

BEFORE THE  
FLORIDA PUBLIC SERVICE COMMISSION

DOCKET NO. 070695-WS

IN THE MATTER OF:

APPLICATION FOR INCREASE IN WATER AND  
WASTEWATER RATES IN MARTIN COUNTY BY  
MILES GRANT WATER AND SEWER COMPANY.



PROCEEDINGS: AGENDA CONFERENCE  
ITEM NO. 19

BEFORE: CHAIRMAN MATTHEW M. CARTER, II  
COMMISSIONER LISA POLAK EDGAR  
COMMISSIONER KATRINA J. McMURRIAN  
COMMISSIONER NANCY ARGENZIANO  
COMMISSIONER NATHAN A. SKOP

DATE: Thursday, November 13, 2008

TIME: Commenced at 9:30 a.m.

PLACE: Betty Easley Conference Center  
Room 148  
4075 Esplanade Way  
Tallahassee, Florida

REPORTED BY: JANE FAUROT, RPR  
Official FPSC Reporter  
(850) 413-6732

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PARTICIPATING:

PATRICIA CHRISTENSEN, ESQUIRE, and TRICIA MERCHANT,  
representing the Office of Public Counsel.

MARTIN S. FRIEDMAN, ESQUIRE, and JOHN WILLIAMS,  
representing Miles Grant Water and Sewer Company.

JEAN HARTMAN, ESQUIRE, JARED DEASON, BART FLETCHER,  
SONICA BRUCE, and MARSHALL WILLIS, representing the Commission  
Staff.

## P R O C E E D I N G S

1  
2           **CHAIRMAN CARTER:** And with that, Commissioners,  
3 we are on Item 19. And we have a call in.

4           Chris, are we live?

5           Good morning, Ms. Moody.

6           **MS. MOODY:** Good morning.

7           **CHAIRMAN CARTER:** How are you today?

8           **MS. MOODY:** We are good. How are you?

9           **CHAIRMAN CARTER:** All right.

10           Let me kind of give you the lay of the  
11 landscape. We are going to have staff to introduce the  
12 issue, and then we'll come back to you for your comments,  
13 and then we will go ahead on and proceed and you can  
14 listen in as we go through our deliberations.

15           **MS. MOODY:** Thank you.

16           **CHAIRMAN CARTER:** Staff, you're recognized.

17           **MR. DEASON:** Commissioners, I'm Jared Deason  
18 with Commission staff. Item 19 concerns an application  
19 for an increase in water and wastewater rates by Miles  
20 Grant Water and Sewer Company. Miles Grant is a Class B  
21 water and wastewater utility located in Martin County.  
22 The utility's rates were last established in 1988.

23           Staff has an oral modification on Page 9 of the  
24 recommendation, specifically in the second sentence of the  
25 recommendation paragraph, it reads, "Corresponding

1 adjustments should be made to decrease accumulated  
2 depreciation." It should be corrected to read,  
3 "Corresponding adjustments should be made to increase  
4 accumulated depreciation."

5 On Page 27 of the recommendation, specifically,  
6 staff needs to add the following language at the end of  
7 its recommendation paragraph, "The appropriate residential  
8 water/wastewater gallonage cap should be set at 6,000  
9 gallons per month."

10 On Page 31 of the recommendation in Table 15-2,  
11 staff would like to correct the typical residential bills  
12 calculation at 10,000 gallons level for its recommended  
13 and the two alternative rate structures. Specifically,  
14 the recommended Alternative 1 and Alternative 2, 10,000  
15 gallon typical residential bill should be \$74.72, \$67.53,  
16 \$59.92 respectively. These changes have no effect on  
17 staff's recommended revenue requirement, and staff is  
18 prepared to answer any questions the Commissioners may  
19 have.

20 **CHAIRMAN CARTER:** Thank you.

21 Let's take appearances of the parties first.  
22 You're recognized.

23 **MR. FRIEDMAN:** Yes, this is Martin Friedman of  
24 the law firm of Rose, Sundstrom & Bentley, and we  
25 represent Miles Grant Water and Sewer Company. And also

1 with me is Mr. John Williams, who is the Director of  
2 Government Affairs for Utilities Inc. and its subsidiary.

3 **CHAIRMAN CARTER:** Thank you.

4 **MS. CHRISTENSEN:** Good morning.

5 My name is Patty Christensen. I am with the  
6 Office of Public Counsel, and with me is Ms. Tricia  
7 Merchant.

8 **CHAIRMAN CARTER:** Thank you.

9 With that, staff has introduced the issue, we  
10 have got an identification of the parties for the record.

11 Ms. Moody?

12 **MS. MOODY:** Hello.

13 **CHAIRMAN CARTER:** We will give you an  
14 opportunity to make a statement and you are now  
15 recognized.

16 **MS. MOODY:** Okay, thank you. I guess my big  
17 question is, is how did Miles Grant Water and Sewer  
18 operate successfully from 1988 until today with their  
19 yearly increase. They obviously made nice improvements  
20 required, and had cash flow to continue their operations.  
21 We even toured their plant this summer, and the staff told  
22 us everything was up-to-date. And then we were notified  
23 by the Public Service Commission staff that this huge rate  
24 increase is their proposal, 37 percent for the water and  
25 72.7 percent for the sewer.

1           This is huge. We will now have the highest  
2 water and sewer rate in Martin County and we will be  
3 paying actually 40 percent more than anyone else in the  
4 county. Miles Grant is a mostly a retired community with  
5 many people living here, many over 30 years, and this huge  
6 increase will have a big impact on their financial future,  
7 especially when everything else we need to have has gone  
8 up and houses are not selling.

9           How would you feel if you went to a store and  
10 something went up 72 percent? Would you buy it? But we  
11 have no choice. Here in our water and sewer there are no  
12 choices and we wonder why we are being punished. AIG, who  
13 owns Utilities Inc., is in the newspapers weekly,  
14 mismanaged, investigated for fraud, receiving government  
15 money.

16           With only 1,200 customers and no room for  
17 expansion, Miles Grant Water and Sewer Company cannot  
18 compete fairly with other water companies. Rather than  
19 give us such an exorbitant increase, we are requesting  
20 that the Public Service Commission force the sale of Miles  
21 Grant Water and Sewer Company to a larger utility that  
22 charges reasonable rates. Alternately, we request that  
23 the Public Service Council (sic) urge the public to only  
24 allow Miles Grant Water and Sewer to charge competitive  
25 rates without regard for the water's profitability.

1 Thank you.

2 **CHAIRMAN CARTER:** Thank you so kindly, Ms.

3 Moody.

4 Commissioners, do you want to hear from staff  
5 and the parties, or do you want some questions or  
6 concerns? We will go however you guys want to do it.

7 Do you want to hear from the company?

8 Staff, you're recognized.

9 **MR. FLETCHER:** Yes, Commissioners.

10 With regard to her first concern about the level  
11 of the increase, as Mr. Deason mentioned in his intro, it  
12 has been over 20 years since the utility's last rate case.  
13 And also the utility has requested pro forma plant and  
14 expenses in its current case. There has been a new  
15 financial system put in place and a customer care billing  
16 system put into place at the intermediate parent level.  
17 And, you know, UI is, you know, doing business in 13  
18 states and has about 20 subsidiaries here in Florida, and  
19 that system is to cover all of those systems, that new  
20 financial and customer care package billing system.  
21 That's another reason for the level of the increase.  
22 There has been -- again, it's over 20 years since the last  
23 case to address that first concern.

