

BEFORE THE
FLORIDA PUBLIC SERVICE COMMISSION

In the Matter of :
LIMITED PROCEEDINGS :
HOBE SOUND WATER COMPANY :

Docket No. 960192-WU

ORIGINAL

PROCEEDINGS: INFORMAL CUSTOMER MEETING

DATE: Wednesday - March 20, 1996

TIME: Commenced at 6:30 p.m.
 Concluded at 7:50 p.m.

PLACE: Hobe Sound Elementary School
 Cafeteria Building
 11550 S.E. Gomez Avenue
 Hobe Sound, Florida

REPORTED BY: Mary Birch Wright, CSR, RPR
 and Notary Public of the
 State of Florida at Large

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IN ATTENDANCE:

PATRICIA W. MERCHANT, C.P.A., Florida Public Service Commission, Public Utilities Supervisor, Division of Water and Wastewater.

ROSANNE G. CAPELESS, ESQUIRE, Florida Public Service Commission, Division of Legal Services.

ROBERT J. CROUCH, P.E., Florida Public Service Commission, Engineering Supervisor, Division of Water and Wastewater.

I-N-D-E-XMISCELLANEOUSPAGE NO.

Opening Statement by Ms. Merchant	4
Opening Statement by Ms. Capeless	6

WITNESSES

JAMES SPURGEON Direct Statement	12
HOWARD OSTERMAN Direct Statement	12
ANTHONY ELIA Direct Statement	14
JACK MURRAY Direct Statement	21
JOHN T. SMULLIN Direct Statement	27
NORMA SCHUDY Direct Statement	28
JOHN BETTENDORF Direct Statement	30
ANN ZEEGERS Direct Statement	42
EDWARD SCHUDY Direct Statement	47

1 PROCEEDINGS

2 (Meeting convened at 6:30 p.m.)

3 MS. MERCHANT: Okay. We're going to go ahead and
4 call the meeting to order. I want to welcome everybody.
5 This is the staff of the Public Service Commission, and we're
6 here tonight to hear the comments of the customers and
7 interested persons in the limited proceeding for Hobe Sound
8 Water Company. This case is Docket No. 960192-WU. My name
9 is Tricia Merchant, and I'm an accounting supervisor with the
10 Division of Water and Wastewater with the Public Service
11 Commission. With me today is Ms. Rosanne Capeless. She's
12 the staff attorney assigned to the case; and Bob Crouch, who
13 is an engineering supervisor in the Division of Water and
14 Wastewater.

15 We're here to listen to your comments regarding the
16 requested increase, the quality of service provided by Hobe
17 Sound, or to answer any questions that you may have regarding
18 this utility or this rate application. I'll ask everyone who
19 wishes to speak to sign a yellow form. And if you hadn't
20 done so and you still wish to speak, you can certainly have
21 an opportunity to during the meeting tonight. We'll have
22 everybody sworn in and come up -- come forward, state your
23 name and spell it for the court reporter and state your
24 address.

25 Hobe Sound has filed this request to recover its

1 costs incurred to develop and protect groundwater resources
2 required since its last rate case. These expenditures
3 include construction of additional production and monitoring
4 wells and emergency interconnect with a neighboring utility.
5 They're also requesting to recover obligations required by
6 the consent order with the South Water Florida Management
7 District. The utility is not requesting recovery of any
8 fines or penalties that they had to pay with respect to the
9 consent order.

10 Hobe Sound's last rate case was finalized in
11 November of 1994. This current case is essentially a
12 limited-issue rate increase request. This type of proceeding
13 is cost effective when there are few issues and when the
14 utility has had a recent rate case. Due to the limited
15 number of issues, both the utility's as well as the
16 Commission's cost savings are passed down to the customers
17 through the reduced rates basis.

18 When you came in there was a green report, special
19 report, that's been prepared. It has a lot of information
20 about the company, phone numbers for the staff that are up
21 here tonight, and some other Public Service Commission staff
22 members, information about the commissioners themselves, and
23 the current and proposed rates of Hobe Sound Water Company;
24 and on the very back is a sheet of paper that if you don't
25 feel like speaking tonight you can write your comments in and

1 fold it up and send it in. It's got the address for the
2 Public Service Commission on the back. Just put a stamp on
3 it.

4 At this time Ms. Capeless will explain the PAA
5 process, or the Proposed Agency Action process, which is the
6 legal process that we go through when we consider a utility
7 rate increase.

8 MS. CAPELESS: Thank you, and good evening. I
9 appreciate all of you coming out here tonight. We thank you
10 all for being a part of this process. Can you all hear me?

11 MR. SCHUDY: No, we can't.

12 MS. CAPELESS: I'll try to speak up. In a case
13 like this it's normal to have a customer meeting like the one
14 here tonight. This is a legal proceeding, so those of you
15 wishing to speak will be testifying. You'll be sworn in.
16 Please remember if you haven't already done so to sign in
17 your name on the sign-up sheet over on the back table and
18 also to spell your name when you come up to speak.

19 As Ms. Merchant said, I'm here to explain a little
20 bit about the legal process involved in this proceeding. The
21 proceeding was initiated when the Hobe Sound Water Company
22 filed a request for a limited proceeding with the Florida
23 Public Service Commission to include groundwater development
24 and protection costs in its rates.

25 When an application like this is filed with the

1 Commission we are statutorily obligated to fix rates which
 2 are just, reasonable, compensatory, and not unfairly
 3 discriminatory. At the same time the utilities have to have
 4 an opportunity to earn a fair return on their investment.
 5 The staff will file a recommendation for the Commission in
 6 this case once the reports have been compiled and we
 7 synthesize the information that we receive from you, the
 8 customers here this evening.

9 The staff recommendation is a document which is
 10 designed to address the issues involved in this type of a
 11 request. If you would like a copy of the staff
 12 recommendation which will be filed in this case, we can
 13 provide you with one. If you are interested in getting a
 14 copy, if you would just circle your name on the sign-in sheet
 15 on the back table there, we'll --

16 MRS. SCHUDY: We don't see one.

17 MR. SCHUDY: There isn't one.

18 MS. CAPELESS: There isn't a sign-in sheet? Oh,
 19 okay. We'll use these yellow sheets here instead. If you
 20 are interested in getting a copy of the staff recommendation
 21 and also the order, the Commission's order which will follow
 22 the vote, if you'll just put an asterisk on your yellow sheet
 23 here or indicate to us during the meeting, we'll get you a
 24 copy of those documents.

25 The staff recommendation is due to be filed on May

1 the 30th, and then the Commission will consider the
2 recommendation at an agenda conference in Tallahassee on June
3 the 11th. At the agenda conference the commissioners will
4 have the opportunity to ask questions of the Commission staff
5 assigned to this case, as well as questions to the utility,
6 and also to any customers who come to the agenda conference.
7 The agenda conference is open to the public, so customers may
8 appear and make comments directly to the commissioners if you
9 wish. The commissioners will then vote on the recommendation
10 at the agenda; and when they vote, they can vote to either
11 accept the recommendation, or reject it, or accept it with
12 modifications.

13 Now, if they reject it, a hearing will be
14 scheduled. If they accept it or modify it, they will issue
15 an order confirming their vote, and that's the order that I
16 said that we would also send to you if you're interested in
17 getting a copy of it. The order that will be issued if the
18 Commission accepts or modifies the recommendation is called a
19 proposed agency action order. That is not a final order, but
20 a proposed order. And unless an interested party such as a
21 customer or a group of customers steps forth and files a
22 protest to the proposed order within 21 days of the issuance
23 of the order, it will become final by operation of law, and
24 the rates and charges approved by the Commission can then be
25 implemented by the utility.

1 Now, if an interested person does protest the
 2 order, then the case will go to hearing, just like it would
 3 go to hearing if the Commission were to reject the
 4 recommendation, and that would be a formal hearing that would
 5 be held in which the protester or protesters and the utility
 6 would litigate the issues set forth in the order as well as
 7 any other issues that they might want to raise. The hearing
 8 process would be very time-consuming, expensive, complicated.
 9 It's very similar to a court trial.

10 As you might imagine the utility would have to
 11 prove its case by using attorneys, accountants, consultants;
 12 and the same would be true for the protesters. The hearing
 13 process could involve taking depositions; filing motions, if
 14 necessary; and presenting testimony in order to support each
 15 party's case. If we were to go to hearing the customers
 16 again would have an opportunity to testify just like tonight,
 17 only at that point you would be testifying in front of the
 18 commissioners and your testimony would be subject to cross-
 19 examination. Normally water and wastewater hearings are held
 20 within the service territory, so that means if there is a
 21 hearing in this case it would most likely be held in this
 22 area.

