



1 Q State your name and address.  
2 A Robert T. Mann.  
3 Tarpon Springs, Florida  
4 Q Describe your educational and occupational  
5 background.  
6 A I received the degree of Bachelor of Science in  
7 Business Administration from the University of  
8 Florida in 1946, a Master of Arts in Government  
9 from The George Washington University in 1948, a  
10 Bachelor of Laws from the University of Florida in  
11 1951, which was later converted to a Juris Doctor.  
12 In 1953 I received a Master of Laws degree from  
13 Harvard University and in 1968 a Master of Laws  
14 degree from Yale University. I hold an honorary  
15 Doctor of Laws degree from Stetson University,  
16 awarded in 1979.  
17 I was Instructor in Business Organization and  
18 Control at the University of Maryland in 1947-48  
19 and Assistant Professor of Law at Northeastern  
20 University from 1951 to 1953. I engaged in the  
21 private practice of law in Tampa from 1953 to 1968,  
22 when I became judge of the Second District Court of  
23 Appeal in Lakeland. I served as Chief Judge of that  
24 court from January 1973 until I left in September

1 1974 to become Professor of Law at the University  
2 of Florida. I was on leave from that position from  
3 January 1978 to January 1981 to serve on the  
4 Florida Public Service Commission. I served as  
5 Chairman of the Commission from 1979 to 1981.  
6 Following retirement in 1986 I served as the Herff  
7 Visiting Professor of Law at Memphis State  
8 University during the spring terms of 1987 and  
9 1988. I taught a course in Regulated Industries  
10 after I returned to the University of Florida from  
11 government service, and later incorporated into a  
12 seminar on law and public policy the materials I  
13 had previously taught in courses in legislation and  
14 regulated industries. I am at present a certified  
15 mediator and serve as an expert consultant and  
16 witness in legal malpractice and utility cases.

17 Q In what capacity are you appearing in this  
18 proceeding?

19 A As an expert witness on behalf of the Sugarmill  
20 Woods Civic Association, Inc., the Marco Island  
21 Civic Association, Inc., the Spring Hill Civic  
22 Association, Inc. and the Harbour Woods Civic  
23 Association to address the legal, technical, and to  
24 some extent, the rate-making policy issues raised  
25 in this docket.

1 Q Have you ever been recognized in court as an expert  
2 witness?

3 A Yes. I testified briefly in Brevard County in the  
4 case of Otey v. Florida Power & Light, a wrongful  
5 death case on its retrial after the District Court  
6 of Appeal reversed the original judgment. I  
7 testified at length in PCH Corp. v. City of Cooper  
8 City, which involved charges to obtain water and  
9 sewer service. The trial judge in that case entered  
10 judgment consistent with my testimony and the  
11 District Court of Appeal affirmed in the case of  
12 City of Cooper City v. PCH Corp., 496 So.2d 843,  
13 and the Supreme Court denied review at 506 So.2d  
14 1040.

15 Q Are you aware of what type rate structure SSU has  
16 filed for in this case?

17 A Yes, it is my understanding that the utility  
18 has requested a so-called two-tier uniform  
19 rate structure for water service and a single  
20 uniform rate structure for all the wastewater  
21 systems included in this filing. Essentially,  
22 SSU is asking Commission approval to commingle  
23 all the fixed and variable costs of all the

1 wastewater systems it has included in this  
2 case so that it can charge a single wastewater  
3 base facility charge and a single wastewater  
4 gallonage charge for all those systems. On  
5 the water side, SSU asks permission to charge  
6 a single base facility charge and gallonage  
7 rate for all "traditional" water systems,  
8 while it proposes to charge a separate and  
9 distinct base facility charge and gallonage  
10 rate for the two systems that utilize the  
11 reverse osmosis process to produce potable  
12 water.

13 Q Do you have a problem with these uniform rate  
14 proposals?

15 A Yes I do. First, cost of service should be  
16 the primary consideration in setting rates for  
17 each of the separate, non-interconnected water  
18 and wastewater plants included in SSU's  
19 filing. Value of service may also be a  
20 relevant consideration when distinguishing  
21 between classes of customers, such as  
22 residential and commercial. But in general,  
23 cost of service is the guiding factor because  
24 it promotes economic efficiency and is fair  
25 and reasonable to all of the customers.

