

FLORIDA PUBLIC SERVICE COMMISSION

Gerald L. Gunter Building
2540 Shumard Oak Boulevard
Tallahassee, Florida 32399-0850

M E M O R A N D U M

SEPTEMBER 28, 1995

TO: DIRECTOR, DIVISION OF RECORDS AND REPORTING (BAYO)

FROM: DIVISION OF LEGAL SERVICES (EDMONDS) *se* *JTS* *OK*
DIVISION OF WATER AND WASTEWATER (GALLOWAY)

RE: UTILITY: ST. GEORGE ISLAND UTILITY CO., LTD
DOCKET NO. 940109-WU
COUNTY: FRANKLIN

CASE: APPLICATION FOR A RATE INCREASE

AGENDA: OCTOBER 10, 1995 - REGULAR AGENDA - PROPOSED AGENCY
ACTION ON ISSUE 2 - INTERESTED PERSONS MAY PARTICIPATE

CRITICAL DATES: NONE

SPECIAL INSTRUCTIONS: I:\PSC\LEG\WP\940109-R.RCM

CASE BACKGROUND

St. George Island Utility, Ltd. (St. George, SGIU or utility) is a Class B water utility providing service to approximately 993 water customers in Franklin County. For the test year ended December 31, 1992, the utility reported in its application operating revenues of \$314,517 and a net operating loss of \$428,201.

On January 31, 1994, the utility filed an application for approval of interim and permanent rate increases pursuant to Sections 367.081 and 367.082, Florida Statutes. The utility satisfied the Minimum Filing Requirements (MFRs) for a rate increase, and this date was designated as the official filing date. By Order No. PSC-94-1383-FOF-WU, issued November 14, 1994, the Commission approved a rate increase for St. George and revised the utility's service availability charges. This Order also required St. George to escrow its service availability charges in order to assure availability of funds for capital improvements.

DOCKET NO. 940109-WU
SEPTEMBER 28, 1995

On July 19, 1995, St. George filed with this Commission a motion for clarification of final order or in the alternative, for relief from final order. In its motion, St. George requests the Commission to enter an order clarifying that only plant capacity charges must be escrowed by the utility or, in the alternative, to enter an order modifying its prior order to specify that only plant capacity charges must be escrowed.

On July 26, 1995, the Office of Public Counsel (OPC) filed a response to St. George's motion. OPC's argument against Commission consideration of St. George's motion is twofold. First, OPC argues that the Commission does not have jurisdiction to entertain the motion since the case had been appealed to the First District Court of Appeal. This argument is now moot, since St. George withdrew the appeal on August 28, 1995. Secondly, OPC argues that the Commission should not consider SGIU's motion, since the subject of the instant motion was not part of SGIU's motion for reconsideration of Order No. PSC-1383-FOF-WU, filed on November 29, 1995. This recommendation addresses St. George's motion.

DISCUSSION OF ISSUES

ISSUE 1: Should the Commission grant the portion of St. George's motion requesting the Commission to enter an order clarifying Order No. PSC-94-1383-FOF-WU?

RECOMMENDATION: No. The Commission should deny the portion of St. George's motion requesting clarification of Order No. PSC-94-1383-FOF-WU. (EDMONDS)

STAFF ANALYSIS: By Order No. PSC-94-1383-FOF-WU, issued November 14, 1994, the Commission approved a rate increase for St. George and revised the utility's service availability charges. In part, this order required St. George to escrow all of its service availability charges, so that those monies would be available for future capital improvements. St. George has three types of service availability charges: 1) plant capacity charges; 2) main extension charges; and 3) meter installation fees. On July 19, 1995, St. George filed with this Commission a motion for clarification of that order, or in the alternative, a motion for relief from the order.

St. George agrees and understands that the plain language of Order No. PSC-94-1383-FOF-WU states that the utility shall escrow all of its service availability charges. On page 77, Order No. PSC-94-1383-FOF-WU reads as follows:

[It is further] ORDERED that St. George Island Utility Company, Ltd., shall establish, and place all service availability charges hereafter collected into, a commercial escrow account. (emphasis added)

