

BEFORE THE
FLORIDA PUBLIC SERVICE COMMISSION

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In the Matter of : DOCKET NO. 991643-SU
:
APPLICATION FOR INCREASE IN :
WASTEWATER RATES IN SEVEN :
SPRINGS SYSTEM IN PASCO :
COUNTY BY ALOHA UTILITIES, :
INC. :

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PROCEEDINGS: PREHEARING CONFERENCE

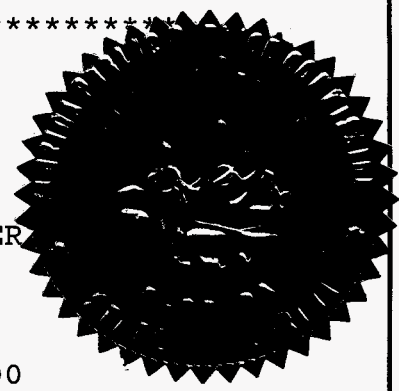
BEFORE: COMMISSIONER LILA A. JABER
Prehearing Officer

DATE: Monday, September 18, 2000

TIME: Commenced at 2:30 p.m.
Concluded at 3:30 p.m.

PLACE: Betty Easley Conference Center
Room 152
4075 Esplanade Way
Tallahassee, Florida

REPORTED BY: TRICIA DeMARTE
Official FPSC Reporter



1 **APPEARANCES:**

2 F. MARSHALL DETERDING and JOHN L. WHARTON,
3 Rose, Sundstrom & Bentley, 2548 Blairstone Pines
4 Drive, Tallahassee, Florida 32301, appearing on
5 behalf of Aloha Utilities, Inc.

6 STEPHEN C. BURGESS and SAM GATLIN, Office
7 of Public Counsel, 111 West Madison Street, Room
8 812, Tallahassee, Florida 32399-1400, appearing on
9 behalf of the Citizens of the State of Florida.

10 RALPH R. JAEGER and JASON K. FUDGE, FPSC
11 Division of Legal Services, 2540 Shumard Oak
12 Boulevard, Tallahassee, Florida 32399-0850,
13 appearing on behalf of the Commission Staff.

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P R O C E E D I N G S

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COMMISSIONER JABER: Mr. Jaeger, are we ready?

MR. JAEGER: Yes, ma'am.

COMMISSIONER JABER: Do you want to read the notice?

MR. JAEGER: Pursuant to notice issued September 1st, 2000, the prehearing conference in this docket was originally noticed to be held on September 15th, 2000. However, on September 11th, the date was changed to September the 18th. A notice of rescheduled prehearing conference was issued on September 12th, and this time and place was set for the prehearing conference in the application of Aloha Utilities for a wastewater rate increase for Seven Springs Wastewater Division.

COMMISSIONER JABER: Thank you. Take appearances, Mr. Deterding.

MR. DETERDING: F. Marshall Deterding and John L. Wharton on behalf of Aloha Utilities.

MR. BURGESS: Steve Burgess here for the Office of Public Counsel.

MR. JAEGER: Ralph Jaeger and Jason K. Fudge on behalf of Staff, Public Service Commission.

COMMISSIONER JABER: Let me tell you, what I intended to do was to go page by page and determine if anyone had any changes or motions, but I understand there

1 are a few preliminary matters to get through, Mr. Jaeger?

2 MR. JAEGER: Yes, Commissioner. Going to Page
3 37, Section 11, pending motions, I believe we should
4 probably start there. And the first one lists a pending
5 motion from OPC; that should actually be stricken. That
6 motion has not been filed yet. It was a position of Staff
7 and OPC that that rebuttal testimony of Stephen Watford
8 beginning on Page 2, Line 20 through Page 6, Line 15
9 should be stricken as untimely initial or direct testimony
10 as opposed to rebuttal as it was designated, but no
11 written motion has been filed at this time.

12 COMMISSIONER JABER: Mr. Burgess, you can
13 confirm that; right?

14 MR. BURGESS: Correct, yes, ma'am.

15 COMMISSIONER JABER: So we will strike your
16 Number 1 under pending motions.

17 MR. JAEGER: Okay. Under Number 2, Aloha has
18 filed a motion to allow filing of supplemental direct
19 testimony, and then there's -- a motion was filed today
20 for a motion to strike the rebuttal testimony of
21 Mr. Biddy, an OPC witness. It's Aloha's motion to strike
22 rebuttal testimony, and it was filed today.

23 COMMISSIONER JABER: Aloha has filed a motion to
24 strike rebuttal testimony of OPC Witness Biddy?

25 MR. JAEGER: Is that correct; Marty?

1 MR. DETERDING: Correct.

2 MR. JAEGER: Yes.

3 COMMISSIONER JABER: And that was just filed
4 today?

5 MR. WHARTON: Correct.

6 COMMISSIONER JABER: And you served it on the
7 Office of Public Counsel, I would guess, today?

8 MR. WHARTON: Yes.

9 COMMISSIONER JABER: All right. Mr. Jaeger, how
10 would you recommend we go forward?

11 MR. JAEGER: Okay. I think we need to -- you
12 know, that motion that was filed today, obviously nobody
13 is prepared, I think, to respond or talk about that today,
14 and so I think we just have to wait on that one.

15 I talked with Mr. Burgess this morning, and I
16 said I wasn't sure. He actually has until Thursday to
17 file a response, I believe, to the motion to file -- allow
18 supplemental direct testimony, but I thought we should
19 probably talk about it, and then it would be up to you to
20 rule whether Rule 28 -- let me get that -- Uniform Rule
21 28.106.204 says, "When time allows, the other parties may
22 within seven days of service respond to a motion." And so
23 his seven days haven't technically run on this motion to
24 file supplemental direct, but I thought we should discuss
25 that today.

1 COMMISSIONER JABER: Mr. Burgess, I don't want
2 to put you on the spot necessarily, but I'll tell you
3 because of the timing of this hearing, I would like to go
4 ahead and consider the motion to allow filing of
5 supplemental direct testimony, and if you can orally
6 respond to that motion, I would really appreciate it.
7 We'll allow Aloha to make a very brief opening remark
8 about their motion, and we'll come back to you and allow
9 you to respond.

10 MR. BURGESS: Thank you, Commissioner.

11 MR. WHARTON: Thank you, Commissioner. The
12 subject of the motion involves the fact that Aloha has
13 been required to vacate the premises that it previously
14 rented as its office space and that it has been out
15 shopping for a replacement office space. This is an
16 issue, Commissioner, that arose after the filing of the
17 application and after the filing of the direct testimony.
18 It's an issue that Aloha has endeavored to keep the Staff
19 and the parties advised throughout with regard to the
20 progress to that issue.

21 Three days after Aloha learned that it had to
22 vacate that premises, it made that information known to
23 the Staff and the other parties on June 30. At that time,
24 also, details as they were known to Aloha at that time
25 were given to the Staff and copied to all the parties in

1 the form of interrogatory responses.

