASON: But I also understand -- at
20 least Mr. Pfeiffer is saying, is that he's not aware of
21 any testimony or evidence being presented questioning
22 original cost by any party.

23 MR. McLEAN: Oh, yes, sir, there most
24 assuredly is.

25 CHAIRMAN DEASON: Very we.

1 MR. MCLEAN: Yes. There is a great deal of
2 evidence on the issue of original cost from all the
3 parties.

4 CHAIRMAN DEASON: Okay. Ms. Sanders, do you
5 have anything to add on the stipulation?

6 MS. SANDERS: No, sir.

7 CHAIRMAN DEASON: Very well. With that
8 understanding then, Mr. Pierson, the stipulations are
9 contained in the Prehearing Order; is that correct?

10 MR. PIERSON: Not in my copy, Mr. Chairman. I
11 have 18 through 21. I'm missing a substantial portion
12 of my Prehearing Order, apparently.

13 CHAIRMAN DEASON: Well, on Page 37 of the
14 Prehearing Order are the proposed stipulations. Are
15 these the stipulations you're proposing that the
16 Commission address at this time?

17 MR. PIERSON: I'm going to hazard a guess and
18 say yes because I have no Page 37.

19 CHAIRMAN DEASON: Well, I suggest that you
20 locate a Page 37.

21 MR. PIERSON: That is correct. It's Page 37.

22 CHAIRMAN DEASON: Okay. And there are a
23 number of stipulations presented there, continuing all
24 the way to Page 40?

25 MR. PIERSON: Yes, sir.

1 CHAIRMAN DEASON: And Mr. McLean, your only
2 question concerning stipulations has now been addressed;
3 is that correct?

4 MR. McLEAN: That's correct, sir.

5 CHAIRMAN DEASON: Okay. Commissioner, do you
6 have a motion concerning proposed stipulations?

7 COMMISSIONER KIESLING: Certainly, if a motion
8 is necessary, I move that Stipulations 1 through 21 as
9 just identified be admitted into the record without need
10 of further proof.

11 CHAIRMAN DEASON: Show that accepted, and
12 there would be no need to provide further testimony or
13 evidence concerning the stipulations as will be
14 accepted.

15 MR. PIERSON: Thank you.

16 CHAIRMAN DEASON: As clarified by the question
17 raised by Mr. McLean.

18 Any other preliminary matters?

19 MR. PIERSON: Not that I'm aware of.

20 CHAIRMAN DEASON: Mr. McLean.

21 MR. McLEAN: There is one other item that I
22 haven't had a chance to evaluate as yet. Counsel for
23 the Utility told me that the Utility found some audited
24 financial statements and other data as recently as
25 yesterday, and the data was provided to us this morning.

1 It is in response to a request for production of
2 documents which we submitted to them in March.

3 I am tempted to move for a continuance based
4 upon an opportunity to evaluate that information, but at
5 this point I can't do that in good faith because I do
6 not know what import they assigned to those documents.
7 I will most assuredly oppose their admission. But I
8 would like to reserve the right to move for a
9 continuance if those documents are held admissible and
10 if those documents are shown to be, by the Utility,
11 relevant to this case. I'd like an opportunity to
12 evaluate them and to determine whether we should hire
13 expert testimony to respond to them anyway. The point
14 is that I've had less than an hour to evaluate documents
15 which I requested in March. They represent to me that
16 they were discovered yesterday, and I would like to test
17 that as well. Thank you, sir.

18 CHAIRMAN DEASON: Mr. Pfeiffer.

19 MR. PFEIFFER: The documents were discovered
20 yesterday. I gave them to Mr. McLean this morning
21 because they were within his request for production. I
22 felt obliged to do that. I think that's my
23 responsibility as a lawyer in this case. And that's why
24 I did that.

25 We do not view the documents at relevant. We

1 do not view any of the documents that have been offered
2 by Public Counsel in this proceeding regarding original
3 cost estimates as relevant, including these documents.
4 We believe that all of this information was before the
5 Commission in 1989 when it made a determination
6 regarding original cost.

7 CHAIRMAN DEASON: Okay. So you're stating
8 that you just discovered this information, and you
9 produced it in response to an outstanding discovery
10 request, but you're not anticipating relying on that as
11 part of your direct case.

12 MR. PFEIFFER: No, Your Honor, we're not
13 anticipating relying on that as part of our direct case.
14 The only possible reliance that we would place on those
15 documents is if evidence that we're not presently aware
16 of that was not before the Commission in 1989 is
17 presented during the course of this proceeding regarding
18 original cost.

19 CHAIRMAN DEASON: Mr. McLean, I will allow you
20 to object to the utilization of this material if and
21 when it is so utilized, and --

22 MR. McLEAN: May I respond to one aspect of
23 what Mr. Pfeiffer said?

24 CHAIRMAN DEASON: Surely.

25 MR. McLEAN: Mr. Pfeiffer, on several

1 occasions, has referred to a notion of new evidence.
2 Number one, we think we have new evidence. But, number
3 two, the Commission's reservations --

4 CHAIRMAN DEASON: You do or do not have new
5 evidence?

6 MR. McLEAN: We do. But in addition to that,
7 the Commission's reservation does not restrict us to new
8 evidence. It just says "evidence." If they wanted just
9 new evidence, I think that's what they would have said.
10 And as Mr. Pierson has pointed out, customarily,
11 traditionally and perhaps as a matter of law, this
12 Commission can always look at original cost in any
13 document it wishes to look at it. It must be remembered
14 that the Utility could have brought us invoices, checks,
15 drafts and so forth, from the original cost when they
16 built this Utility. They didn't do that. They invited
17 you to rely on other evidence. And I think any scrap of
18 evidence we can find, whether considered this time or
19 not considered this time, is fairly laid before the
20 Commission.

21 CHAIRMAN DEASON: Well, I appreciate you
22 bringing this to the Commission's attention at this
23 time. But I do think as far as any stated objections or
24 a motion for continuance is probably premature. If and
25 when you feel it's necessary to either object or make

1 such a motion, we'll entertain it at the appropriate
2 time.

3 MR. McLEAN: I understand, Mr. Chairman.
4 Thank you.

5 CHAIRMAN DEASON: Any other preliminary
6 matters? Mr. Pierson, there's been some confusion, I
7 understand, about the notice as to whether there's going
8 to be customer testimony presented at this phase of the
9 hearing or whether that's being reserved just for the
10 evening session.

11 I would, in an abundance of caution and to be
12 fair to all of those who are here and may have gotten a
13 different notice, I would propose that we ascertain
14 whether there are members of the public who wish to
15 testify this morning. If there are, give them that
16 opportunity because they may not be available to attend
17 the evening hearing. And let me ask, Mr. McLean, have
18 you made any attempts to ascertain whether members of
19 the public wish to testify this morning?

20 MR. McLEAN: No, sir, we have looked to Ms.
21 Sanders who is an attorney here, to do that for us.

22 CHAIRMAN DEASON: Okay. Ms. Sanders.

23 MS. SANDERS: Thank you, Mr. Deason. Yes, sir
24 there are. We have the speaker forms and a list of
25 folks who may not want to speak but would like their

1 names read into the record.

2 CHAIRMAN DEASON: Okay.

3 MS. SANDERS: Commissioner Deason, I wanted to
4 say the reason we did this, we did this in 1989 and
5 because I know people, it seems to help a little better
6 if I can help get the names into the record and help
7 organize the customers.

8 CHAIRMAN DEASON: I have no objection to you
9 doing that.

10 It's customary that we swear public witnesses
11 in at one time, that usually expedites things. So I'm
12 going to ask all members of the public who wish to make
13 a statement to the Commission at this time, to please
14 stand and raise your right hand.

15 (Witnesses collectively sworn.)

16 MR. PFEIFFER: Mr. Chairman, I'm sorry, could
17 I raise one brief preliminary issue?

18 CHAIRMAN DEASON: Yes.

19 MR. PFEIFFER: In the order of witnesses
20 that's set out in the prehearing testimony, we have
21 listed Mr. Brown, Mr. Seidman, Mr. Colony and Ms. Drawdy
22 as our offer of proof. And I wonder if we might change
23 that and place Mr. Brown behind Mr. Seidman, Mr. Colony
24 and Ms. Drawdy rather than at the top?

25 CHAIRMAN DEASON: Any objection to taking

1 Mr. Brown fourth instead of first?

2 MR. McLEAN: Would you repeat the order,
3 Steve? I didn't --

4 MR. PFEIFFER: It would be Mr. Seidman,
5 Mr. Colony, Ms. Drawdy, Mr. Brown.

6 MR. McLEAN: Oh, that's fine, no problem.

7 MR. PFEIFFER: Thank you.

8 CHAIRMAN DEASON: Ms. Sanders.

9 MS. SANDERS: No objection.

10 CHAIRMAN DEASON: Mr. Pierson.

11 MR. PIERSON: No objection.

12 CHAIRMAN DEASON: All right. We'll take
13 Mr. Brown then as stated by Mr. Pfeiffer.

14 MR. PIERSON: If I may, Mr. Chairman.
15 Mr. Pfeiffer, didn't you also say something about
16 Mr. Coloney's availability?

17 MR. PFEIFFER: Yes. Mr. Coloney is not
18 available tomorrow. He's available only today. So if
19 there is a squeeze at some point about his being able to
20 appear today, we would certainly appreciate an
21 accommodation in that regard. Thank you.

22 CHAIRMAN DEASON: I appreciate that. We'll
23 make every endeavor to accommodate that need.

24 MR. McLEAN: Can we expect Mr. Coloney's
25 direct and rebuttal at the same time then?

1 MR. PFEIFFER: I'm not -- I haven't made a
2 decision about that.

3 MR. McLEAN: Okay. There is a possibility
4 that you'd have to call him tomorrow for rebuttal.
5 There's a possibility you'd have to call him tomorrow
6 then for rebuttal, am I right?

7 MR. PFEIFFER: I understand. Yes.

8 MR. McLEAN: Well, whatever works out is fine.
9 Just as long as we know a little bit ahead of time
10 what's going to happen.

11 CHAIRMAN DEASON: There is going to be a third
12 day of hearings. I don't know if Mr. Coloney will be
13 available at that time or not.

14 MR. PFEIFFER: He would be available and our
15 inclination is to think that his rebuttal testimony
16 would be offered then.

17 CHAIRMAN DEASON: Ms. Sanders, you may call
18 your first witness.

19 MS. SANDERS: Thank you, Mr. Deason. Mr.
20 Harry Buzzett.

21 CHAIRMAN DEASON: Okay. Ms. Sanders, you're
22 going to need to be at a microphone when you call the
23 name so the court reporter can hear that.

24 MS. SANDERS: Okay.

25 CHAIRMAN DEASON: I believe that there's a

1 microphone here close to the court reporter that the
2 witness can utilize.

3 MS. SANDERS: Commissioner, should Mr. Buzzett
4 and each witness state their name and address for the
5 record?

6 CHAIRMAN DEASON: Yes, let me take just a
7 moment and explain the procedure that we're going to
8 follow.

9 When Ms. Sanders call your name, if you'll
10 please come forward to the microphone and begin by
11 giving your name and your address, and it may be helpful
12 if you spell your name for the court reporter can get it
13 correctly into the record. You may then proceed with
14 your statement.

15 We're not going to impose a strict time limit
16 on statements, but I do ask that you recognize that
17 there are other members of the public who wish to
18 testify and we have many witnesses and issues to go over
19 in these hearings and so time is at a premium, so I just
20 ask that you keep that in mind and make your statements
21 brief and to the point, and cover everything you need to
22 cover, but try not to be repetitive.

23 And once you conclude your statement, you need
24 to wait for just a moment because there may be some
25 questions. Okay. So if you'll proceed with your name

1 and then your address, please.

2

3 HARRY BUZZETT

4 was called as a witness on behalf of the Citizens of the
5 State of Florida and, having been duly sworn, testified
6 as follows:

7 WITNESS BUZZETT: My name is Harry Buzzett.
8 That's B as in boy, U-Z-Z-E-T-T. My address is 1424
9 Dogwood Drive, St. George Island.

10 I'm one of Mr. Brown's customers. Good
11 morning, Gene.

12 MR. BROWN: Good morning.

13 WITNESS BUZZETT: I put great weight on
14 longevity, and my Account No. is 48; four-eight. So I
15 have drunk from the fountain and it's not the Fountain
16 of Youth, but it's a substantial fountain.

17 It seems to me that the request of Mr. Brown
18 is inordinate, that he's asking much, much, too much. I
19 would think first that one should consider -- and I feel
20 a little like I'm bringing calls to New Castle after
21 reading the biographies of the board. I think one
22 should consider the price of water in East Point, which
23 is the nearest utility to the St. George Island Utility.

24 From the short discussion which has already
25 taken place, it seems to me that it is questionable, the

1 profit and loss statement that Mr. Brown has furnished
2 you. And I would suggest strongly that an independent
3 financial audit would produce for you the accurate
4 information as to how much money is being made and how
5 much money is being lost.

6 I would be the first to say that Mr. Brown
7 deserves a proper return for his investment. But in
8 determining the proper return, one must determine what
9 the investment is, what his monies coming in are, what
10 his expenses going out are.

11 So I respectfully request that you seriously
12 determine by an independent audit, how much money the
13 Utility Company is making, how much money is charged to
14 customers in East Point by the East Point Utility; what
15 is a fair return, And you certainly know that and give
16 that to Mr. Brown. Thank you.

17 CHAIRMAN DEASON: Thank you. Any questions?
18 Questions?

19 MR. PFEIFFER: No, I have no questions of Mr.
20 Buzzett.

21 CHAIRMAN DEASON: Thank you, sir.

22 MS. SANDERS: Thank you, Mr. Buzzett.

23 MR. PFEIFFER: Thank you for coming.

24 (Witness Buzzett excused.)

25

- - - - -

1 MS. SANDERS: The next witness will be Ms. Pat
2 Morrison.

3 PAT MORRISON
4 appeared as a witness on behalf of the Citizens of the
5 State of Florida and, having been duly sworn, testified
6 as follows:

7 WITNESS MORRISON: Good morning. My name is
8 Pat Morrison, 1049 Gulf Beach Drive West. I'm a
9 ten-year, full-time resident of St. George Island. And
10 as you know from years past, we've had numerous
11 complaints against the quality of our water on St.
12 George. We eat out probably a third of the time. And I
13 brought this dish rack three months ago, this drain, and
14 I'm just wondering what we're drinking. I'm just
15 wondering if this is also why we call it the "St. George
16 Island Utility, a/k/a Brown Water Company." (Applause)
17 Thank you.

18 CHAIRMAN DEASON: Any questions?

19 MR. McLEAN: Yes, I have a question.

20 WITNESS MORRISON: Pardon me, yes, sir.

21 CROSS EXAMINATION

22 BY MR. McLEAN:

23 Q Do you have any idea what your normal
24 consumption is, Ma'am?

25 A About 3,500 gallons a month. It's about a \$21

1 monthly bill.