Nonetheless, the utility questions whether the language of Order No. PSC-94-1383-FOF-WU accurately reflects the intent of the Commission. Based on the discussion on pages 65 and 66 of Order No. PSC-94-1383-FOF-WU and on an excerpt of the transcript of the October 7, 1994 Special Agenda Conference (attached to this recommendation as Attachments 1 and 2, respectively), St. George asserts in its motion that the utility understands the Order to mean that only plant capacity charges should be escrowed. It is understandable that the utility has become confused from these discussions. Pages 65 and 66 of Order No. PSC-94-1383-FOF-WU first discuss the reduction of St. George's plant capacity charge, and then the requirement to escrow all service availability charges. In addition, the transcript from the October 7, 1994 Special Agenda Conference could lead the utility to believe that the Commission was only addressing plant capacity charges. However, the ordering paragraph of Order No. PSC-94-1383-FOF-WU and vote sheet from the Special Agenda Conference make it clear that St. George is required

to escrow all of its service availability charges. Staff believes that the Commission's intention was to require St. George to escrow all service availability charges, as reflected in the plain language of Order No. PSC-94-1383-FOF-WU.

In addition, OPC argues that the Commission should summarily deny SGIU's motion, since SGIU did not bring forth the instant alleged confusion in its motion for reconsideration of Order No. PSC-94-1383-FOF-WU. OPC argues that by failing to bring forth the escrowing of service availability charges in its motion for reconsideration, it has waived its right to seek reconsideration by the instant motion. Upon review of the motion for clarification, it appears that SGIU has requested clarification, not reconsideration, of the final order. Rule 25-22.060, Florida Administrative Code, permits a party who is adversely affected by an order of the Commission to file a motion for reconsideration of that order. The standard for determining whether reconsideration is appropriate is set forth in Diamond Cab Company of Miami v. King, 146 So.2d 889 (Fla. 1962). In Diamond Cab, the Court held that the purpose of a petition for reconsideration is to bring to an agency's attention a point which was overlooked or which the agency failed to consider when it rendered its order. That point is generally a mistake in law or a mistake in fact. There is no such standard for clarification of an order. Clarification of an order simply reiterates or explains what an order already states, based on the same facts and law considered at the agenda conference when the Commission voted. As reflected in its motion, St. George understands Order No. PSC-94-1383-FOF-WU to mean that only plant capacity charges need to be escrowed. The utility's motion simply requests clarification on whether all service availability charges are to be escrowed according to Order No. PSC-94-1383-FOF-WU, or only plant capacity charges.

While there are no procedural defects in SGIU's motion for clarification, St. George is requesting that the Commission clarify the Order by stating that only plant capacity charges are to be escrowed. This is substantively different from what Order No. PSC-94-1383-FOF-WU states. The Order speaks for itself and requires SGIU to escrow all service availability charges. Accordingly, Staff recommends that the Commission deny the portion of St. George's motion requesting the Commission to enter an order clarifying Order No. PSC-94-1383-FOF-WU by stating that only plant capacity charges must be escrowed.

ISSUE 2: Should the utility's alternative request, filed in their motion for clarification be granted?

RECOMMENDATION: Yes. The utility should be relieved from having to escrow their main extension charges and meter installation fees. The utility should continue to escrow its plant capacity charges. (EDMONDS, GALLOWAY)

STAFF ANALYSIS: As stated in Issue 1, Staff believes that Order No. PSC-94-1383-FOF-WU speaks for itself. The Order clearly states that the utility should escrow all service availability charges, as opposed to the utility only escrowing plant capacity charges. Accordingly, Staff must address the utility's alternative request for relief.

In its motion, St. George requests that the Commission grant the utility relief from Order No. PSC-94-1383-FOF-WU by entering an order requiring the utility to only escrow its plant capacity charges. OPC contends that this situation constitutes nothing short of reconsideration of the Order.

Staff believes that while this could be viewed as untimely reconsideration, Staff believes the utility should be relieved from the requirement to escrow all service availability charges. In its alternative motion, St. George is requesting relief from the Order because Order No. PSC-94-1383-FOF-WU makes no provision for releasing funds from escrow to pay for past or currently incurred costs. The Commission has the authority to provide relief from its orders. "[T]he power of the Commission to modify its orders is inherent by reason of the nature of the agency and the functions it is empowered to perform." Reedy Creek Utilities v. Florida Public Service Commission, 418 So.2d 249 (Fla. 1982).

This Commission has recognized that St. George has continually operated at a loss, that St. George has had difficulty obtaining capital funds from outside sources, and that the Commission needed some assurance that funds would be available when future capital improvements were deemed necessary. These reasons led to the Commission's requirement in Order No. PSC-94-1383-FOF-WU that the utility escrow all of its service availability charges.