24 Regarding AIG, Ms. Moody mentioned about the  
25 fraud and mismanagement, I know that there was -- I'm not

1 sure if it was her or another customer at the customer  
2 meeting had actually stated that there was an article at  
3 the time back in July where there was some fraudulent  
4 accounting practices and an article that was presented to  
5 staff.

6           As I mentioned at the customer meeting, that is  
7 at the ultimate grandparent level, the AIG. What  
8 happens -- when the company, AIG, purchased UI, the  
9 intermediate parent of Miles Grant, we actually had an  
10 audit, an affiliate transaction audit back around 2007 in  
11 relation to other sister company rate cases that we had.  
12 We had an affiliate transaction on it. We actually looked  
13 to make sure that there were no acquisition costs that  
14 were passed down to the ratepayers of the PSC-regulated  
15 companies here in Florida. The auditors paid particular  
16 attention to make sure none of that cost was flowed  
17 through to the ratepayers.

18           What we also do is in our '07 audit and also in  
19 the audits that we have, the affiliate transaction audit  
20 that we had for this case, we actually looked at it to  
21 make sure that they made all the Commission ordered  
22 adjustments regarding allocation and there were -- I think  
23 there was only one finding, it was not that material,  
24 regarding the affiliate transaction audit. It was  
25 actually an allocation where workers were working on a



1 Louisiana plant and, you know, we needed to reduce the  
2 allocation, rate base allocation as a result of that.  
3 That's the only really audit finding that we came back as  
4 far as the intermediate allocations for both rate base and  
5 expenses.

6           And then also in each and every case before the  
7 Commission, our auditors examined the books and records of  
8 the regulated company pursuant, you know, for Miles Grant,  
9 and we had audit findings back, some on which the utility  
10 agreed. But, basically, what I'm trying to say is that  
11 the ultimate grandparent level, those accounting  
12 practices, we kind of -- that really didn't flow down that  
13 we could see in our auditors' examination of the affiliate  
14 transactions and the company specific, because we are on a  
15 regulatory accounting system, the NARUC, and there were no  
16 findings regarding noncompliance with the NARUC uniform  
17 system of accounts as far as what they are supposed to  
18 adhere to.

19           As far as a request, a force sale, Jean can  
20 correct me if I'm wrong, the Commission in the past, it's  
21 charged with the responsibility -- you can cancel the  
22 certificate of the utility. Usually grounds for canceling  
23 a certificate has been they haven't been complying with  
24 DEP or the Department of Health rules and violations. I  
25 know there was a case in the past, Shady Oaks, where you

1 actually canceled their certificate for that. But as far  
2 as forcing a sale, if they are in compliance with DEP and  
3 the Department of Health rules, the water quality and  
4 wastewater quality standards, then I'm not sure that we  
5 can cancel their certificate or force a sale. That would  
6 be, I think, in the utility's discretion there whether  
7 they wish to sell that subsidiary to the county or any  
8 other surrounding municipality.

9           As far as charging the competitive rates for the  
10 surrounding counties, again, the Commission is bound by  
11 367.081 to set rates that are fair, just, and reasonable,  
12 compensatory, and not unduly discriminatory. And we have  
13 to look at the specific company that files for rate  
14 relief, look at their specific investment level, look at  
15 their prudent and reasonable expenses which to set rates  
16 on.

17           And, you know, to compare them to surrounding  
18 municipalities, it would be a mismatch there as far as it  
19 wouldn't comply with the statute, but also I would like to  
20 point out that there would be a mismatch, because  
21 municipalities, they don't pay property taxes or income  
22 taxes. There are certain things that where they set their  
23 rates that they don't incur certain expenses that  
24 PSC-regulated privately-owned companies incur. So I think  
25 that addresses her concern.

1           **CHAIRMAN CARTER:** I think so.

2           Commissioner Argenziano.

3           **COMMISSIONER ARGENZIANO:** Yes. Could you -- and  
4 I'm looking at it, but for the record could you explain to  
5 me what the current rates are for the customers and what  
6 they will be?

7           **MS. BRUCE:** Commissioners, my name is Sonica  
8 Bruce, and I'm the rate analyst on this case. And the  
9 current rates for the utility for the water system, the  
10 current BFC would be \$13.60. There is a two-tiering kind  
11 of block rate structure where in the first block the  
12 gallonage charge would be \$4.30, the second block, 3k  
13 gallon and over would be \$6.46. For the wastewater, we  
14 are recommending a BFC of \$18.98 with the gallonage charge  
15 capped at 6 k/gal at 9.29.

16           **COMMISSIONER ARGENZIANO:** So the average bill  
17 will go up, let's see, per -- what was it, 3,000 gallons?

18           **MS. BRUCE:** The average use is 3,000 k/gal.

19           **COMMISSIONER ARGENZIANO:** So the average user's  
20 bill will go up by -- what is the percentage again, I'm  
21 sorry? I heard --

22           **MS. BRUCE:** It would go up for water by  
23 40 percent.

24           **COMMISSIONER ARGENZIANO:** -- 40 percent for  
25 water, and for wastewater?

1           **MS. BRUCE:** Give me just a second, Commissioner.

2           **COMMISSIONER ARGENZIANO:** Sure.

3           **MS. BRUCE:** Commissioners, I'm sorry, I was  
4 missing some of my information. It would be 67.2 percent  
5 for the wastewater.

6           **COMMISSIONER ARGENZIANO:** 67.2 percent.

7           **MS. BRUCE:** Yes.

8           **COMMISSIONER ARGENZIANO:** And if I can, could  
9 you explain when we talk about fair, just, and reasonable,  
10 if you would, just how do we get to reasonable? For the  
11 company as well as the consumer, how do we get to that  
12 determination of what is reasonable?

13           **MR. FLETCHER:** Partly it is just through the  
14 examination of their books and records, and looking at the  
15 support documentation regarding their investment. Our  
16 auditors, whenever they have a rate case, we go back and  
17 we audit the books and records since rate base was last  
18 established, and they did that in this case, that 20-year  
19 period. And then also with regard to any kind of  
20 pro forma item that staff can send out data requests, get  
21 their support on that. That is how we look at what they  
22 have, make sure it is reasonable, and support it.

23           **COMMISSIONER ARGENZIANO:** And for the consumer,  
24 reasonable -- how would we determine what's reasonable for  
25 the consumer?

1           **MR. FLETCHER:** It would be to comply with the  
2 statute as far as to make sure that the utility has an  
3 opportunity to earn a fair rate of return on their  
4 investment. And you only allow what they have supported.  
5 It would be as far as from the customers' standpoint, the  
6 examination of their books and records and making sure  
7 that you only recommend to the Commission, and the  
8 Commission only allow what they have justified and  
9 supported as far as both their investment and their  
10 expense level. And you do that through the audit and then  
11 also our engineering evaluation of their system, as well.

12           **COMMISSIONER ARGENZIANO:** I'm trying to figure  
13 out, and, excuse me, because I'm really amazed that the  
14 company in 20 years hasn't asked for -- I have seen a lot  
15 more than that since I have been here in a short time. It  
16 is incredible in a sense that it has been 20 years since  
17 they have asked for anything. And I really -- I'm not  
18 making judgment on that one way or the other, but I'm just  
19 finding that -- seeing so many other increases coming in  
20 so much more often in this company, I'm really trying to  
21 figure out how when a consumer calls in and/or asks how do  
22 we determine reasonable, and for them, I guess, they have  
23 a different point of view of how we determine reasonable.