23 After the hearing, the staff will again -- if we go
 24 to hearing the staff would again prepare another
 25 recommendation for the Commission's consideration at another

1 agenda conference following the close of the hearing. All of
2 the evidence presented at the hearing would be considered and
3 weighed by the Commission, but at that agenda conference
4 neither parties nor customers can participate by speaking at
5 the agenda conference because at that point the Commission's
6 vote would be final. The order to be issued would also be
7 final at that point, so that if an interested person is
8 dissatisfied with that decision, your recourse then would be
9 to file an appeal with the First District Court of Appeal in
10 Tallahassee.

11 In closing I'd just like to mention one other thing
12 to you, and that is that there is in Florida an office of the
13 Public Counsel which is a separate state agency which
14 represents the interests of customers in rate cases. For
15 anybody who is interested in contacting that office, I can
16 provide you with a toll-free 1-800 phone number for them
17 after the meeting is over.

18 At this point we'll ask the court reporter to swear
19 in anybody who wishes to speak this evening. We can swear
20 everybody in collectively so anybody wishing to speak, if
21 you'll raise your right hand.

22 (Whereupon, those parties wishing to speak stood
23 and were sworn by the court reporter.)

24 MS. MERCHANT: I wanted to -- thank you. I wanted
25 to tell you a couple more comments, that if you ever have

1 any -- if you ever feel that you haven't gotten a
2 satisfactory response from a utility after you call them and
3 you feel that you need to contact the Public Service
4 Commission and you don't have this flyer handy -- you know,
5 some time goes by, you can always look in the front of your
6 phone book and the toll-free number, the Consumer Affairs
7 number, which is also in the pamphlet, will be inside that
8 front cover. So I just wanted to let you know that that's
9 always there and available.

10 Okay. I guess the first person is Howard Osterman.
11 And if everybody --

12 MR. SCHUDY: Before you go any further, would you
13 introduce who is up at the table there. I don't know who --

14 MS. MERCHANT: Okay. This is Bob Crouch. He is an
15 engineering supervisor with the Public Service Commission
16 staff. I am Patricia Merchant, accounting supervisor, staff
17 of the Public Service Commission. Rosanne Capeless, and
18 she's the staff attorney assigned to the case.

19 MR. SCHUDY: Thank you very much.

20 MS. MERCHANT: Howard Osterman.

21 MR. OSTERMAN: May I yield to the town manager for
22 a moment, please? I prefer that he be first, if you don't
23 mind.

24 MS. MERCHANT: That's fine.

25

- - - - -

1 AND THEREUPON,

2 JIM SPURGEON,

3 appeared as a witness and, having been duly sworn,
4 testified as follows:

5 MR. SPURGEON: My name is Jim Spurgeon. That's
6 S-p-u-r-g-e-o-n. P.O. Box 7, Hobe Sound, 33475. I'm the
7 manager of the Town of Jupiter Island, and the town is a
8 water-user, a customer of the Hobe Sound Water Company. DUS
9 Consultants has been retained by the town, and counsel, Herb
10 Gildan, to examine the application before you and advise the
11 town if there are any concerns. I would like to introduce
12 Howard Osterman to speak on behalf of the town.

13 MS. MERCHANT: Okay. We do have handouts, the
14 green handouts, for the people that are just coming in; and
15 if you want to speak, you need to get a yellow form and fill
16 that out for us, if you would, please.

17 And at this time we'll have Howard Osterman.

18 - - - - -

19 AND THEREUPON,

20 HOWARD OSTERMAN,

21 appeared as a witness and, having been duly sworn,
22 testified as follows:

23 MR. OSTERMAN: Thank you, Ms. Merchant,
24 Howard Osterman, O-s-t-e-r-m-a-n.

25 As the manager indicated, DUS has been retained to

1 take an initial look at the application to determine whether
2 or not there exists any issues which are of concern or could
3 be of concern to the town as a customer; which issues you
4 might address here tonight, perhaps, or which may be the
5 subject -- depending upon the manner in which the staff
6 proceeds, may result in our recommendation to the town that
7 they proceed as an intervener in this matter. We don't know
8 that yet, and we haven't made that recommendation yet, but we
9 would like the record to reflect that we have examined the
10 filing preliminarily on their behalf and do see certain
11 issues that are of some concern to the town as a customer.

12 And, Ms. Merchant, as you touched on before, you
13 noted that there was an exclusion from the rate filing of
14 those fines and penalties that were as a result of the
15 consent order that has been now in effect for some time, but
16 one of the issues that we saw is the propriety of passing
17 through to the customers any cost associated with
18 management's conduct in administering the water production
19 facility that may have resulted over a term of years in
20 greater expense than would have been incurred had there been
21 appropriate and timely action to prevent saltwater intrusion
22 or changes in the saltwater/freshwater interface. We
23 obviously don't have all of those facts now. They are not
24 reflected on the face of the application.

25 There are some other issues, more in the nature of

1 accounting. And, Ms. Merchant, since that is your bailiwick,
2 let me yield to my partner, if you will, Mr. Anthony Elia,
3 who many years ago came from the Public Service Commission
4 auditing staff, and I would for the record like him to
5 suggest to you what issues we are concerned about on behalf
6 of the town. Mr. Elia.

7
8 AND THEREUPON,

9 ANTHONY ELIA,

10 appeared as a witness and, having been duly sworn,
11 testified as follows:

12 MR. ELIA: My name is Anthony Elia, E-l-i-a. I'm
13 with DUS Consultants. As Harold said there are a few issues
14 on the application of limited proceedings that we had
15 questions relative to, and they are as follows:

16 Under the rate base issues that deal with the
17 792,000 additional dollars, there is an addition that relates
18 to those items which will be put into the facilities from the
19 period 7/1/95 through 6/30/96. The presumption is that they
20 are not already in because it goes through June of '96, a
21 prospective look at rate base issues. We understand that the
22 Commission has made other rulings in other areas that said
23 that there weren't enough procedures set forth in the Public
24 Service Commission rulings to allow them to use rate base
25 ahead of the test period. One that comes to mind is in the

1 interim order of SSU, where they tried to go through with
2 putting rate base items in beyond the test period. So that
3 \$142,000 -- we're looking to this commission to say that even
4 though there might be a ruling that allows them to do that,
5 there is no set procedure to do that, and we see in other
6 cases that they haven't allowed that.

7 The few items that we looked at, we have questions
8 relative to the high cost of this limited proceeding rate
9 case, and we thought that is something that needed to be
10 looked at and reviewed. And then, as Howard mentioned
11 earlier, the consent order amortization of \$221,000 is taken
12 over a three-year period, which is assuming, like rate case
13 expense, that every three years this problem re-exists and so
14 this is an ongoing cost that should be recovered.

15 So we have two questions in that regard: One,
16 should any of it be charged to the consumers; and, second, if
17 any of it should be charged to the consumers, why shouldn't
18 it be charged relative to the useful life of the facilities
19 that were put in and done on a depreciation basis of
20 approximately three percent, which would be a 6,000 item --
21 \$6,000 item, rather, and not a \$73,000 item. A question we
22 have regarding that item.

23 There is also some question as to -- in the
24 determination of the cost of capital that's set up here and
25 their moving from the previous reconciliation to rate base to

1 the current reconciliation to rate base, there are certain
2 items that we don't see talked about, and that is the
3 depreciation reserve that took place from the time of the
4 last rate case and rate base until today. Also, we don't see
5 anything that might reflect any retirement of any of the
6 facilities that we're taking out due to some of the items
7 that they say they need to put in because of the consent
8 order.

9 So these are some of the items that we had
10 preliminarily looked at and said we had some questions about,
11 and we presume that the staff of the Commission will look
12 into these in depth, and we would like to be a party to that
13 recommendation and staff report.

14 MS. MERCHANT: Who would you like us to send a copy
15 to? I mean, there are several --

16 MR. ELIA: Maybe officially to the town, which we
17 can get a copy from.

18 MS. MERCHANT: To whom?

19 MR. ELIA: Mr. Spurgeon.

20 MS. MERCHANT: Mr. Spurgeon. Okay.

21 I was going to respond to a couple of the comments
22 that you just made, Mr. Elia.

23 MR. ELIA: Yes.

24 MS. MERCHANT: Regarding the issue on Southern
25 States, interim versus prospective rate base, it's been very

1 common commission practice to use projected test years for
2 final determination. I would say probably in the last 15
3 years or so the Commission has been doing that on a regular
4 basis; not for interim purposes, but for final purposes. And
5 the timing of prospective test years is generally that the
6 test year will end about the time the current rate or
7 proposed rate will go into effect. So you don't want a rate
8 case set out to 1997 when the rate is going to go into effect
9 in 1996.

