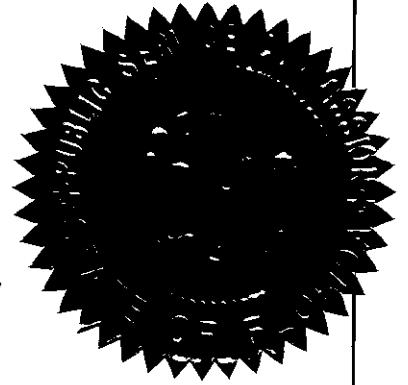


BEFORE THE
FLORIDA PUBLIC SERVICE COMMISSION

DOCKET NO. 080121-WS

In the Matter of:

APPLICATION FOR INCREASE IN WATER AND
WASTEWATER RATES IN ALACHUA, BREVARD,
DESOTO, HIGHLANDS, LAKE, LEE, MARION,
ORANGE, PALM BEACH, PASCO, POLK, PUTNAM,
SEMINOLE, SUMTER, VOLUSIA, AND WASHINGTON
COUNTIES BY AQUA UTILITIES FLORIDA, INC.



VOLUME 5

Pages 540 through 771

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A CONVENIENCE COPY ONLY AND ARE NOT
THE OFFICIAL TRANSCRIPT OF THE HEARING.
THE .PDF VERSION INCLUDES PREFILED TESTIMONY.

PROCEEDINGS: HEARING

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

DATE: Tuesday, December 9, 2008

TIME: Commenced at 9:30 p.m.
Recessed at 4:45 p.m.

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

REPORTED BY: MARY ALLEN NEEL, RPR, FPR

PARTICIPATING: (As heretofore noted.)

DOCUMENT NUMBER-DATE

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P R O C E E D I N G S

1
2 (Transcript follows in sequence from
3 Volume 4.)

4 CHAIRMAN CARTER: We are back on the record.
5 And, Mr. May, you're recognized, sir.

6 MR. MAY: Thank you, Mr. Chairman. Aqua would
7 call its direct witness, Mr. Jack Lihvarcik.
8 Thereupon,

9 JOHN M. LIHVARCIK

10 was called as a witness on behalf of Aqua Utilities
11 Florida, Inc. and, having been first duly sworn, was
12 examined and testified as follows:

D I R E C T E X A M I N A T I O N

13
14 BY MR. MAY:

15 Q. Good afternoon, Mr. Lihvarcik.

16 A. Good afternoon.

17 Q. Have you previously been sworn in this
18 proceeding?

19 A. Yes, I have.

20 Q. Did you prepare and cause to be filed 12 pages of
21 prefiled direct testimony?

22 A. Yes, I have.

23 Q. Do you have that prefiled direct testimony
24 before you today?

25 A. I do.

1 Q. Do you have any corrections or revisions to
2 your prefiled direct?

3 A. I do not.

4 MR. MAY: Mr. Chairman, I would ask that the
5 prefiled direct testimony of Mr. Lihvarcik be inserted
6 into the record as though read.

7 CHAIRMAN CARTER: The prefiled testimony of
8 the witness will be entered into the record as though
9 read.

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1 **BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION**

2 **AQUA UTILITIES FLORIDA, INC.**

3 **DIRECT TESTIMONY OF JOHN M. LIHVARIK**

4 **DOCKET NO. 080121-WS**

5

6 **Q. Please state your name and business address.**

7 A. My name is John M. Lihvarcik. My business address is 1100 Thomas Avenue,
8 Leesburg, FL, 34749.

9 **Q. By whom are you employed and what is your position?**

10 A. I am employed by Aqua Utilities Florida, Inc. ("AUF" or "Company") as its
11 President and Chief Operating Officer ("COO").

12 **Q. Please describe your duties and responsibilities in that position.**

13 A. I am responsible for the overall direction and administration of AUF. The COO
14 serves as state operating president and is responsible for the efficient operation of
15 the Company to ensure quality customer and community service, and employee
16 satisfaction. The COO is responsible for growing the customer base and for
17 acquiring additional systems to make Company operations more efficient.

18 **Q. Please describe your educational background and professional experience.**

19 A. I received a Bachelor of Science degree in Architecture from the University of
20 Memphis in 1975. I have a W-2 Distribution System License from the State of
21 New Jersey and hold and FCC Restricted Radiotelephone Operator's License.
22 My career in the water industry began in 1979 when I was hired as engineer for
23 the Trenton Water Works in Trenton, New Jersey. In this position, I was

1 responsible for the day-to-day management and operations of 170 miles of water
2 main providing service to 195,000 people and a staff of 100.

3
4 In 1991, I was hired by Consumers New Jersey Water Company ("CNJ") where I
5 was employed as Vice President and Division Manager of its Southern Division. I
6 was responsible for Customer Service Distribution and Production for the
7 Southern Division serving 49,000 people. Subsequently, I became Vice President
8 of Growth and Development for CNJ and its successor, Aqua New Jersey, Inc. In
9 this role, my primary responsibilities were the acquisition of new water and
10 wastewater systems and contract operations. I was also responsible for developer
11 negotiations and I acted as CNJ's liaison to various state agencies. In May 2005,
12 I became the Vice President and COO of AUF.

13 **Q. Please describe your professional affiliations.**

14 A. I am a member of the American Water Works Association – New Jersey Chapter
15 and am past Chairman of its Water Utility Council Legislative Committee. I am
16 also a member of the New Jersey Utilities Association and am a member of its
17 Legislative Affairs Committee. I am also a member of the South Jersey Water
18 Superintendents.

19
20 I am a member of the American Water Works Association – Florida Chapter and
21 serve on the Florida Water Utility Council Legislative Committee. I am a member
22 of the Florida Rural Water Association. I am also on the Advisory Board at

1 Hillsborough County Community College for the Water and Wastewater
2 Licensing Curriculum.

3 **Q. Before what regulatory agencies have you previously appeared and**
4 **presented expert testimony?**

5 A. I have testified as a witness for the City of Trenton, New Jersey. I have also
6 testified in a rate case before a Hearing Examiner appointed by the Sarasota
7 County Board of Commissioners.

8 **Q. What is the purpose of your testimony?**

9 A. The purpose of my testimony is to provide an overview of how AUF operates and
10 manages its water and wastewater systems on a day-to-day basis, to provide
11 support for recovery of the requested operations and maintenance ("O&M")
12 expenses, and to demonstrate that AUF provides an excellent product and
13 excellent customer service to our customers. Further, the purpose of my testimony
14 is to provide information regarding the major capital projects undertaken and
15 planned for AUF and to demonstrate that AUF has made and budgeted prudent
16 investments in water and wastewater facilities necessary to provide service to our
17 customers, while complying with applicable federal, state and local regulations.

18 **Q. Are you sponsoring any exhibits in this case?**

19 A. Yes, I am sponsoring Composite Exhibit JML-1, which consists of Exhibits JML-
20 1 and JML-2, which are attached to my testimony.