24           Would it be fair to say that the company because  
25 of its 20 years of not asking for rate increases, their

1 rates are pretty low compared to other systems?

2           **MR. FLETCHER:** That would be one effect that  
3 drives the level of the increase, yes. I'm not sure as  
4 far as the other surrounding utilities. I'm not sure what  
5 mechanisms they have taken advantage of over the past  
6 20 years. I can tell you the major driving force has been  
7 partly the pro forma plant and the pro forma expenses. I  
8 can tell you that Miles Grant has taken -- in the past  
9 20 years they have taken advantage of about 17 index and  
10 pass-through. Some of them were pass-through provisions  
11 in certain years, but at least 17 filings since that last  
12 rate proceeding. So they have tried to -- that's one  
13 thing that has mitigated it coming in perhaps. That may  
14 be one reason there, but I know the pro forma plant and  
15 expenses are the primary driving force for the increase.

16           **COMMISSIONER ARGENZIANO:** Thank you.

17           **CHAIRMAN CARTER:** Thank you. Anything further?

18           **COMMISSIONER EDGAR:** Could we hear from the  
19 company?

20           **CHAIRMAN CARTER:** Absolutely. We will go with  
21 the company and then we will hear from OPC.

22           Mr. Friedman.

23           **MR. FRIEDMAN:** Thank you, Mr. Chairman,  
24 Commissioners.

25           Miles Grant is generally satisfied with the

1 staff's recommendation, and we don't have any nit-picking  
2 to do at this time. I think that the staff has adequately  
3 responded to the customer's comments, and so I don't  
4 see -- unless the Commission requests me to do so, I don't  
5 see any benefit to addressing those comments again.

6 I have noticed Ms. Merchant over here writing  
7 feverishly, so I'm sure that she has got some comments,  
8 and I would like an opportunity for Mr. Williams and I to  
9 address whatever comments that Ms. Merchant may have.

10 Thank you.

11 **CHAIRMAN CARTER:** Mr. Merchant or Ms.  
12 Christensen, who's on first?

13 **MS. CHRISTENSEN:** Good morning, Patty  
14 Christensen, again, with the Office of Public Counsel. We  
15 do have some comments to make this morning regarding the  
16 staff recommendation. Generally, we agree with most of  
17 the adjustments that staff has recommended, and we do  
18 think that there are some instances where they could go  
19 farther and we are going to recommend to the Commission  
20 this morning that, in fact, you do make some additional  
21 adjustments to those that your staff has made.

22 As you heard from Ms. Moody this morning, the  
23 customers aren't happy about the rate increase as we all  
24 can understand given the current economic conditions. I  
25 mean, this is a community of generally retired persons.

1 Like all of us, they are trying to stretch their dollar in  
2 this hard economic time.

3 I did have one comment regarding the quality of  
4 service section. I attended two customer meetings. There  
5 was a customer's meeting down in Miles Grant's territory.  
6 We ended up having two of them. There were a lot of  
7 persons that came and spoke, and generally they spoke  
8 about their dissatisfaction with the rates, but they also  
9 spoke a little bit about the quality of service issues.  
10 And as noted in the quality of service section, there were  
11 some problems with the quality of service from 2005  
12 through 2007 regarding meeting DEP standards.

13 And we believe that the Commission should  
14 consider this when you are looking at whether or not to  
15 grant these rate increases, and that this is part of the  
16 Commission's consideration per the statute. I think that  
17 more consideration should be given to this than what was  
18 put into the staff recommendation.

19 Now, they may be into compliance at this point,  
20 but I don't think you can disregard the fact that they  
21 were not in compliance for a couple of years, and were not  
22 giving the best quality of service, specifically regarding  
23 certain billing issues. So I think that while they are  
24 currently in compliance, I don't think you should  
25 disregard the years of service where they weren't in



1 compliance when you are considering the rate increase  
2 overall. And I would ask that that be taken into  
3 consideration.

4 In addition to that issue, we also have two  
5 other areas of adjustments that we would like the  
6 Commission to consider. The first area of adjustment is  
7 the rate case expense that is being requested. And also  
8 we are asking that the Commission consider the new billing  
9 and customer service system depreciation and useful life  
10 that was recommended by staff. We think that it needs to  
11 be longer.

12 Now, Ms. Merchant is going to speak in some more  
13 detail regarding useful life and depreciation as well as  
14 to some of our rate case adjustments -- further rate case  
15 adjustments that we are recommending. I just wanted to  
16 speak very briefly regarding two issues that stood out to  
17 me that I want to put forth for the Commission's  
18 consideration.

19 Particularly regarding lawyer fees, the last  
20 time Utilities Inc. was in with their systems cases that  
21 were decided in 2007, the fee was \$275 per hour. I  
22 noticed in this recommendation the fee had increased to  
23 290. And, again, given the economic conditions that we  
24 are all living with, I would urge the Commission to  
25 maintain the \$275 an hour rate. You know, I understand

1 that, you know, we all need to make a living, but given  
2 the economic conditions, you know, that may be one more  
3 pass-through to customers that they don't need.

4           The other thing that I would ask the Commission  
5 to consider is that for travel expenses for the lawyers  
6 fee, they have been charging the full rate of \$290 for  
7 traveling for in the car and such expenses. I think that  
8 it is in the Commission's purview and would request that  
9 you consider giving half the hourly rate for travel. As  
10 opposed to when you, you know, you are showing up before  
11 the Commission and actually participating in an agenda or  
12 participating in a customer meeting, I think that's fair  
13 to the customers. I think if the customers were hiring an  
14 attorney that would be something that we would look into,  
15 not having to pay the full hourly rate for the travel  
16 portion. And we would ask that you consider that.

17           I am going to also ask that Ms. Merchant take  
18 over now and address some of the other specific  
19 adjustments we have about rate case to completion and the  
20 useful life of the billing system.

21           **CHAIRMAN CARTER:** Ms. Merchant.

22           **MS. MERCHANT:** Good morning, Commissioners.

23           First, I want to talk about the new accounting  
24 system and customer service system that the company --  
25 this is Utilities Inc., the parent company, has put in

1 place. It went into effect in December of 2007, and it's  
2 a monumental expense for this company. It is a  
3 \$21 million cost that has been allocated down to Miles  
4 Grant of about \$150,000 in this case. They have proposed  
5 that it be depreciated over six years. And there is a  
6 depreciation rule that the Commission has, and it spells  
7 out all the rates for all the different primary accounts,  
8 and it says computer equipment is six years.

9 Well, there is really not a definition of what  
10 is computer equipment in the Uniform System of Accounts,  
11 and it is not spelled out in the rule what that means.  
12 This \$21 million is not, per se, computer equipment. It  
13 is an Oracle system. It is two different Oracle systems.  
14 It has a lot of capitalized consulting fees. It is a  
15 major, major accounting software system similar to like  
16 the Commission's CMS system, or even People's First.  
17 Those are major systems that you don't just put into  
18 effect and let them use them for six years. And the goal  
19 of depreciation rates is to spread the cost of that asset  
20 over the useful life of the asset.

21 Now, Utilities Inc. had an older system, some  
22 would argue it wasn't very effective, but that system was  
23 in effect for 17 years, and they previously depreciated  
24 that system over eight years. So at least in their prior  
25 accounting system, they recognized eight years. But I

1 would recommend that something that costs this much money,  
2 \$21 million for Utilities Inc. is not going to be a  
3 short-term asset, or a mid-term asset, I would say. It is  
4 really going to last at least 12 to 15 years, and we would  
5 propose that the Commission recognize that and spread the  
6 cost of the asset over 15 years.