2 Q Do you know whether your bill would increase
3 to \$46.93 a month if Mr. Brown gets this rate increase?

4 A I haven't computed it, and I know he expects
5 to almost double it.

6 Q Would you believe 136%, Ma'am?

7 A Okay. Yes.

8 Q Thank you.

9 A Thank you.

10 CHAIRMAN DEASON: Any further questions?

11 Thank you. Mr. Pfeiffer.

12 CROSS EXAMINATION

13 BY MR. PFEIFFER:

14 Q Do you have a well on your property?

15 A Yes, we do.

16 MR. PFEIFFER: Nothing further.

17 MS. SANDERS: I'd like to redirect on that.

18 REDIRECT EXAMINATION

19 BY MS. SANDERS:

20 Q Is there a cross-connection on that well?

21 A We have a back-flow preventer. This is the
22 second one. Richard Tuton (ph) told us years ago that
23 it was the correct one. We proceeded to use it, and
24 many other people bought them too. We were told, I
25 believe, a year ago or so that the damn thing was wrong,

1 that we had to go back again and buy another one --
2 excuse my French. And we went and bought another one.
3 This time I got a written statement, something tangible,
4 that it is the correct one.

5 Q And that was required and recommended by --

6 A It was required by Mr. Hank Garrett; no
7 relation to me. And I'd like to also state that I have
8 no financial interest in Gene Brown's water company,
9 and I'd like for others to state that today, too, that
10 witness, whether they do or do not. Could they do that?

11 CHAIRMAN DEASON: It's up to them, Ma'am, or
12 the attorneys may ask the question. Any further
13 questions?

14 MS. SANDERS: No, sir.

15 CHAIRMAN DEASON: Okay. Thank you, Ma'am.

16 (Witness Morrison excused.)

17 - - - - -

18 MS. SANDERS: The next witness will be
19 Mr. Glen Prickett.

20 GLEN PRICKETT

21 appeared as a witness on behalf of the Citizens of the
22 State of Florida and, having been duly sworn, testified
23 as follows:

24 WITNESS PRICKETT: My name is Glen Prickett,
25 P-R-I-C-K-E-T-T. I live at 1116 West Pine Street on St.

1 George Island. I have been a resident there for ten
2 years, long before we have had a water company.

3 I think that such a huge increase all in one
4 jump is just too much. I mean if a man can't finance
5 his business, we shouldn't put the money up front for
6 it. And I know particularly the minimum rate here in
7 Apalach is \$7 -- is the minimum rate, the first
8 thousand, \$1.25 for each additional thousand gallons,
9 and this just seems exorbitant. And that's about all I
10 have to say.

11 I know about four years ago we had a meeting
12 at the St. George Island Civic Club and the islanders,
13 we proposed to buy Mr. Gene Brown's water company from
14 him for about a million dollars and he wouldn't sell
15 then, so he's hanging on. He must be making money,
16 that's all I can say.

17 CHAIRMAN DEASON: Questions?

18 MR. MCLEAN: No questions.

19 CHAIRMAN DEASON: I believe there are no
20 questions. Thank you, sir.

21 MS. SANDERS: Thank you, Mr. Prickett.

22 (Applause)

23 (Witness Prickett excused.)

24 - - - - -

25 MS. SANDERS: The next witness will be

1 Ms. Lusia Gallio.

2 LUSIA GALLIO

3 appeared as a witness on behalf of the Citizens of the
4 State of Florida and, having been duly sworn, testified
5 as follows:

6 WITNESS GALLIO: My name is Lusia Gallio,
7 L-U-S-I-A, G-A-L-L-I-O. I live at 1508 Nick's Way in
8 the plantation, St. George Island. I'm a fairly new
9 customer of this utility service. We moved down here to
10 St. George Island a year ago. I have to tell you that I
11 do not drink the water. The water makes me ill, and so
12 I buy bottled water.

13 I would have to object to such a dramatic
14 increase in the water service rates. From my
15 information and from information that I have on a
16 historical background and being involved in some other
17 issues on the island, it's my understanding that the
18 Utility operator hasn't lived up to past obligations. I
19 don't believe it's fair to have the customers pay for a
20 loss statement of the operator. Apparently there are
21 some other issues, some other problems with the Utility
22 if the Utility operator can't make a profit.

23 I've had extensive experience in government
24 and I know that the governments that I've worked for
25 make a profit on their utility and their water service;

1 a pretty extensive profit. Enough to be able to use it
2 to get triple-A bond ratings.

3 I do have -- so at this point I have no
4 confidence that the operator is going to use the funds
5 to actually improve the service. I think the service
6 should be improved, but I do think that this particular
7 increase, this dramatic of an increase is much too much
8 given the history of the operator. So I would
9 respectfully request that you deny this operator's
10 request. Thank you.

11 CHAIRMAN DEASON: Questions?

12 MR. MCLEAN: None.

13 CHAIRMAN DEASON: I believe there are none.

14 Thank you, Ma'am.

15 (Witness Gallio excused.)

16 - - - - -

17 MS. SANDERS: The next witness is Mr. Dan Lee
18 Issacs.

19 DAN LEE ISAACS

20 appeared as a witness behalf of the Citizens of the
21 State of Florida and, having been duly sworn, testified
22 as follows:

23 WITNESS ISAACS: My name is Dan Lee Isaacs. I
24 live at 431 Waverly Road in Tallahassee, Florida. I'm
25 here as a representative of the 300 Ocean Mile

1 community, which is 99 units.

2 When everybody there received the notices on
3 this we had an extremely large number of responses
4 asking what the association was going to do with regards
5 to responding. Many of these people are far away, some
6 of the units are rented, some of them are used on a
7 regular basis.

8 The comments that they've asked me to bring to
9 you are fairly consistent with what you've heard before.
10 The quality of the water is of major concern. That if,
11 you know, I think most of the people are willing to pay
12 some increase if it's going to go to improve that
13 quality of water. But at the same time, they find it
14 very difficult when looking at water rates elsewhere,
15 comparing what we're paying, which are comparable at
16 this point, and it may be a little more expensive to
17 provide water on an island. But they're concerned about
18 a nearly doubling of the water costs. There's a
19 significant impact on each individual as well as the
20 association itself, who uses a large amount of that
21 water.

22 But our concern is that the quality of the
23 water, if some of this increase is going to improve that
24 quality, I think we'd probably be less concerned about
25 it. But I think we'd still be concerned when you're

1 looking at a doubling -- a virtual doubling of the cost
2 of water in a short period of time.

3 CHAIRMAN DEASON: Questions? Mr. Pfeiffer.

4 DIRECT EXAMINATION

5 BY MS. SANDERS:

6 Q Mr. Issacs, just to make clear, you're here on
7 behalf of some 99 other customers?

8 A That's correct. It would be all of the people
9 at the 300 Ocean Mile townhomes of St. George.

10 MR. PFEIFFER: No questions.

11 CHAIRMAN DEASON: Thank you, sir.

12 (Witness Isaac excused.)

13 - - - - -

14 MS. SANDERS: The next witness is Theresa
15 Spohrer.

16 THERESA SPOHRER

17 was called as a witness on behalf of the Citizens of the
18 State of Florida and, having been duly sworn, testified
19 as follows:

20 WITNESS SPOHRER: My name is Theresa Spohrer,
21 S-P-O-H-R-E-R, HCR Box 63, St. George Island. And my
22 opinions just pretty much echo what you've heard,
23 especially Mr. Buzzett. Nobody wants to say that
24 Mr. Brown can't make a profit on his water company, but
25 I think we really ought to have a study done just where

1 that money has gone, and that this increase amounts to
2 gouging us and I'm opposed.

3 CHAIRMAN DEASON: Questions?

4 MR. McLEAN: No questions.

5 CHAIRMAN DEASON: Thank you ma'am.

6 (Witness Spohrer excused.)

7 - - - - -

8 MS. SANDERS: The next witness is Martha
9 Gherardi.

10 MARTHA GHERARDI

11 was called as a witness on behalf of the Citizens of the
12 State of Florida and, having been duly sworn, testified
13 as follows:

14 WITNESS GHERARDI: Good morning. My name is
15 Martha Gherardi. My address is 1667 East Gulf Beach
16 Drive on St. George Island.

17 CHAIRMAN DEASON: Ma'am, could you spell your
18 last name, please?

19 WITNESS GHERARDI: Oh, yes. G, as in good,
20 H-E-R-A-R-D-I. I should be used to that by now.

21 I'm a full-time resident of the island, and
22 neither I nor anyone in my family have any financial
23 interest whatsoever in the utility company. My only
24 relation to the company is as a customer.

25 To understand my opposition the proposed rate

1 increase, I think it would be helpful to know a little
2 about my background. Although I'm a Florida native, I
3 lived for many years in Caracas, Venezuela. Venezuela
4 is what is now referred to as a developing country. In
5 less politically correct times, it would probably be
6 referred to as a "banana republic." In other words, it
7 lacks much of the modern infrastructure that Americans
8 take for granted.

9 About three years after I first arrived in
10 Caracas, there was a general water outage in my area of
11 town, and it so happened that it occurred at exactly the
12 moment when I was in the shower washing my hair. I
13 muttered the appropriate oaths, which I will not repeat
14 here, and rinsed off with bottled mineral water. The
15 next morning I was down to the local cafe where I
16 normally ate breakfast, ordering coffee. I didn't speak
17 much Spanish at that time, but let's just say that one
18 of the first Spanish phrases I learned when I got there
19 was "No hay agua." "There is no water." And so that
20 morning I did not have my cup of coffee.

21 This would not be the last time that I'd be
22 caught in the shower when the water went off in Caracas.
23 In fact, after one of those times, I shook my fist in
24 the air and I vowed, just like Scarlett O'Hara did in
25 "Gone With The Wind," that do what I had to do I would

1 never go without water again.

2 In 1987 my husband and I decided we had had
3 enough of the big city life in an underdeveloped country
4 and we relocated to St. George Island. Little did I
5 know then that we were building our home on an island
6 serviced by a banana republic water company. (Laughter)
7 (Applause)

8 Since 1987, we have experienced so many water
9 outages on the island that I've lost count. Recently,
10 several weeks ago in a case of deja vu, I was in the
11 shower washing my hair when the water went out. As in
12 most other instances, the water outage had not been
13 planned and had not been announced. So, you see, in
14 spite of my serious vow to the contrary, my situation on
15 St. George Island, Florida, the United States of
16 America, the last world superpower, is remarkably
17 similar to my situation in Caracas, Venezuela, a South
18 American third-world country. I'm still being caught in
19 the shower when the water goes off.

20 In Caracas I filtered my water to take out the
21 sediments, the taste and the bad odors. On St. George
22 Island I filter my water to take out the sediments, the
23 taste and the bad odors. In Caracas I kept a large
24 garbage can full of water in case the water went off.
25 In my house on St. George Island, I have as two 5-gallon

1 buckets full of water in case the water goes off. The
2 difference in the two situations is that in Caracas I
3 paid my water bill in devalued funny money, and here I
4 pay with hard U. S. currency.

5 My Caracas water did not leave the mineral
6 deposits that the St. George Island utility water leaves
7 on my plumbing. I have bought every product I can find
8 to try to take away the water deposits from my plumbing
9 fixtures and it's a major operation when we try to
10 change a faucet washer because the parts have been
11 welded together by the deposits. At least in Caracas I
12 could use the excuse for the water outage saying, "Well,
13 you know, after all, this is a third-world country."
14 But here in the best country of the world, there is
15 absolutely no excuse for granting a rate increase to
16 this third-world banana republic water company on St.
17 George Island. Thank you.

18 CHAIRMAN DEASON: Questions?

19 MR. McLEAN: No questions.

20 MR. PIERSON: Yes.

21 CROSS EXAMINATION

22 BY MR. PIERSON:

23 Q Ms. Gherardi, when did your water go off?

24 A Yes.

25 Q When did your water go off?

1 A Well, when I was caught in the shower?

2 Q The last time?

3 A It was about a week before the one that was
4 supposedly announced in the paper, which I did not see
5 that one that was announced to change the water pump. I
6 think I called up and asked. I think it was the water
7 pump that you changed recently. Okay. It was
8 approximately a week before that. It was about,
9 probably, I stay up late, so probably it was probably
10 about 11:30, 12 at night.

11 Q Do you recall, was it this month or last
12 month?

13 A As I say, it's been so often, you know, there
14 are a lot of things to keep track of in life and so, you
15 know, after a while you just -- it wears you down trying
16 to keep track of it, but I would say -- oh, it was after
17 July 4th, I know that.

18 I have to say that it came on. I waited for
19 are a few minutes, and it came on after about four or
20 five minutes, but still -- during the rest of the
21 evening it came on and off, it fluctuated wildly, the
22 pressure.

23 Q Have you received an explanation of that
24 since?

25 A I called up and I was given the explanation

1 that it was because the volunteer fire department was
2 using water at both ends of the island or something like
3 that.

4 MR. PIERSON: Thank you.

5 CHAIRMAN DEASON: Any further questions?

6 MR. PFEIFFER: No questions.

7 CHAIRMAN DEASON: Thank you, ma'am.

8 (Witness Gherardi excused.)

9 - - - - -

10 MS. SANDERS: Commissioner Deason, these are
11 all the blue slips I have. I would like for just a
12 second to make sure there aren't some more in the back.

13 CHAIRMAN DEASON: Very well.

14 MS. SANDERS: Also, Commissioner Deason, there
15 are three people who do not wish to repeat the
16 testimony. They do oppose the rate increase. One is
17 Ms. Barbara Kester, K-E-S-T-E-R; and Mr. Ronald,
18 R-O-N-N-A-L-D, Ratliff, R-A-T-L-I-F-F, and Sandra
19 Ratliff. And those are all the customers for this
20 morning.

21 CHAIRMAN DEASON: Okay. Very well. Thank
22 you.

23 Mr. Pierson, I take it now we're ready to
24 proceed into the technical portion of the hearing.

25 MR. PIERSON: Yes, sir.

1 CHAIRMAN DEASON: Okay. Before we do that,
2 we're going to take five minutes.

3 (Brief recess taken.)

4 - - - - -

5 CHAIRMAN DEASON: Call the hearing back to
6 order. If everyone could take your places, please.

7 I'm going to ask all of the expert witnesses
8 who are here at this time to please stand and raise your
9 right hand.

10 (Witnesses collectively sworn.)

11 CHAIRMAN DEASON: Please be seated.

12 Mr. Pfeiffer, you may call your first witness.

13 MR. PFEIFFER: Call Frank Seidman.

14 FRANK SEIDMAN

15 was called as a witness on behalf of St. George Island
16 Utility Company, Ltd. and, having been duly sworn,
17 testified as follows:

18 DIRECT EXAMINATION

19 BY MR. PFEIFFER:

20 Q Please state your name and your business
21 address?

22 A My name is Frank Seidman. My business address
23 is 11380 Prosperity Farms Road, Suite 211, Palm Beach
24 Gardens, Florida.