As stated in Issue 1, St. George has three types of service availability charges: 1) plant capacity charges; 2) main extension charges; and 3) meter installation fees. Order No. PSC-94-1383-FOF-WU requires St. George to escrow all three of these service availability charges in order to ensure that funds will be available for future capital improvements. However, Staff believes that the requirement to escrow the main extension charges and meter installation fees does nothing to ensure that funds will be

available for future capital improvements; in fact, requiring the utility to escrow these charges harms the utility by keeping these funds from being readily available to offset past debt and pay for meters installed as new customers connect. It should be noted that St. George has been escrowing its plant capacity charges since Order No. PSC-94-1383-FOF-WU was issued November 14, 1994, but not all of the service availability charges as required by the Order.

Staff still believes that escrowing the plant capacity charges is necessary. Plant capacity charges should be escrowed because these charges are collected from new customers for the purpose of funding future additions to capacity. This is the only service availability charge of the utility's three types that relates directly to future capital improvements. Accordingly, Staff believes that by requiring St. George to only escrow its plant capacity charges, the Commission's goal of ensuring that funds will be available for future capital improvements will still be fulfilled.

Staff does not believe that the utility should be required to escrow its main extension charges. The main extension charges relate to the transmission and distribution system, which is made up of previously constructed mains. The transmission and distribution system is already in place for present and future customers. The service availability charges collected as main extension charges provide necessary cash flow to the utility which offsets the debt incurred to finance the construction of those mains. Staff agrees with the utility that the main extension charge derived in Docket No. 871177-WU was based on recovery of the cost of the transmission and distribution system; Staff further agrees that the investment in the lines has already been made.

Staff also does not believe that the utility should be required to escrow its meter installation fees. The meter installation fees are collected from each new customer and are necessary to fund the installation of each customer's meter and appurtenances when they become connected.

Considering all of the service availability charges, it is only the plant capacity charges which relate to future capacity. The other service availability charges collected (main extension fees and meter installation charges) are not related to future capacity, but to contributions toward previously constructed mains or meters installed as new customers become connected. Therefore, these charges should not be escrowed for the goal of assuring that funds will be available when capital improvements for the utility are deemed necessary. Accordingly, Staff recommends that the utility's request for relief from having to escrow main extension

DOCKET NO. 940109-WU
SEPTEMBER 28, 1995

charges and meter installation fees should be granted. The utility should continue to escrow its plant capacity charges.

DOCKET NO. 940109-WU
SEPTEMBER 28, 1995

ISSUE 3: Should this docket be closed?

RECOMMENDATION: Yes. Upon expiration of the protest period, if a timely protest from a substantially affected person is not received, this docket should be closed. (EDMONDS)

STAFF ANALYSIS: Upon expiration of the protest period, if a timely protest from a substantially affected person is not received, this docket should be closed.

Service Availability Charges

Rule 25-30.580 (1)(a), Florida Administrative Code, states that the maximum amount of contributions in aid of construction, net of amortization, should not exceed seventy-five percent of the total original cost, net of accumulated depreciation, of the utility's facilities and plant when the facilities and plant are at their design capacity. The purpose of this requirement is to ensure that a utility has some investment so that it will maintain an interest in the facilities. St. George's CIAC level, as of December 31, 1993, was seventy-six percent of net plant in service.

There is significant potential for growth on St. George Island. If we do not adjust its service availability charges, St. George could become seriously over-contributed. However, the utility also needs additional capacity in order to connect new customers, which may require substantial capital investment. We are also mindful that, in the past, the utility has relied heavily on service availability charges to fund plant improvements.

When faced with a situation such as this, we would normally eliminate service availability charges altogether. However, in consideration of the above, this does not appear to be an option at this time. A reduction in the plant capacity charge will force the utility to make more of an investment in plant. Accordingly, we find it appropriate to reduce the plant capacity charge, as set forth below. We will continue to monitor this situation and may readdress the issue of service availability at a later date.

	<u>CURRENT</u>	<u>APPROVED</u>
Plant Capacity Charge		
Residential-per ERC (350 gpd)	\$ 1,245.00	\$ 845.00
All others-per gallon	\$ 3.5571	\$ 2.4143

Escrow of Service Availability Charges

St. George has been required to escrow funds, in order to ensure that monies were available for capital improvements, on numerous occasions by this Commission as well as by developers, banks, and others. As noted elsewhere in this Order, it appears that additional capacity will be required. Since we have reduced the utility's service availability charges, we believe that it is appropriate to require St. George to place such monies in escrow, in order to assure their availability for capital improvements.