21 **Q. Were these exhibits prepared by you or under your direction and**
22 **supervision?**

23 A. Yes.

1 **Q. In connection with your responsibilities with AUF, are you the sponsor of**
2 **any of the schedules from the Minimum Filing Requirements (“MFRs”)?**

3 A. Yes, I am sponsoring Schedules F-1 through F-4 of the Engineering Schedules in
4 Volume 1 of the MFRs; Schedule B in Volume 3 (Service Availability) of the
5 MFRs; the individual maps for each water and wastewater system included in this
6 rate case which are contained in Volume 4 to the MFRs; as well as the additional
7 engineering information required by Rule 25-30.440(2)-(10), Florida
8 Administrative Code, contained in Volume 5 to the MFRs. I am also co-
9 sponsoring Schedule B-3.

10 **Q. Please tell us about how AUF develops plans for its systems.**

11 A. Since acquiring the water and wastewater assets in 2003 and 2004, AUF has
12 developed plans to make capital improvements at many of its water and
13 wastewater facilities. AUF personnel evaluate water and wastewater facilities to
14 determine if capital improvements are necessary to improve water and wastewater
15 quality, reliability and service. The capital improvements planned by AUF are
16 necessary to comply with federal and state water and wastewater regulations and
17 to provide safe and reliable service at the level of customer service that our
18 customers expect.

19 **Q. What are the principal causes of the AUF rate filing?**

20 A. The reasons for the AUF rate filing are also addressed in the testimonies of AUF
21 witnesses Szczygiel, Rendell and Franklin. However, I wish to emphasize that
22 one of the primary drivers of AUF’s need for rate relief arises from our significant

1 level of capital investment made to enhance AUF's quality of service and to
2 comply with applicable federal, state and local regulations.

3 **Q. Please provide a general description of how AUF's water and wastewater**
4 **systems in the 16 counties subject to the Florida Public Service Commission's**
5 **("Commission") jurisdiction are organized and operated?**

6 A. AUF consists of several divisions located in 16 counties, some of which provide
7 water and wastewater service and some of which provide only water services. In
8 this filing, AUF is proposing a statewide uniform rate. This is discussed further
9 by AUF witnesses Szczygiel, Rendell and Franceski.

10

11 I have attached Exhibit JML-1 to my testimony which provides a listing of the
12 water and wastewater systems, by county, that are under the Commission's
13 jurisdiction and included in this rate filing.

14 **Q. Please provide a general overview of the manner in which AUF provides for**
15 **the operations and maintenance of its facilities?**

16 A. AUF seeks to employ the most qualified personnel available. AUF ensures that all
17 of our employees attend the necessary training courses (Continuing Education
18 Units) to maintain their licenses. Management works with operators to review and
19 assess how operations are conducted and various ways that AUF operators can
20 perform more efficiently. AUF's operators are included, and have input, in the
21 engineering design of facilities for which they will be responsible, including
22 equipment selection and distribution and collections system upgrades or
23 improvements.

1 Q. What role does the corporate office in Leesburg play in providing
2 operational and technical support for the provision of utility services in
3 Florida?

4 A. The corporate office in Leesburg provides the operational and technical support
5 for all of the water and wastewater systems and operators throughout Florida. The
6 office provides the engineering, permitting, environmental compliance,
7 operational and secretarial support and is a resource for the operators, field
8 workers, and meter readers.

9
10 The geographic reach of AUF's systems throughout Florida provide an
11 operational challenge, as we are charged with the responsibility for the operations
12 and maintenance of water and wastewater systems that stretch from Captiva
13 Island in Southwest Florida to Sunny Hills in Northeast Florida. AUF's corporate
14 office in Leesburg ensures that our systems are operating in compliance with
15 environmental regulations, that our customers are provided with a high level of
16 water and wastewater services, as well as responsive and efficient customer
17 service, and to ensure that each system is operated consistent with corporate
18 policies and procedures.

19
20 Capital projects are bid, designed and permitted through the Leesburg corporate
21 office. As a standard practice, operators assigned to various systems assist
22 engineering personnel in the corporate office in the design of a project. The
23 operators provide their input, review and comments to assure the responsible AUF

1 engineer has a correct design. Once the contract has been awarded, the operator
2 remains involved and will be included in the pre-construction meeting and serve
3 as the on-site manager of the project.

4 **Q. What functions does AUF's Operations Manager perform?**

5 A. AUF's Operations Manager in the corporate office oversees the development of
6 operating and capital budgets. As a part of that process, the Operations Manager
7 solicits input from area managers, field coordinators and operators on the specific
8 needs of the systems falling under their responsibility including such items as
9 facilities improvements, upgrades and replacement of equipment within facilities.
10 Once a draft budget is created, the Operations Manager reviews the draft budget
11 with the specific area manager, field coordinator and operator for a system or a
12 particular group of systems to insure that the draft budget is complete. Upon
13 approval of the budget, the Operations Manager assumes responsibility for the
14 management of operations consistent with the budget. The Operations Manager
15 provides broad oversight so that various projects are scheduled, commenced and
16 concluded on time and within the budget.

17 **Q. Does AUF operate its facilities in conformance with applicable
18 environmental rules?**

19 A. Yes. General overall responsibility for that function rests with AUF's
20 Environmental Compliance Specialist.

21 **Q. What are the responsibilities of the Environmental Compliance Specialist**

22 A. The Environmental Compliance Specialist's responsibility is to make sure that
23 AUF maintains compliance with applicable statutes, rules and directives of the

1 Florida Department of Environmental Protection ("DEP"), the governing Water
2 Management Districts ("WMD"), and local health departments. The
3 Environmental Compliance Specialist also serves as a resource to our area
4 managers, field coordinators and operators to assist them in sampling
5 requirements, techniques, monthly reporting and annual DEP inspections. In this
6 capacity, the Environmental Compliance Specialist will monitor changes,
7 improvements and additions to federal, state and local compliance requirements
8 and inform all those involved. He also recommends training and education
9 courses for the field personnel to keep up with the ever changing regulations. It is
10 the Environmental Compliance Specialist's responsibility to maintain a
11 relationship with DEP, WMD and Health Department representatives.

12 **Q. How does AUF's maintenance group in the corporate office interface with**
13 **maintenance employees throughout the state to operate and maintain**
14 **facilities?**

15 A. The maintenance group in the corporate office has broad responsibility for the
16 maintenance of our water and wastewater treatment facilities, wells, pumps and
17 motors, sewer lift stations, and electrical support for our systems. The supervisor
18 of maintenance works closely with the area manager, field coordinators, and
19 operators to perform preventive maintenance, emergency maintenance, and
20 outside contractor oversight.

21 **Q. Are maintenance employees cross trained so that they are able to perform a**
22 **variety of operations and maintenance functions?**

1 A. Yes. AUF personnel do not have just one specific job. Instead, they have a major
2 responsibility such as meter reading, plant operations or utility work, and, in
3 addition, they will perform a variety of other tasks including customer service
4 work, addressing customer complaints, new meter installation, shut-offs, mark-
5 outs, main and service line leaks, and meter changes. Here, the diversity of our
6 service area coupled with the cross-training of our employees allows us the
7 flexibility to bring additional employees in, as necessary, to a specific service area
8 or facility to address a particular problem.