7           They will get their rate of return on the  
8 investment, that's not depreciated, so they won't lose any  
9 of their costs. So, you know, they will get a rate of  
10 return on the unamortized or the undepreciated balance.  
11 But also if the system only lasts 12 years and we  
12 depreciate it for 15 years, the Commission also has a rule  
13 that says if you have to retire something early, you get  
14 to make up that loss, and the customers have to pay that.  
15 So if we use 15 years and it lasts 17 years, then the  
16 customers have gotten full use each year of that long-term  
17 asset. So that is one of the things that we would  
18 recommend that you do.

19           The second issue that I'd like to talk about is  
20 rate case expense, and it's legal fees and the estimate to  
21 complete. Mr. Friedman has been the Utilities Inc.  
22 attorney for quite some years, and I want to say at least  
23 ten years; I'm not sure exactly, but he does all of their  
24 rate cases for all of their systems. There are 16 in  
25 Florida. They usually have two to four systems every year

1 that they file a rate case. I think they have three or  
2 four right now.

3 Also, the way the company files their MFRs is  
4 they ask for an estimate in their MFRs, then they come in  
5 right before the case goes to agenda and they file an  
6 estimate to complete, a revised estimate to complete for a  
7 total rate case expense. Particularly -- well, they do  
8 that for all the types of fees, but in legal fees that  
9 estimate to complete has historically been very high.

10 And I have gone back and looked at about five or  
11 six systems over the last several years, and staff and the  
12 Commission have cut that estimate to complete  
13 substantially, so that a lot of times the legal fees end  
14 up being a lot less than what they even put in the MFRs.  
15 And that is for a standard PAA case, and I'm not even  
16 talking about a case that goes to hearing, because that  
17 would be completely separate.

18 But it just appears to me that the legal fees  
19 come in on the estimate to complete and they just get  
20 inflated a little bit. And I've gone through, and I've  
21 looked at all of these things, and I think that we have  
22 several areas that we can adjust the estimate to complete  
23 hours, and one is the travel expense for Mr. Friedman to  
24 come up here from Orlando to Tallahassee. He actually had  
25 two clients today on agenda, but he charged full travel

1 expenses to Miles Grant. So, I think -- I mean, he may  
2 not have known that when he did the estimate to complete,  
3 but certainly if he has two agenda items for different  
4 companies, that that should be split between the two  
5 companies. And O&S, I believe, was the name of the  
6 company.

7           But, anyway, so I would recommend that his  
8 travel time and his hours to prepare, he had hours for  
9 both of those cases, so I would recommend a reduction of  
10 seven hours for that. But, in total, I would recommend  
11 that 10.5 hours be reduced from his estimate to complete  
12 of 53.5 hours. And another note that I have is that all  
13 of these cases that he does, you know, the issues in each  
14 case are going to be different, but the things that you do  
15 after agenda, if you are not going to protest the case are  
16 pretty standard items. They have got a form letter. You  
17 change the company's name, you change the rates, they  
18 don't a -- a lot of it is technical -- or secretarial type  
19 stuff, not necessarily complex legal issue analysis.

20           So I think that the time that they spent on that  
21 is really not as high as what they have estimated. And I  
22 would love to go back and look at some of these cases in  
23 the past and see exactly what their revised estimate to  
24 complete was compared to what the actual post-agenda fees  
25 were just to compare, just to see if the estimates are

1 actually reasonable.

2           So, in conclusion, I would recommend that of his  
3 53.5 hours that 10-1/2 hours be reduced, and that would  
4 be -- excuse me, that is a decrease of 3,965 hours --  
5 excuse me, dollars -- \$3,965, and amortized over  
6 four years that is \$991 for the four years. And then the  
7 expense, changing the depreciation to a 15-year life, it  
8 reduces their water depreciation expense by 7,625 and  
9 wastewater 7,181 compared to their \$25,000 request. It  
10 gives them about \$9,000 in annual depreciation expense  
11 instead of 25,000. So with that, I would appreciate your  
12 consideration.

13           **CHAIRMAN CARTER:** Thank you.

14           Mr. Friedman, do you want to comment on that?

15           **MR. FRIEDMAN:** Thank you, Mr. Chairman,  
16 Commissioners. I'm going to address, as you might expect,  
17 the rate case expense issue, and let Mr. Williams address  
18 the amortization time frame for the computer system he's  
19 very familiar with and has testified in other states about  
20 that system and its benefits and how other states treated  
21 it.

22           The rate case expense, I mean, a point overall,  
23 they are talking about an issue of \$1,000, and while  
24 \$1,000 is certainly not a small amount of money, I would  
25 suggest that if I got up here and raised a \$1,000 issue in

1 a case that has got a couple of million dollars in  
2 revenue, that I would probably be chastised for wasting  
3 everybody's time on an issue that is less than one-half of  
4 one percent of the revenue.

5 But that notwithstanding, there's two issues.  
6 One is that -- and I understand the customers' issues of  
7 the economy as it exists today, and certainly I know that  
8 as a business owner, I have the same problem. We have  
9 health care costs that raise 15 percent a year. Our  
10 hourly rate, I don't know what other law firms charge, I  
11 have looked at some of the cases before the PSC and what  
12 some of my brethren charge doing water and sewer work, and  
13 mine is certainly comparable if not a little bit lower  
14 than some of those other lawyers. I don't know what the  
15 lawyers in the telephone and electric industry charge, but  
16 I would be surprised if you could get a lawyer for \$300  
17 hour. You can't get a lawyer in Orlando for less than  
18 about three or \$400 an hour. The going rate for  
19 litigation lawyers down there in administrative litigation  
20 is \$400 hour.

21 You know, we charge 290. I can't tell you  
22 that's not going to go up next year. I mean, expenses for  
23 running a business go up, as well; and I think that our  
24 hourly rate, which has been approved in other cases in the  
25 past, I think, are reasonable. I have never had in my



1 30 years of practice and 25 before the PSC, I have never  
2 had somebody question my hourly rate. And so I would  
3 suggest to you that it's certainly reasonable.

4 This argument about we ought to split between my  
5 two clients. Now, I've got this other client that's  
6 called O&S Water Company. It's a small water company down  
7 in Osceola County that we filed a tariff change on. That  
8 company would not have paid me to come up here to do this  
9 case. So it's unreasonable for me to have to cut back the  
10 expense that Miles Grant is going to be charged because I  
11 happen to have another client who is on the agenda who I  
12 would not have appeared because of.

13 And I can tell you, if you recall O&S Water  
14 Company filed a tariff change, we filed it for them for  
15 miscellaneous service charges a year or so ago. And you  
16 probably don't realize my absence from that agenda, but I  
17 was not at that agenda either, because I had no other  
18 client to support me coming up for the agenda conference.  
19 And there are certain items on the agenda, and  
20 particularly small water and sewer companies that just,  
21 you know, they are losing money and can't afford to have  
22 me do that. And so to cut back Miles Grants rate case  
23 expense because I should charge another client for  
24 something that I don't charge them for is just totally  
25 unreasonable.