2 We discussed this matter in June of 2000 in a
3 telephone conference call that involved members of the
4 Staff. On July 20, for the second time, Aloha provided an
5 interrogatory response that gave details about the
6 particulars of locating the new office space. On
7 September 8th, again, in response to discovery, more
8 information was given and copied to all the parties on
9 this issue.

10 On September 11th, in an abundance of caution,
11 it was included within the rebuttal testimony in detail.
12 Then the -- again, the information was again tendered last
13 week in the form of the testimony attached to Aloha's
14 motion to file supplemental direct testimony. And, in
15 fact, one day after that, on the 15th, was when the
16 contract was actually done, and that document was
17 immediately hand delivered over here. This was something
18 that if it were done at a prior date and in the form of
19 testimony, it would have been wholly speculative at that
20 time. In fact, it was not known to Aloha that they would
21 need new space prior to the June 30 date that the Staff
22 was apprised within three days of.

23 And, in fact, there was some speculative
24 character to this information until the contract was
25 actually signed late last week. But at each point, Aloha

1 has attempted to give the information to the Staff and the
2 parties regarding this issue. It is clearly an expense
3 that we think should be taken into account. We think that
4 it benefits all the parties and the public to go to
5 hearing based on present reality. We don't think that
6 only adjustments down as they arise after the fact are
7 appropriate to be considered by the Commission, but also,
8 in this case, an adjustment which by happenstance does
9 represent an increased expense should also be taken into
10 account.

11 COMMISSIONER JABER: When was your original
12 testimony due? It was filed with your MFRs, wasn't it?

13 MR. WHARTON: Yes. Filed in February and then
14 supplemented in April of the year 2000.

15 COMMISSIONER JABER: And when was OPC's
16 testimony due?

17 MR. WHARTON: OPC filed their testimony on -- I
18 think that it was --

19 MR. JAEGER: May I answer her?

20 MR. WHARTON: Sure.

21 MR. JAEGER: July 31st was when we -- we had a
22 discovery dispute, and OPC was originally set for the 17th
23 of July but was given a two-week extension to July 31st.
24 Staff was given a two-week extension to August 28th, and
25 the Utility's rebuttal was given a two-week extension to

1 September 11th.

2 COMMISSIONER JABER: Okay. And, Mr. Wharton,
3 you said the contract got signed last week, so you haven't
4 made that part of your supplemental testimony either, have
5 you?

6 MR. WHARTON: Well, what we did was just
7 submitted it with a cover letter to all the parties the
8 day after the motion was filed, and said in the cover
9 letter, this really is a supplement to the supplement.
10 This is the final contract; this is the executed deal. It
11 was, in fact, done the afternoon of the filing.

12 COMMISSIONER JABER: So are you proposing that
13 the exhibit be made an exhibit to the testimony of
14 Mr. Watford?

15 MR. WHARTON: I would move ore tenus right now
16 that the exhibit that we tendered via hand delivery on
17 September 15th be considered a part of the supplemental
18 direct testimony of Mr. Watford.

19 COMMISSIONER JABER: Were you done?

20 MR. WHARTON: Yes.

21 COMMISSIONER JABER: Mr. Burgess.

22 MR. BURGESS: I'd just simply respond that there
23 are dates established for the purpose of a deliberative
24 process, for the allowance of due process on everybody's
25 part, that the timing for the Utility expired long ago to

1 file its case, and at this point, it's certainly not
2 timely and it doesn't allow us the opportunity that we
3 would need to file discovery and responsive testimony.

4 COMMISSIONER JABER: Staff.

5 MR. JAEGER: Commissioner, we sympathize with
6 the Utility, but I think Staff actually agrees with OPC
7 that this change just came so late, so close that it's put
8 unbearable pressure on the OPC and the Staff to respond to
9 it. If it had come -- you know, if they had gotten that
10 contract even in August, we may have been able to do
11 something, but this is -- you know, we have already pushed
12 the testimony back two weeks, and the rebuttal was due on
13 September 11th, and we're getting a contract four days
14 after the rebuttal was due on the 15th.

15 And now, we're less than two weeks before the
16 hearing, and here we've got a contract of -- and I'm not
17 even sure what it's for. The last time I saw -- was a
18 proposed thing for 765,000. That was the counteroffer of
19 the People, and I'm not sure what the Utility got because
20 I haven't had a chance to review the contract; here I'm at
21 the prehearing conference.

22 COMMISSIONER JABER: Mr. Wharton, one of the
23 things I noticed in your motion was a statement that you
24 acknowledge that OPC and Staff should have the opportunity
25 to file rebuttal testimony. And I'm assuming my reading

1 of your motion is correct that you recognize that this is
2 coming very late in the game and that parties should be
3 able to respond to your testimony and, in fact, do
4 discovery on the testimony.

5 MR. WHARTON: In fact, Commissioner, and perhaps
6 for the purposes of this discussion, it's a distinction
7 without a difference, but it wouldn't be rebuttal
8 testimony. It would be responsive testimony because of
9 who they are and who we are in this case, but I think
10 you're right. They certainly should have an opportunity
11 to respond.

12 Now, what I would ask is that we remove this
13 from the academic and esoteric, and what is it that can't
14 be done? I mean, if it really -- I hate to jump to our
15 last position first, but if it were really the pivotal
16 point in the mind of the Commissioner, we would even be
17 willing to have the Staff come in and testify live on this
18 issue and we would rebut live. I mean, what is it they
19 can't do?

20 We would agree to expedite a discovery. This
21 has been the most exhaustive discovery I have ever seen.
22 We answered five sets a week ago Friday, a set a week ago
23 Wednesday. We have a set due Friday, and two sets due on
24 Monday, and that's just in the span of 15 days. I don't
25 think there is any more documentation.

1 Now, perhaps if the Staff or OPC says, this is
2 what we could do, and we can't do it, but, I mean, we
3 could produce an individual for a deposition in this case
4 tomorrow, and, like I say, we could give all the way up
5 until October 2nd; that wouldn't be our preference. But
6 in terms of getting to the information, I do think there
7 is time.

8 Today is the 18th, I guess, and it does leave
9 about two weeks in which I think with our cooperation, and
10 we're offering that cooperation now, we could give such
11 other documentation as there is, although I believe there
12 is no other documentation. We could produce individuals
13 who could answer the questions, and if it would alleviate
14 some of the stress on the Staff that Mr. Jaeger has just
15 referred to, again, the responsive testimony could even be
16 done at the time of the hearing. It really is a very
17 singular issue.

18 MR. BURGESS: Commissioner, if I might respond
19 to that. I think it's unfair for Mr. Wharton now to
20 basically ask us what our discovery would be, ask us and
21 Staff what our discovery would be, and though his is an
22 honorable adversary, his statement that we have all the
23 documentation is not something that we can at this point
24 rely on. And, again, we just have been -- not had the
25 opportunity to engage in the normal deliberative process

1 that exists in trying to deal with the complexity of
2 issues that come up in a rate case.