9 **Q. In your opinion, does the interface and coordination between the Leesburg**
10 **corporate office and the area managers and operators in the field enhance**
11 **AUF's ability to respond to emergencies and maintain or quickly restore**
12 **service in the face of severe weather events?**

13 A. Absolutely. For example, prior to a hurricane, AUF has the ability to coordinate
14 and mobilize our forces and generators throughout the state. An "emergency
15 trailer" that is maintained at the Leesburg office is stocked with any and all
16 equipment needed in the event of an emergency. After each emergency, AUF
17 reviews the situation and determines how well we performed and if the trailer had
18 the needed equipment or supplies. The hurricane is tracked and depending on the
19 area of landfall we transport our equipment to a staging area just outside of the
20 limits of the storm. Typically this is one of our systems near the projected
21 landfall. Once the storm has passed, AUF responds to any and all types of
22 emergencies.

1 **Q. Does AUF attempt to take advantage of economies of scale by contracting for**
2 **various products and services in bulk?**

3 A. Yes, we do. AUF has national contracts for items such as meters, hydrants, pipe
4 and fittings, meter reading equipment, purchasing of vehicles, and vehicle
5 maintenance. We also have state wide contracts for laboratory services, utility
6 contracting, and supplies. Our objective is to continue to standardize these
7 purchasing practices and purchase in bulk, where possible, for items and services
8 that we use on a daily basis, thereby achieving the lowest possible price and
9 improve services and response time.

10 **Q. Have you prepared specific operating information concerning each system in**
11 **this case?**

12 A. Yes. Exhibit JML-2 provides the following information for each water and
13 wastewater system in this case: a description of the water supply and treatment
14 facilities and wastewater treatment and lift station facilities, type of chemical
15 treatment, chemical treatment information, operator requirements and operator
16 duties.

17 **Q. Are you familiar with certain O&M expenses that the Company is seeking to**
18 **recover in this case?**

19 A. Yes, I am.

20 **Q. Would you generally describe the adjustment to O&M expenses for pro**
21 **forma Labor Expense?**

1 A. Yes. As discusses by AUF witness Szczygiel, we have made adjustments to
2 recognize a 4% pay increase which was implemented in April 2008, as well as a
3 market based competitive increase for the AUF operational staff.

4 **Q. Could you elaborate on the necessity of the proposed market based increase**
5 **for competitive purposes for the AUF operational personnel and how it was**
6 **determined?**

7 A. Yes. We reviewed all the job descriptions for each of the positions involved. The
8 job descriptions were then sent to the field personnel to gather their input on
9 specific tasks they perform that was not captured in the job description. Once the
10 job descriptions were updated, all like titles were reviewed and updated with the
11 common tasks performed by each person. An analysis was performed to compare
12 AUF's salary's to other industry standards. With this information, salaries were
13 developed for each of the geographical locations within Florida.

14 **Q. Please describe AUF's general approach to customer service.**

15 A. AUF has a strong commitment to customer service. We have a Customer Service
16 Field Supervisor within Florida who manages all customer service functions
17 between the Call Centers, Billing and Customer Service. The Customer Service
18 Field Supervisor assists with meter reading, customer calls, emergencies, billing
19 issues, water quality issues, and initiating new service. Through this commitment,
20 we have consolidated our customer service to a call center located in Cary, North
21 Carolina. This center has the ability to enhance customer service by allowing
22 substantially high volumes of calls to be automatically routed to two other call
23 centers located in Pennsylvania and Illinois. The transfer of calls to these centers

1 is seamless to the customer and because we are standardized the Customer
2 Service Representatives have the ability to answer all questions.

3 **Q. Could you explain the meter change out program that was initiated by AUF**
4 **beginning in 2007?**

5 A. Yes. AUF began its program by converting 4,500 conventional water meters to
6 radio frequency ("RF") water meters in areas where it takes enormous man-hours
7 to read the meters in developments. RF water meters are beneficial because they
8 produce accurate readings and reduce the need for meter readers to go door to
9 door. AUF converted meters in Citrus, Alachua, Marion, Volusia, Brevard,
10 DeSoto, Highlands, Hardee Counties and a portion of Pasco County. With RF
11 water meters, we are able to read meters in a much more timely and efficient
12 manner. Our Utility Techs are then able to spend more time performing
13 maintenance work, answering customer service calls, and responding to daily
14 calls.

15 **Q. How many meters have been replaced, and what is the estimated completion**
16 **date for the replacement of the remaining water meters for the systems**
17 **included in this rate case?**

18 A. As of May 8, 2008 AUS has changed approximately 6,000 water meter to radio
19 frequency meters. It is estimated the 14,500 meters will converted by September
20 30, 2008.

21 **Q. Does this conclude your direct testimony?**

22 A. Yes, it does.

1 BY MR. MAY:

2 Q. Mr. Lihvarcik, have you attached two exhibits
3 to your prefiled direct testimony?

4 A. I have.

5 Q. Do you have any corrections or revisions to
6 those exhibits?

7 A. I do not.

8 Q. Have you prepared a summary of your direct
9 testimony?

10 A. I have.

11 Q. Would you please provide a brief summary at
12 this time?

13 A. Thank you. Good morning, Commissioners. I
14 serve as Aqua Utilities Florida, Inc.'s chief operating
15 officer, who oversees the overall direction and
16 administration of Aqua Florida, including efficient
17 operations of the company and assuring quality customer
18 and community service and employee satisfaction.

19 In my direct testimony, I provide an overview
20 of how Aqua Florida operates and manages its water and
21 wastewater systems on a day-to-day basis. My direct
22 testimony specifically focuses on three primary
23 operational areas, major capital projects and prudent
24 investment in water and wastewater facilities, O&M
25 expenses, and customer service.

1 We have 57 water and 25 wastewater systems
2 that are part of this rate case. None of these systems
3 have had rate base increases for over 12 years. The
4 primary driver behind the need for rate relief arises
5 from Aqua Florida's significant level of capital
6 investment made to enhance quality of service and to
7 comply with application federal, state, and local
8 regulations.

9 Since acquiring the water and wastewater
10 assets in 2003, Aqua Florida has developed plans to make
11 capital improvements at many of its water and wastewater
12 facilities. Aqua Florida's personnel evaluate the
13 facilities to determine if capital improvements are
14 necessary to improve quality, reliability, and service.
15 The capital improvements planned by Aqua Florida are
16 necessary to comply with federal and state water and
17 wastewater regulations and to provide safe and reliable
18 service at the level of the customer service that our
19 customers expect.

20 That concludes my summary. Thank you.

21 MR. MAY: Thank you, Mr. Lihvarcik. We would
22 tender Mr. Lihvarcik for cross-examination.

23 CHAIRMAN CARTER: Mr. Reilly.

24 MR. REILLY: Thank you very much.

25

CROSS-EXAMINATION

1
2 BY MR. REILLY:

3 Q. Good afternoon.

4 A. Good afternoon, Mr. Reilly.

5 Q. I have a few questions for you today. First I
6 would have you turn to page 34 of your GML-2, which is
7 Comprehensive Exhibit 79. That's the page at the
8 bottom.