1           And, without looking at what the other 3.5 hours  
2 that Ms. Merchant said that should be cut, it's hard for  
3 me to question it. We give our best estimate when we give  
4 these rate case expenses. The process has it where we  
5 have got to estimate what our rate case expenses are,  
6 number one, at the very beginning of the case, and  
7 obviously that estimate is going to be what we think is  
8 going to be a high number, and I think in almost every  
9 case, we don't reach that number. But the problem is is  
10 that if we put a low number and it comes out higher, the  
11 company is not going to get that additional amount.

12           So I acknowledge that when we filed the rate  
13 case, we put in a number that we think is a worst-case  
14 scenario. And then we go through the process, and we make  
15 an estimate after -- when we get to the point where the  
16 staff has got to do its recommendation, they send us a  
17 data request or call us and we update our rate case  
18 expense and provide them a very detailed analysis of what  
19 is not included in what we have already billed. And you  
20 can see that, and, you know, I guess you can nickel and  
21 dime anything, but I would suggest to you that we give our  
22 best estimate of what those expenses are going to be, and  
23 I would stand behind them 100 percent. And I don't think  
24 it is appropriate to reduce that rate case expense at all.

25           And John Williams will address the amortization

1 period for the software programs.

2 **MR. WILLIAMS:** Good morning, Commissioners.

3 The company amortized or spread the costs over  
4 the number of years that was specifically prescribed by  
5 Florida PSC rule in the NARUC Uniform System of Accounts.  
6 And as you know, as technology changes, the amount of time  
7 that technological things last get shorter and shorter. I  
8 mean, how often do you have to change out your computer or  
9 change your cell phone?

10 We had a very antiquated system that the Florida  
11 Commission was very critical of in previous cases over the  
12 way we kept our books and records and that type of thing.  
13 So this should significantly improve our regulatory  
14 compliance from an accounting standpoint, and specifically  
15 there is a lot of customer benefits in terms of  
16 informative billing to the customers that will give them  
17 history of consumption, a lot of the things the water  
18 management districts have wanted us to do to be able to  
19 show customers how much you used this same month in a  
20 previous year, and averages, and that type of information  
21 is all going to be available to customers with our new  
22 computer billing system.

23 But, again, we amortized it over the period of  
24 time prescribed by the Florida PSC rules and the Uniform  
25 NARUC Accounts. And it has already been anticipated in

1 North Carolina. I was going to say we have had two cases  
2 in North Carolina where it has been accepted, as well as  
3 Maryland.

4 **MR. FRIEDMAN:** And let me point out just the  
5 legal aspect of this issue is that you do have a rule that  
6 says it is six years unless, and then it gives a whole  
7 bunch of factual issues that the Commission can consider  
8 to determine whether it should be greater or less than  
9 that six years in the rule.

10 And the problem is that an agenda conference is  
11 really the type of forum that lends itself to addressing  
12 disputed issues of fact. And other than just the overall  
13 comments that Ms. Merchant made, I think that if you take  
14 those and you look at what the rule says, I don't think  
15 that any of her comments address the specific criteria in  
16 the rule for doing something other than the six-year  
17 amortization period.

18 Thank you.

19 **CHAIRMAN CARTER:** Thank you.

20 Commissioners? Commissioner McMurrin, you're  
21 recognized.

22 **COMMISSIONER McMURRIAN:** Thank you.

23 Ms. Merchant, I wanted to get clarification  
24 about the 10-1/2 hours to reduce from the 53.5. Can you  
25 show me by looking at Page 20 where in that list you are

1 reducing, and which ones you are recommending reducing and  
2 how much out of that 53.5. Can you tell me according to  
3 the breakdown there?

4 **MS. MERCHANT:** Which page is that on?

5 **COMMISSIONER McMURRIAN:** Page 20. I see the  
6 line there that says prepare for and travel to Tallahassee  
7 to attend agenda, and I knew that was one of your issues  
8 there.

9 **MS. MERCHANT:** Right. One of the ones that I  
10 did was the fourth one down, travel to Martin County and  
11 attend the customer meeting. I reduced that by an hour  
12 and a half. I didn't adjust the ones above because the  
13 way they have done historically was that they would have  
14 unbilled hours, they were actually hours spent, but they  
15 hadn't just prepared the bill yet, so I didn't adjust any  
16 before that.

17 But I took seven hours out of the 14 for prepare  
18 for and travel to Tallahassee. I took a half hour out of  
19 the telephone conferences and communications with clients  
20 and consultants. Telephone conferences and communications  
21 with client, consultants, and Commission staff, I reduced  
22 that to one hour. Draft revised tariff sheets, notice the  
23 new rules, new rates and other implementing, I gave them  
24 half an hour for that. That is really a cut and paste  
25 based on the PAA order. The letters that they use for

1 that is just the same ones over and over and over again.  
2 Letters, telephone conferences, communication with  
3 Commission staff, I gave them half an hour, and then  
4 miscellaneous posts, noticing, and filing matters, I gave  
5 them an hour instead of three.

6 And, you know, what are the types of things that  
7 they do post agenda; they file a rate case expense actual  
8 report, and basically that comes from the company and  
9 Mr. Friedman writes a letter. Other things like rate  
10 repression studies, they don't have one in this case so  
11 they don't have a rate repression study, so are the kinds  
12 of reasons I reduced that.

13 **COMMISSIONER McMURRIAN:** Mr. Chairman.

14 **CHAIRMAN CARTER:** You're recognized.

15 **COMMISSIONER McMURRIAN:** I guess to staff, I see  
16 that we get this breakdown here, I think, from Mr.  
17 Friedman. Is there more information as a breakdown of  
18 these hours as what exactly those are spent on? I mean,  
19 for instance, the one that Ms. Merchant was just talking  
20 about, the miscellaneous post-PAA noticing, and she is  
21 saying that since they don't have repression and all here,  
22 that it might not be as much time.

23 **MR. FLETCHER:** All we had was that basic  
24 description here, and we kind of looked at it from the  
25 standpoint of speaking with the other consultants to the

1 case and his time to receive their invoices and to prepare  
2 the packet, and we thought that three hours was  
3 reasonable.

4 **COMMISSIONER McMURRIAN:** Okay. I think that's  
5 all for now, Chairman. Thank you.

6 **CHAIRMAN CARTER:** Commissioner Argenziano.

7 **COMMISSIONER ARGENZIANO:** Yes. A couple of  
8 different questions. One, I would like to know about the  
9 issues of quality of service in the past. I hear they  
10 have been corrected, but what were they attributed to?

11 **MR. RIEGER:** Yes, Commissioner. This is Stan  
12 Rieger with Commission staff.

13 Primarily between the years of 2005 and 2007,  
14 the utility was responding to a newly initiated DEP rule  
15 concerning disinfection by-products. As a result of their  
16 conversion process, their disinfection conversion process,  
17 the chloramine treatment, the customers were  
18 inconvenienced during that time while they were getting  
19 the process together, and boil water notices were issued  
20 several times during that time frame. It is unfortunate,  
21 but that is exactly what happened. It took awhile for  
22 compliance to be made.

23 I spoke with DEP concerning that. They  
24 acknowledge that the utility did work accordingly though  
25 the process. It did take some time to correct it. I

1 might add that this is not a unique situation with the  
2 utility. We have seen this all throughout the state with  
3 this new rule, this disinfection by-product rule.

4           The conversion process is tricky, and as a  
5 result if they are not meeting the level of treatment,  
6 they have to issue boil water notices, and it takes  
7 multiple issues for some of them to get the treatment  
8 level correct.