1 Q Do you feel that SSU's uniform rate structure  
2 adequately addresses cost of service  
3 considerations?

4 A It clearly does not. Setting rates involves a  
5 consideration of many factors, but a primary  
6 consideration should be that the revenue  
7 requirement properly reflect the return on the  
8 utility's investment necessary to serve.  
9 Uniform rates, as proposed here, ignore this  
10 consideration by commingling SSU's investment  
11 to serve all its customers, which has the  
12 effect of ignoring customer investment through  
13 CIAC. SSU's customers did not seek this  
14 conglomeration with the utility, but were,  
15 instead, sought out by the conglomerate. It  
16 is clearly unfair to customers who have done  
17 nothing to justify having to pay for SSU's  
18 investment necessary to serve customers at  
19 other plant sites.

20 SSU's proposal ignores all cost of service  
21 considerations for each and every one of the  
22 water and wastewater systems or locations  
23 involved and is merely a straight mathematical  
24 average of the costs for all these systems.  
25 The only departure is that SSU segregates the

1 reverse osmosis water treatment plants from  
2 the so-called traditional water treatment  
3 plants. Within the reverse osmosis uniform  
4 rate structure there are two plants or systems  
5 that have widely varying costs of service.  
6 Averaging the rates of the two reverse osmosis  
7 plants results in the water customers of the  
8 Marco Island systems having to pay rate  
9 subsidies of over \$300,000 annually over and  
10 above SSU's cost of service to provide the  
11 Marco Islanders with water.

12 Q Do you see any legal, technical or policy  
13 justification for segregating the two reverse  
14 osmosis plants from the other "traditional"  
15 plants in this case?

16 A I do not aside from the fact that the two  
17 utilize the same type of water treatment  
18 process, which, in my opinion, alone is not an  
19 adequate legal, technical or policy basis for  
20 their segregation. From a cost of service  
21 basis both of these plants have costs that are  
22 exceeded by a number of so-called traditional  
23 water treatment plants. Accordingly, there is  
24 no cost of service justification for  
25 segregating these two plants and lumping them

1 together for cost averaging. If you wanted to  
2 isolate or categorize the water treatment  
3 plants by their cost of service, Marco Island  
4 and Burnt Store would logically be included in  
5 separate categories with traditional treatment  
6 plants of comparable costs. Simply averaging  
7 the costs of these two plants solely because  
8 they are reverse osmosis is not rational, let  
9 alone sound for legal, technical or policy  
10 reasons.

11 Q Do you see any legitimate reasons for SSU's  
12 proposed rate structure when considering value  
13 of service factors?

14 A No, I do not. Again, the very fact that SSU's  
15 rate structure is a simple mathematical  
16 averaging of costs precludes its analysis  
17 under any type of traditional rate structure  
18 methodology, whether it be cost of service or  
19 value of service. The goal and the result  
20 here is a simple mathematical averaging of  
21 costs so that there is one price or rate for  
22 water, excepting the two reverse osmosis  
23 plants, and one for wastewater. Furthermore,  
24 value of service is not a concept that has  
25 traditionally been used in Florida to set



1 rates for any regulated company other than  
2 telephone companies. In the case of telephone  
3 companies, while the cost of service for  
4 residential and commercial or business lines  
5 may be very similar, the Commission has  
6 traditionally considered that business  
7 telephone service has a greater value to the  
8 subscriber and, thus, warrants a higher rate.  
9 Value of service pricing recognizes that each  
10 telephone conversation has two ends, so that  
11 both the business and residential lines  
12 benefit. Additionally, business lines have  
13 added value because there are affordable  
14 residential lines in existence to call them  
15 and use their services. A water user, on the  
16 other hand, benefits from his or her service  
17 irrespective of whether a neighbor has  
18 service.