3 COMMISSIONER JABER: I agree. Here's what my
4 ruling will be: In the interest of administrative
5 efficiency, though, we are going to leave the issue in. I
6 want you to tell me what of Mr. Watford's rebuttal
7 testimony needs to be stricken. I'll grant your motion to
8 allow filing of supplemental direct testimony.

9 I'm assuming what we're striking in the rebuttal
10 testimony is exactly what you filed as supplemental
11 direct.

12 MR. WHARTON: In point of fact, there is a
13 couple of sentences added, but we could differentiate that
14 for you or perhaps -- I mean, for instance, his testimony
15 on the 11th didn't have the done contract.

16 COMMISSIONER JABER: Okay.

17 MR. WHARTON: Okay.

18 COMMISSIONER JABER: I want you to come back on
19 that in a minute. I'm not done with the ruling; that is,
20 the ruling as it relates to you. But in the interest of
21 giving OPC and Staff ample opportunity to respond to this
22 testimony and to their opportunity to do discovery, I've
23 asked our Staff to -- we were going to do this anyway. It
24 really had nothing to do with the motion -- find a third
25 day for the hearing, because traditionally we don't finish

1 the Aloha hearings in two days. So we found a third day,
2 November 2nd.

3 And what I intend to do is to have that issue as
4 it relates to the new office building and this testimony
5 taken up November 2nd. And in that regard, Mr. Burgess, I
6 think that cutting off the discovery for this issue -- I
7 want to be clear that this is only as it relates to the
8 issue on the new office building. The discovery cutoff
9 date will be October 26th. That's a week before the
10 November 2nd hearing, which is consistent with the way we
11 do it here at the PSC.

12 OPC testimony on this issue, Mr. Burgess, will
13 be due October 13th. Staff, your testimony will be due,
14 if any, October 18th. Utility rebuttal, October 23rd.
15 Now, let me repeat those dates. OPC testimony,
16 October 13th; Staff testimony, October 18th; Utility
17 rebuttal, October 23rd. October 26th will be the
18 discovery cutoff period, and November 2nd will be the
19 third day of the hearing, and that hearing will be held in
20 Tallahassee.

21 Now, what I envision is, to the degree we don't
22 finish our two-day hearing in Pasco County, it will carry
23 over a third day in Tallahassee. Now, that's not to say
24 that that's what we want to happen.

25 Okay. Mr. Wharton, you're going to walk me

1 through what needs to be stricken in Mr. Watford's
2 rebuttal testimony.

3 MR. WHARTON: Unfortunately, Commissioner, I
4 don't have the rebuttal in front of me. I believe that we
5 can paraphrase the additions now by looking at the
6 supplemental direct.

7 COMMISSIONER JABER: Is it Page 2 -- Mr. Jaeger,
8 is it Page 2, Line 20 through Page 6, Line 15? Is it what
9 OPC --

10 MR. JAEGER: That's all the testimony on the
11 office deal, and that's what we were -- our position
12 needed to be stricken. Page 2, Line 20 through Page 6,
13 Line 15. See, it's all about --

14 MR. WHARTON: And do you know, Ralph, was that
15 the same that I said in our motion we would agree to
16 strike if the motion -- what I said was Page 2, Line 20
17 through Page 6, Line 15. Is that what you just said?

18 MR. JAEGER: Yes.

19 MR. WHARTON: That's the same thing we said in
20 the back of our motion we would strike. I'm just
21 concerned that nobody think that -- because we really
22 just -- we did add a couple of lines. Okay.

23 It appears, Commissioner, that of the
24 supplemental direct on Page 6, we made an addition to
25 Lines 2 through 20 there. So, in other words, Lines

1 2 through 20 of Page 6 of the supplemental direct was not
2 part of Mr. Watford's rebuttal testimony, which has now
3 been stricken; it was in addition to.

4 And then, Commissioner, the other issue hanging
5 out would be my ore tenus motion to add as an exhibit the
6 executed contract, which we made available to the parties
7 by hand delivery on September 15th, which reflects the
8 final purchase price of \$765,000.

9 COMMISSIONER JABER: All right. As it relates
10 to the contract, we'll identify it as SGW-2. Now, my
11 identifying it for purposes of including it in this
12 testimony does not preclude anyone from objecting to it
13 later on, and that's correct as it relates to your
14 additions to Page 6.

15 MR. WHARTON: Okay.

16 COMMISSIONER JABER: All right. Before we move
17 on, everyone understands what the ruling --

18 MR. BURGESS: Thank you, Commissioner.

19 COMMISSIONER JABER: Mr. Jaeger.

20 MR. JAEGER: Commissioner Jaber, I think rulings
21 right down from the pending motions under Section 12, we
22 had discussed oral summaries of testimony and how long
23 those should be, Staff is recommending that oral summaries
24 of testimony be limited to five minutes. And it's listed
25 as a ruling, but, of course, that was just for working

1 purposes here.

2 COMMISSIONER JABER: Oh, I think five minutes is
3 adequate if it's a summary.

4 MR. DETERDING: We have no problem with that.

5 MR. JAEGER: Okay. The next thing was the
6 updating of rate case expense. This has always been sort
7 of a sore point on how to handle this. And Staff would
8 like the last actual rate case expense invoices and
9 documents, any updating of it should be filed by the close
10 of business on September 27th, that's a Thursday.

11 MR. DETERDING: If I may address that briefly?

12 COMMISSIONER JABER: Yes.

13 MR. DETERDING: Ralph mentioned this to me about
14 a week ago or a week and a half ago. Traditionally, the
15 Commission has allowed the Utility, in order to get the
16 most recent actual information, to supplement the
17 information that it files in its direct and rebuttal
18 testimony with a late-filed exhibit. Now, and I certainly
19 understand the concern with that because that provides
20 information, factual information, on which they don't have
21 an opportunity for cross.

22 However, the problem is that the information
23 that we filed with our rebuttal takes you through actual
24 expenses and estimates through the end of August with the
25 exception of one month of Mr. Nixon's bills for that

1 period, the last month. His does not include August; the
2 others do. Therefore, if we were to give the Commission
3 updated actual information through September 27th, as far
4 as actual bills rendered, there would be only one new one
5 and that was the one that Mr. Nixon has issued in the last
6 week or so.

7 We could give you some kind of schedule showing
8 the time spent, but that certainly in my office I'm told
9 by our office manager that we're unable to produce a bill
10 outside all the rest of the bills which are done at
11 month's end. So --

12 COMMISSIONER JABER: That just means you don't
13 get paid, Mr. Deterding.

14 MR. DETERDING: So we will do that if we need
15 to. I much prefer the other method simply because it
16 gives us more time and more actual expenses. We don't --
17 we will only have one actual additional bill as of
18 September 27th, and that's the one that's already out for
19 Mr. Nixon.

20 COMMISSIONER JABER: Okay. So I hear you say a
21 couple of things, that you don't know what the final legal
22 expense will be, and then you don't know what Mr. Nixon's
23 final expense will be.