9           **COMMISSIONER ARGENZIANO:** I understand that. I  
10 have seen it throughout the state, and I understand that.  
11 But that has been corrected, they have pretty much got it  
12 down now?

13           **MR. RIEGER:** Yes, it has. The EPA is satisfied.

14           **COMMISSIONER ARGENZIANO:** And were there any  
15 problems in the quality, service quality issues regarding  
16 billing?

17           **MR. RIEGER:** I believe there was some problems  
18 that may have taken sometime to get worked out. In fact,  
19 I believe there was a customer that spoke that it took a  
20 matter of multiple billing periods for her problem where  
21 she got -- I believe she was billed her neighbor's usage,  
22 and that got corrected.

23           **COMMISSIONER ARGENZIANO:** And what I'm trying to  
24 get at is I guess part of the money being spent on the new  
25 systems to correct some of those problems would correct --



1 it was indicated that the old system was 17 years old, is  
2 that correct?

3 **MR. RIEGER:** Yes.

4 **COMMISSIONER ARGENZIANO:** So hopefully that that  
5 gives better service.

6 **MR. RIEGER:** Better service, yes. There is no  
7 doubt that the new system will be better than the old.

8 **COMMISSIONER ARGENZIANO:** And, let's see, did  
9 staff already cut attorneys fees for the company?

10 **MR. FLETCHER:** Yes, Commissioner. We had  
11 actually reduced the legal fees by \$23,258 from what they  
12 had requested.

13 **COMMISSIONER ARGENZIANO:** What was the total  
14 amount they requested?

15 **MR. FLETCHER:** \$38,773.

16 **COMMISSIONER ARGENZIANO:** Wait a minute. The  
17 total amount was --

18 **MR. FLETCHER:** 38,000 -- you're talking about  
19 just for legal fees?

20 **COMMISSIONER ARGENZIANO:** No, I'm trying to  
21 figure out if you have reduced it by 23,000, what were  
22 they originally asking?

23 **MR. FLETCHER:** The total rate case that they  
24 were originally asking for with the actual and revised was  
25 \$227,622. Of that amount for the legal, it was requesting

1 \$51,373. Of that 51,000, we were recommending a decrease  
2 of 23,258.

3 **COMMISSIONER ARGENZIANO:** Okay. And, let's see.  
4 Is there a comparison done? Do we do any type of  
5 comparison on attorney fees to see if they are comparable  
6 and reasonable?

7 **MR. FLETCHER:** Yes, we have done that in prior  
8 rate cases. In this one, to look at the difference, the  
9 \$15 difference between the 275 that he had typically been  
10 charging for the past four or five years, that represented  
11 an increase of 4.54 percent. And just -- we felt that it  
12 was in line, since it has not been changed since the last,  
13 I think, five years is what he has been charging the  
14 275 at -- in the prior cases.

15 **COMMISSIONER ARGENZIANO:** And one other  
16 question. Regarding the depreciation rules indicating  
17 depreciation of six years for computers. As OPC had  
18 indicated that this may be a little bit more than just  
19 computers, have we looked into spreading out the  
20 depreciation to maybe a ten year, or anything more than  
21 the six years, or why did we go with six, and are there  
22 other items that may not be included in that rule as  
23 computer items?

24 **MR. FLETCHER:** The depreciation rule, 25-30.140,  
25 does list the average service life for computers, and in

1 the past, you know, the Commission has treated software  
2 packages under that account, and we have used the six  
3 years. There is a provision that allows that -- if I may  
4 point out, it's in Note 6A, if there is going to be a  
5 deviation from the average service life from the rule it  
6 says at the time a utility applies for a change in its  
7 revenue rates and charges, it may also petition for  
8 average service life depreciation different from those in  
9 the above schedule, which was the six years, if it can  
10 justify the service lives that the utility is proposing in  
11 lieu of the guideline lives. That justification should be  
12 in the form of historical data, technical information, or  
13 utility planning for the affected accounts or subaccounts.

14 And the utility had requested it be depreciated  
15 pursuant to the rule, that is how they have treated that  
16 in other states and other rate cases. They have  
17 consistently applied a six year. How we looked at it,  
18 there was no technical data that we saw -- I mean, in that  
19 provision it's the utilities, if they want to request  
20 something different they have to provide all that  
21 technical data. Regarding different software packages  
22 like People's First, or our case management, my  
23 understanding --

24 **COMMISSIONER ARGENZIANO:** You don't want to  
25 mention People's First with me.

1           **MR. FLETCHER:** Or our case management, the  
2 different software packages, you would have to have that  
3 detailed analysis, that technical information to support  
4 how long that's going to last, and we simply don't have  
5 that. And so we just stuck with the rule of six years.

6           **COMMISSIONER ARGENZIANO:** I understand that.  
7 But I think I'm trying to get at -- and maybe this is a  
8 question for OPC -- what is outside of the computer  
9 language? You had mentioned that maybe the rule goes to  
10 computers, but there may be more than computers lumped in  
11 here.

12           **MS. MERCHANT:** Exactly. I think the rule is  
13 designed to estimate what the service lives are for all of  
14 these assets, and it really is a great tool because you  
15 don't want to have to -- in every rate case you want to  
16 simplify the factor. We have gone through, I think, three  
17 major revisions of that depreciation rule to make sure  
18 that the lives and a lot of engineering studies have gone  
19 into supporting meters and the pipes and the pumps and the  
20 things like that, but computer equipment has never been  
21 revised.

22           You know, when the depreciation rules  
23 originated, there weren't hardly any computers. It was  
24 like in the '80s, or late '80s, about that time, but it  
25 has really never been paid attention to. And you would

1 understand that a desktop computer, or a laptop computer,  
2 or even a cell phone would certainly have a shorter life.  
3 And that's what I think that that rule is really designed  
4 to accommodate. You have got, say, like a Microsoft  
5 Office box off the shelf. You might even be able to  
6 expense that type of software, something that's not a  
7 monumental expense to the company.

8           But this is a -- for this company it is probably  
9 twice in a lifetime software package, two software  
10 packages. I sure hope that for \$21 million they are not  
11 going to replace it in six years, and that's really what  
12 you want to do is spread the cost over the life of the  
13 asset so that the customers pay that one whatever number  
14 of years you choose is the actual service life. You  
15 spread that over the life, and it's a fair -- it's  
16 basically an accounting principle, but in those other  
17 states that the company mentioned, Mr. Williams told me  
18 that they didn't even address what the service life was,  
19 that they just asked for six years and they got six years.  
20 So it has really never been litigated. And I don't think  
21 the company has answered how long they think this major  
22 software package will last.

23           **COMMISSIONER ARGENZIANO:** Okay.

24           To the company, how long do you think it will  
25 last?

1           **MR. FRIEDMAN:** Commissioner Argenziano, that's  
2 the comment that I made at the very beginning that this  
3 type of forum is not one that lends itself to making those  
4 type of factual proofs. And so as we sit here today, we  
5 can't tell you what the real life of that is going be,  
6 because nobody has done the type of analysis that your  
7 rule suggests needs to be done before you deviate from the  
8 six years that's provided for in the rule. And so we  
9 can't sit here today and tell you whether it's going to be  
10 six and a half or maybe four. I mean, the way technology  
11 and the software changes --

12           **COMMISSIONER ARGENZIANO:** Or maybe ten.

13           **MR. FRIEDMAN:** Or ten, or twelve, or two. You  
14 know, that's the problem is that we have got a rule and we  
15 go by the rule unless we have evidence to the contrary,  
16 and this forum where Public Counsel can say one thing and  
17 I can say something else isn't the type of forum to make  
18 those type of factual decisions.