9 A. Yes.

10 Q. And I believe this page addresses the Chuluota
11 system.

12 A. That's correct.

13 Q. And next to the heading "Wastewater System,"
14 you state, "Construction of the new wastewater treatment
15 plant will be completed by 12/31/2006"; is that correct?

16 A. That's correct.

17 Q. Did that new wastewater treatment plant in
18 fact get completed and constructed in 2006?

19 A. Yes, it did.

20 Q. Do you know when Aqua began the planning and
21 permitting for this facility?

22 A. The planning began prior to my taking over as
23 the chief operating officer in Florida.

24 Q. Which was?

25 A. May 2005.

1 Q. So really, from the inception of Aqua's
2 purchase of the Chuluota system, they began at once to
3 plan the expansion or -- I say expansion. Would you
4 describe what exactly comprises the new wastewater
5 treatment plant? Is it an expansion of an existing
6 plant, or what is that?

7 A. It's a new plant, a 400,000-gallon-a-day
8 wastewater treatment plant that is at the Chuluota
9 facility.

10 Q. So it's an entirely new facility. What
11 happened to the old facility?

12 A. We constructed around the old facility and
13 retired out the majority of the equipment. We did keep
14 some equipment in service.

15 Q. At the time Aqua purchased the Chuluota
16 system, was the Florida Water wastewater treatment plant
17 operating in accordance with FDEP regulations?

18 A. When we acquired the Florida Water systems,
19 the systems were all in compliance, and there were no
20 consent orders out on those, or violations.

21 Q. Shortly after purchasing the Chuluota system,
22 why did Aqua decide to construct and expand the Chuluota
23 wastewater treatment plant?

24 A. Based on a study that Florida Water had
25 conducted, it decided that the plant needed to be

1 upgraded and improved, and at the same time, to expand
2 the plant. It was our decision to invest the money now
3 and save costs rather than incrementally expanding it
4 later.

5 Q. What was the capacity of the old wastewater
6 plant?

7 A. I don't recall that, the existing plant.

8 Q. How does the new plant dispose of its
9 effluent?

10 A. We have a spray field -- excuse me. We have a
11 spray field that the effluent is disposed to.

12 Q. That's the same spray field that Florida Water
13 used for its old plant?

14 A. That's correct.

15 Q. Did Aqua make any arrangements to expand or
16 improve the disposal facilities?

17 A. No. We are looking or negotiating with
18 Utilities, Inc. for them to take our effluent on their
19 reuse facilities over in their systems.

20 Q. Could you tell me what the capacity of -- did
21 you tell me what the capacity of the disposal facilities
22 are? I don't believe you --

23 A. The spray field is rated for 100,000 gallons a
24 day.

25 Q. Okay. Given the often stated water quality

1 issues that have existed with the Chuluota system, why
2 did the company embark on this major and costly
3 construction of an expansion of the wastewater treatment
4 facility rather than addressing and solving Chuluota's
5 water quality problems first?

6 A. We were working simultaneously. We were
7 working both on the water and the wastewater system. On
8 the water side, the operations thought that by flushing
9 and controlling the chlorine being utilized at the
10 plants, that we would be able to bring the THMs under
11 control in conjunction with the construction of the new
12 wastewater treatment plant.

13 Q. I would like to just pass out a little
14 cross-examination exhibit to ask you a couple of
15 questions. This is titled "Transcript of New Port
16 Richey Service Hearing, pages 12 through 18."

17 I would particularly like to have you address
18 your attention, Mr. Lihvarcik, to page 14. Is this not
19 basically your statement that you made before the New
20 Port Richey service hearing in total on this exhibit?

21 A. Yes. Yes, it is.

22 Q. And I would just have you focus your attention
23 on page 14, lines 17 through 22. If you would be kind
24 enough to just read the first three sentences of this
25 paragraph.

1 A. "Despite the fact that we did not pay a
2 premium for these companies, they had been poorly
3 capitalized. In many instances, they were decaying to a
4 point that we had to make serious decisions about what
5 to spend our capital on first."

6 Q. One more sentence.

7 A. I'm sorry. "We focused first on meeting
8 environmental compliance and water quality standards."

9 Q. Now, I understand this statement to mean that
10 given the poor condition of many of the systems
11 purchased from Florida Water, that Aqua was committed to
12 make the serious decisions to prioritize spending so
13 that the first dollars spent would address environmental
14 compliance and water quality standards. Is that a fair
15 characterization?

16 A. Yes.

17 Q. Did Aqua in fact prioritize its spending on
18 the Chuluota system to first address the environmental
19 compliance and water quality standards?

20 A. I believe we did.

21 Q. And why do you say that?

22 A. Operationally, we felt that we would be able
23 to bring the THMs under control by the management of how
24 we feed chemicals at the water plant, how we flush the
25 system, and how we maintain water quality. And then we

1 also had to upgrade the plant at the same time.

2 Q. And that effort did not prove to be successful
3 in the 2004, 2005, 2006 time period?

4 A. In the 2000 -- since I have taken over, no.
5 We found that we could not maintain the THM levels at
6 the rate at which we could be in compliance.

7 Q. What was the principal water quality problem
8 in 2004 when Aqua purchased Chuluota?

9 A. I can only tell you what I've been told. I
10 didn't experience it myself, other than that we
11 experienced black water upon acquiring the system. I
12 believe it was in July of 2004. Mr. Luitweiler can
13 expound on that and give -- he was present with the
14 company at the time of the acquisition.

15 Q. He was the president at the time?

16 A. No, no, no. He was present.

17 Q. Present. Okay.

18 A. As our environmental compliance officer. So
19 he can expound on that.

20 Q. So it's your understanding that the black
21 water was the principal problem, the hydrogen sulfide
22 control?

23 A. At that time, I know there was black water.
24 What was contributing to it, I guess I -- I would only
25 be speculating to that.

1 Q. As to at the time that Aqua purchased
2 Chuluota, there was not, at least at that point, a TTHM
3 exceedance problem?

4 A. I'm not sure that -- Mr. Luitweiler could
5 answer that.

6 Q. All right. When the company quickly switched
7 from chlorination disinfection to free chlorine
8 disinfection, what happened?

9 MR. MAY: I object to that. I'm not sure he
10 has established that the company quickly did anything to
11 move from one treatment technique to another.

12 MR. REILLY: Okay. We will reserve that
13 question concerning the quickly. It's the expressed
14 testimony of their other witness, so we'll pursue that
15 at that time.

16 CHAIRMAN CARTER: Okay.

17 BY MR. REILLY:

18 Q. But it's your understanding, and it's in his
19 testimony, that they began the permitting and planning
20 pretty much right at the beginning after they purchased
21 the system?