24 MR. DETERDING: Well, what we have provided the
25 Staff, Commissioner, is actual for legal, engineering, and

1 in-house up through August 31, 2000. We provided
2 accounting up through July 31, 2000. Then in all cases,
3 we have provided a relatively detailed estimate of what
4 additional costs we expect to incur through the conclusion
5 of this case.

6 All we would be able to do as of September 27th,
7 at least in the normal course of preparing bills by these
8 consultants, legal, engineering, and accounting, is
9 provide that one additional accounting bill because there
10 would not be one for September yet. We could provide,
11 like, daily runs or something like that like, I think,
12 Mr. Nixon has provided before, but I think it would be
13 preferable to have the entire month of September, which
14 would probably be what you would get if we followed the
15 traditional pattern, which is to provide a late-filed
16 exhibit as to that one additional month.

17 COMMISSIONER JABER: Mr. Burgess, do you have a
18 position on this?

19 MR. BURGESS: I don't. It is a difficult
20 balancing act. You need to have -- I mean, the two are
21 running in cross purposes to one another, the opportunity
22 to question and probe at the same time to get the latest
23 possible actual data available. Whatever you rule on it,
24 we'll just do the best we can with.

25 COMMISSIONER JABER: Thank you. Mr. Jaeger.

1 MR. JAEGER: I'm trying to figure out how many
2 bills -- you know, if it's a late-filed exhibit, when
3 would it come? And that would cover September and --

4 MR. DETERDING: If we filed a late-filed
5 exhibit, I assume it would come approximately 10 to 14
6 days after the first hearing where it was addressed. That
7 would give us time to -- the bills for the engineer, the
8 accountant, and legal would all have been issued for the
9 month of September for the full month. So, therefore, we
10 would include that time up through the end of September.

11 Now, it still wouldn't include the hearing, but
12 at least it would include actual bills for one more month
13 for all three plus that additional one for the accountant.
14 Whereas, the end of the month, at least according to the
15 normal billing cycle right now, would include nothing more
16 than we have right now with the exception of Nixon's one
17 bill for August.

18 COMMISSIONER JABER: Staff, is it normal
19 practice to ask for the information as a late-filed
20 exhibit?

21 MR. JAEGER: Generally we have had a late-filed.
22 I remember in Florida Water Service's they brought in,
23 like, three volumes on the last -- what would have been
24 the last day of the hearing, and then we had to continue
25 the hearing because it was just too much for us to review,

1 but I have seen it. I think in most instances they
2 project it in their rebuttal as far as they can and then
3 do a late-filed.

4 COMMISSIONER JABER: You don't want projected
5 rate case expense through the conclusion of the hearing on
6 September 27th, though? You're asking me to allow actual
7 expenses to be filed through September 27th. What is it
8 that Staff would like?

9 MR. JAEGER: For them to project -- you know, if
10 they give us a bill on -- you know, whatever they can give
11 us through September 27th, and then we'll use the
12 projections that they have already given us from that date
13 forward, or if they -- like the last bill shows it was --
14 came in for August, then we would use their projections
15 for September on.

16 COMMISSIONER JABER: Here's what we're going to
17 do. If Aloha will provide what it has with respect to
18 rate case -- all of the rate case expense on
19 September 27th and then a late-filed exhibit a week after
20 the hearing.

21 MR. JAEGER: Okay. And that's the hearing on
22 the 2nd and 3rd, so it would be on the 10th that you're
23 talking about.

24 COMMISSIONER JABER: That's right.

25 MR. JAEGER: If we don't complete the hearing

1 then --

2 COMMISSIONER JABER: A week after --

3 MR. DETERDING: We would be glad to supplement
4 it then too. I mean, we want to give you all the actual
5 we can.

6 MR. JAEGER: Late-filed exhibit on
7 September 10th then.

8 COMMISSIONER JABER: Right.

9 MR. JAEGER: And updating on September 27th.

10 MR. BURGESS: Now, Commissioner, I assume that
11 in posthearing statements that, of course, that can be
12 addressed, the reasonableness of the amounts included in
13 the late-filed is something that can be addressed,
14 notwithstanding that there wouldn't be any testimony
15 addressing that at that point because the hearings will be
16 closed out.

17 COMMISSIONER JABER: Well, actually, I think
18 typically what we do is allow parties to respond to
19 late-filed exhibits. And if you remind us at the hearing,
20 we'll set a time period for that, and it's usually 10 days
21 after the late-filed exhibit comes in.

22 MR. BURGESS: Very good. Thank you.

23 COMMISSIONER JABER: Mr. Jaeger, you've got for
24 Number 3, "Posthearing briefs shall together total no more
25 than 40 pages." What do the rules provide?

1 MR. JAEGER: The boiler -- I'm not sure if it's
2 the rules, but the boilerplate that we always put in here
3 is 40 days, and it has a caveat in there. It may be
4 expanded -- let me see if I've got the language there, but
5 it may be expanded at the Hearing Officer's discretion.

6 COMMISSIONER JABER: How many issues do you have
7 in this case?

8 MR. JAEGER: It's hard to tell because we've
9 been -- I didn't move them around and didn't number them,
10 but it started out at about -- we had 47 issues, and I
11 think we kept about four or five of OPC's and one of the
12 Utility's, so I would be guessing around 52, 53 issues.

13 MR. BURGESS: Commissioner, may I address that?

14 COMMISSIONER JABER: Yes.

15 MR. BURGESS: It appears to me that there are a
16 large number of issues, and a number of the issues have
17 considerable depth to them. I would request that we be
18 allowed to expand that, and with the assurance that if we
19 don't need it, we're not going to add pages just to do it.
20 But rather than perhaps find ourselves in a bind as we try
21 to address these and come in with a posthearing motion
22 asking for additional pages, I would ask if you would
23 allow us more pages, and then with just the recognition
24 that, we will be judicious in our use of that.

25 COMMISSIONER JABER: Yeah, Mr. Jaeger, I was

1 thinking 60 pages is more in line with a rate case such as
2 this.

3 MR. JAEGER: Let me get to Rule 28-106.215.
4 That's the Uniform Rules, and I think that's where it says
5 the -- I think I misspoke when I couldn't remember the
6 rule there, just let me look.

7 COMMISSIONER JABER: Mr. Burgess, 60 pages
8 should be fine.

9 MR. BURGESS: Okay. If I had to write more than
10 60 pages, I'd stop.

11 MR. JAEGER: The last sentence of 28-106.215
12 just says, "Unless authorized by the Presiding Officer,
13 proposed order shall be limited to 40 pages." And so I
14 think that's where we were getting the 40 for our deal.
15 So it's up to you, and I've seen it go up to 60 quite a
16 bit.

17 COMMISSIONER JABER: We're going to allow
18 60 pages, but that's not an invitation to take up all the
19 60 pages, but I think 60 pages is more in line with a rate
20 case. Now, I want to go back to -- you said Aloha has
21 filed a motion to strike rebuttal testimony of Mr. Bidy,
22 and that was filed today. I want to defer ruling on that
23 until I see OPC's response, and we'll issue a written
24 order -- Mr. Jaeger?