19           **MR. WILLIAMS:** And, again, we have IT folks, and  
20 we hired Deloitte as a consultant to help us select the  
21 different firms to -- you know, the different entities we  
22 contracted with to do this. And, you know, if we go to  
23 hearing, believe me I can trot them all out for you, but I  
24 can't sit here and tell you this. We hope it will last  
25 longer than six years, but technology is really evolving.

1           **COMMISSIONER ARGENZIANO:** Mr. Chairman, this is  
2 a question for staff. When do we revise our rules and  
3 look into things that are kind of -- haven't been changed  
4 in a number of years? Just out of curiosity, if somebody  
5 can help me.

6           **MR. FLETCHER:** As far as when the depreciation  
7 rule was last revised?

8           **COMMISSIONER ARGENZIANO:** Uh-huh.

9           **MR. FLETCHER:** What I'm seeing here, it was last  
10 amended May 29th, 2008.

11           **COMMISSIONER ARGENZIANO:** What did we amend at  
12 that time?

13           **MR. FLETCHER:** I'm not sure of the particular  
14 provision here in this rule. I would have to go back and  
15 look at that, what was changed during that amendment.

16           **MR. WILLIS:** Commissioner Argenziano, I'm not  
17 sure which part of the rule was amended in 2008, but to  
18 answer your question about when we amend our rules, we  
19 constantly monitor the rules of the Commission, and  
20 depreciation is one of those. We have people who will  
21 actually sit there in our division and look at these. We  
22 amend the rules when we see a need. When new technology  
23 comes in, new plant items come in, when we believe  
24 technology has outdated these lives, the service lives in  
25 these actual things, that is when we would actually do

1 that.

2           **COMMISSIONER ARGENZIANO:** Well, that's what I  
3 think I'm hearing OPC saying is that maybe that today's  
4 technology is making the rule outdated, and I'm trying to  
5 figure out if that is the case. That is another  
6 discussion for another day, but to think about the points  
7 they bring up, is there a valid concern in what they are  
8 saying that maybe the rule is antiquated or there are  
9 other components of this that really don't apply to the  
10 old statutory language of just computer.

11           And for \$21 million you would hope that it would  
12 last more than six years, but I'm not an expert so I can't  
13 say that. But I am just not sure if we have looked into  
14 the rule as far as the points that OPC are bringing up.

15           **MR. WILLIS:** And, Commissioner, Public Counsel  
16 could be completely right, the company could be completely  
17 right, these depreciation rates here are what we call  
18 average lives which take into account that some computers  
19 and software will last less than that, some will last more  
20 than that.

21           **COMMISSIONER ARGENZIANO:** Okay. Well, let me  
22 ask this question, and as simple as I can. Does that mean  
23 because it is a rule that we always stick to six years no  
24 matter what?

25           **MR. WILLIS:** No. If we actually have evidence



1 before us to show that these lives are incorrect for a  
2 particular item, we have changed those in the past.

3 **COMMISSIONER ARGENZIANO:** And you feel right now  
4 that that is not the case here.

5 **MR. WILLIS:** Well, my staff hasn't seen anything  
6 yet that would basically dictate that these six years are  
7 wrong at this point.

8 **COMMISSIONER ARGENZIANO:** Okay. So, OPC, it is  
9 up to you to show staff right now, for me to make a  
10 decision on that one.

11 **MS. MERCHANT:** Actually, if I could correct your  
12 interpretation of what we believe. I don't believe that  
13 the six-year depreciation rate for regular computer  
14 equipment is inadequate. I think that's fine for a  
15 desktop computer, or a laptop computer, or maybe a  
16 short-term software project. What I'm saying is that this  
17 is an anomaly. This is a new item that is not considered  
18 by the rule and that's where I'm differentiating.

19 **COMMISSIONER ARGENZIANO:** And, staff, that is  
20 what I'm asking you. Have you seen the new item, is it an  
21 anomaly, and if it is, or if it isn't --

22 **MR. FLETCHER:** In the past we have recorded it  
23 for the computers, for software packages. UI's last  
24 accounting system, that's the account that it would be  
25 considered under would be computers. They did actually --

1 you know, they amortized it over eight years there, but it  
2 be would considered. We have in other cases considered  
3 software packages under the computer and depreciated it  
4 under six years.

5           **COMMISSIONER ARGENZIANO:** Okay. So, basically,  
6 OPC, you are saying the software is the anomaly.

7           **MS. CHRISTENSEN:** And can I just add to that  
8 that this is not just your basic off-the-shelf package.  
9 They took two years to develop the software. This is  
10 something -- this is like a platform which they are going  
11 to use to build their billing system over the next however  
12 many years, we don't know. I expect that it will be  
13 longer than six years. I would expect for this kind of an  
14 investment in a computer platform that it will be at least  
15 double the life of a computer of six years, 12 years.

16           You don't build something akin to a CMS system  
17 and expect that it is going to expire in six years. That  
18 is a platform that you build off of. You may update it  
19 periodically over the years, but the basic platform, which  
20 is what we are talking about, the investment in this basic  
21 new billing system platform is a long-term investment, and  
22 that is why we are saying that it doesn't neatly fit  
23 within the rule.

24           This isn't a laptop or computer equipment where  
25 you change them out periodically. And you don't change

1 them out all at ones, either. You know, you may change  
2 out X number of computers over time and it is a revolving  
3 type of changeout. Here this is a long-term once in, you  
4 know, obviously 17-year event where you change the  
5 platform and change all of the computer software programs  
6 that run off of it.

7           And that is what I wanted to emphasize is it is  
8 not just a regular updated software package. This is the  
9 platform on which they are operating at least from our  
10 understanding of it unless the company, you know, can tell  
11 us something different, but that's my understanding of it.

12           **MR. WILLIS:** Commissioner, if I could just add  
13 one thing.

14           **CHAIRMAN CARTER:** Marshall.

15           **MR. WILLIS:** Actually two things here. I would  
16 point out that every operating system I have ever  
17 purchased has been outdated in about three years, and I  
18 could continuing operating that, but I won't have the best  
19 and greatest at that point that I think I need.

20           The other thing is this is proposed agency  
21 action, and what that means in a water and wastewater case  
22 is that if Public Counsel really feels compelled that this  
23 is an issue that they want to do something about, they can  
24 protest this one single issue, and that's all this  
25 Commission will go to hearing on. And I just wanted to

1 point that out, that is an option.

2           **COMMISSIONER ARGENZIANO:** And I appreciate that,  
3 because it helps me in the discussion going back and  
4 forth. I may somewhat agree, but I'm not sure that it  
5 still doesn't fall under computer in my train of thought.  
6 I'm not sure, and knowing that they have that opportunity,  
7 I feel better about that. And just to say that if their  
8 last system lasted 17 years and it wasn't quite as  
9 technologically advanced as today's systems, I would look  
10 at that as being very prudent and hope that the system  
11 would last a long time, because we would like that to  
12 occur, of course.

13           But I appreciate the dialogue, because it helped  
14 me to understand here something that I wasn't sure how the  
15 internal components really worked. And I got a better  
16 understanding of OPC's problem with it, even though it's  
17 still somewhat fuzzy. So thank you for allowing that  
18 discussion.

19           **CHAIRMAN CARTER:** Thank you, Commissioner. I  
20 will come back to the bench. I just wanted to get this  
21 thought out before I lose it.