Accordingly, St. George shall establish a commercial escrow account for service availability charges. Before funds may be released, the account administrator shall receive:

1. a written request for release of such funds from St. George;
2. written approval of each disbursement and the amount thereof from this Commission;
3. an affidavit from St. George stating the names of all parties owed, the amount owed to each and a lien waiver from each, and;
4. evidence of the proper payment of all prior disbursements.

St. George shall file a monthly report with this Commission detailing the monthly collections, as well as the aggregate amount. The escrow requirement shall remain in effect until the utility's next rate case or any modification in its service availability policies or charges.

Reduction of Rates Following Amortization Period

Section 367.0816, Florida Statutes, requires that rate case expense be amortized over four years. After the amortization period, the rates must be reduced by the amount of rate case expense included in rates. Pursuant to Section 367.0816, Florida Statutes, St. George's revenues should be reduced by \$25,585 at the conclusion of the four-year amortization period, as depicted on Schedule No. 5. The revenue reduction reflects the annual amortization amount, grossed-up for regulatory assessment fees.

The utility shall file revised tariffs no later than one month prior to the actual date of the required rate reduction. The utility shall also file a proposed customer notice setting forth the revised rates and the reason for the reduction. If the utility files this reduction in conjunction with a price index or pass-through rate adjustment, separate data shall be filed for the price index and/or pass-through increase or decrease and the reduction in the rates due to the removal of rate case expense.

Refund of Interim Rates

Under Section 367.082, Florida Statutes, and Rule 35-30.360, Florida Administrative Code, any interim revenues collected in excess of final approved revenues must be refunded, with interest.

1 BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

2

3 In re: Application of St. George) Docket No. 940109-WU
4 Island Utility Company, Ltd.)
5 For increased Water Rates)
6 in Franklin County)
7 _____)

6

7

8 PROCEEDINGS: SPECIAL AGENDA CONFERENCE
9 BEFORE: CHAIRMAN J. TERRY DEASON
10 COMMISSIONER DIANE K. KIESLING
11 DATE: Friday, October 7, 1994
12 TIME: Commenced at 1:50 p.m.
13 PLACE: FPSC Hearing Room 106
14 101 East Gaines Street
15 Tallahassee, Florida
16 REPORTED BY: LISA GIROD JONES, RPR, CM

16

17

18

19

20

21

22

23

24

25

1 20 minutes. We can have the revenue requirement and be
2 working on the rates. I believe 20 minutes is more than
3 adequate to get the revenue requirement done. We can call
4 you if we get it done sooner.

5 COMMISSIONER KIESLING: I don't know. How do
6 you want to handle it, Mr. Chairman? I know you have some
7 social plans that you want to --

8 CHAIRMAN DEASON: I have no social life.

9 MR. WILLIS: If you like, we can keep moving,
10 and certain staff can go upstairs and start running the
11 figures and bring them back down.

12 CHAIRMAN DEASON: And we could look at the
13 policy questions concerning rates while the accounting
14 folks are running the numbers?

15 MR. WILLIS: Yes, sir.

16 CHAIRMAN DEASON: That's fine with me. Can we
17 just come back to 31 and 32 with the precise numbers?

18 COMMISSIONER KIESLING: And 33, then, rates and
19 charges.

20 MR. WILLIS: And you might want to go back to
21 the rate base issue, too, when they get the working
22 capital calculated. 33 you'll need to skip.

23 COMMISSIONER KIESLING: Right.

24 CHAIRMAN DEASON: We can go to 34?

25 COMMISSIONER KIESLING: Yes.

1 CHAIRMAN DEASON: We have three alternatives, or
2 three choices.

3 COMMISSIONER KIESLING: Actually, I -- maybe I
4 created a fourth choice. I don't know. I would like to
5 do 34 and 35 together, because what I would like to do in
6 this is to -- I would like to adopt the primary
7 recommendation to reduce it by \$400, but I would like to
8 see those funds escrowed pursuant to the modified --
9 pursuant to the modified 35 that we were given just as we
10 walked in.

11 CHAIRMAN DEASON: This is -- Staff provided me
12 with a wording of a recommendation for 35 which would call
13 for escrowing of plant capacity charges. Is that
14 correct?