25 Q What's your occupation?

1 A I'm a utility regulatory consultant. I'm the
2 principal for Management and Regulatory Consultants,
3 Inc.

4 Q Have you previously prepared and filed with
5 the Public Service Commission prefiled testimony in this
6 proceeding?

7 A Yes, I have.

8 Q Do you have any additions, corrections or
9 changes to make in your testimony?

10 A I've got one correction. It doesn't have an
11 impact. On Page 4, at Line 15, there's an equity return
12 amount shown as 9.07%. It should be 10.97%. Other than
13 that there's no changes.

14 I just want to indicate, however, that the
15 minimum filing requirement document that we filed has
16 not been changed to reflect any of the stipulated
17 numbers between the Utility and Staff.

18 Q If I were to ask you the same questions in
19 your prefiled testimony, other than as you have just
20 indicated, would you give the same answers?

21 A Yes, I would.

22 Q Did you sponsor any exhibits with your
23 testimony?

24 A Yes, I did. I sponsored the minimum filing
25 requirement documents, which is a composite exhibit

1 consisting of three volumes. Volume I contains the
2 financial rate and engineering MFR. Volume II is the
3 billing analysis, and Volume III is the additional
4 engineering information required by the Commission
5 rules.

6 MR. PFEIFFER: Sir, we would ask that this
7 exhibit be marked. I believe it's designated in the
8 prehearing stipulation as FS, which we think stands for
9 Frank Seidman-1.

10 CHAIRMAN DEASON: This is, and it is commonly
11 referred -- it's the MFRs, basically.

12 MR. PFEIFFER: Yes, sir, it's a three-volume
13 composite exhibit, the MFRs.

14 CHAIRMAN DEASON: Okay. The MFRs will be
15 identified as composite Exhibit No.

16 (Exhibit No. 1 marked for identification.)
17
18
19
20
21
22
23
24
25

1 Engineering. I have also completed several graduate
2 level courses in economics, including public utility
3 economics. I am a Professional Engineer, registered
4 to practice in the state of Florida. I have over
5 30 years experience in utility regulation,
6 management and consulting. This experience includes
7 nine years as a staff member of the Florida Public
8 Service Commission, two years as a planning engineer
9 for a Florida telephone company, four years as
10 Manager of Rates and Research for a water and sewer
11 holding company with operations in six states and
12 three years as Director as Technical Affairs for a
13 national association of industrial users of
14 electricity. I have either supervised or prepared
15 rate cases, prepared rates studies or testified as
16 an expert witness with regard to water and sewer
17 utilities in Florida, California, Michigan,
18 Missouri, Indiana and Ohio.

19
20
21
22
23
24

1 Q. Are you familiar with the documents entitled Docket
2 No. 940109 -WU, Application of ST. George Island
3 Utility Company, Ltd for Increased Rates in Franklin
4 County, consisting of three volumes, Volumes I, II
5 and III (Exhibit 1) ?

6 A. Yes I am. I prepared or supervised the preparation
7 of these documents with the assistance of SGI's
8 staff, accountants and consulting engineers. Volume
9 I contains the financial, rate and engineering
10 minimum filing requirements (MFR's) required by
11 Commission Rule 25-30.437 F.A.C., including the
12 schedules supporting the request for interim rates.
13 Volume II contains the billing analysis schedules
14 of the MFR's. Volume III is a packet containing the
15 additional engineering information required by
16 Commission rules 25-30.440 F.A.C.

17
18 Q. Please summarize the major conclusions of this
19 filing.

20 A. SGI is seeking an increase in its water rates and
21 charges.

22
23 The request is based on the adjusted operating
24 information for the historical year ended December
25 31, 1992.

1 As shown in Volume I of (Exhibit 1) :

2

3 The average rate base for the adjusted test year
4 ended December 31, 1992 is \$ 1,029,277 for the
5 water system. (see Schedule A-1).

6

7 The adjusted operating income for the test year,
8 without the requested increase, is a negative
9 \$ 299,598. (see Schedule B-1).

10

11 A fair rate of return on Applicant's rate base is
12 8.07%. (see Schedule D-1). The Applicant's current
13 equity in the system is negative. In accordance with
14 PSC Rule 25-30.346(4)(f), SGI is requesting that the
15 Commission set a return on equity at ^{10.97%}~~9.07%~~, which
16 is the maximum of the return of the current equity
17 leverage formula approved in Order No. PSC-93-1107-
18 FOF-WS, dated 7/29/93, pursuant to Section
19 367.081(4), F.S.

20

21 This application indicates that an increase in test
22 year annual water revenues of \$ 428,201 is required
23 to produce a fair rate of return. (see Schedule
24 B-1).

25

1 THE TEST PERIOD

2 Q. I would now like you take us through the major
3 components of the rate case. First, what is the
4 test period for this rate application?

5 A. This application is based on the actual results of
6 operation for the twelve months ending December 31,
7 1992, with appropriate adjustments. This period
8 was chosen as incorporating the majority of the
9 major required plant additions, as the most recent
10 fiscal year for which complete information is
11 available, and, with appropriate proforma
12 adjustments, recognizes the operation and management
13 changes that are being undertaken by SGI to comply
14 with various state agency requirements to bring
15 service up to acceptable standards.

16
17 This utility last filed for a rate case in Docket
18 No. 871177-WU. Order No. 21122 granted a rate
19 increase in April, 1989 based on a 1987 test year.
20 As this Commission is aware, Order No. 21122 granted
21 that increase with several conditions and identified
22 many areas which it required this utility to
23 improve. Those improvements required additional
24 plant, maintenance of plant, additional personnel,
25 changes in operation and improvements in accounting

1 procedures. After a long, arduous and often
2 frustrating process, the utility is now operating
3 in a satisfactory manner. On September 15, 1993,
4 Order No. PSC-93-1352-FOF-WU was issued, closing
5 Docket No. 871177-WU and acknowledging that the
6 requirements of all orders in that docket had been
7 met.

8

9 **RATE BASE**10 **Q. How was rate base developed?**

11 **A.** The rate base consists of the beginning and ending
12 average balance for the period ending December 31,
13 1992 of the following components: plant in service,
14 less accumulated depreciation, less contributions
15 in aid of construction (CIAC) net of amortization,
16 less outstanding advances for construction plus an
17 allowance for working capital. Each of these
18 components is adjusted to reflect ratemaking
19 considerations such as out of period adjustments.
20 And, each of these components is adjusted, where
21 applicable, to reflect only the investment that is
22 used and useful in the public interest.

23

24

1 Q. Did you make any adjustments to the book balances
2 of these component accounts?

3 A. Yes. Several proforma adjustments was made to Plant
4 in Service, Accumulated Depreciation, Contributions
5 In Aid of Construction, and Amortization of CIAC
6 (see Schedules A-3 and A-3, Plant Detail).

7

8 An adjustment was made to include the cost of the
9 now completed and operating Well #3. The addition
10 of this well was mandated by the Department of
11 Environmental Protection (DEP) and this Commission.
12 Also included was an adjustment to reclassify land
13 obtained in 1990 for the third well site so that it
14 is reflected as Plant in Service.

15

16 An adjustment was made to include the net cost of
17 replacing the generator at the water plant, which
18 sustained non-repairable lightning damage.

19

20 An adjustment was made to Accumulated Depreciation
21 to reflect adjustments to the test year depreciation
22 expense and to retire the damaged generator.

23

24 An adjustment was made to Contributions in Aid of
25 Construction to reflect amounts collected in 1993

1 but netted against a note used to finance the
2 construction of Well #3 which is included as a
3 proforma adjustment. An adjustment was made to the
4 Amortization of CIAC balance. The utility has been
5 amortizing CIAC at a composite rate unrelated to the
6 life of the plant components with which they are
7 associated. I recalculated the amortization expense
8 for the test year at composite rates based on plant
9 components and adjusted the accumulated balance for
10 the difference in the test year expense. (see
11 Schedule B-13, page 4).

12

13 **Q. Have you included any deferred debits in rate base?**

14 **A.** No. In accordance with PSC Rule 25-30.433(3), no
15 deferred debits other than deferred taxes can be
16 considered in rate base for Class B utilities.
17 However, there are significant nonrecurring expenses
18 and expenses recurring less frequently than annually
19 that are being or will be incurred and which I would
20 classify as deferred debits. These expenditures are
21 primarily for studies and analyses that are required
22 to comply with DEP directives and/or related court
23 judgments or the directions of other regulatory
24 bodies. The annual expense associated with these
25 have been classified in this filing as Amortization

1 Expense and are addressed in Schedules B-3 and B-3,
2 Amort Detail. In accordance with PSC Rule 25-
3 30.433(8), they are amortized over a five year
4 period unless the experienced frequency of their
5 recurrence indicates otherwise.

6

7 Q. How did you calculate the Working Capital component
8 of Rate Base?

9 A. In accordance with PSC Rule 25-30.433(2), working
10 capital is calculated at 1/8 th of operating and
11 maintenance expense.

12

13 Q. Were adjustments made to Plant in Service for used
14 and useful considerations?

15 A. The components of the system were analyzed by
16 consulting engineer, Mr. Wayne Coloney, as to their
17 necessity and usefulness in providing service
18 during the test year. Mr. Coloney has submitted
19 testimony supporting his findings. Based on that
20 analysis, it was determined an adjustment for non-
21 used plant was not necessary.

22

23

1 Q. Mr. Seidman, you have prepared used and useful
2 analyses in several rate application before this
3 Commission, have you not?

4 A. That is correct.
5

6 Q. Do you agree with Mr. Coloney's conclusions?

7 A. Yes I do. With regard to the supply treatment and
8 storage plant, there is no doubt in my mind that
9 those facilities are necessary and are 100% used and
10 useful. I have reviewed the Commission's Order No.
11 21122 from the last case. In that case, the supply
12 treatment and storage facilities were all found to
13 be 100% used and useful, but "insufficient to serve
14 existing customers." In that order, the Commission
15 included 19 compliance requirements, six of which
16 required additions or improvements to the system.
17 Those completed improvements, necessary to provide
18 adequate, sufficient and reliable service to the
19 customers on St. George Island, are what are
20 reflected in the test year adjusted plant in service
21 balances. Although, as Mr. Coloney points out,
22 those improvements are capable of serving limited
23 growth, they are, of themselves, necessary to meet
24 the mandates of the Department of Environmental
25 Protection and of this Commission.

- 1 Q. Mr. Coloney has also found that the transmission and
2 distribution system is also 100% used and useful.
3 Do you agree with that finding?
- 4 A. Yes I do.
5
- 6 Q. Are you aware that the Commission, in the last case,
7 found the transmission and distribution system to
8 be only 18% used and useful?
- 9 A. Yes I am. That finding was based on a strict ratio
10 of connected lots to available lots without
11 consideration for any other factors.
12
- 13 Q. And is it your contention that the current ratio of
14 connected lots to available lots now equals 100%?
- 15 A. Not at all. It is my contention that the situation
16 at St. George Island is unique and that a strict
17 ratio calculation severely understates the used and
18 usefulness of the transmission and distribution
19 plant. That was true for the last case as well as
20 now.
21
- 22 Q. In what ways is service at St. George Island unique?
- 23 A. St George Island is a resort island that is
24 approximately 18 miles long and approximately one
25 half mile wide wherever development is feasible. The

1 service area is the whole island. Its main
2 attraction is its beach front, so development is
3 most naturally dispersed along nearly the island's
4 whole length as people tend to favor beach front
5 access rather than the interior. Even so, the
6 interior is only about three blocks in either
7 direction from the main east-west road. In order to
8 reach development as it occurs along the "length"
9 of the island, but toward the beaches, the utility
10 has no choice but to have a core transmission line
11 that runs the length of the island and distribution
12 lines toward the beach fronts. Those transmission
13 and distribution lines must be considered 100% used
14 and useful, regardless of the fill of lots.

15
16 Another unique feature of this service area is that,
17 unlike most certificated service areas, it is not
18 protected from competition. So even though the
19 utility must be ready to serve and must bring water
20 from the mainland in order for it to meet acceptable
21 quality standards, nearly any one can elect to drill
22 a shallow well on their own lot to obtain water
23 service, regardless of the water quality. It is
24 interesting, that in this time of general concern
25 for the environment and control of water resources,

1 that St. George Island has no restrictions on the
2 drilling of shallow wells, when a central water
3 system is available. As a result, there is a
4 proliferation of shallow wells on the island. As of
5 August, 1993, 128 buildings get there potable water
6 from shallow wells. That represents over 10 percent
7 of the buildings on the island with water service.
8 Another 231 buildings have both wells and utility
9 service. So nearly 30% of the buildings on the
10 island have access to private wells as either a
11 primary or secondary source of potable water. If
12 used and useful is determined on strict ratio basis,
13 is will be impossible for the utility to recover the
14 cost of the system dedicated to public service.

15
16 In this unique environment, where the service area
17 is very long but only a few blocks wide, where
18 development tends to take place along the length of
19 the service area and away from the main line toward
20 the beachfront, and where the option for private
21 wells is not controlled, the transmission and
22 distribution system, as installed, should be
23 considered totally used and useful.

24
25

1 Q. What is the net result of the adjustments to Rate
2 Base?

3 A. After all adjustments, the rate base for the test
4 year ended December 31, 1992 is \$ 1,029,277.

5

6 OPERATING REVENUE

7 Q. What is included in operating revenue?

8 A. Operating revenue includes revenue received from the
9 sale of utility services and from miscellaneous
10 charges to the customer such as connection or
11 reconnection charges.

12

13 Q. Were there any adjustments to the 1990 per book
14 operating revenues?

15 A. Yes. I removed \$4,000 that was improperly booked to
16 Other Revenue. Under a PSC approved agreement with
17 the St. George Island Volunteer Fire Department, SGI
18 received \$4,000 as an installation and maintenance
19 fee for two hydrants. The fee, collected in 1992,
20 was for hydrants that are not being installed and
21 are not in use until 1993. In addition, the part of
22 the fee related to installation of the hydrants
23 should be booked as CIAC. Since the fee includes
24 perpetual maintenance, the portion not booked to
25 CIAC should be booked as deferred revenue and

1 amortized over the life of the hydrants. I also
2 included a small adjustment to reconcile sales
3 revenues to the billing analysis calculation.
4 Adjusted test year water revenue at existing rates
5 is \$ 314,517.

6

7 **OPERATING REVENUE DEDUCTIONS**8 **Q. What is included in operating revenue deductions?**9 A. Operating revenue deductions include operation and
10 maintenance expenses, depreciation and amortization
11 expenses and all tax expenses.

12

13 **Q. Did you make any adjustments to test year operating
14 and maintenance expenses?**15 A. Yes. I made several adjustments to test year
16 operating and maintenance expenses. The changes
17 are summarized on page 2 Schedule 5 and page 1 of
18 Schedule B-3 O&M Detail. These changes were
19 necessary to normalize existing expenses, to reflect
20 personnel additions not made until 1993 that are
21 necessary to provide adequate service to existing
22 customers, to reflect the cost of employee benefits
23 and insurance and to reflect new and necessary
24 maintenance programs.