22 A. For --

23 Q. For the construction of the wastewater
24 treatment plant.

25 A. That's correct.

1 Q. So I'm trying to ask questions about why all
2 this commitment to spend all this money on wastewater at
3 Chuluota when the overwhelming compliance problem that
4 was resonating throughout the whole community was this
5 serious water quality problem. And so my question is,
6 did in fact Aqua do what you said in your testimony in
7 New Port Richey and prioritize the limited dollars that
8 you had to address environmental compliance and water
9 quality? And your answer was yes, you felt that you did
10 that?

11 A. Yes.

12 Q. And I guess following up that question is, you
13 did say you felt it was a hydrogen sulfide problem at
14 Chuluota at the time when you took it over?

15 A. Again, I would just be answering as to what I
16 was told at the time we took it over.

17 Q. Does the presence of black water, a hydrogen
18 sulfide problem, cause environmental compliance problems
19 with a primary health standard, or is it a secondary
20 standard problem?

21 A. It's a secondary. It's just an esthetic
22 problem that causes problems in the distribution system,
23 customer complaints, and issues with just operating the
24 water system.

25 Q. So black water is essentially a secondary --

1 A. I believe it is. Mr. Luitweiler could answer
2 that more in detail.

3 Q. Is it your knowledge, or would Mr. Luitweiler
4 be the person to ask about what the company did in terms
5 of as soon as it took over its actual changing its
6 disinfection? As the operating -- are you aware of what
7 Aqua did?

8 A. In 2004?

9 Q. Yes.

10 A. Mr. Luitweiler could answer that one.

11 Q. In the case of Chuluota, the company's capital
12 spending actually resulted in more serious environmental
13 compliance issues and reduced rather than improved water
14 quality; is that not correct?

15 A. We have a water quality issue out there. I
16 wouldn't say that we degraded the water quality because
17 of capital improvements that we've done out there.
18 We've been trying to do capital improvements by changing
19 out water main. We've undertaken looping dead ends and
20 alleviating the issues with the water quality customers
21 are having on these dead-end lines, and also causing us
22 to spend numerous man-hours flushing those dead-end
23 lines out and installing automatic flushers to maintain
24 the water quality. And once we get those looping
25 projects completed, we should see a reduction in the

1 amount of water that we're flushing.

2 Q. But the twofold decision by the company to
3 commit its dollars for a major wastewater treatment
4 plant expansion, coupled with a second decision to
5 switch the disinfection from chloramination to free
6 chlorine actually resulted in the water product going to
7 the customers becoming a primary environmental
8 compliance problem rather than a secondary compliance
9 problem. Is that true or not?

10 A. It didn't -- we didn't lose compliance
11 immediately on the water quality side. We were able to
12 maintain it, and then because of the changing of the
13 water quality in the aquifer, which Mr. Luitweiler can
14 explain in more detail than I, had problems complying
15 with the THM levels in the water that we were producing.
16 And it didn't happen immediately. It happened over a
17 period of about 18 months to 24 months.

18 Q. So this deterioration that I'm characterizing,
19 rather than happening immediately, did take place, but
20 took place over a longer period of time?

21 A. That's correct.

22 Q. And this condition of the TTH and the
23 balancing and the black water continues to this day, and
24 now, of course, the company is embarking -- and there's
25 a lot of testimony about all the things the company is

1 doing now to try to do this balancing act and switch to
2 chloramination?

3 A. Since the 2004 episode and we switched to free
4 chlorine for a period of time, we did not have any
5 episodes of black water. We converted over to the
6 chloramination system in April of 2008. We had issues
7 with the analyzers which caused us to have a black water
8 episode. We immediately then asked DEP to allow us to
9 go to a burnout and back to free chlorine. That gave us
10 time to order the new analyzers and replace those
11 existing analyzers with the new analyzers, and we went
12 back online with chloramination in September. I believe
13 it was September -- the Wednesday after Labor Day, we
14 went back on chloramination, and we haven't had an
15 episode of black water since. Again, Dr. Taylor was
16 hired to assist us with the balance of how we're
17 treating the water at the plants with the
18 chloramination.

19 Q. Would Mr. Luitweiler, he be the more
20 appropriate person to ask the technicalities and the
21 details about the --

22 A. The chemistry?

23 Q. Well, I'm not going to go with chemistry. I
24 won't even go there, but more the actual equipment
25 failures --

1 A. Yes.

2 Q. -- that resulted in the --

3 A. In us switching out the analyzers?

4 Q. Yes.

5 A. Yes.

6 Q. Okay. I would like to pass out another
7 cross-examination exhibit and ask you just a few
8 questions.

9 A. Sure.

10 Q. The short title on this is "Tetra Tech/Hartman
11 & Associates, September 24, 2004 Letter." Are you
12 familiar with this letter?

13 A. I've read over the report.

14 Q. Is everyone ready for us to begin questions?

15 All right. By the very terms of the first
16 paragraph, I believe that it states that FDEP in July of
17 2004 required Aqua to hire a professional engineer to
18 provide a report to study the Chuluota black water
19 problem and to provide comments on the causes, issues,
20 and corrective measures that the engineer might
21 recommend to solve the problem; is that correct?

22 A. Yes.

23 Q. Does this September 24, 2004 letter from Tetra
24 Tech/Hartman & Associates represent Aqua's satisfaction
25 of the DEP requirement to seek additional outside

1 engineering analysis and recommendation?

2 A. Ask that question again. I'm sorry. I was
3 reading while you were --

4 Q. I'm just suggesting, does this letter respond
5 to the DEP requirement to get outside help to look at
6 the black water problem?

7 A. I believe it did.

8 Q. And if I could have you turn your attention to
9 page 4 of 7 of the letter. Would you --

10 A. The page -- oh, I see it. I'm sorry.

11 Q. It's at the top, page 4 of 7.

12 A. Yes, I see it. I'm sorry.

13 Q. And if I could have you please read the
14 sentence after the heading "Design Issues with the
15 Distribution Piping."

16 A. "The recommended changes in chemical
17 application points may need to be revised based upon
18 results of testing for THMs to maintain compliance with
19 the DBP Rule. Operational samples should be collected
20 and analyzed for THMs at a number of locations."

21 Q. Excuse me. Just one sentence --

22 A. I'm sorry.

23 Q. -- after the heading "Design Issues with the
24 Distribution Piping."

25 A. I'm sorry.

1 Q. That was the wrong paragraph.

2 A. "Looping of dead ends in the distribution
3 system should be done where feasible when an opportunity
4 arises. Existing valves should be exercised
5 periodically, and all check valves should be inspected
6 periodically to ensure they are working as intended."

7 Q. And I'll just direct your attention to one
8 more portion of this letter, and that's on page 6 of 7.
9 And again, I'm not going to have you read a whole
10 paragraph. These are just one-sentence --

11 A. Sure.

12 Q. -- reading assignments. Down at the very
13 bottom of the page, number 5, if you could just read
14 that one sentence.

15 A. "Evaluate the distribution system for
16 opportunities to tie in dead ends and/or to install
17 blow-offs on dead ends that cannot be tied in."

18 Q. Is it fair to represent that in this 2004 --
19 that in 2004, Aqua was well aware of the water quality
20 problems caused by the dead-end lines in Chuluota and
21 the need to loop those dead-end lines?