15 MR. RENDELL: That's correct, Commissioners.

16 CHAIRMAN DEASON: Commissioner, on Issue 35, I
17 don't have a problem with the concept of requiring
18 escrowing. In fact, I was going to raise that question
19 and have it discussed here because I had that concern.

20 My concern is on Issue 34. And the way I
21 understand Staff's recommendation, at least the way it's
22 explained on what is labeled Alternative 2, is that there
23 is a concern that we really don't have sufficient
24 information in this case to make a decision concerning the
25 reduction in service availability charges and that should

1 be done at a later time when additional information is
2 sought and obtained. And I kind of thought that that, to
3 me, made some sense, that we wouldn't reduce it until we
4 were convinced, and the only way we could be convinced is
5 if we had additional information. That's the only way I
6 understand the essence of alternative 2.

7 COMMISSIONER KIESLING: What makes that
8 interesting, Mr. Chairman, is that alternative 2 was the
9 one that I completely rejected out of the 3. I felt like
10 they are overcontributed; there's no doubt about that, but
11 not by much. And in my discussions with Staff on
12 alternative 3, which was to just reduce it to zero, since
13 they're overcontributed, what Staff advised me was that
14 they could not think of any cases where we had reduced it
15 to zero based on that small of a level of
16 overcontribution.

17 And they also convinced me that we shouldn't
18 just leave it the way it is, though, because they are
19 overcontributed and at the levels of growth that have been
20 experienced on the island, that every service availability
21 charge that they received at the full amount would just
22 make them more overcontributed. So I was kind of looking
23 at the primary as being a way to slow down or stop the
24 overcontribution and hopefully bring it back within our
25 level, maximum level that is in our rules, without going

1 through the expense of having to come back in and prove up
2 something.

3 CHAIRMAN DEASON: Let me -- I understand that.
4 Alternative 3 would be the one that I would flatly reject
5 outright. That's not negotiable with me. So I think
6 we're still negotiating in between primary and alternative
7 2. My concern is I understand that it is over the 75%
8 level, slightly over. My question, I guess, is that
9 how -- if we did not make a change, how much would that
10 contribution level continue to grow and continue to become
11 in excess of 75% during the pendency of some type of
12 proceeding to take an in depth look at the appropriate
13 service availability?

14 MR. RENDELL: Commissioners, that would depend
15 on the information we received in Issue 40, 41. The
16 problem is we did not have that information. We base it
17 on a future ongoing basis of the appropriate charge. We
18 realize there should be some kind of reduction, if not to
19 zero, then something, to get them down to a level. But we
20 don't know what the appropriate ongoing charge is, and we
21 don't have the information yet in 40 and 41. We need
22 future ERCs and future capacity and what plant they are
23 going to be putting into service. So that was the
24 alternative No. 2, is once we've received that
25 information, we could either require them to come in for

1 modification at that time, or we could initiate one on our
2 own. We were still concerned that they were above the
3 contribution level pursuant to the rule, and that's why we
4 opted to present the primary the way we did.

5 COMMISSIONER KIESLING: Part of my thought
6 process, Mr. Chairman, was that according to Staff's
7 analysis, on this issue, the contribution level as of the
8 April of 1989, the last rate case, was 23.44%. And over
9 less than five years, it's gone up to over 75%. And if I
10 understood the evidence in the record adequately, it was
11 that the utility itself was not spending any of its
12 shareholders' money, wasn't making any investment in this
13 system over the last five years, and used money that came
14 from service availability charges to both pay operating
15 expenses and fund what little -- what has been changed or
16 added in the last five years. And that, to me, suggests
17 that that trend can only be interrupted by some fairly
18 strong action.

19 CHAIRMAN DEASON: Let me ask this question:
20 What are the anticipated requirements for new investment
21 in the foreseeable future and what impact is that going to
22 have on the rate base and their resulting CIAC level?

23 MS. AMAYA: In Issue 41 it addresses what
24 additional capacity the utility is going to need to add.
25 There are several options open to the utility at this

1 point. They're looking primarily at additional raw
2 water. Now whether they add another well, or whether they
3 parallel some of the transmission mains from the mainland
4 to the island, there's different options open. And in
5 Issue 41 we're asking the utility to come back to DEP and
6 this Commission with specific plans for additional
7 capacity. It ties in with No. 40. They're in the process
8 right now of looking at additional capacity, so we do not
9 know what that future number of ERCs is. And then on the
10 other hand, we don't know exactly what additional capacity
11 is going to be needed.