25

1 Q. Briefly describe these adjustments.

2 A. I adjusted Account 601, Salaries & Wages to reflect
3 the current employees at their current wage rate and
4 to add the annualized salaries of and additional
5 office worker and a second field worker, neither of
6 which were employed during the test year, but are
7 now employed and will be during the period when
8 these proposed rates would be in effect.

9
10 Q. Why are these new employees necessary?

11 A. The field worker is needed to keep service on the
12 island from deteriorating. There are only two
13 personnel presently on the island, one of which is
14 the certified plant operator and operations manager.
15 The on-site personnel do all plant operation,
16 maintenance, test sampling, meter and service
17 installation, meter reading, pump monitoring, cross
18 connection control monitoring, chlorine tank
19 operations and readings, flushing and prepare all
20 reports. The geography of the island is such that
21 these personnel must cover a service area twenty
22 miles long on a daily basis, and, in addition,
23 inspect and maintain the wells and pumping
24 facilities located on the mainland. The compliance
25 monitoring required by DEP is extensive and in

1 excess of that required for other utilities. Also,
2 because of the proliferation of private wells,
3 utility personnel are required to continuously
4 monitor and inspect for cross connection potential,
5 keep records of customers with wells, notify them
6 of the need to install cross connection control
7 devices, notify them of when annual inspections are
8 due, police these customers and keep records of the
9 state of their compliance. As recently as May, 1993,
10 DEP noted during one of its inspections that
11 management did not have the capability to complete
12 the required initial inspections and keep up with
13 all requirements of previously installed cross
14 control devices.

15

16 The office worker is needed to assist in maintaining
17 the books and records of the company in sufficient
18 detail to meet the requirement of the Commission.
19 The Commission staff has made it clear that more
20 detailed records are necessary.

21

22 Q. What is the net adjustment to Account 601?

23 A. The net adjustment is an increase of \$60,241 for the
24 test year.

1 Q. What other adjustments were made to Operations &
2 Maintenance expenses?

3 A. Account 604, Employee Pension and Benefits was
4 adjusted to annualize the and reflect the health and
5 pension benefits now being made available to all
6 employees. The adjustment also reflects the expense
7 associated with education benefits necessary to
8 train employees for operator certification, customer
9 billing and ledger programs and to keep up with
10 plant safety and operational requirements. The total
11 adjustment to Account 604 is \$29,997.

12

13 A \$404 adjustment was made to Account 615, Purchased
14 Power, to normalize electric expense to reflect the
15 actual 12 months of the test year and to recognize
16 the additional expense for operating Well #3.

17

18 Account 631, Contractual Services, Engineering was
19 adjusted by \$1,849 to remove all non-recurring
20 expenses and to recognize the retainer agreement
21 with Coloney Engineering. Through this agreement,
22 for \$500 per month, SGI has the availability of
23 engineering advice on ongoing operations and
24 compliance.

25

1 An adjustment was made to Account 632, Contractual
2 Services, Accounting in the amount of \$(8,796). This
3 removes all expenses except those for J. Drawdy and
4 B. Withers. Ms. Drawdy oversees the upkeep of the
5 general ledgers and assures compliance with the
6 Uniform System of Accounts. Ms. Withers provides
7 expertise regarding tax accounting and accounting
8 related to limited partnerships.

9
10 Account 633, Contractual Services, Legal was
11 adjusted by \$2,182. The adjustment removes all one
12 time expenditures and reflects the revised agreement
13 for minimum retainer for legal services with Gene
14 D. Brown, P.A. The retainer revision reflects the
15 time being spent on legal matters as documented by
16 recent time records.

17
18 A major adjustment was made to Account 635,
19 Contractual Services, Other, in the amount of
20 \$85,091. As Mr. Brown will explain, SGI is being
21 required to arrange for ongoing storage tank
22 maintenance and protection programs that are quite
23 costly. In addition, water testing requirements
24 have been imposed that are increased in frequency
25 and complexity. Also, SGI is undertaking an ongoing

1 distribution line cleaning program that will improve
2 system pressure, reduce turbidity and minimize
3 leaks. The annual cost for all of these programs is
4 reflected in the adjustment.

5

6 An adjustment of \$1,076 was made to Account 642,
7 Rents - Buildings/Property to reflect the ongoing
8 rental expense for the Tallahassee office and for
9 storage space.

10

11 An adjustment of \$2,633 was made to Account 642,
12 Rental Equipment. This account had included the cost
13 of renting a backhoe on a periodic basis. The
14 utility has arranged for the lease/purchase of a
15 backhoe so that it can have full time access at very
16 little difference from the cost of periodic rentals.
17 Because of St. George Island's remote location, full
18 time access to a backhoe on the island substantially
19 improves the response time for maintenance of, and
20 additions to, the lines.

21

22 An adjustment of \$(2,422) was made to Account 650,
23 Transportation Expense. SGI does not own any of its
24 own vehicles. In lieu of utility ownership of
25 vehicles and the related fixed and operating costs,

1 SGI provides a transportation allowance to each
2 employee, based on their duties and estimated
3 mileage requirements. The amount of each allowance
4 is detailed at page 6 of Schedule B-3 O&M Detail.

5
6 Proforma adjustments were made to Accounts, 657, 658
7 and 659 which are general liability, workman's
8 compensation and property insurance expenses,
9 respectively. The total adjustment for the three
10 accounts is \$36,502 which represents the total
11 quoted premium for these insurance requirements and
12 the specific premium required to insure the
13 replacement generator at the water plant. SGI has
14 been operating without insurance because of its cash
15 flow situation. This makes the utility and its
16 customers quite vulnerable to economic and property
17 losses. The quoted premium is utility specific and
18 in line with that for similar coverage for other
19 utilities. It should be recognized as a reasonable
20 and necessary expense for this utility to provide
21 adequate and safe service.

22
23 An adjustment of \$6,276 was made to Account 670,
24 Bad Debt Expense. This adjustment reflects the

1 allowance necessary to provide for losses from
2 uncollectible utility revenues.

3

4 Finally, an adjustment of \$2,773 was made to Account
5 675, Misc. Expense. This adjustment reflects
6 reclassification of some test year expenses to other
7 expense accounts and an increase in several
8 administrative expenses.

9

10 The total of all adjustments to test year Operating
11 & Maintenance expenses is \$217,806. Although these
12 are major adjustments, they reflect what SGI
13 management feels are necessary to provide safe,
14 adequate and sufficient service to its customers and
15 to comply with the mandates of DEP, this Commission
16 and other regulatory agencies.

17

18 Q. Did you compare the adjusted operating expenses with
19 those allowed in the last rate case?

20 A. Yes. That comparison is set out in required MFR
21 Schedule B-7. In that schedule, the adjusted test
22 year expenses are compared to the expenses allowed
23 in the last rate case after allowing for changes in
24 customer growth and the consumer price index.

25

1 Q. How do adjusted test year expenses compare?

2 A. Some expenses have increased dramatically, but one
3 must consider that the base year expenses were
4 severely understated. As this Commission is aware,
5 the quantity and quality of personnel was sorely
6 lacking at the time of the last rate case and for
7 a period after it. In Order No. 21122 and again in
8 Order No. 23038, the Commission cited the utility
9 for failure to maintain proper accounting records,
10 failure to keep proper plant records and failure to
11 keep proper billing records. In addition, service
12 quality was suffering because of inadequate plant
13 maintenance and a leak detection program. Further,
14 a cross connection control program was mandated and
15 the costs of administering that program were not
16 included in the base year. The adjusted test year
17 expenses reflect the salaries and benefits for a
18 complement of personnel, in both numbers and
19 competence, necessary to provide sufficient and
20 adequate service. The increase in expenses reflects
21 the cost of maintenance and testing programs
22 instituted in response to DEP mandates. And the
23 increase in expenses also reflects a level of
24 material and supplies necessary for adequate and
25 timely repairs. In the base year, the utility was

1 cited for nineteen instances of inadequate service.
2 Service has improved substantially since that
3 time. Changes in excess of the bench mark are, for
4 the most part, to include expenses that were not
5 being incurred during the base year but should have
6 been. The largest single account change is for
7 Materials & Supplies. This only indicates that the
8 utility is now purchasing supplies to maintain and
9 operate the system. During the base year,
10 maintenance was non-existent.

11

12 **Q. Did you adjust operating expenses for the test year**
13 **to recover the cost of this rate case application?**

14 **A. Yes. I have estimated the cost of this application**
15 **to be \$ 105,039 to complete it through the hearing**
16 **and post hearing process. Schedule B-10 details the**
17 **rate case expense components. By statute, rate case**
18 **expense is to be amortized over four years, which**
19 **amounts to an annual rate of \$ 26,260.**

20

21

22

23

24

1 Q. You previously indicated that SGI would be incurring
2 significant nonrecurring expenses and expenses
3 recurring less frequently than annually. How are
4 these expenses reflected in this application?

5 A. These are expenses that I would classify as deferred
6 debits. The annual write off of these expenses are
7 included in Schedule B-1 as Amortization Expense and
8 are discussed in detail in Schedules B-3 and B-3
9 Amort Detail. As previously indicated, these
10 expenditures are primarily for studies and analyses
11 that are required to comply with DEP directives
12 and/or related court judgments or the directions
13 of other regulatory bodies. They include the
14 expense for preparing and updating system maps,
15 performing detailed analyses of the distribution and
16 treatment systems, preparing hydrological studies
17 to support amendments to the consumptive use permit
18 and a study of the capability and feasibility of the
19 utility to provide complete fire protection. In
20 accordance with PSC Rule 25-30.433(8), they are
21 amortized over a five year period unless the
22 experienced frequency of their recurrence indicates
23 otherwise. The total adjustment to Amortization
24 Expense is \$41,452.
25

- 1 Q. What adjustments were made to depreciation expenses?
- 2 A. I verified the test year per books depreciation
- 3 expense by calculating the depreciation expense for
- 4 the average plant primary account balances using the
- 5 utility's stated depreciation rates and found the
- 6 per book expense was understated. I therefore
- 7 adjusted the test year expense to reflect the proper
- 8 amount. In addition, the depreciation expense
- 9 associated with the new Well #3 and adjustments for
- 10 the replaced generator were included.
- 11
- 12 Q. Did you adjust the CIAC amortization expense also?
- 13 A. Yes. As I previously pointed out, the test year per
- 14 book amortization expense was based on a composite
- 15 rate that did not relate to the lives of the
- 16 associated plant. I recalculated the amortization
- 17 expense and adjusted the per book amount.
- 18
- 19 Q. What adjustments were made to payroll taxes?
- 20 A. I adjusted payroll taxes to reflect the tax
- 21 associated with proforma changes in salaries.
- 22
- 23
- 24

1 Q. What adjustments were made to the regulatory
2 assessment fee (RAF)?

3 A. The RAF was adjusted to reflect the rate of 4.5% of
4 the adjusted revenue before the requested increase
5 and including the proposed increase in operating
6 revenue.

7

8 Q. Have you included an allowance for income taxes?

9 A. No. As will be discussed later, the present
10 capitalization is 100% debt. Therefore there is,
11 currently, no taxable income. In addition, SGI is
12 a limited partnership and PSC Rule 25-30.433(7)
13 prohibits the recovery of income tax expense for
14 partnerships.

15

16 **CAPITAL STRUCTURE**

17 Q. What is the capital structure of the utility?

18 A. The capital structure includes a substantial amount
19 of negative equity offset by long and short term
20 notes from both related and unrelated entities.
21 Essentially, the non-contributed investment in this
22 utility is currently being financed by debt, the
23 majority of which was provided by Leisure
24 Properties, a general partner of the utility.

25

1 Q. What has contributed to the growing negative equity.

2 A. It appears that two things have contributed to this
3 condition. First, rates are and have been
4 inadequate, as the necessity of this filing makes
5 clear. Second, the interest associated with the debt
6 has been steadily accruing until it is now nearly
7 as much as the debt itself.

8

9 Q. How has the negative equity balance been treated in
10 this application?

11 A. The negative equity balance in this application has
12 been treated consistent with the Commission's
13 treatment in Order No. 21122, that is, it has been
14 added back such that the capital structure is
15 considered to be 100% debt.

16

17 Q. Is SGI requesting that the Commission set a return
18 on equity in this proceeding, for future use?

19 A. Yes. PSC Rule 25-30.346(4)(f) states that if the
20 capital structure contains zero or negative equity,
21 a return shall be requested, which shall be the
22 maximum of the return of the current equity leverage
23 formula established by order of this Commission
24 pursuant to Section 367.081(4), F.S. On that basis,
25 SGI is requesting that the return on equity be set

1 at 10.97% as approved in Order No. PSC-93-1107-FOF-
2 WS, dated 7/29/93.

3

4 Q. Is it necessary to make any adjustments to the debt
5 portion of the capital structure?

6 A. Yes. Additional debt was incurred in 1993 to
7 finance, in part, the construction of Well #3 which
8 has been included as a pro forma adjustment to Rate
9 Base. That debt should be rolled in with the
10 embedded debt to determine the amount and embedded
11 cost of debt that is relevant for the adjusted test
12 year. A portion of that new debt has already been
13 repaid from CIAC collected in 1993. For purposes of
14 this application, that CIAC has been included as an
15 offset to Plant in Service and as an offset to the
16 debt.

17

18 Q. What is the rate of return which the utility should
19 be allowed to earn on its rate base?

20 A. The rate of return which the utility should be
21 allowed to earn for the test year is 8.07%, which
22 is the adjusted imbedded cost of debt.

23

24

25

1 REVENUE REQUIREMENT

2 Q. What is the revenue requirement necessary to recover
3 the utility's cost of service, including a 8.07%
4 return on rate base?

5 A. The revenue requirement is \$ 742,718 for the water
6 system as shown on Schedule B-1. The additional
7 revenue required is \$428,201.

8

9 RATES AND RATE STRUCTURE

10 Q. What rates are proposed to produce the revenues
11 required?

12 A. The rates proposed are summarized on Schedule E-1.

13

14 Q Have you proposed any change in rate structure?

15 A. No. The present rate structure includes a base
16 facilities charge and a gallonage charge as required
17 by the Commission. The requested rates maintain
18 that same rate structure. However, because of the
19 seasonality of service at St. George Island, the
20 relative portions of costs to be recovered through
21 the base facility charge and the gallonage charge
22 has been changed. The rate structure is now more
23 heavily weighted toward the base facility charge.

24

25

1 Q. Why did you weight the rate more heavily toward the
2 base facility charge?

3 A. Since St. George Island is a resort community, its
4 consumption pattern and therefore its cash flow is
5 very seasonal. Revenues are highest between May and
6 September because the peak holiday use occurs on
7 Memorial Day, Fourth of July and Labor Day weekends.
8 During the other months, revenues are very low and
9 not even sufficient to cover payroll. I therefore
10 increased the base facility charge in an attempt to
11 stabilize cash flow.