22 A. That's correct.

23 Q. It is my understanding that the company is
24 currently proceeding to loop some of the dead-end lines
25 in Chuluota. Is that not correct?

1 A. We're under way right now to do that, yes.

2 Q. And Mr. Franklin suggested you might have some
3 information to give us more details on that plan.

4 A. Yes. The areas where we're looping the lines
5 are in the older section, Third Street, Fourth, Fifth,
6 Sixth, and Seventh Streets. And one street, Third
7 Street, is where the daycare center is located. So once
8 we do get the looping project done, we'll have a free
9 flow of water through those mains so that we can
10 maintain water quality.

11 We have also installed approximately 13
12 flushers throughout the system on dead ends so we can
13 maintain over the years, not just in one year. As the
14 water quality issues arise, the field techs evaluate it
15 and recommend whether a flusher should be installed.

16 Q. When you say flusher, is that an automated
17 flusher, or just the capability of flushing?

18 A. It works similar to the timer that you would
19 have on your home irrigation system. It's battery
20 operated. You set the dates, the time, and the
21 duration, and it will automatically open up. We decided
22 to go this method because it saves on the manpower, and
23 it's a reliable means in which to flush out the dead
24 ends.

25 Q. And there are 13 of those?

1 A. Approximately.

2 Q. And how many of the lines actually will be
3 looped? And I assume when you're looping, of course,
4 you're looping from one dead end to another dead end and
5 then continuing?

6 A. There are approximately four or five dead ends
7 that we're going to be extending the mains down to a
8 main intersection and then running another line to
9 connect all five together into a main source.

10 Q. So it would be about four or five lines?

11 A. Yes.

12 Q. When will the looping project be completed?

13 A. We're anticipating to have it done by the end
14 of this month.

15 Q. And you said the flushers are already -- we
16 were talking about that because there were pictures.
17 Were those pictures -- of course, that was a picture of
18 manual flushing. We'll get to that later. Hold that
19 question.

20 In light of what we understand the company
21 knew from the very beginning about the dead-end lines, I
22 guess the question would be, why did it take four years
23 for the company to begin such a project, given the
24 company's stated policy of prioritizing the spending of
25 capital dollars to address environmental compliance and

1 water quality issues first and foremost?

2 A. We were doing other distribution system
3 upgrades throughout Chuluota by removing old mains. We
4 located a number of mains that weren't even shown on the
5 distribution maps, so some of the capital dollars that
6 we've expended were put in the distribution system
7 throughout.

8 We partnered with the county when they were
9 doing road projects where we know we had aged mains that
10 needed to be replaced, and we went in there and replaced
11 those lines. So we prioritized -- we looked at -- if we
12 knew that road construction was happening and we knew we
13 could save dollars because the roads were going to be
14 ripped up, we prioritized by doing those mains first.
15 And then we finally got to the point where there were no
16 road construction projects done this year, and we
17 prioritized and did the dead-end lines.

18 Q. Despite these other capital projects that
19 addressed or tried to address water quality problems,
20 nevertheless, from that, as we said, 18 to 20 months
21 after Aqua took over, it moved from a secondary
22 compliance standard problem to a primary TTH problem; is
23 that not correct?

24 A. That's correct.

25 Q. Changing subjects here, are you aware of the

1 circumstances of the Osprey Lakes Homeowners Association
2 paying the power bills for the sewer lift station owned
3 by Aqua?

4 A. Yes, I am.

5 Q. How did this happen?

6 A. The lift station was owned by the developer
7 for Osprey Lakes. In February of 2005, there was a
8 quit-take deed that was filed that deeded over the lift
9 station to Aqua, and the power was never transferred
10 over to Aqua by the developer.

11 It was brought to our attention by Kelly
12 Sullivan that they were paying the electrical bills for
13 the lift station. Once we found out that they were
14 paying the bills, I immediately had our accounting
15 department contact the power company and had the bill
16 switched over or the account switched over to Aqua, and
17 we will be getting billed for that now.

18 Q. What was the date again on the quit-take?

19 A. The quit-take deed was, I believe, February of
20 2005. I asked -- in talking with Kelly Sullivan, we had
21 the accountant from the HOA submit us their power bills
22 back to February of 2005, and a check is being cut and
23 mailed to the HOA in the amount of \$18,000. We also
24 instructed that the power company will give them a
25 prorated bill for November, and they're to forward that

1 bill over to us so that we could pay that prorated bill.

2 Q. Was there any interest component with the
3 payment to the homeowners association?

4 A. No, there wasn't.

5 Q. Have you now verified that all the power
6 meters associated with the facilities are in Aqua's
7 name?

8 A. To the best of my knowledge.

9 Q. Okay. Thank you.

10 Yesterday there was customer testimony about
11 an Aqua technician the Chuluota customers were pleased
12 with, but that was no longer serving the Chuluota
13 community. Can you tell us what happened to that
14 technician?

15 A. You have to understand a little bit of our
16 operations. Our employees operate multiple plants.
17 They operate in multiple counties. And what we like to
18 do is, we rotate our operators and our utility techs,
19 because over a period of time, they get cross-trained in
20 working in the various facilities. And it makes
21 operations a lot easier when employees are on vacation
22 or they're out sick that employees are familiar with the
23 operations of other facilities.

24 Mr. Ortiz was moved over to our Lake County
25 facilities, and he's operating plants in Lake County for

1 a period of time. Darrell Sweat, who is another Utility
2 Tech III, has been moved over to the Seminole County
3 facility. He's operating that as a utility tech. Our
4 plant operator, William Trendell, is remaining there
5 because of the chloramination and his familiarity with
6 it. We don't want to bother him at this point because
7 of trying to maintain the THM levels.

8 Q. I also understand that the technician
9 supervisor is also no longer --

10 A. Mr. Heath is still on our payroll.

11 Q. And so he's still --

12 A. Yes, he's --

13 Q. Okay. There was customer testimony yesterday
14 that Aqua is providing bottled water for certain
15 customers. Is that true?

16 A. Just the one customer.

17 Q. And that would be the preschool?

18 A. That's the daycare center, yes.

19 Q. And we had some questions on that with
20 Mr. Franklin, but he suggested that you would be the
21 better person to give us more of the particulars --

22 A. Yes.

23 Q. -- on the program.

24 A. Yes.

25 Q. Would you share what you can with us?

1 A. Yes. The daycare center is located -- their
2 service line is exactly on a dead end, the last service
3 on that dead-end main. The problem we had is because,
4 number one, it's a dead-end line, maintaining the water
5 quality. Number two, they use very little water, and we
6 had issues with over the weekend nobody being present in
7 the daycare center. No water was being used at all, so
8 that main from the service upstream to the daycare
9 center, that water was just remaining stagnant in that
10 line.

11 Because it was a daycare center with the
12 children and the babies, Mr. Heath came to me and said,
13 "Jack, I would suggest that because of the issues and
14 the problems I'm having maintaining water quality in
15 that line and because of the minimal usage on that line
16 that we provide bottled water to the daycare center. So
17 it was my decision, with the health, safety, and welfare
18 of the children at that facility, to provide them with
19 the bottled water.