10 But with this specific situation we've got costs
11 that are going to be completed by June of '96 and we've got a
12 recommendation and the Commission will be issuing an order in
13 June, so I mean the timing of a projected rate base -- as
14 long as they can give us good supporting documentation to
15 show that those costs are prudent and reasonable, they can be
16 considered under the current commission practice.

17 With respect to the interim, that's a new statute
18 change, and interim historically has always been done on a
19 historical basis. And the Commission to this day has not --
20 there is a statute provision that says interim rates can be
21 calculated using a projected test year rate base. The
22 Commission has not done that. There have been only two
23 requests to do that for interim rates, but -- so that's, I
24 think, a little bit of confusion, but final rates they've
25 done projected test years; very, very common.

1 We're certainly looking into the amount of rate
2 case expense. The company originally suggested that they
3 file a rate case, and the staff of the Commission mentioned
4 that to the utility consultants and convinced them that the
5 limited proceeding was the best way to go since they just had
6 a rate case a year ago. We don't want to go out and redo
7 everything since we just audited the company a year ago, and
8 there seems to be a lot of expense in going out and looking
9 at everything all over again when there might be just a few
10 items that they need to look at.

11 The nonrecurring expenses, you mentioned they are
12 amortizing over a three-year period. I'm not exactly sure if
13 they're doing it over three years. I see in their
14 application that they're amortizing the costs of groundwater
15 water monitoring and other obligations incurred over five
16 years.

17 MR. ELIA: For the consent order?

18 MS. MERCHANT: Right, for the consent order.

19 MR. ELIA: I thought that was three. One was five
20 and one was three.

21 MS. MERCHANT: Oh, they're amortizing the cost of
22 developing and implementing the consent agreement over three
23 years, and the other one over five years. But we do have a
24 rule that talks about nonrecurring expenses, and it says they
25 will be amortized over a five-year period unless a shorter or

1 longer period can be justified. And we certainly look into
2 that in almost all cases, so that's an issue that we need to
3 look at. Maybe five years is not the right time frame; maybe
4 a longer period might be appropriate. So that's something
5 we'll certainly look into, and also on the three-year
6 amortization period.

7 You mentioned something about the cost of capital
8 and the depreciation reserve. Generally speaking in a
9 limited proceeding we only deal with the plant costs that
10 they're requesting on a limited basis. We don't look at all
11 the rest of the reserve accounts that have occurred from the
12 last rate case forward. Basically we are just taking a
13 snapshot of these new costs because the old rates are -- they
14 have it built in that the plant will be depreciating and the
15 reserve will be increasing.

16 MR. ELIA: I would have no problem if they were
17 asking for the same rate of return, but here they're asking
18 for a higher rate of return, so the mix might be different
19 relative to what portion of that capitalization -- the cost
20 of capitalization was reduced by those things.

21 MS. MERCHANT: Right. We also -- that was
22 something that staff had requested that the utility do. The
23 statute requires the utility to calculate its cost of capital
24 using the last authorized rate of return on equity.
25 Everything else is based on the time frame of the current

1 cost rate. So we will be looking into the cost to debt and
2 all the other components, but the cost of equity is the only
3 component cost rate that is going to remain static. But we
4 certainly will be looking into that and -- to make sure that
5 the other costs that they are requesting are reasonable.

6 And I don't know if I mentioned the retirements.
7 We can certainly request information from the utility to see
8 if there have been any retirements associated with any of
9 these new plant additions that they're asking for.

10 Okay. Is that all of your comments?

11 MR. ELIA: At this time.

12 MS. MERCHANT: Mr. Joe Connelly.

13 MR. CONNELLY: These gentlemen have spoken for the
14 Town of Jupiter Island, I think.

15 MS. MERCHANT: Okay. Thank you.

16 MR. CONNELLY: I was here in that capacity.

17 MS. MERCHANT: Mr. Jack Murray.

18 MR. MURRAY: Yes. I just have some questions, if
19 that's considered testimony.

20 MS. MERCHANT: Sure.

21 - - - - -

1 AND THEREUPON,

2 JACK MURRAY,

3 appeared as a witness and, having been duly sworn,
4 testified as follows:

5 MR. MURRAY: And I'm not familiar with the statutes
6 and order rates and so forth, but just as a business
7 curiosity, I would like to know what it costs the Hobe Sound
8 Water Company to produce a gallon of water, and I would like
9 to compare that to the price that they sell a gallon of water
10 for, and are these two costs and prices consistent with other
11 utilities in our area or in the state? And I'd like to know
12 how we compare in those ways with the other utilities.

13 I know the date of the last increase, which I see
14 is two years ago, February 1994. And I don't know what
15 percentage increase was given at that time, but it seems to
16 me that just two years hence, to ask for a 16 percent
17 increase is far too high on top of an increase that was
18 gotten only two years ago. And I don't know how those
19 proceeds from 1994 were used, and I'd be interested in
20 knowing that.

21 And then I guess my last concern is how you
22 commissioners would evaluate the management of the Hobe Sound
23 Water Company, and have they made decisions that are prudent,
24 or have there been some mistakes made that the consumers now
25 must bear the cost of.

1 Thank you.

2 MS. MERCHANT: First, I'd like to point out we are
3 not commissioners. We are staff.

4 MS. CAPELESS: Thank you.

5 MR. MURRAY: I was trying to give you a promotion.

6 (Laughter.)

7 MS. MERCHANT: They are paid a lot more money.

8 Honestly, I can't tell you tonight how much it
9 costs to produce a gallon of water, but I'm sure that we can
10 get some information from the company. We have an annual
11 report that is due on March 31st for 1995 that could give us
12 a lot of information for the costs incurred in 1995. We can
13 certainly ask the company for the information today, through
14 requests, data requests.

15 Generally speaking, the issue of comparing the
16 rates of one regulated utility company to others in the state
17 or in other areas, possibly cities or counties, that is a
18 very difficult task to take because the Public Service
19 Commission has to set rates based on a fair rate of return on
20 the utility's investment and its prudent expenses. Other
21 utilities, especially cities and counties, have a lot
22 different requirements that they establish for setting their
23 rates. So they may not -- they don't have to pay sales
24 taxes. There are a lot of differences between public and
25 private utilities, so we can certainly -- we have studies at

1 the Commission in Tallahassee of what the rates are around
2 the state for regulating utilities, but --

3 (Noise interruption created by the janitorial
4 staff.)

5 MR. MURRAY: I hope he didn't come in to get my
6 question.

7 (Laughter.)

8 MR. MURRAY: Do you have the amount of the last
9 increase?

10 MS. MERCHANT: No, I do not have that information
11 with me, but we can -- I don't have the order with me. I can
12 certainly -- I've got your address. I can send you a copy of
13 the order, the last order.

14 MR. ELIA: It was in the area of 40 percent.

15 MR. MURRAY: How much?

16 MR. ELIA: Forty percent.

17 MR. MURRAY: Well, then I just would conclude,
18 answering my own question, that that and this seems
19 excessive. That's why I was asking for comparisons.

20 I didn't give you my name. I'm sorry, I forgot
21 because you mentioned it. It's Jack Murray, M-u-r-r-a-y.
22 202 South Beach Road, Hobe Sound, 33455.

23 MS. MERCHANT: Another comment you made regarding
24 the management, we can certainly look into that too, and we
25 will, to make sure that these actions that they're taking now

1 were prudent. And the Commission's policy in the past if
2 actions were imprudent, then they weren't -- they might be
3 fully disallowed or partially disallowed or there are
4 mechanisms that the Commission has to disallow expenses.

5 MR. SMULLIN: Excuse me, Ms. Merchant, I happen to
6 have here --

7 MS. CAPELESS: Sir, excuse me, could you give your
8 name for the record?

9 MR. SMULLIN: John P. Smullin, S-m-u-l-l-i-n.

10 I have a notice that Hobe Sound Water sent out
11 following the January 1, 1995, rate increase, and it says,
12 quote, "The new rates will produce a 40.29 percent increase
13 in revenues over the previous permanent rate."