12

13 **SERVICE AVAILABILITY CHARGES**

14 Q. Are you proposing any changes to the service
15 availability charges?

16 A. No changes to the service availability charges are
17 being requested at this time. The current charges
18 should keep the amount of CIAC collected within
19 Commission guidelines.

20

21

22

23

24

25

1 **AFPI CHARGES**

2 **Q. Have you requested an adjustment to the Allowance**
3 **for Funds Prudently Invested (AFPI) charge in this**
4 **filing?**

5 **A. We have proposed that the plant in service be**
6 **considered 100% used and useful. Consistent with**
7 **that, the AFPI charge would no longer be required.**
8 **If the Commission accepts our used and useful**
9 **determination, we propose that the AFPI charge be**
10 **withdrawn. However, should the Commission determine**
11 **that a portion of plant is not used and useful, then**
12 **the AFPI charge should be restated to recover the**
13 **carrying costs of that portion of plant designated**
14 **as non-used and useful.**

15

16 **Q. Does that conclude your prefiled direct testimony?**

17 **A. Yes it does.**

18

19

20

21

1 Q (By Mr. Pfeiffer) Please summarize your
2 testimony?

3 A St. George Island Utility Company is seeking
4 an increase in its water rates and charges based on the
5 historical test year, ended December 31st, 1992,
6 adjusted to include completed plant additions, and to
7 include pro forma operating expenses that reflect the
8 costs necessary for this utility to provide satisfactory
9 and dependable water service to existing customers. The
10 average rate base, according to the MFRs, for the
11 adjusted test year is just over \$1 million. The per
12 book operating income for the test year was a negative
13 \$31,000. When the pro forma expenses are taken into
14 consideration, the operating income drops to a negative
15 \$299,000 without a rate increase. A fair rate of return
16 on the applicant's rate base is 8.07%. And that's based
17 on the latest published Public Service Commission cost
18 of capital guidelines.

19 The application indicates that an increase in
20 test year annual water revenues of approximately
21 \$428,000 is required.

22 The Utility chose to use a historic test year
23 with pro forma adjustments to make the Commission aware
24 of its costs that it believes are necessary to be
25 incurred to serve existing customers. Neither the plant

1 additions nor the pro forma adjustments are growth
2 related.

3 As you are aware, this utility's last rate
4 case was based on a 1987 test year. It was decided in
5 1989 by Order No. 20122. In that order the Commission
6 identified several areas and conditions, 19 compliance
7 requirements which required the Utility to improve.
8 Those improvements required additional plant. It
9 required additional maintenance, additional personnel,
10 changes in its operations and improvements in its
11 accounting procedures. After a long, arduous and often
12 frustrating process, as the Commission is well aware, I
13 believe the Utility is now operating in a satisfactory
14 manner.

15 Necessary plant improvements have been made
16 and more are underway, but we believe the per book
17 expenses do not reflect what is necessary for the
18 Utility to continue to operate in a satisfactory manner.
19 The per book expenses do not reflect adequate salary
20 levels or employee benefits. They don't reflect the
21 costs of necessary accounting and engineering support.
22 They don't reflect the costs of necessary property and
23 liability insurance, nor the cost of continuing
24 maintenance and testing programs or studies.

25 These costs are not reflected because the

1 Utility has been operating at a loss and cannot afford
2 such expenditures without the revenues to pay for them.

3 We recognize that some of these costs are
4 higher for St. George than for other utilities, but we
5 believe the St. George Island Utility Company is fairly
6 unique. Being a resort island, some 18 miles long and
7 approximately a half mile wide, where it is developable,
8 the wells providing water are on the mainland, some
9 seven miles away. The field personnel have a lot of
10 territory to cover. Many customers come for only short
11 stays, and as a result there's large swings in peak use
12 causing pressure level problems, regulation. In some
13 areas there are long periods when occupancy is low and
14 flows are minimal, thus requiring frequent flushing to
15 maintain water quality. There's constant testing for
16 hydrogen sulfide levels required in all parts of the
17 system. These are all labor-intensive activities that
18 must be done often and with regularity.

19 St. George Island is also unique in that it's
20 not protected from competition. So even though the
21 Utility must be ready to serve and bring water from the
22 mainland in order to meet acceptable quality standards,
23 nearly anyone can elect to drill a shallow well on their
24 lot to obtain service regardless of the water quality.
25 As a result there's a proliferation of shallow wells on

1 the island and a need for constant monitoring of
2 potential cross-connection problems and the maintenance
3 of a intense cross-connection control program. Another
4 labor-intensive activity.

5 Just as the Utility is unique, this
6 application is unique. We know many of the expenses
7 requested to be recovered are just now being incurred
8 and they are being proposed at the same time as the rate
9 increase is being proposed. That's no secret. We don't
10 deny that. But the reason is that the funds are not
11 there to cover these expenses without a rate increase.

12 This is our dilemma and it's now your dilemma
13 to deal with. We ask the Commission to acknowledge that
14 service has measurably improved since the last case.
15 That the Commission (sic) has complied with the
16 requirements that have been placed upon it by the
17 Commission.

18 It's been a long road getting there. Lack of
19 funds have caused delays in getting there and that the
20 Commission recognized that the pro forma expenses
21 included in this filing are legitimate expenses and
22 necessary expenses, necessary for the Utility to have
23 the ability to serve the customers properly.

24 That concludes my statement.

25 MR. PFEIFFER: We would offer the witness for

1 cross examination.

2 CHAIRMAN DEASON: Do you wish to have the
3 prefiled testimony inserted?

4 MR. PFEIFFER: Yes, sir. We'd like to offer
5 the MFRs as evidence in the record and the prefiled. We
6 would offer the prefiled testimony to be inserted into
7 the record as if it was fully asked and answered during
8 the course of the proceeding.

9 CHAIRMAN DEASON: The testimony -- without
10 objection, the testimony will be so inserted. I will
11 allow you to move the admittance of the MFRs, which have
12 been identified as Exhibit 1, at the conclusion of
13 Mr. Seidman's testimony.

14 Mr. McLean?

15 MR. McLEAN: How are we going to do it
16 order-wise, me first, then Ms. Sanders and then the
17 Staff?

18 CHAIRMAN DEASON: Staff usually reserves their
19 questions for last, and I have no preference as to
20 whether you or Ms. Sanders wish to go first.

21 MR. McLEAN: Okay. I'll go next.

22

23

24

25

1 CROSS EXAMINATION

2 BY MR. McLEAN:

3 Q Good morning, Mr. Seidman.

4 A Good morning, Mr. McLean.

5 Q Mr. Seidman, I heard you mention the term "a
6 long, arduous and frustrating process" in your summary.

7 A Yes.

8 Q Do you recall that?

9 A Yes.

10 Q Would you return to your summary and refresh
11 our memory as to what the context you offered that in.
12 Was that a description of how difficult it was to get to
13 the '87 case?14 A No. That was in meeting the compliance
15 requirements in the final order for the '87 case.16 Q Okay. I'm interested to know who was
17 frustrated? Who experienced frustration?18 A I think the Utility was frustrated and the
19 Commission was frustrated.

20 Q Were you frustrated?

21 A I was not involved at that time.

22 Q Thank you, sir. And so, is there any
23 frustration associated with this case?

24 A I don't know yet.

25 Q How about thus far?

1 A We just started. I'm not frustrated yet.

2 Q When did you just start, sir?

3 A We just started the hearing.

4 Q Okay. How about the case? Had any trouble
5 getting any information from the Utility, for example?

6 A Not really. Not any more difficult than it is
7 getting information from any utility I've dealt with for
8 rate cases.

9 Q Okay. Is that difficult or not difficult?

10 A It wasn't bad.

11 Q Okay. Let's look at another part of your
12 summary. You said that -- I think, correct me if I'm
13 wrong, I heard you say essentially that there were
14 expenses sought in this case that were not yet incurred;
15 is that correct?

16 A That's correct.

17 Q And those are pro forma adjustments about
18 which we have some debate, correct?

19 A That's correct.

20 Q Now, wasn't that also true of the last case or
21 do you happen to know?

22 A I don't know.

23 Q Did you review the last case, for example, to
24 ascertain whether the company sought and received an
25 allowance for pension and benefits?

1 A No.

2 Q So your analysis would not say, or would it
3 say, whether they, in fact, used the money for that
4 purpose?

5 A Would you repeat that?

6 Q I'll ask it a different way. Did they provide
7 pension and benefits -- have they have provided pension
8 and benefits to anyone since the last case?

9 A Not to my knowledge.

10 Q All right, sir. Now, with respect to
11 insurance. Do you know whether they received an
12 allowance for insurance in the last case?

13 A No.

14 Q Do you know whether they have incurred expense
15 since the last case for insurance?

16 A I don't know if they have. And let me go back
17 and correct, I believe there was some allowance for
18 insurance in the last case.

19 Q Okay. Do you know to what extent it was?

20 A No. I'd have to look back.

21 Q All right, sir. Do you know what expense they
22 have incurred for insurance since the last case?

23 A I don't believe they have.

24 Q They have not incurred insurance.

25 A I don't believe so.

1 Q If you were to determine that they had, in
2 fact --let me ask you hypothetically if they had been
3 permitted to recover over time \$13,955 and then spent
4 only \$625 of that on insurance, would you suggest to
5 this Commission today that they should give any credence
6 to the similar pro forma adjustments?

7 A I don't know that I could come to a conclusion
8 like that. Whatever rates were granted, revenues were
9 granted in the last case were, obviously, based on a
10 totalization of all of the expenses and costs of
11 service. Whether the Utility spent it on each specific
12 item to the amount that it was allowed wouldn't
13 necessarily be of a concern to me. What would be more
14 of a concern to me is that as I look back over their
15 books since 1987, they have been operating at a loss
16 with whatever expenses they have been paying.

17 Q And that loss would include some consideration
18 of the level of investment and whether a return is
19 permitted on that level of investment. Am I correct?

20 A That's inherent in any statement of profit and
21 loss, isn't it?

22 A That's right, whether the level of investment
23 was what they anticipated, whether it was sufficient to
24 recover the operating expenses. When I talk about a
25 loss, I'm talking about an operating loss before

1 coverage of any carrying costs.

2 Q Okay. I'd like you to describe a little bit,
3 if you would, a pro forma adjustment. Let me tell you
4 what my impression is, and then you can tell if it is
5 different.

6 A pro forma adjustment is an adjustment to the
7 test year which is frequently based upon known and
8 ascertainable changes which have occurred since the test
9 year; isn't that right?

10 A That's correct.

11 Q And in most instances the Commission assures
12 itself by looking at the evidence, the credibility of
13 the witnesses, and the like, to determine whether those
14 expenses will, in fact, be incurred when the time comes.

15 A That's correct.

16 Q Now, in that inquiry should the Commission
17 consider whether the money they permitted for expenses
18 represented to be incurred in the last case were, in
19 fact, spent in that manner?

20 A Yes, I think they should, as long as they look
21 at it in the total context of the total revenues versus
22 total operating expenses and the net income.

23 Q All right, sir. I think that's a fair
24 observation I agree with.

25 Now, with respect to the competition you

1 mentioned, you said this utility faces some measure of
2 competition in its operation; is that correct?

3 A That's correct.

4 Q How do you know that to be true, sir?

5 A Because there is no control over the drilling
6 of wells on individuals' properties.

7 Q And if I'm not mistaken, sir, I believe that
8 the Utility is seeking a good bit of money to recompense
9 it for the efforts it takes to eradicate that cross
10 control; is that right?

11 A To eradicate it?

12 Q Well, to control it. I'm sorry, to control
13 the competition it receives. Let me rephrase the whole
14 works.

15 The Utility receives money to observe and
16 control and otherwise respond to the potential that
17 there will be cross-connections; is that right?

18 A Yes. Well, in its present rates it doesn't
19 receive anything because that wasn't the --

20 Q But its requesting that?

21 A Right?

22 Q Isn't that correct? And, of course --

23 A And my I finish? It would not be for the
24 purpose of controlling the competition, it would be only
25 for the purpose of controlling the problems associated

1 with cross-connection.

2 Q Yes, sir. And the competition survives, then,
3 I would take it, is your view?

4 A Competition survives.

5 Q Sure, and there is competition now. Now, you
6 know that because of what the Utility has told you; is
7 that right?

8 A Yes. From looking at the customers that have
9 been identified on their maps that have wells and have
10 meters.

11 Q Yes, sir. And I take it that competition is
12 essentially because there is a substitute for the
13 product that this firm offers; is that right?

14 A Yes.

15 Q Now, have you determined whether that is, in
16 fact, a comparable substitute or is it different in
17 quality? Does it have different biological standards
18 attached or -- in general, quantify that if you would,
19 please.

20 A I think Mr. Garrett could probably speak to
21 you better about the quality of that product because
22 he's on the island. From my understanding, however,
23 there is no testing required of the quality of the water
24 for these wells.

25 Q All right. So in quantifying what competition

1 this utility, in fact, faces from those private wells,
2 we'd have to know something about the extent to which
3 they are getting a comparable product from those wells,
4 wouldn't we?

5 A Well, that may be very interesting, but it
6 doesn't change the fact that there is no substantial
7 control over wells being put on the island. When, in
8 fact, there's a general direction taken by public bodies
9 to do away with single wells so that there's better
10 quality control.

11 Q Okay. I think I have been unclear. Let me
12 ask you this: Obviously, one substitute for the water
13 that they received from Mr. Brown's utility is the water
14 that's in the bay or in the ocean; isn't that right, and
15 it's for free?

16 A Well, not for drinking it's not for free.

17 Q Exactly. It is not comparable product, right?
18 Now, what I'm trying to do is, you allege, and I think
19 the Utility in general alleges, that they face
20 competition from private wells. Well, do they, in fact?
21 What I'm trying to find from you, since you say they do
22 face competition, is to what extent those wells offer a
23 product which is comparable to the product which they
24 buy from Mr. Brown.

25 A I don't have any idea if it's comparable. As

1 I say, Mr. Garrett is in a better position to tell you
2 about the quality of that water.

3 Q Okay. Then Mr. Garrett would probably be in a
4 better position to tell us about whether competition
5 actually exists, wouldn't he?

6 A He also could tell you that, yes. But it's
7 pretty well identified on the maps that's have been
8 supplied to the Commission.

9 Q Yes, there's no doubt that there are wells. I
10 don't question that. What I want to know is what comes
11 out that have well, is it comparable to Mr. Brown's
12 product such that it is competition in an economic sense
13 which you appear to allege?

14 A I don't know if it's comparable in quality,
15 and regardless of whether it is or not, it is there.

16 Q Sure.

17 A And it is unusual to be there in a regulated
18 utility service area.

19 Q And the customer would, no doubt, we can only
20 infer this I think, but criticize my inference, if you
21 will, that the customer might have to come out with a
22 bit of capital outlay to obtain that product to whatever
23 extent it is comparable; is that right?