19 Q Both SSU and the Commission and its staff have  
20 been heard to defend the imposition of uniform  
21 rates for SSU with the statement that uniform  
22 rates have traditionally been utilized in  
23 Florida for county and municipal water and  
24 wastewater rates, for electric rates and for

1 telephone service rates. Do you think these  
2 claims are valid?

3 A I do not. Let me address the telephone issue  
4 first. Aside from differentiating between  
5 value of service for residential and business  
6 telephone service, this Commission has  
7 traditionally priced residential service  
8 differently where there was a perceived  
9 difference in the value being received by each  
10 group of customers. For example, Southern  
11 Bell Telephone and Telegraph Company, which is  
12 the state's largest regulated local exchange  
13 company, has a dozen or more separate  
14 residential rate tariffs for basic service.  
15 The rate for telephone service can vary  
16 dramatically among these tariffs, with the  
17 highest rates being charged to large urban  
18 areas where basic local service allows local  
19 calls to many hundreds of thousands of other  
20 subscribers. Areas with dramatically fewer  
21 local subscribers, like in Havana, Florida,  
22 have substantially lower Southern Bell rates.  
23 Again, value is directly associated with the  
24 number of other local subscribers who may be  
25 accessed and higher rates are charged for

1 higher value. In the instant case, no logical  
2 value can be assigned to the different service  
3 areas included in this case. Even if one were  
4 to give any credibility to the concepts of  
5 "avoiding rate shock" and "protecting the  
6 aquifer", there is no rational way that value  
7 can be assigned to the supposed benefits  
8 flowing to each service area to support each  
9 area being charged the same rate. Again,  
10 uniform rates are the simple averaging of all  
11 costs and have no underlying logic to support  
12 them as being either cost of service or value  
13 of service based.

14 Q What about the claim the electric rates are  
15 uniform rates?

16 A If one were to take SSU's uniform rate theory  
17 seriously, the Commission would average the  
18 costs of all Florida's investor-owned electric  
19 utilities since they are all interconnected  
20 and are not only capable of sharing  
21 generation, but do so on a daily basis.  
22 Arguably, one would not stop at the investor-  
23 owned electric utilities, but would include  
24 the municipal and member cooperative systems  
25 as well, since they, too, are interconnected

1 and routinely share generation and  
2 transmission facilities. The reality,  
3 however, is that each of the five investor-  
4 owned electric utilities have separate rates,  
5 rate structures and rate tariffs. Within each  
6 electric utility, cost of service studies are  
7 conducted in order to establish costs from  
8 which cost-based rates may be established.

9 Q Why are cost-based rates considered important  
10 in the electric industry?

11 A The Florida Statutes, state and federal  
12 constitutions, and the case law require that  
13 rates not be "unduly discriminatory."  
14 Historically, this has meant that rates had to  
15 be somewhat in line with costs. Some level of  
16 discrimination was allowed, but it could not  
17 be undue. What was undue discrimination or  
18 not was generally considered on a case-by-case  
19 basis. Electric rates typically would include  
20 separate classifications for residential,  
21 commercial and industrial. Cost of service  
22 considerations might include the demand an  
23 individual customer or class of customers  
24 would place on the generating systems, as well  
25 as the transmission and distribution costs

1 associated with delivering power. Under this  
2 concept, a large industrial customer taking  
3 power directly from a transmission line, would  
4 be charged no costs for "distribution"  
5 facilities, but might incur significant  
6 "demand" charges for the load placed on the  
7 generating system. In any event, significant  
8 differences in the "cost of service" for a  
9 single customer or group of customers would  
10 warrant a separate rate classification to  
11 adequately reflect those costs. If it fails  
12 to recognize significant cost differences, the  
13 Commission would open itself to the charge  
14 that it had approved rates that were unduly  
15 discriminatory.

16 Q Aside from the different rates for distinct  
17 rate classes in electric utilities, are you  
18 aware of any electric utilities that have  
19 different rates within a customer rate  
20 classification?