14 MS. MERCHANT: Thank you.

15 MR. CROUCH: If I may address something here to add
16 input to what Ms. Merchant has said. During the last rate
17 case -- in fact I was present at the two previous rate cases
18 that they had. I think some of you were there at those
19 meetings also. In a full-blown rate case -- I think we
20 discussed this possibly before you came in, Mr. Murray. At a
21 full-blown rate case we send out a team. We do an audit.
22 Accountants look at the books. We send an engineer out to do
23 an analysis in the field to evaluate the personnel, the
24 management of the system. We do a full-blown investigation
25 of the facility at that time.

1 This particular rate case is a limited proceeding,
2 a one-issue case, because of the wells that they had to put
3 in. A question came up, both from you and another gentleman
4 earlier, about was this due to mismanagement. I'm not trying
5 to make excuses for Hobe Sound in any way, but they were a
6 victim in almost a Catch-22 situation. They realized a
7 number of years ago that they had saltwater intrusion. They
8 had other land that they were getting ready to put wells in
9 to take advantage -- to get away from the wells that had the
10 saltwater intrusion. As they pulled water out of those
11 wells, it caused ocean water to come in underground, and it
12 was starting to contaminate those wells. They knew that they
13 had to put in new wells. Right about that time the EPA
14 ruling on wetlands came down, and they said, "Hobe Sound, you
15 can't put wells over there in that property you've got for
16 new wells because that's a wetland." So Hobe Sound says,
17 "What do we do? We've got to put new wells in, but you say
18 we can't put new wells in." So they were between a rock and
19 a hard place.

20 Recently they were able to reach a consent
21 agreement with the Department of Environmental Protection and
22 with the Water Management District saying that they can go
23 ahead and put these wells in and put test wells around them
24 to check the draw-down in the wetlands to make sure that the
25 lakes in that area aren't drawn down, to make sure that the

1 water table is not severely damaged. So it was a case -- the
2 management knew several years ago that they were going to
3 have to put in new wells or come up with some other source of
4 water supply. Now, they have also, in addition to the wells,
5 come up with an emergency interconnect with Hydrotech
6 Utility, a nearby utility which has surplus water that could,
7 in an emergency, tie in and provide water to Hobe Sound.

8 So it was not a case that the utility management
9 did not realize their problem. It was a case that they were
10 caught between two regulatory agencies, one of them saying,
11 "You've got to abandon these wells," and the other one
12 saying, "But you can't put new wells in over there." So they
13 said, "Help. We've got to find a place to put wells in,
14 we've got to do something"; and finally they were able to
15 reach a consent agreement that allowed them to do this.

16 So it was not a case of mismanagement or poor
17 management. It was just a Catch-22 that environmental laws
18 caught them in.

19 MS. MERCHANT: Okay. Mr. Smullin, were you sworn
20 in earlier?

21 MR. SMULLIN: Yes, I was.

22 MS. MERCHANT: Okay. Since you spoke just a minute
23 ago, why don't you go ahead and --

24 MR. SMULLIN: Thank you. My concern really has
25 been addressed. Do I need to --

1 MS. MERCHANT: Did you give your address to the --
2 AND THEREUPON,

3 JOHN SMULLIN,
4 appeared as a witness and, having been duly sworn,
5 testified as follows:

6 MR. SMULLIN: My name is John Smullin, 13158
7 Southwest Spyglass Court, Hobe Sound, Florida. I'm a
8 resident in a development called Eaglewood. I'm not here
9 representing Eaglewood. I'm representing my own concerns,
10 and my concerns have been peripherally addressed, I think, by
11 somebody questioning the financial aspects of this, and I'll
12 be very brief. I'm not going to go back to the details that
13 I worked up. But I do think that, having given you the
14 number that the last increase produced according to Hobe
15 Sound Water, that this increase requested now is just too
16 much and would result in a 25 percent increase in the up to
17 10,000 gallon category in a 19-month period, and a 34.2
18 percent in the 10,001 gallon to 40,000 gallon category, and a
19 78.29 percent increase for over 40,001 gallons. I don't
20 happen to be in that latter category, fortunately, but I feel
21 that we are being asked to pay too much for water.

22 One thing I would recommend that they consider,
23 since they send two meter-readers into our development with a
24 pickup truck and a trailer and a golf cart, and our homes are
25 not all that far apart, that that could be done as

1 expeditiously and less costly with one person on foot; and,
2 furthermore, there are companies in business now that make it
3 possible for the meters to be read from a central location.
4 I don't know whether they have considered that or not.

5 Thank you very much.

6 MR. CROUCH: I could answer that in the case of the
7 meters, sir, that is a consideration that most utilities look
8 at when the time comes to swap out their meters. Those new
9 meters that you're talking about radio signals back to a
10 central point. They are very handy, but they are also very
11 expensive, and the initial swap-out -- it's almost a case
12 where they would have to change every meter so that they
13 could sit back at the office and get the information brought
14 in through telepathy, or continue half with that and half
15 with the --

16 MR. SMULLIN: I grant you that, sir, but I didn't
17 even deal with the increase in the meter rate. I was only
18 dealing with the water increase. The meter rate itself is
19 considerably -- well, not considerably above it, but it's
20 54.85 percent in that 19-month period. So, you know, they
21 must be getting some money in that is going to be able to be
22 used for improvements, I would think.

23 MS. MERCHANT: Okay. Norma Schudy. I hope I
24 pronounced that right.

25 MS. SCHUDY: You did. Unusual.

1 AND THEREUPON,

2 NORMA SCHUDY,

3 appeared as a witness and, having been duly sworn,
4 testified as follows:

5 MS. SCHUDY: Norma Schudy, S-c-h-u-d-y. 12839
6 Southeast Berwick Court, Hobe Sound, Florida. I live in
7 Eaglewood, and I asked people to come with me this evening,
8 and they all said, "What's the use? It never does any good."
9 I came, and you wanted to know about the quality of water,
10 and that's what I came about.

11 We moved here in '89 and I've done nothing but call
12 the company. They say they'll call me back, but they never
13 do. We finally bought a water softener -- this is what --
14 and I'm really happy now. (Produces water filters.) This is
15 what it looks like after four weeks. There's no rust in the
16 water. Let me show you the other one. This is the clean
17 one. This is four weeks. You wanted to know about quality.
18 We have to change it every month, and they told us when we
19 bought the water softener we'd only have to change it every
20 four months.

21 MS. CAPELESS: What is that item that you have
22 there? What is the name of it? It's a replacement water
23 filter?

24 MS. SCHUDY: It's a -- it reduces all the -- it's a
25 replacement sediment cartridge. It takes all the bad stuff

1 out of the water.

2 But I would have had everybody behind me, but they
3 say, "Nope, it doesn't do any good," and I said, "I'm going
4 anyway."

5 Thank you.

6 MS. MERCHANT: Thank you. John Bettendorf
7 [phonetic]. Were you sworn in earlier?

8 MR. BETTENDORF: Yes.

9 MS. MERCHANT: Okay.

10

11 AND THEREUPON,

12 JOHN BETTENDORF,
13 appeared as a witness and, having been duly sworn,
14 testified as follows:

15 MR. BETTENDORF: My name is John Bettendorf. I
16 live at 10715 Southeast Seabreeze Court in Hobe Sound. I've
17 been in Hobe Sound almost 15 years, and I disagree with what
18 Mr. Crouch said about the position that the water company has
19 gotten itself into.

20 Back a number of years ago, and it could be as few
21 as three, it could be as many as ten, the water company, upon
22 the advice of a consultant, dramatically increased what I
23 would call the draw-down or the pumping or the cone of
24 influence in their wells. And they did that for a lengthy
25 period of time, and that's what brought on the salt

1 intrusion, and that I believe is a fact. I don't think that
2 is disputable.

3 So I think what we have here is we have management
4 making imprudent decisions that we are now being forced to
5 pay for. This business about the wells out here in the
6 wetlands, if they would have drilled those wells ten years
7 ago or twelve years ago, they probably wouldn't have been in
8 the environmental hot water that they were in when they
9 finally drilled them. And after they drilled them, I believe
10 it was the Water Management District refused to let them pump
11 out of them.

12 I don't think that the Hobe Sound Water Company, as
13 a percentage, has very many more customers now than they had
14 five or six years ago, and I also don't believe that the
15 water consumption is substantially up over five or six years
16 ago. What we're being asked to do is to pay for their
17 mistakes, and I don't think if their management made
18 imprudent decisions, because it's a privately owned water
19 company that the consumers should be asked to pay for those
20 decisions.