25 MR. JAEGER: Yes.

1 COMMISSIONER JABER: We'll issue an order later.
2 Any other preliminary matters, Ralph?

3 MR. JAEGER: No, not if we're going to go
4 through the issues real quick. We have a change to one of
5 the Staff's positions on the issues, and I think Marty may
6 have updating on some of his issues.

7 COMMISSIONER JABER: All right.

8 MR. JAEGER: Unless you wanted to go through the
9 stipulations, because I think Marty had some problem with
10 the stipulations.

11 COMMISSIONER JABER: Okay. We'll save that
12 until the end. I'm looking at the first page. Other than
13 the date of the prehearing, are there changes to the
14 first page?

15 MR. JAEGER: That's been changed on my machine
16 but not given to the parties yet. It's September 18th is
17 the date.

18 COMMISSIONER JABER: Okay. Page 2. Page 3.
19 Page 4. Page 5. Mr. Jagger, you're going to change that
20 to 60 pages --

21 MR. JAEGER: Yes.

22 COMMISSIONER JABER: -- under posthearing
23 procedures?

24 MR. JAEGER: That's right.

25 MR. WHARTON: Commissioner, it's probably a

1 minor point, but on Page 3 -- never mind.

2 MR. JAEGER: That minor.

3 MR. DETERDING: Too minor.

4 COMMISSIONER JABER: Now, you have piqued my
5 curiosity.

6 MR. WHARTON: There's a motion outstanding
7 whether OPC's rebuttal testimony was timely --

8 MR. DETERDING: Bidy.

9 MR. WHARTON: -- but that motion was --
10 (simultaneous conversation) -- on that issue.

11 COMMISSIONER JABER: Okay. I was on Page 5.
12 Page 6. Page 7. Staff, I noticed that you'd called --
13 you intend to call Mr. Watford as an adverse witness, and
14 in the interest, again, of efficiency during this hearing,
15 it seems to me that we should take up Mr. Watford up at
16 the same time rather than have him come to the stand three
17 different times.

18 I think we should handle all of the
19 cross-examination of Watford one time, and it would be my
20 preference to make Watford the last Utility witness.

21 MR. JAEGER: I think John is looking perplexed.
22 I think what she's saying is --

23 MR. WHARTON: I'm just trying to imagine that
24 procedurally in my mind.

25 COMMISSIONER JABER: Well, Staff --

1 MR. WHARTON: First the direct, then the adverse
2 direct, then cross, then the friendly cross. I'm not
3 disagreeing with you, I'm just trying to think about doing
4 them both at once. Live testimony -- first his prefiled
5 direct, then his live adverse testimony.

6 COMMISSIONER JABER: I see what you're saying.
7 So you would propose having Staff ask him whatever
8 questions they have with respect to reuse on direct.

9 MR. DETERDING: At the time that they are
10 calling their witnesses is the way I think we would prefer
11 it. I know it's been many years since, I think, we've at
12 least as to direct and rebuttal combined the two. It
13 doesn't work well from my perspective because they haven't
14 heard that and the cross-examination of that to which they
15 are filing rebuttal testimony.

16 MR. WHARTON: And what that avoids -- and I'm
17 sorry to double team the issue, Commissioner. What that
18 avoids to mind is, Mr. Burgess says, objection, and then
19 you say, all right, are you asking that question in
20 redirect, or are you asking that question on friendly
21 cross, on the adverse direct? It just gets a little --

22 COMMISSIONER JABER: Well, Mr. Burgess isn't
23 going to be doing redirect of Mr. Watford.

24 MR. WHARTON: I understand. But if someone was
25 objecting to a question that we ask, we both have the

1 right, if the testimony is combined, to do redirect of
2 Mr. Watford and to also ask what under the rules is called
3 friendly cross, which is responsive to the adverse
4 testimony solicited by counsel.

5 COMMISSIONER JABER: You're going to be asking
6 friendly cross?

7 MR. WHARTON: Right. So if we were asking at
8 the same time, it just seems --

9 COMMISSIONER JABER: All right. We'll leave him
10 as a direct witness for Staff, but I do want him to be the
11 Utility witness, and I will you why. As the president of
12 the company, I want him to be the last person on the stand
13 so that if there are any questions that the other
14 witnesses can't answer, he is available.

15 MR. WHARTON: And he'll be here the whole
16 hearing.

17 COMMISSIONER JABER: Okay. So in terms of the
18 order of witnesses, Mr. Jaeger, I've got Watford as the
19 last Staff witness as an adverse witness, and under
20 rebuttal, we'll have Nixon, Porter, Deterding, Watford,
21 and then OPC, Bidy.

22 Mr. Burgess, I didn't mean to leave you out of
23 that discussion, but --

24 MR. BURGESS: No, that's fine.

25 MR. JAEGER: At this time, Commissioner Jaber,

1 we'd like to serve the attorney for Aloha Utilities with a
2 subpoena for Stephen G. Watford as president of Aloha
3 Utilities to appear and bring -- also, in the subpoena we
4 talk about this reuse map that we discussed at length at
5 the deposition, if he'll bring that.

6 MR. DETERDING: The one he showed --

7 MR. JAEGER: The big --

8 MR. DETERDING: Yes.

9 MR. JAEGER: Here's the subpoena.

10 MR. DETERDING: Okay.

11 COMMISSIONER JABER: Mr. Jaeger, you need to
12 remember to speak in the mic. Now, as far as stipulating
13 prefiled testimony, you all have only done that for
14 David MacColeman -- oh, Paul Stallcup?

15 MR. JAEGER: We're still discussing
16 Mr. Stallcup, and we were trying to get with Mr. Nixon
17 today and the hurricane messed us up. He's in an airport,
18 or he's en route or something. I'm not --

19 MR. DETERDING: He's en route. He's in
20 Tennessee, somewhere in Tennessee.

21 MR. JAEGER: And so we didn't get the
22 stipulation whether Paul Stallcup -- they have agreed that
23 if they do need to call him, he would be the first witness
24 after customer testimony. So he would be the
25 first witness taken, actually.

1 MR. DETERDING: And, Commissioner Jaber, we were
2 trying to -- there were four issues we were trying to get
3 to, and I guess we will get to those as we get through --
4 that we were trying to give better positions, more
5 specific positions, and there is also the issue of the
6 stipulations and this witness, Mr. Stallcup.

7 We were planning on talking to Mr. Nixon this
8 morning when he returned to the office after being gone
9 for the last eight days, and we weren't even able to get
10 through to him. So we certainly want to provide that
11 information on all those things tomorrow or Wednesday at
12 the very latest.

13 COMMISSIONER JABER: Okay. We'll talk about
14 that at the end. We'll give some time frames.
15 Mr. Jaeger, it occurred to me that we may at some point
16 need to amend the prehearing order to take into account
17 the supplemental direct testimony, and if OPC and Staff
18 decide to file responsive testimony, you'd want to amend
19 the prehearing order.