21 A Yes, two come to mind. First, the Florida  
22 Public Utilities Company has two separate  
23 operating divisions: one in Marianna and one  
24 in Fernandina Beach. The two divisions are  
25 separate, non-generating distribution systems

1 with separate customers, operating facilities,  
2 generating supplies and operating costs.  
3 Notwithstanding that it has common corporate  
4 ownership and many of the other common  
5 attributes claimed by SSU for its separate  
6 systems, Florida Public Utilities Company has  
7 separate residential and other tariffs for  
8 both divisions that are intended to reflect  
9 the separate costs of operating each division.  
10 While there are allocations of common  
11 corporate "parent" costs to each division, I  
12 am not aware that there are any operating  
13 subsidies flowing from the customers of one  
14 division to the customers of the other.  
15 The second situation involves Florida Power  
16 Corporation and its acquisition of the  
17 distribution facilities and customers of the  
18 Sebring Utilities Company. For a number of  
19 reasons, the cost to serve an average customer  
20 on the Sebring system was dramatically higher  
21 than that to serve customers in a comparable  
22 class on Florida Power Corporation's existing  
23 system. To avoid having its existing customer  
24 base subsidize the Sebring customers for the  
25 excessive costs incurred at their system,

1 Florida Power Corporation asked the Commission  
2 to approve a special surcharge on the Sebring  
3 customers which was calculated to recover the  
4 difference in the cost of service between the  
5 previously separate and distinct systems. The  
6 Commission approved the surcharge and the  
7 Florida Supreme Court approved the Commission  
8 action when a group of Sebring customers  
9 challenged the surcharge as being  
10 discriminatory.

11 Q Do you see any similarities between the  
12 Florida Public Utilities Company and Florida  
13 Power Corporation/Sebring cases and the  
14 instant case with SSU?

15 A Yes, I do. Both the FPUC and Florida Power  
16 Corporation/Sebring cases involved the  
17 Commission approving rates that recognized  
18 significant cost differentials between  
19 distinct groups of customers. In both cases,  
20 all customers of FPUC and Florida Power  
21 Corporation can still enjoy economies of scale  
22 obtained by centralized management, while  
23 still being required to support, through their  
24 rates, distinct costs associated with  
25 providing them with service. Even casual

1 observation reveals that SSU's situation is  
2 precisely the same, except that it involves  
3 more distinct units than the electric company  
4 examples.

5 Q Do you think the larger number of units  
6 involved in the SSU case is any basis for  
7 ignoring the separate rates ordered in the two  
8 cited electric cases?

9 A No, of course not. Benefits of joint  
10 ownership and economies of scale, if any,  
11 derived from SSU's large holdings of water and  
12 wastewater systems are available to each  
13 customer through the proper allocation of  
14 general and common costs. These allocations  
15 occur independently of the rate structure  
16 utilized. In short, the savings, if any, flow  
17 to the customers under stand-alone and  
18 modified stand-alone rates and are in no way  
19 dependent upon uniform rates. Logically,  
20 these savings, if they exist, would be wiped  
21 out for those customers forced to pay rate  
22 subsidies under the uniform rate concept. The  
23 fact that there are more systems involved is  
24 no justification for ignoring the distinct  
25 costs of each system. It is my understanding



1           that SSU still keeps separate plant and  
2           expense accounts for each of its operating  
3           plants per the NARUC Uniform System of  
4           Accounts and that SSU has, as evidenced by its  
5           filing in this case, calculated the individual  
6           revenue requirements of each system. Given  
7           that this work is already accomplished, there  
8           is no excuse for not calculating the  
9           individual system, or stand-alone rates for  
10          each operating plant. Again, it is these  
11          rates that accurately and legally, in my  
12          opinion, reflect the return on investment in  
13          the property used and useful in serving each  
14          group of customers as well as the expenses  
15          necessary in providing service to those  
16          customers. I should note that the large  
17          number of systems included in this case can  
18          only serve to complicate the task of the  
19          Commission staff, Public Counsel and customers  
20          in trying to effectively analyze the prudence  
21          of capital expenditures and expenses within  
22          the time allotted by statute. Under the  
23          uniform rate concept, customers served by one  
24          system become responsible for the investment  
25          and expenses used to serve customers at all

1           the other 140 plus plant sites, most of which  
2           are at great distance from each other. It is  
3           virtually impossible for any group of  
4           customers to review plant expenditures and  
5           expenses at any plant but the one serving  
6           them. Making them responsible for every plant  
7           owned by SSU, or that it might own in the  
8           future, and their expenditures, renders the  
9           concept of customer participation in these  
10          cases meaningless.