20 Q. How many gallons of bottled water are being
21 furnished to the daycare center on a per week -- is it
22 per week, per month?

23 A. I couldn't venture a guess. It was cheaper to
24 provide the bottled water than it was to expand the
25 manpower to continuously flush the mains and pay for the

1 additional water to have to flush those lines.

2 Q. Could you give us some --

3 A. No.

4 Q. Who would be the proper person to ask this
5 question to?

6 A. We could probably get it from our accounting
7 department. I don't have that with me.

8 Q. Because what we wanted to know is, you know,
9 the cost of the program, the amount of the bottled
10 water. And I guess the next question is, who's paying
11 for the program?

12 CHAIRMAN CARTER: Mr. Reilly, you want to just
13 ask for that as a late-filed?

14 MR. REILLY: I would, yes.

15 CHAIRMAN CARTER: Okay. That will be,
16 Mr. May, Exhibit Number 190.

17 MR. MAY: Very good.

18 (Late-filed Exhibit 190 was identified for the
19 record.)

20 CHAIRMAN CARTER: I didn't mean to break in on
21 you, but it seemed --

22 MR. REILLY: No, no. That's fine. I was
23 heading there, and in the spirit of expediting things.

24 CHAIRMAN CARTER: You may proceed.

25 BY MR. REILLY:

1 Q. So we'll just rely on that to get all our
2 details.

3 A. And again, once the looping mains are approved
4 and put in service, we will discontinue providing the
5 bottled water to the daycare center.

6 Q. There has been a fair amount of attention
7 given to the extra cost imposed upon customers to buy
8 bottled because they can't drink Aqua's water. However,
9 isn't it true that if Aqua ever fixed its water so that
10 people could consume it, Aqua would be in a position to
11 sell a lot more water to its customers at the expense of
12 the bottled water companies, and to some extent, this
13 proposed rate increase could be scaled back because of
14 the increased water consumption? Would that be a true
15 statement?

16 A. Well, if you look at Chuluota, they're already
17 using 10,000 gallons a month, more than any other system
18 that we operate in the state.

19 Q. However, nevertheless, I guess -- so you're
20 saying really -- if you could give me a yes or a no and
21 then an explanation of why you think it's not relevant
22 that people might consume more water if they're
23 irrigating so much. So the question is --

24 MR. MAY: Mr. Chairman, could I ask Mr. Reilly
25 to maybe rephrase that question? I'm lost on this one.

1 BY MR. REILLY:

2 Q. Well, the question is, if the company had a
3 product that people felt they could consume for drinking
4 and cooking and so forth, would that not result in more
5 water sales if they're not using it for that purpose
6 now?

7 A. My personal opinion is no, I don't believe so.

8 Q. That incremental amount of water is not
9 significant compared to irrigation? I mean, is that
10 your testimony, the incremental amount of water they
11 might -- all these people starting to no longer buy
12 bottled water at the grocery store, that they're going
13 to start taking it out of their tap, that that's not
14 material compared to --

15 A. I don't know how to quantify how much more
16 water we would produce if people stopped drinking
17 bottled water.

18 Q. Changing the subject, did you hear the
19 testimony of Ms. Kelly Sullivan yesterday?

20 A. Yes, I did.

21 Q. She submitted a comprehensive composite
22 exhibit. It's Comprehensive Composite Exhibit Number
23 175, which depicted some of the extensive flushing
24 presently going on in the Chuluota water system.

25 A. Yes.

1 Q. Could you describe the current flushing
2 program a little more completely?

3 A. Yes. We hired Dr. Taylor to assist us on
4 putting together a protocol to maintain water quality in
5 the Chuluota system. We developed this plan with the
6 input of Mr. Luitweiler and myself and the people in
7 Florida on how we're going to flush and operate the
8 system. We designed -- we designated points throughout
9 the system that need to be flushed and the duration of
10 the flushing and the times during the month that it
11 needed to be done, and depending on the water quality at
12 any given time, whether we needed to increase or
13 decrease that flushing. We also developed in that plan
14 a baseline water quality testing format so that we can
15 monitor the water quality at any given time, and based
16 on that water quality results, increase or decrease our
17 flushing.

18 Q. How is the water being flushed accounted for?
19 How are records kept to try to quantify and keep up with
20 the quantities of water that you are --

21 A. Our operators know based on the -- if we look
22 at the automatic flushers, we know approximately how
23 many gallons per minute those automatic flushers flush.
24 We know the duration of time, so it's a quick
25 multiplication of time versus gallons and gives you your

1 total gallons. And when we do a manual flush, we know
2 if a fire hydrant flows approximately 500 gallons a
3 minute, we know how many minutes we flush, and we
4 multiply it out.

5 They on a monthly basis take that and add it
6 all together, and we have what we call a water loss
7 report which tracks the production. It tracks our
8 consumption, what we call company use, which would be if
9 you had a water plant or a wastewater plant and you
10 would be washing down the plant or you would be cleaning
11 something with water, which is called company use. And
12 then we also have a line that's called for flushing.
13 And total all those together, and that gives you your
14 total usage for the system. And that is on a monthly
15 basis.

16 Q. Now, I understand that Dr. Taylor is
17 designing -- has he designed it yet, or where are we on
18 the monitoring of the system to determine when and where
19 the company would go in to do any manual flushing, as
20 well as any adjustments to the automatic flushing?

21 A. We have it all in draft form. But
22 Mr. Luitweiler, who has been working more closely with
23 Dr. Taylor than I have, can elaborate more on the plan.

24 Q. How typical is the month of November -- how
25 long has this flushing program -- has it really even

1 quite taken place, or is it in evolution? Where are we
2 on this more extensive flushing to try to maintain this
3 balance?

4 A. We are hoping once we get all of our baseline
5 data that we would start to see the flushing start to
6 tail off. And again, dependent upon the water quality
7 and the results that we get, we might have to ramp it up
8 for a couple of weeks in order to get the water quality
9 back under control. But we're hoping continuously
10 monitoring it, we can then incrementally start to reduce
11 the flushing and then come to a baseline flushing that
12 we can use to maintain the system.

13 Q. Did you say that your personnel keep a record,
14 have a journal to keep a record of their manual
15 flushing, to estimate the accounted-for flushing at that
16 particular incident?

17 A. They have a journal at the plant where they
18 maintain the records for flushing and all the system
19 operations.

20 Q. So a technician would go out -- let's say we
21 saw pictures of --

22 A. Yes.

23 Q. And they would open the main, open up the
24 hydrant for however long, and they would record this is
25 how long we did it, and bring that data back to the

1 plant, and it would be entered in the journal?

2 A. And then that's transmitted to our office in
3 Leesburg, to our compliance person who manages the
4 database on the amount of water that we use for
5 flushing.

6 Q. So you have a record. The company has a
7 record of all the flushing, both manual and automatic,
8 that took place in Chuluota during the month of
9 November?

10 A. I don't know specifically if it's broken down
11 manual or automatic. It might just be a composite
12 number showing total flush for that month or that day.