21 I also, at the last -- what you call a full-blown
22 whatever it was --

23 MS. MERCHANT: Rate case.

24 MR. BETTENDORF: -- that we had here several years
25 ago, raised the issue about the water produced versus the

1 water billed. And after that case, some months later, you
2 all mailed me a thick bound booklet that had a number of
3 utilities in it, and it showed what the water produced versus
4 the water billed was, and it seemed like Hobe Sound Water
5 Company had a higher loss than any of the other companies.
6 And my understanding, although I don't know this for a fact,
7 is that that's supposed to be held at ten percent or more --
8 or less. Right now my belief is that the water company is
9 producing around two million gallons of water a day. You all
10 would have better information about that than me. If they're
11 losing over ten percent of that water a day, that means that
12 they're losing over 200,000 gallons of water a day. That's a
13 lot of water.

14 Some of the system, because it's privately owned
15 and because some of the people who own the system are also
16 consumers -- I have raised the issue before, and it's never
17 been addressed. Do we have water flowing to these people or
18 facilities that they are now or have been in the past
19 interested in, that is not being metered, and does the Public
20 Service Commission do anything to check whether or not that
21 water is metered? Is part of this water loss that's not
22 being billed going somewhere that someone is getting water
23 for nothing, and has been getting water for nothing over a
24 long period of time?

25 I don't know that that's true, but it certainly

1 seems like it's something that ought to be looked into when
2 you have the owners of a water company and the consumers of
3 the water company being the same people in this case, and for
4 many years I know that they were the largest consumers of
5 water. I'm grateful that the Town of Jupiter Island is
6 interceding here tonight and that they've hired experts to
7 testify to these things. I know that they have their own
8 selfish interests because they're trying to buy the water
9 company; but, nonetheless, I'm grateful that finally someone
10 who has the money to spend to hire consultants to come in and
11 look at these things has come forward.

12 I have nothing personally against the Hobe Sound
13 Water Company. When I came here they probably had some of
14 the finest water that was available in this state, but the
15 quality of the water has steadily deteriorated. They are
16 having serious water quality now on a day-to-day basis. I
17 know that for a fact; and, in my opinion, all of these are
18 because decisions were made by management arbitrarily to do
19 things. They never -- the consulting engineering firm which
20 they used, which is a very well-known firm and whose name
21 escapes me for the moment, I've been told tell them that they
22 could nearly or actually double the amount of water that they
23 were pumping out of these wells that now have saltwater
24 intrusion, and that's what brought about the saltwater
25 intrusion, and that's just mistakes on the part of

1 management.

2 I suspect you're going to give them the rate
3 increase anyway, but I kind of enjoy coming here and at least
4 getting my say in. Thank you.

5 MS. MERCHANT: Thank you.

6 MR. CROUCH: We appreciate you coming out on that.
7 The unaccounted-for water, as you say, is restricted
8 basically from our standpoint to ten percent. What this
9 means is, let's say they pump a million gallons of water but
10 they only sell 600,000 gallons of it. Where did that other
11 400,000 gallons a day go? That's obviously more than ten
12 percent.

13 Some of that can be used in flushing the lines,
14 which they are supposed to document. If they have good
15 management, they're documenting flushing the lines. They're
16 documenting the fire hydrants, when they go out and open
17 those up. They document water that they use to backwash some
18 of their equipment there at the plant. Water that is used in
19 a legitimate plant purpose, in flushing lines and things, if
20 they've documented that, that is not unaccounted-for water.
21 That is not revenue-producing, but they can account for it.
22 It's the water that they don't know where it went. I mean,
23 it's just gone. We don't know where it went. That is the
24 unaccounted water that we try to hold down below ten percent.

25 If we find that a utility is in excess of that ten

1 percent, they are penalized for that. We take that away from
2 them. Part of the rate base is penalized, as well as
3 electricity used to pump the water and treat it and the
4 chemicals used to treat the water are adjusted downwards, the
5 prices of those, because of, as you say, poor management. So
6 that's where that ten percent comes in. It's not just the
7 bottom line between what they sell and what they pump. There
8 is a third category in there that is used. We ask that the
9 utility be very, very diligent in documenting any usages.

10 Now, as far as checking with customers and
11 everything, we do billing audits and billing analyses at the
12 time. I think the auditor there can tell you -- they've done
13 this in years past, where they will look at the bills of the
14 utility, and we do look at -- if the owner is also a
15 customer, we will look at those specifically. I had a case a
16 number of years ago -- it was not this utility, but another
17 case, where the manager of the utility was not charging
18 himself for water. He just happened -- he wasn't the owner,
19 he was just the manager. And I showed up there one Saturday
20 morning and asked him some questions, and as it turned out he
21 had to back-bill himself for six months of water and he lost
22 his job. But it was a case where he had just bypassed the
23 meter for his own house. He had the capability of doing
24 that.

25 So we do look out for things like that. It's a

1 very good point that you have.

2 MR. BETTENDORF: Let me ask you a further question
3 about that. You're obviously familiar with what various
4 utilities have as a water loss. Where is Hobe Sound versus
5 those other utilities, and is it possible to get that ten
6 percent number down to, say, five percent or less, or is that
7 unreasonable?

8 MR. CROUCH: We encourage them to try to decrease
9 that number. I don't know, to be perfectly honest with you.
10 I have not looked at the figures yet for Hobe Sound in this
11 case as to where they stand on unaccounted-for water, but we
12 have many far older systems that are in a lot worse shape. I
13 remember the last case here their unaccounted water was not
14 excessive. I think there was a very small adjustment to it
15 at that time. But we have seen places where you're talking
16 30, 40 percent unaccounted-for water, and we say when that
17 happens that's poor management as well as a poor system.

18 But we will be looking at that. This is just the
19 very first part of our investigation into this here tonight,
20 so you're giving us things that we want to concentrate on and
21 look at later on.

22 MR. BETTENDORF: Well, I will say that in the last
23 four or five years the quality of our water has dropped
24 substantially compared to what it was, and I guess my
25 question is, I think you said that if management made

1 imprudent decisions -- did you say that we may or may not be
2 forced to pay for those, or that we will be forced to pay for
3 them? I don't remember getting a direct answer on that.

4 MS. MERCHANT: If we can -- if we have solid
5 documentation that a company -- that there's poor management,
6 they did an imprudent action or something like that, we can
7 certainly disallow the cost; and the Commission has done that
8 on several occasions that I can think of.

9 MR. BETTENDORF: But if they overpump their wells,
10 okay, and if that can be termed an imprudent decision, and if
11 that's what brought about the situation that we're in now,
12 then what happens?

13 MS. MERCHANT: Well, a lot of times the Commission
14 has penalized the utility on the return on equity, the rate
15 of return the shareholders get. They fine the utility.
16 There are a lot of different financial remedies that we can
17 impose upon the utility, or penalties. So that's generally
18 how the Commission acts on those types of things. They
19 disallow costs or they fine them on the rate of return.

20 MR. BETTENDORF: And how are those things normally
21 brought to your attention?

22 MS. MERCHANT: Based on customers', a lot of times,
23 information, PSC auditors going out in the field, engineers
24 going out in the field -- a lot of different information.
25 Information that we ask the utility for, data requests and

1 stuff, information like that.

2 MS. SCHUDY: Excuse me, there was one more thing I
3 forgot. My husband wouldn't let me bring the taste and odor
4 filter. We also have another filter because I couldn't stand
5 the smell of the chlorine, and that takes out a lot of the
6 smell of chlorine, and I still get the smell of chlorine and
7 on weekends they really OD that chlorine.

8 MR. CROUCH: Two things that I can stress on that,
9 Mr. Bettendorf. The decision that the utility made to draw
10 down, as you say the excessive draw-down on that well, that
11 was a gamble. Their choice at the time was to continue
12 pumping, to increase the pumping, which was allowed by Water
13 Management District. Their consumptive use permit said you
14 can go ahead and draw that much water out of there. It was a
15 gamble that, as it turns out, the saltwater intrusion in this
16 particular area was so rapid nobody -- Water Management
17 District, DEP, none of the consultants that I talked to --
18 foresaw that rapid saltwater intrusion for the wells in
19 question.

20 If the utility at the time had said, "Well, instead
21 of drawing down these wells, or increasing the draw-down, we
22 will go out and we'll put in more wells," they would have had
23 to come in for a rate increase because of the -- as we see
24 now, the cost of putting in new wells. They gambled and as
25 it turned out for some reason the fault line or something in

1 the water table was such that all of a sudden saltwater just
2 zapped in and ruined those wells. It was a gamble. I'm not
3 in position at this time to say if it was imprudent or poor
4 management. It was a gamble that didn't pay off, and now the
5 wells are going to cost more now than it would have cost ten
6 years ago.