11         Q    What about the claim that municipal, county  
12           and other investor-owned water and wastewater  
13           utilities utilize so-called uniform rates?

14         A    The fact that other systems are charging  
15           uniform rates does not make it right in all  
16           cases or, perhaps, in any case. I do not take  
17           the position that uniform rates are per se  
18           wrong. Rather, it is my position that rates  
19           for water and wastewater service should  
20           reflect the cost of service and, therefore,  
21           that uniform rates are only appropriate where  
22           the cost of service is identical or close to  
23           being so, for all the systems or plant sites  
24           receiving service. I am aware of SSU and  
25           staff testimony in Docket No. 930880-WS

1           stating that certain systems in Florida and  
2           other states had approved uniform rates. I  
3           recall that the exhibits to the staff  
4           testimony demonstrated that the costs of  
5           service involved in several of those cases  
6           were identical or so close that the disparity  
7           or discrimination was inconsequential. I do  
8           not recall any evidence being presented that  
9           showed that uniform rates had been approved in  
10          the face of large differences in the cost of  
11          service. However, I must reiterate that the  
12          simple fact that this Commission or any other  
13          body has approved uniform rates in the face of  
14          substantially different costs of service does  
15          not make it right. Charging all customers the  
16          same rates when they have substantially  
17          different costs of service results in unduly  
18          discriminatory rates just as does charging  
19          customers different rates when their costs of  
20          service are the same.

21        Q     What about the argument that is simply unfair  
22           for some customers to have to pay such high  
23           rates as the result of being in an area where  
24           there is poor quality water or no potable  
25           water at all?

1       A     In Florida, water and sewer utilities were  
2            typically built to serve a specific  
3            subdivision and were designed to utilize the  
4            water and disposal resources most readily  
5            available at that specific site. Frequently,  
6            the utilities were designed and built by land  
7            developers as an adjunct to home sales. The  
8            resulting utilities therefore vary widely  
9            according to the location and size of the  
10           development project and the wisdom and  
11           foresight of the developer. The type of  
12           treatment required as a consequence of the  
13           water quality in a specific location can cause  
14           the cost of the treatment facility and the  
15           operating expenses to vary widely. For  
16           example, the simplest water systems may  
17           require only a well to a shallow aquifer, with  
18           the water pumped, chlorinated and distributed.  
19           Another locale might require a much deeper  
20           well and treatment for iron or manganese. In  
21           the coastal areas where salt water intrusion  
22           is a problem, the more expensive reverse  
23           osmosis facilities are required. This type of  
24           information is generally available to a  
25           customer at the time he or she makes a

1 decision to buy a home in a particular place,  
2 and a prudent home buyer will generally check  
3 into local utility rates before buying.  
4 Therefore, to the extent cost of service  
5 varies significantly by treatment type, it  
6 should be a factor in establishing rates.

7 Q What is your opinion as to the proper consideration  
8 of CIAC levels?

9 A First, it should be remembered that historically,  
10 in Florida water and sewer utilities were provided  
11 in conjunction with land development and, in many  
12 if not most instances, financed through customer  
13 "contributions in aid of construction," or "CIAC,"  
14 sometimes referred to as a "service availability  
15 charge." These costs typically were amounts added  
16 to or included in the price of the lot. During the  
17 building boom in Florida during the 1970's, the  
18 Commission began to require treatment of these sums  
19 as the utility's property, but as the customers'  
20 investment since the property was acquired at no  
21 cost to the utility. Accordingly, the utility was  
22 not entitled to a return on investment, since,  
23 essentially, it was an investment by the customers  
24 in the water and sewer systems. CIAC was not  
25 allowed to be included in the utility's rate base.