12 CHAIRMAN DEASON: We don't know exactly what,
13 but it's reasonable to expect the addition of additional
14 capacity. In fact, Staff made the observation that
15 basically the company is at full capacity now.

16 MS. AMAYA: The company is at capacity now, but
17 the island isn't even half built out, so there is a lot of
18 potential for growth.

19 CHAIRMAN DEASON: Well, explain that one to me.
20 There's potential for growth, but to meet that growth
21 you've got to add capacity to the system because the
22 system is already at capacity.

23 MS. AMAYA: Correct.

24 CHAIRMAN DEASON: And my concern is -- and I
25 think you're correct, Commissioner, that there probably

1 has not been an increase in equity investment because one
2 thing, the company has been operating at a loss. And the
3 other thing is is that it's probably difficult to get
4 capital from outside sources for this utility company;
5 that it appears to me that to find the capital to fund
6 these necessary improvements, that we are going to have to
7 look to get substantial contributions from customers, new
8 customers that are going to be putting the demands on the
9 system. What is Staff -- but I guess, Staff, what you're
10 saying is that you feel that with the service availability
11 fee even reduced by the \$400, that would still be
12 adequate? Is that the essence of the primary
13 recommendation?

14 MR. RENDELL: That's the bottom line of it.

15 COMMISSIONER KIESLING: And if I recall
16 correctly, there were at least some indications in the
17 evidence that we received through the hearing, that one
18 way that this happens is developer agreements where, you
19 know, the utility gets the whole lump sum for the
20 development up front. So I mean, it's not like they're
21 going to only be collecting it from one house here and one
22 house there, but that, you know, there's units out there
23 where they may get 30 of them through a developer
24 agreement all up front, to fund that capacity.

25 And that's where I was concerned on 35, that if

1 we don't require them to escrow that and then use it for
2 adding capacity and for the other kinds of appropriate
3 uses, that it will just be gone like it was the last time
4 and they will be even more overfunded with nothing to show
5 for it.

6 CHAIRMAN DEASON: Well, Commissioner, in the
7 spirit of cooperation I'm willing to compromise, and I can
8 accept the primary. I just -- I do have the concerns
9 about meeting the requirements in the future, and I think
10 escrowing, as we've addressed, or will be addressing in
11 Issue 35, that will go a long way towards that. And I do
12 note that there still is, even with a \$400 reduction,
13 there still is a substantial capacity charge. I believe
14 it would be what, \$845 for ERC?

15 MR. WILLIS: Yes, just for the plant capacity.
16 You still have charges for lines, meter installations,
17 services.

18 CHAIRMAN DEASON: So with that, I take it then
19 that, Commissioner, you would be moving primary
20 recommendation on Issue 34?

21 COMMISSIONER KIESLING: And the amended -- or
22 actually new recommendation on 35 regarding escrowing it
23 and what the standards were for releasing it.

24 CHAIRMAN DEASON: Very well. Show primary
25 recommendation approved for Issue 34 and the revised

1 recommendation concerning escrowing on Issue 35.

2 MR. RENDELL: Commissioners, Item No. 36 would
3 depend on the new rates that we'll be calculating.

4 CHAIRMAN DEASON: We'll come back to 36. 37.

5 MS. MERCHANT: I can assume since we're
6 increasing the expenses that this issue will not change?

7 CHAIRMAN DEASON: I would assume so. Your
8 recommendation is there's no basis for a refund, and I
9 think that the adjustments we've made here today would
10 only increase revenue requirements.

11 COMMISSIONER KIESLING: I move 37.

12 CHAIRMAN DEASON: Show 37 approved.

13 MS. MERCHANT: Issue 38 was amended earlier in
14 the corrections and the language for the recommendation.

15 COMMISSIONER KIESLING: And I move 38 as amended.

16 CHAIRMAN DEASON: Without objection, Issue 38 is
17 approved. 39?

18 COMMISSIONER KIESLING: I move Staff. And in
19 moving Staff, I would hope that we're sending a clear
20 message to the utility that this whole process would be a
21 whole lot easier and a whole lot cleaner if their books
22 and records were in substantial compliance with our rules
23 and requirements.

24 CHAIRMAN DEASON: Let me ask one question in
25 relation to Issue 39. I don't necessarily disagree with