20 MR. JAEGER: I'm trying to figure out -- you
21 know, like we issue the prehearing order, I think it's due
22 out next Monday, and then if -- would we do a supplemental
23 prehearing order, or how --

24 COMMISSIONER JABER: I think it would be helpful
25 for the November 2nd hearing, but certainly if there's

1 another idea to make it easier for the Commissioners to
2 follow, we'll talk about that later.

3 MR. JAEGER: Okay.

4 COMMISSIONER JABER: And it may be a nonissue if
5 no one files additional testimony, but for purposes of
6 this, you need to reflect that I've allowed the
7 supplemental testimony of Mr. Watford.

8 MR. JAEGER: Okay. That will be a ruling, and
9 it will be allowed.

10 COMMISSIONER JABER: Basic positions, any
11 changes? Page 8, Issue 1. Issue 2. Issue 4. You'll
12 renumber all of these, Mr. Jaeger?

13 MR. JAEGER: Yes, Commissioner.

14 COMMISSIONER JABER: Issue 4. Issue 6.
15 Issue 8. Utility Issue 4 is the issue related to the
16 supplemental direct testimony, and I've allowed that to
17 remain, Mr. Jaeger. Any changes to it?

18 And, Mr. Burgess, you'll be updating your
19 position, I would imagine.

20 MR. BURGESS: I'm sorry. I apologize,
21 Commissioner. What issue were you --

22 COMMISSIONER JABER: Page 10, Utility Issue 4.

23 MR. BURGESS: Okay. I saw that as 14, sorry.

24 COMMISSIONER JABER: No problem.

25 MR. JAEGER: Page 11, OPC and Staff will, I

1 guess, modify our position in regards to your ruling.

2 COMMISSIONER JABER: Issue 3, Page 11. Issue 9.
3 I'm on Page 12. OPC Issue 31. Issue 10.

4 MR. DETERDING: Commissioner, that's one of the
5 issues that we're going to provide a little better
6 position on. It will still say, yes, but provide a little
7 more detail.

8 COMMISSIONER JABER: Page 13.

9 MR. JAEGER: At the bottom, if there's nothing
10 before that, on Issue 13, Staff would like to change it's
11 position. It's actually on Page 14. I guess I should
12 have waited for that. But instead of -- "We see no
13 position pending further development of the record" is
14 what we want put in there.

15 COMMISSIONER JABER: You're on Issue 13, Staff's
16 position --

17 MR. JAEGER: I'm sorry. I looked at this wrong.
18 It was OPC Issue 13. I'm sorry. We'll wait. I made an
19 error.

20 COMMISSIONER JABER: So we're not there yet is
21 what you're saying?

22 MR. JAEGER: No.

23 COMMISSIONER JABER: Okay. Page 13. Page 14.

24 MR. DETERDING: On Issue 14, I believe that's
25 another that we're going to provide a position on tomorrow

1 or Wednesday.

2 COMMISSIONER JABER: When is your prehearing
3 order due again?

4 MR. JAEGER: Next Monday.

5 COMMISSIONER JABER: Issue 14-A. Page 15, Issue
6 15. Issue 16. Issue 18. Page 16. Page 17.

7 MR. DETERDING: Issue 21, I believe, is
8 another -- is another one of the four that we will need to
9 provide a little clarification and our position on.

10 COMMISSIONER JABER: You know, Mr. Deterding, if
11 you will go through all of the positions, I can tell you
12 that one of the things that I find helpful is that on all
13 of the positions where you've got as per the MFRs or as
14 per someone's testimony, if you will just clarify all of
15 those, I think that that's really helpful.

16 MR. DETERDING: Okay. We were already doing
17 that as to the ones that referred to his rebuttal. That's
18 what Staff brought to my attention that you wanted to see,
19 Commissioner, but I'll do that as to the MFRs as well.

20 COMMISSIONER JABER: Page 18.

21 MR. DETERDING: I have a clarification on Issue
22 23, the Utility's position. It doesn't make sense, so let
23 me try and clarify. Third line of our position after the
24 comma, "The information concerning experts was in error,"
25 I think it should say, "expected paying customers" in

1 place of the word "experts".

2 COMMISSIONER JABER: So read the whole sentence
3 then.

4 MR. DETERDING: "While the Staff calculation is
5 mathematically correct based on the information provided
6 on gallons of reuse to be sold, the information concerning
7 expected paying customers was in error."

8 COMMISSIONER JABER: Issue 24. Page 19, New
9 Issue, OPC Issue 8. "Should an adjustment be made to
10 remove an administrative employee" doesn't sound like it's
11 worded correctly, Mr. Burgess.

12 MR. BURGESS: We have worked with that a couple
13 of times. We had a lot more information in our initial
14 presentation of the issue, and the Utility objected to the
15 issue as actually framing the answer. And in sensitivity
16 to that, we tried to make it more general, and now we have
17 it to where, I agree with you, it doesn't provide enough
18 information for the Commission.

19 What it amounts to is, there is an
20 administrative employee who has been added which the
21 Utility justifies as a result of its agreement with DEP,
22 and we suggest that it's not included in that agreement,
23 and that was the problem. And so that was how we
24 identified the particular employee was we said, "Should
25 the administrative employee that has not been required by

1 the DEP agreement be removed for the purpose of setting
2 rates," and that was what the company objected to. So I'm
3 open to any language that would clarify it for the
4 Commission; at the same time avoid the bias that the
5 company objected to the first time around.

6 COMMISSIONER JABER: And I see what you've just
7 said to me you've phrased in your position --

8 MR. BURGESS: Yeah.

9 COMMISSIONER JABER: -- but in terms of the
10 wording of the issue, it's the expenses associated with
11 the employee that you think warrant an adjustment; right?

12 MR. BURGESS: That's correct.

13 COMMISSIONER JABER: So should an adjustment be
14 made to remove expenses --

15 MR. BURGESS: Oh, I see. Okay.

16 COMMISSIONER JABER: -- associated with an
17 administrative employee? Perhaps you all could work on
18 the language that you agree upon, but it's the expenses
19 associated with that I'm pointing --

20 MR. BURGESS: I see, yes.

21 MR. JAEGER: Well, I think we had finally worked
22 out that it's in the positions that you realize where the
23 actual fight is or what's happening.

24 COMMISSIONER JABER: All right. Issue 25.
25 Issue 26. Now, OPC Issue 11 is not the same, Mr. Burgess,

1 as the issue you and I just discussed?

2 MR. BURGESS: No, no. The issue we discussed
3 was more of an administrative-type personnel, and this is
4 actually the issue of -- our belief is that the new
5 controller has a great deal more accounting experience and
6 expertise than the previous one, and therefore, the amount
7 of outside services required will be lowered, and that's
8 what we're bringing up here.

9 COMMISSIONER JABER: Issue 29. I'm on Page 21.
10 Page 22. Mr. Deterding, OPC Issue 10, you'll be fixing
11 your position there as well?