1           These safeguards were later codified in Ch. 367,  
2           which recognizes, in the definition of CIAC that it  
3           is a "donation or contribution" made to "offset the  
4           acquisition, improvement or construction costs of  
5           utility property."  
6           Since the levels of CIAC tended to vary widely,  
7           from 0% to 100+%, among utilities, the Commission  
8           adopted Rule 25-30.580 which established optimum  
9           levels of CIAC as follows: not less than the  
10          percentage of plant that is represented in  
11          transmission, distribution and collection lines and  
12          no more than 75% of the total original cost net of  
13          accumulated depreciation at build-out.  
14          I note that many of the systems owned by SSU do not  
15          comply with this rule since some have very small  
16          percentages of CIAC and some are more than 100%.  
17          It is not unusual for acquired systems to have a  
18          mix of original financing schemes.  
19          Certainly, the inequities inherent in uniform rates  
20          would have been less if the rule had been complied  
21          with, or if SSU had adopted a statewide service  
22          availability policy and had not acquired systems  
23          which were atypical. Often the Commission wants a  
24          financially strong company to acquire weak systems,

1           although problems of equitable treatment must then  
2           be resolved.

3           In my opinion, CIAC must be considered in a manner  
4           that gives the customer who paid it the benefit of  
5           his contribution.   Anything less is inherently  
6           unfair,   and   in   my   opinion   represents   an  
7           unconstitutional taking under the Fifth and  
8           Fourteenth Amendments to the United States  
9           Constitution and Article I, Section 9 and Article  
10          X, Section 6 of the Florida Constitution.   Two  
11          otherwise identical customers would be paying  
12          identical rates, but one was forced to pay as much  
13          as \$2800 to hook up to the system, while the other  
14          may have paid as little as \$7.

15          The prospect of a civil rights action challenging  
16          uniform rates should not be taken lightly.   Many of  
17          the adversely affected customers purchased their  
18          homes from a predecessor corporation to SSU under  
19          purchase agreements that specified that the cost of  
20          the water system was included in the price of their  
21          lots, or that they were receiving a "vested"  
22          interest in the water system.   These customers  
23          clearly have a property right that cannot be  
24          affected without due process.

1 Q Do you believe that the uniform rate structure will  
2 result in the conservation of water?

3 A No. The customers who are being charged rates  
4 below their actual cost of service are not going to  
5 be appropriately encouraged toward conservation.  
6 The adoption of uniform rates in the SSU case would  
7 probably reduce the water bills of some customers,  
8 thus affording no incentive to hold consumption to  
9 a minimum. So, if the Commission feels it has the  
10 power, and wishes to, encourage conservation,  
11 uniform rates are not an effective way to  
12 accomplish this objective.

13 Although SSU is the largest regulated water utility  
14 in Florida, it still serves only a small fraction  
15 of water users. Most water users are not under  
16 Commission jurisdiction. These users include  
17 municipal water utilities, county regulated  
18 utilities and those who have private wells.

19 Q What do you think of the argument that uniform  
20 rates will eliminate "rate shock".

21 A This is a benefit only for those customers  
22 receiving a subsidy. Those customers who have paid  
23 substantial CIAC up front are experiencing "rate  
24 shock" as a consequence of this proceeding. On the  
25 other hand, rate shock is not necessarily a harmful



1 effect to be avoided. When utility bills reflect a  
2 customer's true cost, the customer is more likely  
3 to monitor his own consumption and to provide a  
4 check against wasteful or uneconomic capital  
5 projects or operations at his local utility.

6 Q What about the alleged decrease in rate case  
7 expense?

8 A There was no saving in rate case expense in Docket  
9 No. 920199 when uniform rates were adopted. Both  
10 the stand-alone and uniform rates were easily  
11 calculable. Stand-alone rate figures will still be  
12 easy to calculate since the financial data must be  
13 maintained for the Allowance for Funds Prudently  
14 Invested account. Relatively minor computer  
15 programming expenses would appear to be all that  
16 will be saved. For example, if I were to receive a  
17 notice from Barnett Bank that their administrative  
18 convenience made it possible to a pay a few basis  
19 points more in interest if the bank calculated the  
20 total interest on deposits and divided that by the  
21 number of deposits, I would think that unwise and  
22 unfair, although I may benefit. Certainly the large  
23 accounts would move elsewhere. The utility customer  
24 is not allowed to switch suppliers, and justifiably

1 complains to the Commission when an unfair  
2 imposition of costs is proposed.