24 A That's correct.

25 Q Now, one last question on competition. Isn't

1 that one of the many elements that we all considered
2 when we were thinking about used and useful?

3 A In general used and useful?

4 Q Yes, sir.

5 A No. I considered it in this case but it's not
6 generally considered, because it's generally not a
7 problem.

8 Q I'm sorry. I misspoke. I meant, of course,
9 in this case. Isn't it one of the considerations that
10 we all seem to engage in when we were discussing used
11 and useful?

12 A That's correct. When we discuss used and
13 useful in this case, I did mention the proliferation of
14 wells and their competition from them as a
15 consideration.

16 Q So to the extent that we all agree that this
17 utility was the percentage of used and useful, which is
18 ballpark 85%, that notion of competition is included in
19 that 85%; isn't that correct?

20 A By virtue of its existence, yes.

21 Q Yes, sir. Now, let's shift focus to -- you'll
22 recall that we did a telephone deposition where we asked
23 you a number of questions; is that correct?

24 A That's correct.

25 Q I'd like to direct your attention to one

1 question, a series of questions which I asked and ask if
2 you remember it. It was generally to ask you what
3 instructions you had received from Mr. Brown in the
4 progression of the rate case and your functions with
5 respect to the rate case. Do you recall that line of
6 questions?

7 A Yes, I do.

8 Q And do you recall the exchange where I asked
9 you about a specific document which you mentioned?

10 MR. PFEIFFER: I object, Your Honor. I
11 believe this is an inappropriate use of a deposition.
12 He's not trying to impeach the witness. He instead is
13 simply trying to ask questions that he asked before and
14 I think he can ask them.

15 MR. McLEAN: I'm not asking him to refer to
16 the deposition. I'm using the deposition to refresh his
17 memory, but we can proceed without it if you wish.

18 CHAIRMAN DEASON: I think it's customary to
19 use depositions to lay a predicate for a question. I
20 assume that's what Mr. McLean is doing.

21 MR. McLEAN: That's all, to refresh the
22 witness's testimony.

23 CHAIRMAN DEASON: Please proceed.

24 Q (By Mr. McLean) You remember the exchange we
25 had about whether you received instructions from

1 Mr. Brown.

2 A Yes.

3 Q In the course of that discussion, did you
4 refer to a specific memo that had 15 pages?

5 A I would guess so. You'll have to refresh my
6 memory.

7 Q All right, sir. I'll do so.

8 A Was there some other identification with it?
9 I just don't remember how many pages --

10 Q I understand.

11 A -- were involved.

12 Q May I invite your attention to Page 4 of the
13 exhibit we're just now passing out.

14 A Okay. I'm looking at Page 4.

15 Q And I believe on Line 15 -- I'm sorry, Line
16 16, I ask you how many pages this particular memo is,
17 and I believe you answered "15."

18 A Yes. This is with regard to the memo that I
19 identified as being client confidential or attorney
20 confidential.

21 Q With respect to that claim of confidentiality,
22 would you accept that the Commission has resolved that
23 issue such that it is not confidential? Or have you
24 been advised?

25 A I think it's been provided.

1 Q Yes, sir. Okay. Now, do you have a copy of
2 that memo with you today?

3 A Yes, but not in the room. In my car.

4 Q You have it in your car? All right, sir. Let
5 me give you another exhibit. (Hands document to
6 witness.)

7 Is this the memo to which you made reference,
8 Mr. Seidman? And by "made reference," I mean in the
9 deposition.

10 A Yes, sir.

11 Q All right, sir. Would you turn to Page,
12 hand-numbered page, if there is such a thing --

13 A What number, sir?

14 Q I'm working on it, Mr. Seidman, I'll be right
15 with you. Look at the top of the page, the memo itself
16 is numbered and it seems to be Page No. 13.

17 A Yes.

18 Q And there are a number of exhibits behind that
19 page.

20 A Yes. Okay.

21 Q Mr. Seidman, it is of critical interest to the
22 citizens to know whether they were given an accurate
23 copy of that particular memo. So I don't know a
24 practical way to do this, but I would like you to
25 compare the one in your car with the one I've provided

1 you. Can you suggest a way we can do that?

2 A I can get it out of the car.

3 MR. McLEAN: Mr. Chairman, this is an unusual
4 request. But the witness clearly stated without
5 hesitation in the deposition that we had a 15-page memo
6 and you'll recall that this memo was subject to a lot of
7 dispute. That we may have a tempest in the teapot. We
8 may well have been given the original memo, but we would
9 sure like to know why there is a discrepancy -- there's
10 obviously a discrepancy between what the witness said
11 and what we have.

12 CHAIRMAN DEASON: Very well. We'll take a
13 short recess to allow Mr. Seidman to retrieve that
14 document. I'm also going to request that to the extent
15 that you have a number of exhibits which you're going to
16 utilize, that you go ahead, if possible, to go ahead and
17 distribute those. It may speed things along. And if
18 there are going to be questions or concerns about
19 authenticating or whatever, to the extent that some of
20 that could be taken care of during the break, that may
21 also speed things along.

22 MR. McLEAN: To the extent we can do that
23 without providing an advanced notice to a witness that
24 there may be a problem with their testimony, we will
25 accommodate that. And I appreciate it.

1 CHAIRMAN DEASON: I understand that's the
2 difficulty. My only concern is the time it actually
3 takes to distribute documents and we are going to be
4 short on time. We'll take five minutes at this time.

5 (Brief recess.)

6

7 CHAIRMAN DEASON: Call the hearing back to
8 order. Everyone can take your places, please.

9 Q (By Mr. McLean) Mr. Seidman, would you
10 describe the memo that you've discovered in your car or
11 that you went to get from your car.

12 A It's a memo, it's titled "Memo Confidential
13 Attorney Work Product to Frank Seidman from Gene Brown,
14 dictated but not read by Mr. Brown, dated 1-18-94, Re:
15 George Island Utility Company, Revised Rate Case."

16 Q And it's the memo to which you referred in our
17 deposition; is that correct?

18 A Yes.

19 Q All right, sir. And your answer was that it
20 had 15 pages?

21 A Yes.

22 Q Is there an apparent explanation for the
23 discrepancy of which we spoke?

24 A My memo has 15 pages.

25 Q All right, sir. May I observe it, please?

1 A Yes, you certainly can. (Hands document to
2 counsel.)

3 MR. McLEAN: Mr. Seidman, when you answered
4 15, why did you say 15 instead of 13?

5 A Because it had 13 pages of text, and two
6 exhibits attached to it.

7 Q All right, sir. You did not respond to the
8 production of documents; is that correct?

9 A Not personally, no.

10 Q The Company responded. You didn't have any
11 hand in that at all; right, sir?

12 A That's correct, yes.

13 Q All right. Thank you, sir.

14 Mr. Seidman, I've arranged for you to be
15 passed another exhibit. (Hands document to witness.)

16 Mr. Seidman, I apologize for the delay. The
17 memo to which I'm referring -- I'm sorry, the exhibit to
18 which I'm referring now has FS-2 up at the top. Do you
19 see that, sir?

20 A Yes.

21 Q All right. And the memo is dated February 4,
22 1994.

23 A Yes. That's correct.

24 Q And I believe it was included, was it not, in
25 the discussion that you and I had about instructions

1 which Mr. Brown had given you for the rate case; is that
2 right?

3 A I don't know. If I recall, I think I may have
4 mentioned there were two confidential memos.

5 Q Yes, sir. Okay. Well, let me rephrase the
6 question because I don't want to lead you off the track.
7 The thrust of my question is to determine whether this
8 is, in fact, instructions you received from Mr. Brown
9 irrespective of whether we discussed it earlier.

10 A This exhibit that says FS-2 on it?

11 Q Is your response to the memo you got from him.
12 Is that right?

13 A No, not directly. It's just an advisory memo
14 and a communication regarding the completion of the
15 case, and the things we needed to be aware of. It's not
16 in direct response.

17 Q Okay. But the subject of the memo is to
18 suggest to Mr. Brown that he needs some backup for the
19 data which he has already furnished you; is that right?

20 A That's correct. That he should be ready to
21 back that up.

22 Q Okay. Now, the date of the memo is February
23 4, 1994; is that correct?

24 A That's correct.

25 MR. McLEAN: Mr. Chairman, I'm not sure I

1 asked for an identification of this particular exhibit.
2 May it be marked for identification purposes?

3 CHAIRMAN DEASON: This is the document that
4 has FS-2 at the top right-hand corner?

5 MR. McLEAN: That's correct, sir.

6 CHAIRMAN DEASON: Yes. It will be identified
7 as Exhibit No. 2.

8 (Exhibit No. 2 marked for identification.)

9 Q (By Mr. McLean) Okay. Now, that was
10 substantially after you prepared the MFRs; is that
11 correct?

12 A That's correct. This memo was written after
13 the MFR was filed, I believe, or just about the same
14 time.

15 Q Okay. And you found that the MFRs as filed
16 needed additional backup?

17 A Right. What I advised Mr. Brown was that we
18 were putting numbers into the MFR for pro forma
19 expenses, and that we would need to have -- you know, he
20 should develop a support for that and have it ready to
21 support those numbers.

22 Q Yes, sir. You were the -- you are the witness
23 who says that the numbers in the MFRs are true; is that
24 right?

25 A The numbers in the MFRs are true.

1 Q Are accurate. Are accurate numbers, yes, sir.
2 And you're the person who tells the Commission that
3 those numbers are accurate.

4 A That's correct.

5 Q All right, sir. Now, is it true then that you
6 prepared and submitted the MFRs without the necessary
7 backup? I'm sorry, let me rephrase that.

8 Is it true that you submitted the MFRs without
9 the backup that you believe necessary to support the
10 numbers?

11 A Yes. With regard to the pro forma expenses,
12 because of the timing of putting the case together, we
13 discussed what expenses Mr. Brown felt properly should
14 be included in here. And we were in pretty good
15 agreement that they were legitimate costs that should be
16 recognized in rates.

17 As you can tell by just reading the
18 correspondence, he was in the process of gathering this
19 stuff together, going ahead and trying to contract for
20 some of these services where that was necessary, and
21 some of these numbers were not solid. They were true in
22 the sense that they were a true reflection of what
23 Mr. Brown believed those costs were going to be.

24 Q But they were not what Mr. Seidman necessarily
25 believed they'd be?

1 A They weren't necessarily what I believed to be
2 or not believed to be. I knew that they were estimates.
3 I didn't feel that the amounts that were estimated were
4 unreasonable for the types of things that were being
5 covered, but I certainly didn't expect that they would
6 fall exactly into those numbers.

7 Q But you did sponsor the MFRs without the
8 backup; is that correct?

9 A That's correct. At the time the MFR was
10 filed and as this memo indicates, those items had not
11 necessarily been contracted for.

12 Q All right, sir. Could you turn to Page 3 of
13 the memo and let's look to Item 21 on Page 3 of the
14 memo, the hydrological study. Did Mr. Brown furnish you
15 with any support for that particular item?

16 A At the preparation of the filing?

17 Q Yes, sir.

18 A No, it was telecommunications. We talked over
19 the telephone and that was an indication, I believe, he
20 had received from talking to an engineer that might do
21 the study.

22 Q Okay. And that backup, as it were, came into
23 existence after the MFRs were filed; is that correct?

24 A That's right. Written back up; it was after
25 the fact, right.

1 Q All right, sir. Now, at the time that you
2 prepared the files, the MFRs rather, you didn't have any
3 written backup at all for that number; did you?

4 A For the 45,000?

5 Q That's correct, sir.

6 A That's correct. That's correct. I had the
7 number from Mr. Brown.

8 Q Okay. Now, you said that you were not
9 responsible for responding to our request for production
10 of documents; is that right? You're not personally
11 responsible for that.

12 A Not personally responsible, no.

13 Q All right, sir. Do you know whether the
14 citizens asked for any such documentation with respect
15 to that particular item?

16 A No, I don't know for certain. I have not seen
17 the specific requests.

18 Q Okay. But you do know -- or is it true that
19 the Company did not ask you to furnish anything with
20 respect to such a request; is that right?

21 A Like this study?

22 Q Yes, sir.

23 A No, they did not ask me for anything.

24 Q Okay. They didn't ask you for anything. Let
25 me make sure that we're together on this. If the

1 citizens asked for any information which supported that
2 number, if that be true, irrespective of whether it's
3 true, sir, did they ask you for any backup on that
4 particular item?

5 A No, they did not.

6 Q Okay. In response to our request.

7 A They did not ask me to assist them in
8 responding to the request.

9 Q Thank you, sir. Got it.

10 Now, with respect to the \$30,000 estimate for
11 fire protection study, I believe that's Item No. 22, did
12 Mr. Brown furnish you with the backup for that? (Pause)

13 A No.

14 Q You never got any backup for that, right? So
15 with respect to that \$30,000, can you tell the
16 Commission whether there's any backup for that \$30,000?

17 A Mr. Brown can tell you, I can't, no.

18 Q Okay. You don't know.

19 A No.

20 Q But you do know --

21 A Wait a minute. Excuse me. With regard to
22 this fire protection, yes, there is some backup now; not
23 for this number, for a lower number.

24 Q And you know that from Mr. Brown; is that
25 right?

1 A Yes. I've seen correspondence.

2 Q So you can't say that with respect to this
3 item the MFRs are correct, can you? In fact, wouldn't
4 you have to say that they're incorrect with respect to
5 that item?

6 A You are right. The numbers in the MFR do not
7 reflect the estimate provided by the engineer for the
8 service and I believe the service has been contracted
9 for.

10 Q Now, I have a similar question with respect to
11 a request from the citizens for that kind of
12 information. You obviously did not respond in any way
13 in such a request and were not directed to do so by the
14 Utility; is that correct?

15 A That's correct.

16 Q Thank you, sir. Mr. Seidman, what this
17 amounts to unless -- it's your testimony that there is
18 now support for both of these studies, but it's not
19 necessarily -- the numbers didn't come out the same as
20 in the MFRs; is that correct?

21 A That's correct.

22 Q Now, that is essentially a modification of the
23 MFRs, isn't it?

24 A No, sir.

25 Q Well, the MFRs aren't correct, apparently,

1 with respect to those two issues. And now the Utility
2 alleges numbers which happen to be lower than the MFRs.
3 Is that not an effective revision of what the MFRs say?

4 A It certainly revises what the impact will be
5 but it's not a revision of the MFR. It's information
6 that has been determined after the MFR that represents
7 what the actual costs are now.

8 Q All right. Well, the MFR says \$45,000. Do
9 you know what the new number is?

10 A I think it's approximately \$12,000.

11 Q Okay. And the \$30,000 item for the fire
12 protection study, do you know what it is now?

13 A That I don't know.

14 Q Okay. So the Utility is now before the
15 Commission with an application asking for 12,000 in
16 place of 45.

17 A That's correct.

18 Q Now, I don't mean to be overly technical but
19 isn't that, in fact, an effective modification of what
20 they asked for?