12 MR. DETERDING: Yes, Commissioner.

13 MR. JAEGER: Okay. OPC Issue 13, this is the
14 one where I made the error earlier.

15 COMMISSIONER JABER: Okay.

16 MR. JAEGER: And the Staff's new position is no
17 position pending further development of the record.

18 MR. DETERDING: I'm sorry, that was --

19 MR. JAEGER: OPC Issue 13. It's actually on the
20 next page. No position pending further development of the
21 record.

22 COMMISSIONER JABER: Are you waiting on
23 outstanding discovery, or you're waiting on
24 cross-examination?

25 MR. JAEGER: Cross-examination, Commissioner.

1 COMMISSIONER JABER: Is there outstanding
2 discovery?

3 MR. BURGESS: I don't think there is outstanding
4 discovery on this issue.

5 COMMISSIONER JABER: On any issue?

6 MR. WHARTON: Yes.

7 MR. BURGESS: Oh, on any issue. I'm sorry.

8 MR. DETERDING: Definitely.

9 MR. WHARTON: We have three sets still due that
10 I know of.

11 COMMISSIONER JABER: All right. The rest of
12 Page 23, any other changes? Page 24. Page 25.

13 MR. DETERDING: And, Commissioner, Issue 23 is
14 the last of the ones that we were -- where we needed to
15 make some revisions to.

16 MR. JAEGER: He said Issue 23; he meant Issue
17 33, I believe.

18 MR. DETERDING: 33, I'm sorry.

19 MR. JAEGER: Yes.

20 COMMISSIONER JABER: All right. Issue 34.
21 Issue 35. 36 and 38 are the fallout issues. Anything on
22 Page 27? Page 28. Page 29.

23 MR. DETERDING: On Issue 45, Aloha's position,
24 "No. As was stated in the rate case," should be "reuse
25 case," not rate case.

1 COMMISSIONER JABER: I notice, Mr. Jaeger, that
2 the parties agree on this issue, but because it's an
3 enforcement-type issue, I'm assuming you're leaving it in
4 for the Commissioners?

5 MR. JAEGER: Yes, Commissioner. We could still
6 put it in the stipulation, and then it would be up to the
7 panel still to vote on the stipulation. So I didn't think
8 it mattered whether it was done as a stipulation or left
9 as an issue.

10 COMMISSIONER JABER: Well, I noticed that you
11 have witnesses that can address that issue, so it would be
12 my preference to leave it in for the convenience of the
13 Commissioners in the event they have questions.

14 Page 30. We have a witness on whether the
15 docket should be closed?

16 MR. DETERDING: No.

17 COMMISSIONER JABER: That's correct, or --
18 actually, it's unusual to have this issue in there; isn't
19 it, Mr. Jaeger?

20 MR. JAEGER: Okay. Nixon and Watford will be
21 stricken. We've got two witness.

22 MR. DETERDING: They will be glad to discuss
23 that if you'd like, but I think we will have enough
24 testimony.

25 COMMISSIONER JABER: All right. Exhibit list.

1 Page 31. Mr. Jaeger, you need to go ahead and identify
2 the exhibit that's going to be attached to the
3 supplemental direct testimony.

4 MR. JAEGER: Okay. That was on 34, I think.
5 Well, supplemental direct, I guess it would go -- just a
6 second. I guess the problem with supplemental direct,
7 it's his first testimony, and he's not supplementing any
8 of his.

9 COMMISSIONER JABER: You just need to create a
10 section called supplemental direct.

11 MR. JAEGER: Okay. I think we need to -- let me
12 see. In the list of the witnesses, going back at the very
13 beginning, we don't have him listed at all at the very
14 beginning for supplemental direct.

15 COMMISSIONER JABER: Right. And I asked you to
16 add that. So you can add that in that section and in the
17 exhibit section.

18 MR. JAEGER: Okay.

19 COMMISSIONER JABER: Mr. Burgess, did you turn
20 on your mic? Do you have any changes to the exhibit list?

21 MR. BURGESS: No, Commissioner.

22 COMMISSIONER JABER: Page 35.

23 MR. DETERDING: And, again, Commissioner, we're
24 working on what we can stipulate to with the Staff, and
25 hopefully we will have all of that by tomorrow, if not, by

1 Wednesday at the latest.

2 COMMISSIONER JABER: Now, help me understand,
3 weren't these the positions that were taken from the
4 issues, and they corresponded to Staff's positions or
5 OPC's positions?

6 MR. DETERDING: Well, those that we are unable
7 to tell you today about are those that correspond, I
8 think, to the ones that are still subject to our laying
9 out our position. As to -- some of them we could deal
10 with right this minute if you'd like, Commissioner.

11 For instance, I believe MacColeman, Number 1, we
12 definitely can agree with that. Mr. Jaeger and I talked
13 about this a little while ago. 2 and 3 I'm not sure
14 about. I want to talk to Mr. Nixon before I give a
15 definitive answer on those. The same is true with the
16 Issue 7 shown there. I'm not sure what that -- what we're
17 talking about there, and I was --

18 MR. JAEGER: What happened was, you know, Number
19 3, stipulation, is setting out Issue 7 below.

20 MR. DETERDING: Right, right.

21 MR. JAEGER: And so I was just saying that was
22 the one I wasn't sure about. I thought it was a
23 stipulation, but I left the issue right there so you could
24 compare the two and see if you could.

25 MR. DETERDING: Right.

1 MR. JAEGER: But that's the one where Nixon just
2 said, yes, but he didn't put in numbers. And so he may
3 be, yes, but with slight differences from what Staff and
4 OPC has --

5 MR. DETERDING: Yes, to the nature of the
6 adjustments. So that's why I wanted to leave that one.
7 4 and 5, we said we can stipulate on those. 6 and 7,
8 again, those are things I need to discuss with Mr. Nixon
9 before we give a final position on --

10 COMMISSIONER JABER: And, Mr. Jaeger, with
11 respect to the rest of these, other than Issue 7, you've
12 taken them out of the issue and put them under proposed
13 stipulations?

14 MR. JAEGER: Yes.

15 COMMISSIONER JABER: So they cannot be
16 stipulated --

17 MR. JAEGER: Then we will have to put them back.
18 We have OPC's positions, and I'll run them by Steve and
19 make sure that they're still good if we have to put the
20 issue back in.

21 COMMISSIONER JABER: All right. Category Two
22 Stipulations, Page 36.

23 MR. JAEGER: Okay. Mr. Deterding, that went
24 farther than it needed to, and what we want to do is keep
25 the first four lines of Stipulation 8, and at the end of

1 the order on the fifth line "WS," just cut it off there.
2 So delete everything starting with "which stated that it
3 was not appropriate." Just say, "This is consistent with
4 Order Number PSC-97-0280-FOF-WS," and cross out the four
5 lines after that.