3 Whether uniform rates will reduce rate case expense  
4 is not the controlling factor. The Constitutions  
5 and the Commission's collective conscience ought to  
6 prevail.

7 Q Do you believe statewide rates will decrease  
8 administrative and general expense?

9 A Not appreciably. The administrative efficiencies  
10 attributable to consolidating functions have  
11 already been achieved. The common cost allocations  
12 then charged back to each system reflect these  
13 savings. These expenses are exactly the same, with  
14 or without uniform rates. Likewise the differences  
15 in expenses associated with tariff filings and  
16 billing should be minimal, if indeed a multiplicity  
17 of rate cases is necessary. I doubt that it is  
18 impracticable to achieve the Commission's objective  
19 by taking account of the differing cost factors in  
20 a single rate case. Compare the difficulty of  
21 fixing residential and industrial rates fairly in a  
22 single electric utility rate case.

23 Q In your opinion, will uniform rates affect the  
24 ability of local customer groups to have a

1 meaningful impact on utility rate proceedings  
2 before the Commission.

3 A Yes. Many of the issues likely to be raised by a  
4 customer or group of customers are highly  
5 localized, involving familiarity with the specific  
6 operations of the utility. The Sugarmill Woods  
7 Civic Association, Inc., in particular, has a  
8 history of active participation and has found  
9 errors that were missed by the Office of Public  
10 Counsel and the Commission Staff, estimated by the  
11 witness Hansen to be of a significant amount.  
12 Other communities are now recognizing the value of  
13 resisting SSU's rate increases.

14 Diluting these potential savings across the board  
15 makes it difficult for these civic organizations to  
16 continue to participate on a cost-effective basis.  
17 The Office of Public Counsel's posture in Docket  
18 920199 also demonstrates a lack of effective  
19 advocacy on the rate structure issue. The Public  
20 Counsel is not at liberty to contend for one group  
21 rather than another. Thus two of the most  
22 effective checks and balances on the system have  
23 been removed, leaving only the Commission staff,  
24 since the Public Counsel would have a conflict,

1           assuming the benefitted categories of ratepayers  
2           would favor uniform rates.

3       Q     How do you believe the uniform rates will affect  
4           SSU's acquisitions?

5       A     I observe that SSU and the Public Service  
6           Commission suggest that uniform rates will  
7           encourage acquisitions of small troubled utilities  
8           that need capital improvements. That would help  
9           solve some of the persistent regulatory problems,  
10          but it cannot be justified at the expense of those  
11          who contributed substantial amounts to insure that  
12          the utility serving them would be sound and soundly  
13          regulated.

14          Acquisitions under uniform rates create other  
15          potential problems. For example, if SSU acquires a  
16          utility with rates below uniform, does the rate  
17          automatically increase? If above uniform, do the  
18          rates decrease? The fate of troubled systems was  
19          problematic when I was on the Commission, and I  
20          suspect still is. It isn't clear what incentives  
21          and distortions uniform rates would cause, but it  
22          is clear that a taking of customers' property is  
23          not justified even if the positive aspects should  
24          outweigh the negative.

25       Q     Please summarize your testimony.

1       A     The principal objection to the proposed uniform  
2             rate structure is that it is unjust to those  
3             customers whose contributions to the system are  
4             above average and an unjustified subsidy to those  
5             who are below average. There are other problems,  
6             but this is by far the most serious, in my opinion,  
7             and the clearest departure from the requirements of  
8             the law and our state and federal constitutions.  
9             At the same time, many of the advantages of  
10            efficient regulation seem to be reconcilable with  
11            careful accounting for the contributions of the  
12            objecting groups of ratepayers.

13       Q     Does this conclude your testimony?

14       A     Yes.