21 A I see it to be no more of a modification than
22 any of the number changes that resulted from
23 stipulations with the Staff or as a result of our
24 agreeing to changes resulting from the audit.

25 Q Okay.

1 A It's a correction to the MFRs that reflects
2 actual costs of numbers that were known to be estimated
3 at the time they were filed.

4 Q Well, my question goes more to the nature of
5 this process. Let me see if I can get you to agree with
6 me, or maybe we disagree. That it is the Utility's
7 responsibility and burden of proof to come forward with
8 its case; is that right?

9 A That's correct.

10 Q And then it falls to people such as us to
11 criticize that original case. Is that right?

12 A It seems to, yes.

13 Q And maybe to compliment it in some respects,
14 but in any case to evaluate it, maybe that would be a
15 better word.

16 A Yes.

17 Q And then rebuttal is an opportunity for the
18 Utility to come forward and critique our evaluation;
19 isn't it?

20 A That's correct.

21 Q It's not an opportunity for them to come
22 forward with a new case; is it?

23 A No, and I don't think we've done that.

24 Q Good. But to this extent in any case, you
25 have changed the 45,000 to 12,000, for which we thank

1 you, of course, but it is nonetheless a change; is it?

2 A It's a change and it's the same type of change
3 as I've indicated that we've changed for a stipulation
4 with Staff. We've changed the depreciation expense,
5 we've changed plant. These are all changes. I fail to
6 see why that results in a revised MFR. We certainly
7 don't come into a case expecting that everything in that
8 case is going to be 100% what comes out of it.
9 Everything is a change.

10 Q Of course. But you do, as Commissioner Gunter
11 use to say, "take your best hold"; don't you?

12 A Whatever. I don't recall Commissioner Gunter
13 saying that. (Laughter)

14 Q The rest of us do, perhaps.

15 A I recall other sayings. Not that one.

16 Q Some of them are much more memorable. Okay.

17 So let us suppose, hypothetically, that we
18 said wait a minute, you asked for insurance and there is
19 no backup. Okay? So you shouldn't get your insurance.
20 And then in criticism to our observation that they don't
21 have backup, they say "Now we do. We just made some.
22 We just had a contract. We just wrote a check." Now,
23 isn't that the same as furnishing us with a new case to
24 criticize?

25 A I don't see where it is. We've indicated that

1 there was a need for insurance. We made an estimate of
2 what that insurance cost is. And in the meantime, we've
3 gone out and contracted for insurance, and it's
4 different from the estimate.

5 Q And in the meantime, is after you took your
6 best hold; isn't it? So we are put in the position of
7 not criticizing what your original case was, but what
8 your new case is where you went out and got the checks,
9 wrote the contracts, did whatever you needed to do.
10 That's a general question about the nature of this
11 process; isn't it?

12 A I think that speaks of what the
13 process usually is, yes.

14 Q Okay.

15 MR. McLEAN: Mr. Seidman, I have nothing
16 further. Thank you very much.

17 CHAIRMAN DEASON: Ms. Sanders.

18 MS. SANDERS: No questions, Commissioner
19 Deason.

20 CHAIRMAN DEASON: Mr. Pierson.

21 MR. PIERSON: Thank you, sir,

22 MR. McLEAN: Mr. Pierson, may I interrupt to
23 say that I didn't get the last exhibit marked. The one
24 before the last one, which was marked GDB-2, it is the
25 memo by which we had some discussion. I didn't get that

1 one marked for identification.

2 MR. PFEIFFER: Do you want to mark every page,
3 Harold?

4 MR. McLEAN: No, sir, just the first one.

5 CHAIRMAN DEASON: It will be identified as
6 Exhibit No. 3. And Mr. McLean, you also handed out some
7 excerpts from the deposition.

8 MR. McLEAN: We don't need those marked for
9 identification.

10 CHAIRMAN DEASON: Very well.

11 MR. McLEAN: Thank you, sir. Excuse me,
12 Mr. Pierson, thank you.

13 MR. PIERSON: Thank you. That was then FS-1
14 and GDB-2 that you identified.

15 MR. McLEAN: Those are our numbers on them,
16 yes, sir.

17 (Exhibit No. 3 marked for identification.)

18 CROSS EXAMINATION

19 BY MR. PIERSON:

20 Q Good morning, Mr. Seidman.

21 A Good morning, Mr. Pierson.

22 Q In your opening remarks, you stated that a
23 number of -- a significant number of St. George's
24 customers are seasonal. Do you have an estimate of
25 those numbers?

1 A No, I don't. Either Mr. Brown, I think, or
2 maybe Ms. Chase can provide with you that.

3 Q You also -- strike that.

4 Based upon this seasonality of customers and
5 from your review and analysis of St. George's books and
6 records, would you say that this Utility has a
7 difficulty meeting its operating expenses during the off
8 season?

9 A More difficulty than it has meeting its
10 expenses during the on season. It has difficulty
11 meeting them. That's the purpose of our case. But with
12 regard to seasonality, yes. As far as cash flow is
13 concerned, the cash flow would be less off-season.

14 Q What would be your remedy to that if you had
15 your druthers?

16 A I would increase the base facility charge
17 portion of the rate so that there's more stability to
18 the flow of revenues.

19 MR. PIERSON: That's all I have right now.

20 Thank you.

21 CHAIRMAN DEASON: Redirect?

22 MR. PFEIFFER: Yes, sir, I have a few
23 questions.

24

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REDIRECT EXAMINATION

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BY MR. PFEIFFER:

Q Now, when you told Mr. McLean in your deposition that that memorandum was 15 pages long, I would just simply like the record to be abundantly clear. Is it your opinion that that was a 15-page long memorandum, as you understood it?

A Yes, it was 15 pages.

Q And is the memorandum that you had the same as the memorandum that Mr. McLean showed to you?

A No.

Q Or did he ever show it to you?

A The memorandum he showed me is GDB-2.

Q Yes.

A It has more exhibits attached to it than my memo.

Q And do you know why that happened?

A No.

Q Is the memorandum itself the same memorandum?

A Yes, yes. The narrative is.

Q Do you know whether in the course of operating this Utility from 1989, when the last rate case was resolved, through 1992 and since then, that the Utility needed to incur expenses that were not included as either pro forma items or other expense items in the prior rate case?

1 A Yes.

2 Q Do you know what some of those expenses may
3 have been?

4 A That it needed to incur?

5 Q Yes, sir.

6 A Let me see, and make sure I understand, that
7 were not included in the last case?

8 Q Yes, sir. Well, let me ask you this: Would
9 some of them have been incurred in connection with
10 proceedings with the Department of Environmental Protection?

11 A Yes. A lot of the expense incurred was a
12 result of complying with the compliance requirements of
13 the final order in the 1989 order. In other words,
14 bringing in more people or competent people, competent
15 management, that was a requirement, so there were
16 expenses associated with that. The cross-connect
17 program was not in existence in the time of the prior
18 case, so that's new expenses. The extent of the testing
19 required by DEP in the consent order, for instance, the
20 hydrogen sulfide testing, the amount of that, was not
21 expenses covered in the last case.

22 Q Would you characterize those expenses as
23 significant expenses?

24 A Yes.

25 Q How could the Utility meet them?

1 A Well, it was only two ways you could meet it.
2 You could meet it with the revenues that were generated
3 by sales, and if that's insufficient, by injecting more
4 money into the Company.

5 Q Would the Utility have been in the position
6 perhaps of having to pick and chose which things it
7 could pay for?

8 A Yes. As a matter of prioritizing what
9 expenses you incur.

10 Q Do you know whether -- in one effort to meet
11 those expenses whether Mr. Brown put his own money into
12 the Utility?

13 MR. MCLEAN: Pardon me, Mr. Pfeiffer, I wonder
14 if we could hear the testimony of the witness as opposed
15 to the testimony of the lawyer who seems to be leading
16 the questioning.

17 MR. PFEIFFER: What you say if you're
18 objecting is you say, "Objection, leading question."

19 MR. MCLEAN: Thank you, Mr. Pfeiffer. I never
20 knew that. It's a leading question because it leads the
21 witness to the answer which you would like him to say.

22 CHAIRMAN DEASON: Mr. Pfeiffer, do you care to
23 respond to the objection?

24 MR. PFEIFFER: It was a leading question.
25 Yes, sir. (Laughter)

1 CHAIRMAN DEASON: Perhaps you need to rephrase
2 your question.

3 MR. PFEIFFER: Except it was a real good
4 question. (Laughter)

5 MR. MCLEAN: I was only trying to quote
6 Ms. Kiesling in a hearing I heard one time in hopes that
7 she'd pick right up on that. But Mr. Pfeiffer headed me
8 off at the pass.

9 Q (By Mr. Pfeiffer) Do you know any other
10 source of money that the Utility may have glommed on to
11 in meeting some of these expenses?

12 A The Utility incurred greater debt during that
13 period.

14 Q And how did it incur that debt? Who loaned it
15 money?

16 A Through Mr. Brown or through one of his
17 subsidiaries, partners.

18 Q Do you think there's any prospect that a bank
19 would have loaned the Utility money?

20 A I don't think so at that time because the
21 Company was showing losses. I think they would have
22 probably required that there be some type of rate
23 relief, at least, underway so they could have some type
24 of security, that revenues would be coming in to cover
25 it.

1 Q In your opinion, was the cross-control
2 program, for example, a vital program?

3 A Well, it was a necessary program. It was
4 required through the Consent Order. And in the
5 circumstances in St. George Island, yes, I'd think it
6 was vital because there is a concern for hazards from
7 cross-connection.

8 Q And the hydrogen sulfide program?

9 A The hydrogen sulfide program I think is
10 questionable whether the amount that's being required,
11 the amount of testing and the degree of changes that are
12 being requested by DEP are the right approach. But
13 nevertheless, they are being required under a Consent
14 Order.

15 Q When you -- in the memorandum that I believe
16 has been marked as Exhibit 2, when you indicated to
17 Mr. Brown that you thought he needed to provide some
18 additional documentation for these MFR pro forma items,
19 is it your belief that Mr. Brown had no basis for the
20 estimates that he had provided you?

21 A No. We had talked about it and he had talked
22 to vendors or engineers and gotten some verbal input.
23 But he didn't have it in writing yet.

24 Q Well, in your opinion should it be a purpose
25 of a proceeding like this one to reduce costs that are

1 proposed in a pro forma estimate where that can happen
2 during the course of prehearing procedures?

3 A I think that it's proper to true up estimates
4 by the time of hearing so that the Commissioners have
5 the actual costs.

6 Q As, for example, which would be preferable:
7 putting this Utility in a position of struggling to the
8 death over a \$45,000 estimate for a hydrological study,
9 or accepting a \$12,000 hydrological study?

10 A Obviously the \$12,000 cost is going to have
11 less of a rate impact. But whether -- regardless of
12 whether it's up or down, you know, it's the actual cost
13 that's being proposed versus the verbal estimates that
14 were considered at the time of the filing.

15 Q Do you know whether Mr. Brown now has
16 documentation to support all of the matters that are set
17 out in your February 4th memorandum? (Pause) Why don't
18 we go from the top, if you know.

19 A I'm almost through looking at this. Yes, I'm
20 pretty sure he has something on all of those issues.

21 MR. PFEIFFER: Your Honor, we have no further
22 questions of the witness.

23 CHAIRMAN DEASON: Exhibits.

24 MR. PIERSON: Mr. Chairman, if I may, one or
25 two recross, based upon the redirect.

1 CHAIRMAN DEASON: Limited to the redirect and
2 briefly.

3 MR. PIERSON: Thank you.

4 RECROSS EXAMINATION

5 BY MR. PIERSON:

6 Q Mr. Seidman, you stated that the Utility
7 incurred significant debt at the beginning of the
8 recross, and that that was money used to infuse capital
9 into the Utility; is that correct?

10 A Correct.

11 Q And you also said that at that time the
12 Utility was showing losses on its books.

13 A Yes.

14 Q What time frame are we talking about?

15 A For the losses?

16 Q Yes, and the infusion of debt.

17 A I look back at the annual reports from 1988
18 forward, since the last case was decided on an '87 test
19 year, and those records show operating losses in all
20 years; I think approximately \$300,000 cumulative.

21 Q When was the debt infusion? When did that
22 happen?

23 A That I can't tell you exactly. I don't know
24 what years it came in. I think a lot of it came in 1991
25 forward.

1 MR. PIERSON: Thank you.

2 CHAIRMAN DEASON: Exhibits.

3 MR. PFEIFFER: We would move Exhibit 1.

4 CHAIRMAN DEASON: Without objection Exhibit 1
5 is admitted. Further exhibits?

6 MR. McLEAN: Yes, sir, move 2 and 3.

7 CHAIRMAN DEASON: Without objection, Exhibits
8 2 and 3 are admitted.

9 (Exhibit Nos. 1 through 3 received into
10 evidence.)

11 CHAIRMAN DEASON: Thank you, Mr. Seidman. Mr.
12 Pfeiffer, you may call your next witness.

13 (Witness Seidman excused.)

14 - - - - -

15 MR. PFEIFFER: We have a witness who is
16 minutes away. We just contacted her by cellular
17 telephone and she is minutes away. And if you could
18 indulge us just for a few seconds, she would be a brief
19 witness, just about the perfect length of time, I think,
20 to take before a lunch break.

21 CHAIRMAN DEASON: Okay. We'll take five minutes.

22 (Brief recess.)

23 CHAIRMAN DEASON: Call the hearing back to
24 order. Mr. Pfeiffer.

25 MR. PFEIFFER: I apologize for the delay.

1 This witness has not been sworn, Your Honor.

2 EANIE DRAWDY

3 was called as a witness on behalf of St. George Island
4 Utility Company, Ltd. and, having been duly sworn,
5 testified as follows:

6 DIRECT EXAMINATION

7 BY MR. PFEIFFER:

8 Q Please state your name and address,
9 Ms. Drawdy?

10 A My name is Jeanie Drawdy, P. O. Box 182,
11 Monticello, Florida.

12 Q What is your occupation?

13 A I'm an accountant.

14 Q By whom are you employed?

15 A I'm self-employed and do contractual work for
16 St. George Island Utility Company.

17 Q Have you previously prepared prefiled
18 testimony in this proceeding?

19 A Yes, I did.

20 Q Do you have any additions or corrections or
21 changes that you want to make in that testimony?

22 A No, I do not.

23 Q Did you sponsor any exhibits with your
24 testimony?

25 A No, I did not.

1 are asked in the prefiled testimony, would you give the
2 same answers today?

3 A Yes, yes, I would.

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

2 A. My name is Jeanie Drawdy. My address is Post
3 Office Box 182, Monticello, FL 32344.

4

5 **Q. What is your profession?**

6 A. I am an accountant and have been in practice for 18
7 years.

8

9 **Q. Would you briefly describe your background and**
10 **experience?**

11 A. I am a graduate of Florida State University with a
12 major in accounting. I am currently enrolled in the
13 masters program at FSU. I have a background in public
14 accounting including auditing, tax preparation and
15 consulting. I have done consulting work and have
16 experience in auditing public utilities. I am familiar
17 with the 1984 NARUC Uniform System of Accounts (USOA)
18 as adopted by the Florida Public Service Commission.