7 On the other question that you had, ma'am, the
8 utility could go in and put in filters that would filter all
9 of your water to be excellent quality; no iron in it, no
10 chlorine taste, no sediment. That would also be terrifically
11 expensive. A filter of that caliber would probably cost in
12 excess of a quarter of a million dollars. Of the water that
13 you drink, the average person normally -- especially over in
14 the Eaglewood area where you are, I believe, the normal
15 person is going to consume approximately 100 gallons of water
16 per day per person. Of that amount, approximately five
17 percent of it is used in cooking and drinking. The rest of
18 that water is your dishwasher, your washing machine, your
19 shower, commode. Ninety-five percent of the water, that
20 hundred gallons a day that you normally use, is not water
21 that would bother you if it had iron in it. Possibly your
22 washing machine, it might on your clothes. But for the
23 utility to filter that water to the pristine shape that you
24 would like it to be in would be very, very cost prohibitive
25 for them to do that for a hundred percent of the water.

1 MS. SCHUDY: I'm not talking about that, but they
2 said -- when they finally did come out one time, I forget the
3 man's name, it's at home. He said, "Oh, that's because the
4 water in the hydrant over there hasn't been flushed. We'll
5 be there the next day." Nobody ever came. I don't think
6 it's been flushed at all. They never come and flush those.

7 MR. CROUCH: And you did call them on that?

8 MS. SCHUDY: Oh, yes.

9 MR. CROUCH: This is something that we do look at,
10 what we call their customer complaint log.

11 MS. SCHUDY: "They're there now." I said, "Where?"
12 I took the car. I didn't see them. Did you ever see them?

13 MR. BETTENDORF: I do see them at the end of our
14 street.

15 MR. CROUCH: This is something -- many times they
16 don't show up at the time that you're there, but ideally when
17 we go in and look at this log and we see that you called on a
18 certain day, if they don't have their action that they took
19 and the satisfaction of the customer, or whatever the results
20 were, in that log, we go back and we can penalize the utility
21 for poor management in that respect.

22 MS. SCHUDY: What about all the letters that I
23 wrote way back in '89 and '90? I never got --

24 MR. CROUCH: And they've never done anything on
25 that?

1 MS. SCHUDY: I didn't push it because nobody else
2 wanted to fight it. They said, "Norma, it's not going to do
3 you any good."

4 MR. CROUCH: Hopefully it will improve now.

5 MS. MERCHANT: That's all the people that I have
6 that have signed up ahead.

7 MS. ZEEGERS: I didn't want to interrupt you.

8 MS. MERCHANT: Okay. Are there any other people
9 that want to speak?

10 MS. ZEEGERS: You said something about being sworn.
11 I haven't been.

12 MS. MERCHANT: Okay. Anybody else?

13 MS. SCHUDY: Yeah, he's going to.

14 MR. SCHUDY: Do I fill one out, or can I just ask a
15 question?

16 MS. MERCHANT: Why don't you both stand up and the
17 court reporter will swear you in and then you can ask your
18 question.

19 (Whereupon, Ms. Zeegers and Mr. Schudy were sworn
20 by the court reporter.)

21 MS. MERCHANT: I'll go to Ms. Zeegers first, and
22 then I'll go to you. Okay. Ann Zeegers.

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25

1 AND THEREUPON,

2 ANN ZEEGERS,

3 appeared as a witness and, having been duly sworn,
4 testified as follows:

5 MS. ZEEGERS: I would like to -- I live at 9182
6 Southeast Apollo Street, my husband and I both.

7 COURT REPORTER: Spell your name, please.

8 MS. ZEEGERS: Z-e-e-g-e-r-s.

9 I object to the increases. I think that since --
10 I'm going by the dates that my bills went up. Since July of
11 '94 to now, for the water and the meter to go up that much is
12 just unbelievable. It's out of control. We have many, many,
13 many customers who are on fixed incomes. They are on Social
14 Security only. The cost of living increase for Social
15 Security last year, and that would also cover people who are
16 disabled, is three percent. Compare that to what this is
17 doing. Then think about what's happening to these people who
18 have no other source of income. What are they going to do
19 when the water -- they're just going to dry up and blow away,
20 I guess. Good way to get rid of the old people; right? You
21 know, that's what everybody wants to do.

22 Here's the quality. You want to know about the
23 quality of the water. She brought her filter. I brought my
24 pieces. For approximately two months, August and September
25 of 1995, I kept track -- I kept getting so upset with the

1 water being bad, getting up in the morning and I'd look in
2 the toilet and it looked like somebody hadn't flushed. I go
3 to give the dog her fresh water in the morning, and I wish I
4 wouldn't have dumped out her old, because all of a sudden
5 I've got brown water. I can't do laundry. I'm not going to
6 use it, drink it. I will not bathe in this and I ask anybody
7 here will they bathe with this [indicating]? I know you
8 won't drink it. Will you bathe with it? Will you feel
9 clean?

10 I've dated these. I saved them because I knew this
11 would happen. I knew they would want another rate increase.
12 Those two months that I started keeping track -- August 8th
13 was the first day I kept track. "August 8, '95, brown water
14 all day. September 13, '95, brown water all day." Sometimes
15 this goes into part of the next day. I don't keep track of
16 that. "September 14th and September 15th." So that was
17 three days we had brown water all day. "September 21st,
18 yellow water." What I call yellow water is this
19 [indicating]. That's yellow water. That's brown water.

20 And I didn't record this, but if you hold it up to
21 the light, you can even see things in it. This is stuff that
22 is not obvious when you turn on the tap. It only becomes
23 obvious when you fill a pitcher or something like that,
24 because the water can be very crystal, and this is not that
25 [indicating]. When you fill a whole pitcher, it becomes very

1 yellow. I don't keep track of those. That big jar there, I
2 just brought that as an example of what I don't keep track
3 of.

4 On September 21st the water was what I call yellow.
5 On September 22nd, it was somewhat, or between yellow and
6 brown. On September 26th it was yellow. Then that was --
7 that covered from August 8th to October 8th.

8 Okay. March 7, 1996, my husband and I came home,
9 and we were -- we had been out in the saltwater all day. We
10 were dirty, et cetera. We turned on the water, and it was
11 mud. Nothing short of mud. He said to me, "Oh, my gosh,
12 what's going on?" You know, we were going to flush the motor
13 in the boat, et cetera, et cetera. I called the water
14 company. Well, they said a main had broken right down from
15 my house at Mrs. Diamond's. Well, I could look down the
16 street and I could see that the main had broken.

17 They said, well, you know, when they get it
18 repaired -- now, I can understand things like that -- when
19 they get it repaired, they'll flush it out. I said, "Well,
20 should we boil it for a certain amount of time?" "Oh, no, it
21 will be fine after they flush it out." Well, we saw them
22 open the fire hydrant right down there by Mrs. Diamond's
23 house and flush it out, and they took off. We then had to
24 run our hose for at least 45 minutes to get water that was
25 acceptable for us to take a shower in and get clean.

1 Now, if they flushed the line -- I'm paying for all
2 that water. For 45 minutes I'm sitting there watching my
3 money just go out. Go out. We drug the hoses across the
4 driveway and there was all this brown on it. We said, well,
5 when the water clears up, we'll be able to spray it off. Now
6 my driveway is stained. It's there. We can't spray it off.
7 Probably we'll have to pressure-clean it off. If they
8 flushed the line, why didn't they really flush the line? You
9 know, people are having to pay for all this water to flush
10 out what should have been flushed out.

11 MR. CROUCH: What was the date of that again?

12 MS. ZEEGERS: That was May -- March 7th of this
13 year.

14 MR. CROUCH: This year?

15 MS. ZEEGERS: Yeah. And the reason for -- I might
16 add, I don't guess -- I don't know too much about water
17 companies, et cetera. I might add that it's been worse ever
18 since the last increase. The water quality has been worse
19 since they added new wells, since the last increase.
20 Steadily worse. That's what got me so mad. That's why I
21 kept track.

22 And then the other thing is, the reason I believe
23 that the main was broken at Mrs. Diamond's is that if you all
24 will check along -- I don't know if they're including these
25 costs in what they're requesting from you or whatever, but

1 it's something to be considered. The lines are so shallow,
2 and I suppose that happened way back in the inception of the
3 company when they first put the lines down. The lines are so
4 shallow. Mrs. Diamond was having her driveway formed up to
5 be poured in concrete, she previously had not had a concrete
6 driveway, and the guys digging for that hit the line. Now,
7 that's only four inches.