6 COMMISSIONER JABER: Page 37.

7 MR. JAEGER: I think Marty had a problem with
8 the Stipulation 9. He wasn't sure if they were going to
9 go with the 25 cents or the 32 cents, so we have to put
10 that back in as an issue.

11 MR. DETERDING: Yeah. And here's my concern,
12 Commissioner. Aloha's primary focus, especially in light
13 of the direction it received in its reuse case and the
14 strong message that was sent to this utility to pursue
15 reuse customers, is that as you increase the price, the
16 likelihood of getting more customers is going to decrease.
17 We don't know how much. I don't think anybody can gauge
18 that; maybe only a minuscule amount, even though this is,
19 you know, a 15, 20 percent increase in the rate proposed.
20 But we really don't know where that's going to lead us,
21 but we're not sure we should be stipulating to an increase
22 in that rate.

23 Frankly, my client believes, and I think he has
24 a very good point, that what the Commission ought to be
25 doing is setting a rate of, like, 10 cents or and 5 cents

1 until the Utility has ample customers on line and then
2 increasing the rate. But since this is a rate that is
3 driven more by a policy decision than it is by cost
4 factors, that's kind of our view of it, and I'm not sure
5 that we could really stipulate to what the rate ought to
6 be.

7 I will say, as I told Ralph, to my knowledge,
8 the only evidence on the record on this issue is that of
9 Ms. Merchant, and we have provided no rebuttal. So I
10 think it's pretty obvious where the evidence will fall.
11 I'm just not sure we should be stipulating to the increase
12 in that rate.

13 COMMISSIONER JABER: Is this the issue or one of
14 the issues you would ask Watford about?

15 MR. JAEGER: No.

16 COMMISSIONER JABER: You calling Mr. Watford as
17 an adverse witness relates to which issue?

18 MR. JAEGER: Only on the availability of reuse
19 customers is what we're asking Mr. Watford on as an
20 adverse witness.

21 MR. DETERDING: I do believe it is somewhat
22 related. I mean, I'm not saying the Staff is going to ask
23 him one question about whether he thinks that's the right
24 rate, but it is somewhat -- they are somewhat interrelated
25 in our minds.

1 COMMISSIONER JABER: So you will add
2 Number 9 back into the issues?

3 MR. JAEGER: It's listed as Issue 39, I think,
4 in everybody's previous copies, and so we would add
5 Issue 39 back in. The reason I had it as a stipulation,
6 the first sentence of Aloha's position, "Aloha would agree
7 with the proposed Staff reuse rate," and then they add
8 their caveat about, "However, it should be kept in mind
9 that the higher the rate, the less likely Aloha is to be
10 able to sell the effluent in the first place." So since
11 they were not putting anything in rebuttal or in direct
12 and that was the only testimony was the 32 cents, I
13 thought it was a stipulation.

14 COMMISSIONER JABER: Mr. Deterding, the position
15 you had in your prehearing statement on that issue, you're
16 not making any changes; is that --

17 MR. DETERDING: No.

18 COMMISSIONER JABER: Number 10.

19 MR. DETERDING: And we'll stipulate to that,
20 Commissioner.

21 COMMISSIONER JABER: All right. We've addressed
22 pending motions, and we've addressed rulings. Are there
23 any other items before we go through the dates for the
24 rest of the proceeding?

25 All right. I think that giving us new

1 positions, Mr. Deterding, by the close of business on
2 Wednesday is fine. If the prehearing order is not due
3 until Monday, Ralph, I think close of business Wednesday
4 is adequate. And that would be --

5 MR. JAEGER: September 20th.

6 COMMISSIONER JABER: Next Wednesday. What day
7 is that?

8 MR. JAEGER: In two days would be the 20th, and
9 then my --

10 COMMISSIONER JABER: Today is Monday.

11 MR. JAEGER: -- order will be due out Monday.

12 So today's the 18th.

13 MR. DETERDING: We have no problem with
14 Wednesday. We'll try and get it to him by tomorrow.

15 COMMISSIONER JABER: Great. All right. By the
16 close of business September 20th. Mr. Burgess, you are
17 going to modify a couple of positions too?

18 MR. BURGESS: Correct. That's fine. That's
19 plenty of time for us.

20 MR. JAEGER: Steve, I also haven't gotten your
21 witnesses, and if you'll do that as these issues are --

22 MR. BURGESS: Yeah. I noticed that, and I
23 started thinking that -- I guess we sent them over on all
24 the new issues or new positions and not the existing ones
25 that we had gone over at the pre-prehearing, but you need

1 those, and we'll provide those.

2 COMMISSIONER JABER: Mr. Jaeger, why don't you
3 run down the new dates, include when the hearing
4 transcripts will be provided, when the briefs will be
5 provided?

6 MR. JAEGER: Okay. As we discussed earlier, the
7 hearing has been moved to October 2nd and 3rd, and we had
8 originally had the transcripts due the 9th and briefs on
9 the 23rd. But since we're looking at a third day,
10 November 2nd, and that's -- let me get that. I guess what
11 we had originally said, we would probably give the -- our
12 court reporter two weeks to do the transcripts on the
13 first part of the hearing, the 2nd and 3rd, instead of --
14 that was hurrying them to get it done on October 9th, and
15 so we would have the transcripts due for the first two
16 days of the hearing on -- in two weeks, so that would be
17 the 16th, but then after the November 2nd hearing, we
18 would have transcripts due on November the 9th.

19 And since they have had the transcripts for the
20 rest of the hearing, all that time, we would have briefs
21 due on November 22nd, I believe that's the day before
22 Thanksgiving. I'm not sure, but November 22nd is a
23 Wednesday.

24 And then Staff would bring it to agenda as
25 quickly as possible. We were looking at either the

1 January 2nd or January 16th, but the transcripts will be
2 due November 9th, and then briefs due November 22nd.

3 COMMISSIONER JABER: Great. Mr. Burgess,
4 anything?

5 MR. BURGESS: No, Commissioner. I think
6 that's --

7 COMMISSIONER JABER: Mr. Deterding.

8 MR. DETERDING: Nothing. Thank you.

9 MR. JAEGER: That's all I had.

10 COMMISSIONER JABER: This prehearing is
11 adjourned.

12 (Prehearing conference concluded at 3:30 p.m.)

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1 STATE OF FLORIDA)

2 : CERTIFICATE OF REPORTER

3 COUNTY OF LEON)

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5 I, TRICIA DeMARTE, Official FPSC Commission Reporter,
6 do hereby certify that the Prehearing Conference in Docket
7 No. 991643-SU was heard by the Florida Public Service
8 Commission at the time and place herein stated.

9 It is further certified that I stenographically
10 reported the said proceedings; that the same has been
11 transcribed under my direct supervision; and that this
12 transcript, consisting of 47 pages, constitutes a true
13 transcription of my notes of said proceedings.

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

19 DATED this 25th day of September, 2000.

20

21

Tricia DeMarte

TRICIA DeMARTE

22

FPSC Official Commission Reporter

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(850) 413-6736

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FLORIDA PUBLIC SERVICE COMMISSION