19

20 **Q. Do you provide accounting services to St. George**
21 **Island Utility Company, Ltd.?**

22 A. Yes. On a contractual basis since 1992, I have
23 been responsible for overseeing the books of the
24 utility, verifying procedures, making journal entries
25 and verifying regular and closing entries in the
26 general ledger.

1 Q. In the course of performing accounting services for
2 St. George Island Utility Company, Ltd., have you
3 become familiar with its accounting books and records?

4 A. Yes I have, especially with regard to the records
5 kept since I began providing services.

6

7 Q. Are you familiar with the accounting records kept
8 prior to your engagement with St. George Island
9 Utility?

10 A. To some extent. Although I had no responsibility
11 or input with regard to records established before my
12 engagement, I have assisted St. George Island Utility
13 in accumulating and verifying supporting documentation
14 for entries made since the last rate case so as to
15 maintain compliance with the USOA ad directed by the
16 Commission.

17

18 Q. In your opinion, are SGI's books and records in
19 substantial compliance with the USOA?

20 A. Yes they are. As this Commission is aware, SGI has
21 been cited in the past for failure to properly maintain
22 records. In Order No. 23038, issued 6/6/90, the
23 Commission found that SGI's plant records were not
24 being maintained in sufficient detail. Then in Order
25 No. 23649, issued 10/22/90, the Commission noted that

1 the problem regarding plant records had been resolved
2 as "borne out by our most recent audit." In 1991, the
3 Commission initiated additional audits, and to assist
4 in surveillance it required SGI to file copies of its
5 general ledger and trial balance for the year ended
6 12/31/90, for the four months ended 4/30/91 and for
7 every month from that point forward. The Commission
8 initiated audits noted several exceptions and
9 disclosures, but mostly with regard to the timing of
10 entries. Then on 3/31/92, the Commission issued Order
11 No. 92-0122-FOF-WU which addressed the status of SGI's
12 books and records. In that order, the Commission found
13 "that the utility's books and records are in
14 substantial compliance with Rules 25-30.110(1)(a) and
15 25-30.115(1), Florida Administrative Code." These are
16 the rules regarding preservation of records and
17 compliance with the USOA. Although the Commission
18 found SGI in substantial compliance, SGI was ordered to
19 continue to provide copies of its general ledger and
20 trial balance on a monthly basis. Preparing those
21 documents is a part of my services for SGI.

22 I began providing accounting services to SGI at
23 about the time that Order No. PSC-92-0122-FOF-WU was
24 issued, and since that time the books and records have
25 been kept in substantial compliance with the USOA and

1 Commission rules.

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3 Q. How much time does it take you to perform your
4 ongoing accounting services for SGI?

5 A. Approximately two full days, or sixteen hours per
6 week.

7

8 Q. Did you compile or provide for the compilation of
9 the historical accounting information for St. George
10 Island Utility from the last rate case test year,
11 12/31/87, through this test year, 12/31/92?

12 A. Yes. That information was provided to Mr. Seidman.
13 He used that information to prepare the Minimum Filing
14 Requirements and all of the adjustments contained
15 therein.

16

17 Q. Does that conclude your direct testimony?

18 A. Yes, it does.

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1 Q (By Mr. Pfeiffer) Please summarize your
2 testimony.

3 A My testimony was in relation to the duties I
4 performed for St. George Island Utility Company, and in
5 relation to the Utility's books being in compliance with
6 the Uniform System of Accounts.

7 MR. PFEIFFER: Your Honor, we would ask that
8 the prefiled testimony be inserted into the record of
9 the proceeding.

10 CHAIRMAN DEASON: Without objection it will be
11 so inserted.

12 (For the convenience of the record, the
13 prefiled testimony was inserted at Page 116.)

14 MR. PFEIFFER: And we would tender the witness
15 for cross examination.

16 CHAIRMAN DEASON: Mr. McLean.

17 CROSS EXAMINATION

18 BY MR. McLEAN:

19 Q Good morning, Ms. Drawdy.

20 A Good morning.

21 Q You have been a contractual employee, so to
22 speak. You have been under contract to Mr. Brown for
23 some time, have you, ma'am?

24 A Yes, since June of 1991.

25 Q Okay. Has Mr. Brown remained -- is he now

1 current? Does he owe you any money now?

2 A No, he does not.

3 Q Okay. Has he remained current over the period
4 of that time?

5 A Yes, he has.

6 Q Okay. Let's look to your testimony, just a
7 couple of quick questions. Page 3 of your direct
8 testimony I believe is part of your assertion that
9 Mr. Brown keeps his records in conformance with --
10 compliance, I'm sorry, with USOA and Commission rules.
11 That's your testimony, isn't it, the gist of your
12 testimony?

13 A Yes, it is.

14 Q Now, Ms. Drawdy, I think shortly before you
15 got here we handed out an exhibit, and I'm not sure you
16 have a copy of it. But I'll tell you how to identify
17 it. It says up in the upper right hand corner, "JD-1."
18 We may have an extra one if we passed it out
19 prematurely. (Pause) We have an extra one we can
20 provide you with, Ms. Drawdy. Thanks.

21 MR. McLEAN: Mr. Chairman, may we have the
22 exhibit marked for identification purposes?

23 CHAIRMAN DEASON: Yes, it will be identified
24 as Exhibit 4.

25 MR. McLEAN: Thank you, sir.

1 (Exhibit No. 4 marked for identification.)

2 Q (By Mr. McLean) Ms. Drawdy, would you take a
3 moment to look at Exhibit No. 4. I have a question or
4 two for you about that document.

5 A Exhibit 4. Now I've got.

6 Q It is the document which you were just handed,
7 I hope. It says "JD-1" at the top, at the top of the
8 front page. We tried to get it to you a little early.

9 A Okay.

10 Q Okay. Let's refer to Pages 3, 4 and 5 of
11 that, Ms. Drawdy. Those appear to be instructions to
12 you from Mr. Brown. Is that how you recognize those
13 instruments, ma'am?

14 A Yes, it is.

15 Q Now, may I correctly infer from those
16 documents that Mr. Brown exercises some voice in the way
17 that the various entries and so forth are made into the
18 books of the Utility.

19 A Yes, he does.

20 Q I can infer that. Well, then the conformance,
21 if you know how these things should be classified --
22 strike that.

23 In order for you to know whether the Utility
24 keeps its books correctly, you'd have to know what the
25 correct way is, wouldn't you?

1 A Yes, sir.

2 Q But you feel that you know what the correct
3 way is; is that right?

4 A Yes, sir.

5 Q Okay. Then can you explain why Mr. Brown
6 occasionally has to tell you how to do it if you already
7 know?

8 A I think what these memos are is just
9 communications between Mr. Brown and the accounting
10 staff to, you know, just communicating back and forth
11 about setting up records. And, of course, if something
12 was not in compliance, or was not -- something that, you
13 know, I thought was in compliance, we'd certainly
14 discuss it and do it correctly.

15 Q Okay. If you look at the Page 3, that's a
16 suggestion from Mr. Brown that you set up a file; is
17 that right?

18 A Set up an account for educational expenses,
19 yes.

20 Q Yes, ma'am. Had you not done that already?

21 A We did not have a separate account for that at
22 that point, no.

23 Q Okay. Let me leave that point and ask you
24 about a statement on Page 4. If you'll examine the
25 second full paragraph, the fifth line down of the second

1 full paragraph, there's a sentence that reads "I am
2 probably going to add the state park later this year
3 after the rate case is in process. I do not want to add
4 it now and make this an issue in the rate case,
5 however". Did I read that correctly, ma'am?

6 Ms. Drawdy?

7 A Yes, sir.

8 Q Okay. Now, do you have any understanding of
9 what Mr. Brown was talking about there?

10 A Yes, I do.

11 Q Would you explain it to the Commission,
12 please, ma'am.

13 A Okay. In reference to the state park, adding
14 the state park?

15 Q Yes, ma'am.

16 A As a part of our capitalization of the Utility
17 plant is what he's referring to there.

18 Q Okay. Now, isn't the time that you make book
19 entries a part of the many considerations that you make
20 when you determine whether books are properly kept?

21 A Yes, sir.

22 Q And as I read that instruction to you, that is
23 an instruction regarding the timing of an entry; is that
24 correct?

25 A Yes, it is.

1 Q Okay. Now, I think this would be similar to
2 my earlier question, Ms. Drawdy. Why is it necessary
3 for Mr. Brown to address the timing of an entry to you?

4 A This -- let me read this one more time.

5 The timing of booking this entry, of course,
6 is a part of a management decision and how we're going
7 to treat this. I'm sure that subsequent events to the
8 beginning of this issue have changed our thinking in how
9 we're going to book it.

10 Q Okay. Now, with respect to your booking it
11 and the timing of the booking, do you find that the
12 point at which you file a rate case is determinative of
13 any way in which you should book something like is
14 referred to here?

15 A No, sir.

16 Q So, that's not really a variable on whether
17 the books are kept correctly or not, is it?

18 A No, sir.

19 Q Do you know why, then, it was of concern to
20 Mr. Brown to affect the timing because of when the rate
21 case was filed?

22 A No, sir.

23 MR. McLEAN: Okay. Thank you, Ms. Drawdy. No
24 questions.

25 CHAIRMAN DEASON: Ms. Sanders?

1 MS. SANDERS: I have no questions.

2 CHAIRMAN DEASON: Mr. Pierson.

3 MR. PIERSON: Thank you.

4 CROSS EXAMINATION

5 BY MR. PIERSON:

6 Q Ms. Drawdy, do you have a copy of the Uniform
7 System of Accounts?

8 A Yes, I do.

9 Q And do you refer to that fairly regularly?

10 A Yes, we do.

11 Q Were you there when the PSC staff auditor was
12 auditing St. George's books?

13 A Some of the time I was present.

14 Q When she was auditing the books, do you know
15 whether the support for each entry was readily available
16 for her to review?

17 A The support for the entries was available.
18 The Utility company had limited funds to pay me to be
19 there on a full-time basis, so I was not there all of
20 the time, and it's my understanding that sometimes they
21 had trouble locating things.

22 Q If they had trouble locating things, wouldn't
23 that kind of suggest it wasn't readily available?

24 A I hope not. I think that it probably was just
25 they didn't know exactly where to look.

1 Q Are you aware that the Utility subsequently
2 filed copies of invoices and checks that were missing
3 during the audit?

4 A Yes, I am.

5 Q Are you aware that this was several weeks
6 after the auditor had completed the audit?

7 A That some of the invoices were filed, yes.

8 Q Are you also aware that in the prior rate case
9 -- and Commissioners, I believe we're probably going to
10 be referring to this order a lot. We've already
11 referred to it several times this morning. It's Order
12 No. 21122, and I'd just like to ask that it be taken
13 notice of at this time.

14 CHAIRMAN DEASON: The Commission will take
15 recognition of its own orders.

16 Q (By Mr. Pierson) Are you aware that the
17 Utility was allowed educational costs in the last rate
18 case?

19 A In the last rate case?

20 Q In the last rate case?

21 A No, I'm not.

22 Q Can you explain why if they were allowed
23 educational costs in the last rate case, you had to set
24 up an account for educational costs this year?

25 A Setting up that account was really just

1 maintaining more detailed records. That was -- the
2 expense for education had been in our records, but we
3 just set up a detailed account, separate from other
4 accounts at that point.

5 Q Were there any entries under educational costs
6 prior to -- I hate to mince words, but your setting up
7 this account that we referred to earlier?

8 A No, there were not.

9 MR. PIERSON: No further questions.

10 CHAIRMAN DEASON: Redirect.

11 REDIRECT EXAMINATION

12 BY MR. PFEIFFER:

13 Q Is there anything wrong with the memorandum
14 dated January 12, 1994, that's on Page 3 about setting
15 up an educational account?

16 A No, sir. Not at all.

17 Q And the fact that Mr. Brown gave you this
18 memo, did you take that as an indication that Mr. Brown
19 thought you didn't understand your job?

20 A No, sir. Not at all.

21 Q Do you know whether under USOA or other
22 standards there are separate entries for educational
23 activities?

24 A Is it provided for in the Uniform System of
25 Accounts?

1 Q As a separate entry?

2 A The Uniform System of Accounts does not say
3 that you specifically have to have each account, but we
4 have our account set up in conformity with them and
5 decided to segregate this expense at this point.

6 Q What account might you put educational
7 expenses under if it was not under a separate
8 educational account?

9 A It could be a miscellaneous expense if there
10 wasn't a separate account set up.

11 Q Perhaps employee benefits?

12 A It could be there, yes.

13 MR. PFEIFFER: I have no further questions.
14 Thank you, Ms. Drawdy, and I'm sorry we pulled you right
15 in here from your automobile.

16 (Witness Drawdy excused.)

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18 CHAIRMAN DEASON: Exhibits?

19 MR. MCLEAN: Yes, sir. Move Exhibit No. 4.

20 CHAIRMAN DEASON: Without objection, Exhibit
21 No. 4 is admitted.

22 (Exhibit No. 4 received in evidence.)

23 CHAIRMAN DEASON: Mr. Pfeiffer, who is your
24 next witness?

25 MR. PFEIFFER: Wayne Coloney.

1 CHAIRMAN DEASON: Let me ask this question:
2 How long do we anticipate Mr. Coloney's testimony to
3 take?

4 MR. PFEIFFER: The issue that we need to
5 address is whether both his direct and his rebuttal
6 testimony would be offered, and I suspect that
7 Mr. Coloney is prepared to do that. But we would like
8 to discuss -- if it's both, it could be, I think,
9 somewhat lengthy. If it's just the direct testimony,
10 not as lengthy. I believe this would be a good time to
11 break for lunch, in my opinion.

12 CHAIRMAN DEASON: Very well. Let me ask this
13 question: How long do we need to take for lunch? I
14 assume that -- I don't know how convenient there are to
15 this location, establishments to get something to eat
16 and things of that nature. I'd like to keep the lunch
17 break at a minimum, but I want to give sufficient time
18 to everyone to have an adequate lunch. Would 45 minutes
19 be enough or is that too little time?

20 MS. SANDERS: I think you're going to need a
21 hour, a hour and 15. There are a couple of small
22 sandwich shops. The restaurants, if you sit down, it's
23 going to take you longer.

24 CHAIRMAN DEASON: See, I came prepared. I
25 brought my own lunch.

1 MS. SANDERS: We've ordered in, actually.
2 There's also a Hardee's in town.

3 CHAIRMAN DEASON: According to my watch it's
4 five after 12 at this time. We will take a lunch break.
5 We will reconvene at 10 minutes after 1:00.

6 (Lunch recess.)

7 (Transcript continues in sequence in Volume
8 2.)

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