8 So the lines are running that shallow, and then we
9 got these main breaks, and then they have to flush, et
10 cetera. That's something that if they're asking the
11 customers to cover, I do not feel it's fair; and as we know
12 when we built, even the guys from the water company were
13 coming along one day and they said, "Oh, watch out, because
14 sometimes they're only a couple of inches under the ground
15 there for a lot of the stretches."

16 MR. CROUCH: You're in Eaglewood?

17 MS. ZEEGERS: No. I'm in Zeus Park area, old Hobe
18 Sound.

19 MR. CROUCH: Okay. Thank you, ma'am.

20 MS. MERCHANT: Okay. And what is your name, sir?

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1 AND THEREUPON,

2 EDWARD SCHUDY,

3 appeared as a witness and, having been duly sworn,
4 testified as follows:

5 MR. SCHUDY: Edward Schudy, S-c-h-u-d-y. 12839
6 Southeast Berwick Court, Hobe Sound. The only thing I would
7 like to do is ask one question. I've been in banking all my
8 life and have spent all that time dealing with corporations
9 that want to borrow money and so forth and analyzing
10 financial statements and so forth, and I have just one
11 question. It's always been my understanding that when a
12 business wants to make capital improvements they have to do
13 it with capital money, which is the investors' money, not the
14 consumers' money. Why are we the consumer having to pay for
15 capital investments that should be paid for by the
16 stockholders and the owners of the corporation instead of
17 just for the things we should be paying for, such as their
18 payroll and such and forth?

19 MS. MERCHANT: Well, it's a Florida statute that
20 requires --

21 MR. SCHUDY: I know that. I just would like to
22 know if that's common in utilities or what?

23 MS. MERCHANT: It's very common, at least in the
24 private water and wastewater utilities that we regulate in
25 Florida. The utility is allowed to earn a fair rate of

1 return on its investment, the net amount of their investment.
2 The plant costs that they have, minus their depreciation
3 reserves, and minus any contributions that have been paid up
4 front by the customers. So that net amount they're allowed
5 to earn a rate of return on, and that's according to Florida
6 statutes.

7 MR. SCHUDY: But when they drill new wells we have
8 to pay for that?

9 MS. MERCHANT: That's correct. The utility -- what
10 happens is if they have enough growth in their system to make
11 up for those new costs then they don't file rate cases as
12 often. If they have no growth, the only way that they can
13 get an increase on their rate of return for their investment
14 would be to file for either a limited proceeding or a rate
15 case.

16 MR. SCHUDY: Don't they ever make the owners of the
17 corporation put in more money to cover these investments,
18 well-building and so forth?

19 MS. MERCHANT: In between the time that they file
20 for rate cases the investors of the utility have to pay for
21 that.

22 MR. SCHUDY: Has Hobe Sound's investors had to put
23 more money into it instead of just the consumers?

24 MS. MERCHANT: I don't know that right off the bat.

25 MR. SCHUDY: Wouldn't that be a good thing to know?

1 MS. MERCHANT: We can certainly do that. That
2 would be part of the --

3 MR. SCHUDY: Why do they always turn to the
4 consumers? It's their business. They should be taking care
5 of their own capital investments, it seems.

6 MS. MERCHANT: Well, it's a hard concept for me to
7 explain to you. I've been in this business for 15 years now,
8 and it's basically their right by the statute to get a fair
9 rate of return on the amount of plant that they've invested.
10 So if they come in and they ask for an increase and it's
11 prudent and they can document that they actually have an
12 investment in that plant, then the statute says that the
13 Commission should allow them to earn a rate of return on
14 that.

15 MR. SCHUDY: I assume that there's no guideline as
16 to compare how much they should put in when they ask the
17 consumers to come up with some more money, is there? All I'm
18 trying to say is that it seems any time they need more money
19 to do anything they turn to the consumers with nothing ever
20 being said about them coming up with their own money to cover
21 these additional costs.

22 MS. MERCHANT: Well, they have to pay for the
23 day-to-day operations of the utility, so they have to have
24 sufficient capital to be able to do that.

25 MR. SCHUDY: That comes from us paying for water.

1 MS. MERCHANT: That's correct.

2 MR. SCHUDY: Right.

3 MS. MERCHANT: And then they get to earn a rate of
4 return on that investment that they make in that plant, so
5 that's what the statute says --

6 MR. SCHUDY: But I'm saying --

7 MS. MERCHANT: -- the legislature.

8 MR. SCHUDY: Does the board ever make them come up
9 with more money to cover capital investments?

10 MS. MERCHANT: I think they do a lot of times.
11 They have to -- Hobe Sound is having to pay for that -- for
12 all these costs right now today, that they've been incurring
13 up until the point that they get a rate increase. So they
14 aren't getting any additional recovery for the amount of time
15 that they're paying for it while it's under construction.
16 They will only get the recovery at that point in time if a
17 rate increase goes through. So there is a lead -- there is a
18 lag time between the amount of time that they have to spend
19 the money and the amount of time that they get a rate
20 increase to cover that.

21 MR. CONNELLY: May I ask one more question?

22 MS. MERCHANT: If you will state your name again.

23 MR. CONNELLY: Joe Connelly. 103 Harbor Way, Hobe
24 Sound, Florida 33455.

25 Initially in your comments you said that there

1 would be an annual report issued on March 31st. Are you
2 assuring us that that will indeed be available to us?

3 MS. MERCHANT: Well, legally speaking all annual
4 reports are due on March 31st for water and wastewater
5 utilities regulated by the PSC. They get an automatic 30-day
6 extension if they request to do so.

7 MR. CONNELLY: Have you received such a request?

8 MS. MERCHANT: I don't know right off the bat. I'm
9 getting a bunch of them. Actually, my section handles the
10 annual reports that come in. I've had probably three so far,
11 annual reports that have come in before the deadline, and I
12 have a whole stack of letters that I got copies of just
13 yesterday. So I didn't get a chance to look at them to see,
14 but it's -- I would say probably I get about 10 or 15 in
15 March, and I probably -- my section specifically deals with
16 the large "A" and "B" utilities, not the small class "C's,"
17 but I probably get a total of a hundred annual reports;
18 probably about 80 of them come in on April 30th, and another
19 ten or so come in after April 30th. So most water and
20 wastewater utilities file their annual reports on April 30th,
21 or just before it. But they are required -- every company
22 under our jurisdiction is required to have an annual report
23 on file each year.

24 MR. CONNELLY: I understand that. I was -- we'd
25 very much appreciate learning from you whether or not the

1 annual report will be in on March 31st. And if an extension
2 has been requested, we'd like to know that too.

3 MS. MERCHANT: Okay. I can certainly look that up.
4 And what is your area code, sir?

5 MR. CONNELLY: Area code?

6 MS. MERCHANT: For your telephone.

7 MR. CONNELLY: (407) 546-9432.

8 MS. MERCHANT: Okay. I've got that on here.

9 MR. CONNELLY: Yes, you do.

10 MS. MERCHANT: I can certainly call you and let you
11 know whether they asked for an extension and when they plan
12 on filing.

13 MR. CONNELLY: Thank you very much.

14 MS. MERCHANT: Okay. Mr. Murray, and then I'll get
15 to you, sir.

16 MR. MURRAY: I have one last question.

17 MS. MERCHANT: And restate your name, please.

18 MR. MURRAY: Jack Murray. I'm sorry. And it
19 follows the banker's question. I think it's public knowledge
20 that the Hobe Sound Water Company is going to be for sale,
21 and the town is supposed to buy it. And I sit here and
22 wonder if the rate increase is going to work favorably
23 towards an ultimate sales price, and it seems to me that it
24 might. So is the rate increase something on a times earning
25 basis going to make the value of the water company more for

1 the owners of the Hobe Sound Water Company, or is it really
2 something that is needed? So I wanted to make sure I asked
3 that.

4 MS. MERCHANT: Well, when a utility that is
5 regulated by the Public Service Commission is sold to a city
6 or a county government, the Public Service Commission loses
7 jurisdiction at the point that the sale goes through. We
8 don't have the authority to look at the sales price or
9 anything beyond that point. It is common, I have seen it
10 happen many times, right before a utility is sold to a city
11 or county that they file for a rate case; but they don't get
12 a rate increase just because they're being sold. They get a
13 rate increase just because they've documented -- justified
14 that one is warranted, and they have supported their
15 investment and their costs and all their expenses that they
16 are requesting.