22           When Commissioner McMurrian had asked her  
23 question, I thought I had seen this is on Page 24. I went  
24 to Page 24, and I saw where staff had adjusted every  
25 request by the company. I think their request was

1 something like -- their revised and actual estimate was  
2 227,662. Staff's adjustments were almost \$100,000 less.  
3 They reduced the legal fees by half, consultant fees, the  
4 in-house fees. They didn't reduce the filing fee because  
5 that's what it is, but every category that could be  
6 reduced they reduced it or eliminated -- this WFC travel,  
7 staff eliminated that altogether.

8           So I think that when you look at it in the  
9 totality, that everywhere where the company had made a  
10 request, you'll see staff made a significant adjustment  
11 downward. And I think that's significant. When you  
12 consider that of a total of 227,662, staff's total  
13 adjustment was a reduction of 99,649, I think that is very  
14 significant. And, Commissioner McMurrin, I'm glad you  
15 asked that question, because I thought I had seen it in  
16 the docket someplace, so I went to look at that.

17           Commissioner Argenziano.

18           **COMMISSIONER ARGENZIANO:** Mr. Chairman, with all  
19 due respect, and I only mean this -- and I'm not saying  
20 the company did this or anything in this case, but I think  
21 having a dialogue and speaking about things is very  
22 important because of the fact that, I mean, you could come  
23 in with a very high number to begin with and know that the  
24 staff is going to chop it down to where it probably should  
25 be, or somewhere where it should be. So with all due

1 respect, sometimes just looking at the reduction doesn't  
2 mean that, you know, oh, boy, the company took a giant  
3 hit. It might have gotten back to where it actually  
4 needed to be.

5           **CHAIRMAN CARTER:** Yes. Well, I agree with you,  
6 but I think the company probably fully expected that  
7 amount in their filings. They would have to give that in  
8 their filings. When Commissioner McMurrian asked that  
9 question, it dawned on me I read something in the case  
10 where the staff had made some reductions, and I just  
11 wanted to kind of point that out.

12           Commissioner Edgar, you're recognized.

13           **COMMISSIONER EDGAR:** Thank you. And this is  
14 first to staff. Can you point to me where in the issue  
15 analysis the discussion of this particular purchase is and  
16 the application of the rule?

17           **MR. FLETCHER:** Yes, Commissioner. The Phoenix  
18 project, the software package is on Issue 5, Page 10 of  
19 the recommendation. And, basically, there was no write-up  
20 between the -- talking about the six years, the company  
21 filed in their MFRs and depreciated over six years  
22 pursuant to the rule, and staff did not take issue in  
23 accordance with the rule.

24           But it's in the second paragraph. Basically, it  
25 is \$148,000 total is the allocated cost, both of them. It

1 is split almost equally, about 51-1/2 percent to the water  
2 and the remaining to the wastewater system. It's the  
3 \$76,220 for the water, \$71,780. It's in the second  
4 paragraph of staff's analysis. And you will actually see  
5 on the table on Page 11 the staff did not make any  
6 adjustments to the Phoenix project, and we had definitely  
7 just agreed with their accumulated depreciation,  
8 depreciation expense adjustments associated with that  
9 package in accordance with the rule.

10           **COMMISSIONER EDGAR:** Thank you. And that is  
11 helpful, because I was looking at that earlier, and, you  
12 know, seeing, of course, fire hydrants and fuel tanks and  
13 things, and Phoenix didn't jump at me immediately as  
14 billing system. And looking at the numbers there in the  
15 order of 21 million. So I appreciate that elaboration.  
16 Thank you.

17           And I guess my question then to the company is,  
18 I fully recognize that this is not an evidentiary hearing  
19 and that you are not presenting evidence and sworn  
20 testimony, but yet it does seem to me to be a reasonable  
21 question when it has been raised that this is an  
22 acquisition of \$21 million, and a significant one, and I  
23 would certainly have expected that you would bring in IT  
24 consultants and outside contractors to help with that  
25 system selection. To me it seems a reasonable question to

1 say, well, what is the expectation for the length of that  
2 system. I would have thought that would be an analysis  
3 that would have been done before the actual software  
4 package was chosen.

5 So I guess my question to you is, realizing it  
6 is not evidentiary, and realizing it's not sworn  
7 testimony, what is the expectation for the life of this  
8 particular billing system?

9 MR. WILLIAMS: Well, Commissioner Edgar, based  
10 on staff's recommendation, we didn't anticipate there  
11 would be a lot of questions about it, and we didn't bring  
12 in our experts from Northbrook. You know, the Commission  
13 staff had already cut any expense from any of our  
14 headquarters office coming down here. So, you know, there  
15 again, we thought I could give it my best shot.

16 COMMISSIONER EDGAR: And I appreciate that.

17 MR. WILLIAMS: And, again, it has been accepted  
18 in other states. But there, again, we also are providing  
19 expert witness testimony in other states where it has been  
20 questioned. And certainly if we end up going to hearing  
21 on this, we can bring in the big guns for sure.

22 COMMISSIONER EDGAR: So let me, in my own words,  
23 say back to you what I think you just told me, and correct  
24 me if I'm wrong. Perhaps it is a reasonable thought that  
25 during the analysis and prior to the purchase of a system



1 an analysis would have gone as to life expectancy, but you  
2 are not at this time able to speak to that point, is that  
3 correct?

4 **MR. FRIEDMAN:** That's correct. You know, part  
5 of the problem is just --

6 **COMMISSIONER EDGAR:** And that's fair, in my  
7 mind. All right. Thank you.

8 **CHAIRMAN CARTER:** Commissioners, anything  
9 further from the bench?

10 The Chair is now open for a recommendation on  
11 disposition of this matter.

12 Commissioner McMurrian.

13 **COMMISSIONER McMURRIAN:** If there are no other  
14 questions, I can move staff on all the issues.

15 **CHAIRMAN CARTER:** With the oral modification?

16 **COMMISSIONER McMURRIAN:** With the oral  
17 modification of staff.

18 **COMMISSIONER EDGAR:** And I can second.

19 **CHAIRMAN CARTER:** It has been moved and properly  
20 seconded.

21 Commissioners, any further debate, discussion,  
22 comments, questions? Hearing none. All those in favor,  
23 let it be known by the sign of aye.

24 (Simultaneous aye.)

25 **CHAIRMAN CARTER:** All those opposed, like sign.

1 Show it done.

2 Thank you, Ms. Moody.

3 **MS. MOODY:** Thank you.

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1 STATE OF FLORIDA )

2 : CERTIFICATE OF REPORTER

3 COUNTY OF LEON )

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I, JANE FAUROT, RPR, Chief, Hearing Reporter Services  
5 Section, FPSC Division of Commission Clerk, do hereby certify  
6 that the foregoing proceeding was heard at the time and place  
herein stated.

7

IT IS FURTHER CERTIFIED that I stenographically  
8 reported the said proceedings; that the same has been  
transcribed under my direct supervision; and that this  
9 transcript constitutes a true transcription of my notes of said  
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10

I FURTHER CERTIFY that I am not a relative, employee,  
11 attorney or counsel of any of the parties, nor am I a relative  
or employee of any of the parties' attorney or counsel  
12 connected with the action, nor am I financially interested in  
the action.

13

DATED THIS 1st day of December, 2008.

14



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JANE FAUROT, RPR

16

Official FPSC Hearings Reporter

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