17 So the Public Service Commission cannot just flatly
18 deny a rate increase because they know that there's a sale
19 coming down. They have to look at the issues before them,
20 and the factors that a city or county uses to purchase
21 private utilities, I don't -- I've never been involved in
22 that and I don't know what goes into it.

23 Does anybody else have any comments?

24 MS. ZEEGERS: What is -- you said that they were
25 allowed to get a fair rate -- sorry, Ann Zeegers -- a fair

1 rate of return for their investment. What is that
2 percentage, do you know? What is the maximum percentage that
3 is considered a fair rate of return?

4 MS. MERCHANT: There is not a maximum. It's a
5 range. It's based on their actual cost of debt. It's based
6 on a formula that the Commission has for return on equity,
7 the rate of return for the shareholders. If they have any
8 other cost-free capital, then that's a zero percent. And you
9 calculate that, and you determine what percentage it is to
10 the total, and you weight it so that there's an overall cost
11 of capital based on the components and the individual cost
12 rates that we have. That generally has been ranging the last
13 several years anywhere between eight and ten and a half
14 percent, sometimes as high as eleven percent. It depends on
15 a lot of different factors; how much debt they have, how much
16 equity they have. So --

17 MS. ZEEGERS: Well, I guess the point I'm trying to
18 get at, then, is they can never go below what they more or
19 less establish for themselves, through you, by doing this
20 kind of maneuver. And they get "X" amount of rate of return,
21 and then they say, "Oh, well, we invested this much, but we
22 still want our same rate of return"; in other words, you
23 know, for them it doesn't follow that you have to put in
24 money to make money because they're going to get what they
25 put in back out of us plus their fair rate of return.

1 MS. MERCHANT: It's a moving target because as
2 time -- every day you could take a snapshot and see whether
3 or not on that day or that month or that year whether or not
4 they're earning a fair rate of return. A lot of utilities
5 earn -- a lot of water and wastewater utilities earn a lot
6 less than a fair rate of return, and a whole lot of them that
7 we see each year earn negative. It's extremely common. It
8 doesn't make good financial sense to have a loss every year,
9 so that is risk for the company and the customers as well.
10 So it's really -- it's not good business to have a negative
11 rate of return or a less-than-fair rate of return. They
12 can't provide the quality of service. It's not a guaranteed
13 rate of return that the Public Service Commission offers or
14 grants. It's an opportunity to earn a fair rate of return so
15 that's --

16 MS. ZEEGERS: Well, I guess then what I'm trying to
17 say, then, is as I understand it they're stockholders in the
18 company, then the stockholders are always going to get their
19 dividend. They never get a notice that says, "Sorry, you
20 don't get one this month."

21 MS. MERCHANT: I think that there are a lot of
22 water and wastewater utilities that don't give dividends. I
23 don't know the circumstances of this particular case right
24 now as far as dividends or anything like that --

25 MS. ZEEGERS: Well, I'm talking about this

1 particular case.

2 MS. MERCHANT: If they're losing money big time
3 they're probably not going to give dividends, so I mean it
4 just depends on what the circumstances are. But the statute
5 does --

6 MS. ZEEGERS: It only stands to reason that -- you
7 know, you said earlier that the Public Service Commission has
8 no control over it once they sell to a private [sic], but you
9 do have control now, and I ask the Public Service Commission
10 to consider the maneuvers that are being taken prior to what
11 we all know is a sale. I didn't even know that it was
12 actually in the works until I came here tonight, but I told
13 my husband last rate increase, "Watch, they're going to sell
14 the company." You know, I'm no Harvard business student, but
15 common sense tells us all what is going to happen.

16 MS. MERCHANT: Any other questions or comments?

17 Sir, if you will restate your name.

18 MR. BETTENDORF: John Bettendorf. Am I correct in
19 assuming that the only way that this rate increase is going
20 to be turned down is if these consultants find something
21 wrong with the numbers, that they shouldn't be properly
22 applied to this rate increase; or the only other option is
23 whether their operations or their decisions are imprudent?
24 Is that basically the only two things that are going to
25 prevent this rate increase?

1 MS. MERCHANT: Actually, you're taking out a large
2 part of it, but there is a staff of Public Service
3 Commission. They can --

4 MR. BETTENDORF: But you've already said you're
5 recommending for it, so we're --

6 MS. MERCHANT: Well, no. We're considering the
7 requested rate. We have not made a decision.

8 MR. BETTENDORF: I thought you said in the
9 beginning that you had already recommended it?

10 MS. MERCHANT: Oh, no. No, no.

11 MR. BETTENDORF: I'm sorry, I misunderstood.

12 MS. MERCHANT: Part of what this process is for is
13 so that we can gather information to further our
14 investigation. We are currently looking at all of the
15 information that they submitted in their application. We're
16 going to be asking the company for some more information.
17 We'll certainly follow up on a lot of these questions and
18 concerns that we've gotten tonight, and there are no
19 guarantees that they'll get a rate increase. You know, if it
20 looks like at the end of our investigation that they deserve
21 some rate increase, then we will recommend to the Commission
22 whatever we believe is appropriate. But this is not a done
23 deal at all, so -- and we certainly do appreciate everybody's
24 comments on this.

25 MR. CROUCH: Our recommendation will go in on

1 May 30th to the commissioners on our findings from the
2 results of the investigation that we will continue after this
3 meeting tonight, and we will sit down and prepare a
4 recommendation. It goes in on May 30th. And several of you
5 folks have asked for it, and I imagine some more might after
6 the meeting tonight -- can ask for a copy of that
7 recommendation. So you will know what staff presents to the
8 commissioners.

9 MR. BETTENDORF: Is that why I put an asterisk on
10 mine? I thought that's why I did it.

11 MS. SCHUDY: I didn't put one on mine, and I would
12 like a copy.

13 MS. ZEEGERS: Ditto.

14 MS. MERCHANT: Okay. Let me make sure that I've
15 got everybody.

16 MR. SCHUDY: Well, we would all like a copy or we
17 wouldn't be here.

18 MS. MERCHANT: I've got Ms. Zeegers, Mr. Spurgeon.
19 Mr. Connelly, did you want one?

20 MR. CONNELLY: Yes.

21 MS. MERCHANT: Mr. Connelly. Mr. Murray, did you
22 want a copy?

23 MR. MURRAY: I'm going to get mine from
24 Mr. Spurgeon.

25 MS. MERCHANT: And Ms. Schudy?

1 MS. SCHUDY: Yes.

2 MS. MERCHANT: And Mr. Bettendorf?

3 MR. BETTENDORF: Yes.

4 MS. MERCHANT: Is there anybody else?

5 MS. FROSCHE: We didn't speak, and we want a copy.
6 Is there something that we could write our names on to get
7 one?

8 MS. MERCHANT: Certainly. Can you identify
9 yourself for the record, ma'am?

10 MS. FROSCHE: Marion Frosch, F-r-o-s-c-h. I live at
11 9023 Southeast Adonis Street, Hobe Sound 33455, zip code.

12 MS. MERCHANT: 33455?

13 MS. FROSCHE: 55.

14 MS. MERCHANT: And your first name is Marion?

15 MS. MERCHANT: M-a-r-i-o-n.

16 MS. CAPELESS: I just want to mention that it's
17 important also to remember that the staff recommendation,
18 when you get that copy, that's what staff will -- has -- when
19 that recommendation is filed, that will be what staff
20 believes the rates should be. That is not going to guarantee
21 that that's what the Commission is going to believe. So the
22 agenda conference is very important. The Commission may
23 reject the recommendation entirely, it may make extensive
24 modifications, it may accept it as is; but we won't know that
25 until the day of the vote. And then the Commission order

1 will come out which will reflect what that vote is, and
2 everybody who is getting a copy of the recommendation will
3 also get a copy of the order.

4 MS. MERCHANT: And if anybody wishes to attend the
5 agenda conference -- it will be in Tallahassee, but you're
6 certainly welcome to attend.

7 (Laughter.)

8 MS. MERCHANT: And it is common that we have people
9 come up and address the Commission in a proposed agency
10 action proceeding.

11 MR. CROUCH: Hopefully our weather then will be
12 like your weather now. It's been cold up there.

13 MS. MERCHANT: If there are no other questions I
14 guess we can adjourn the meeting, and I certainly want to
15 thank everybody for coming.

16 MS. SCHUDY: Thank you.

17 (Thereupon, the hearing concluded at 7:50 p.m.)
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