13 MR. REILLY: I would like to request a
14 late-filed exhibit for November 2008 so that we can get
15 a handle and understand a little more about the impact
16 or the quantity of flushing that's going on. That would
17 be our request.

18 CHAIRMAN CARTER: Mr. May?

19 MR. MAY: If you would give me a moment to see
20 if we can --

21 CHAIRMAN CARTER: Okay. Let's take a minute.

22 MR. MAY: -- gather that information.

23 CHAIRMAN CARTER: Let's take a minute.

24 (Off the record briefly.)

25 MR. MAY: We can have you that information in

1 ten days.

2 CHAIRMAN CARTER: Okay. Now, Mr. Reilly, its
3 title? Short would be --

4 MR. REILLY: Flushing data for November 2008.

5 CHAIRMAN CARTER: Excellent. You may proceed.

6 (Late-filed Exhibit 191 was identified for the
7 record.)

8 BY MR. REILLY:

9 Q. Just a little bit more on this subject. There
10 was some testimony earlier and concern about where does
11 the flushed water go. Obviously, I guess it goes to
12 stormwater and/or the surrounding area. To what extent
13 do you know where this water goes and whether it goes
14 into certain wetlands, which was a concern of many of
15 the customers?

16 A. To the best of our knowledge, it's not going
17 into any wetlands. It's either going into retention
18 ponds or into the woods.

19 Q. Are the woods -- what is contiguous to the
20 woods? I mean, are there wetlands near or close to the
21 woods?

22 A. Unless we had a delineation, I'm not aware of
23 any there.

24 Q. And we had anecdotal evidence about browning
25 and so forth. Do you have any -- maybe this is more of

1 a chemistry question, but to speculate what might be in
2 flushed water that could pose any kind of environmental
3 concerns to the environment?

4 A. I had our compliance officer check it out last
5 night. In the area that is on Lake Lenelle Road there
6 is small retention pond where you see those trees.

7 MR. REILLY: I think that concludes our
8 questions.

9 CHAIRMAN CARTER: Okay. Ms. Bradley.

10 MS. BRADLEY: Thank you.

11 CROSS-EXAMINATION

12 BY MS. BRADLEY:

13 Q. Isn't it true that you all do not have a
14 consumptive use permit at this time?

15 A. That is correct.

16 Q. And the one you had expired over a year ago?

17 A. That's correct.

18 Q. And under the rules, you have 60 days to get a
19 new one?

20 A. We've made application. We've been working
21 with St. Johns to obtain a new consumptive use permit.
22 There's a lot of information that they're requesting for
23 monitoring of the wetlands and aquifer that we're
24 compiling the data. We've hired Ardaman Associates to
25 assist us with putting that data together.

1 Q. But you were required to have your permit
2 within 60 days; correct?

3 A. I believe that's what the rule says.

4 Q. Okay. I understand that you all had a broken
5 meter to regulate or to know how much water you were
6 actually taking out?

7 A. I'm not familiar with that.

8 Q. You're not familiar with that?

9 A. No. As far as the -- are you referring to the
10 meter that is on the well itself?

11 Q. That would measure how much water you're
12 removing.

13 A. From the aquifer?

14 Q. Yes.

15 A. We could have. It wasn't brought to my
16 attention. That would have been handled by our
17 operational people to get that repaired.

18 Q. So you are not aware that it was broken for a
19 couple of years?

20 A. No, I'm not.

21 Q. Have you done a schedule for your Aqua
22 Connects meetings in 2009?

23 A. We haven't laid it out for the entire year.
24 We have our first Aqua Connects meeting scheduled for
25 the last Friday in January with Tomoka View/Twin Rivers.

1 Mr. Hoffman has requested that we meet with the
2 residents of his development and the adjacent
3 development. The goal would be then to look at some of
4 the other systems that we have adjacent to those areas
5 and invite those people to come also.

6 Q. With all the problems that you're having in
7 Chuluota, have you scheduled one for Chuluota yet?

8 A. Not yet.

9 Q. Do you intend to?

10 A. We intend to do that. And we intend to look
11 at other systems during the year that we might have
12 additional problems, either with water quality, or if
13 we're doing a major capital project, prior to the
14 project taking place, meeting with the residents, and
15 then going -- like Mr. Franklin was saying, we did a
16 global approach this year. We did more site-specific
17 visits with Zephyrhills on two occasions, and we had 100
18 people at the first meeting and 87 at the second
19 meeting.

20 So by us drilling down and going right into
21 the developments, we feel we can get a better turnout.
22 We can tailor our Aqua Connects meetings for their
23 needs, not just looking at a generic presentation, and
24 we can work one on one with those customers on issues
25 that they have, identify problems that they have, and

1 hopefully correct them.

2 And our goal is still to bring customer
3 service representatives to those meetings so that if we
4 have billing issues, we can address those on-site rather
5 than taking notes back and sending them back to customer
6 service and then having that delay or having the ball
7 dropped and not getting back to the customers.

8 Q. Speaking about having customer service
9 representatives there, you, I know, had customer service
10 representatives at some of the public hearings that we
11 had a few months ago.

12 A. That's correct.

13 Q. Such as the one in Chuluota.

14 A. Yes.

15 Q. And the Commissioners several times requested
16 that people be taken to the back and that their billing
17 problems taken care of that night.

18 A. Yes.

19 Q. Correct?

20 A. That's correct.

21 Q. And in fact, though, none of the billing
22 errors were taken care of that night, and people were
23 not given call-backs subsequent to that; correct?

24 A. Unless -- I wasn't aware that our customers
25 were not satisfied leaving that night or there was not

1 follow-ups on that.

2 Q. Well, their bills were not adjusted that
3 night, were they?

4 A. Well, they would have updated the accounts
5 with information that was given to them that night, if
6 there were problems that were easily rectifiable
7 on-site. It might have required further detail as they
8 went back to the office and had to research in order to
9 correct the bill. But as far as billing issues, I
10 haven't in my office received any complaints from the
11 customers that bills that were addressed that night were
12 not taken care of.

13 Q. Are you aware that the Commission, the Public
14 Counsel, and our office got complaints subsequently
15 about not getting calls back from that?

16 A. Working with Mr. Franklin and other customer
17 service people, I knew that we had some issues. I
18 didn't know what the extent -- the most recent ones.

19 Q. On the public notices that you have sent out,
20 particularly dealing with MCL violations --

21 A. Yes.

22 Q. The person to contact for Aqua is actually in
23 Leesburg; correct?

24 A. That's correct.

25 Q. And there's no 800 number on that notice, is

1 there.

2 A. Can you read off what number that is, and I
3 can let you know exactly where that's at.

4 Q. I don't have it in front of me.

5 A. Okay. I believe the number is to our office
6 in Leesburg.

7 Q. But there's not an 800 number on there, is
8 there?

9 A. No. We felt that -- no, there isn't. You're
10 referring so that customers, when they call our office,
11 it's a toll-free number. No, there isn't.

12 Q. Is there a toll-free number that you could
13 provide customers so that if they have an MCL violation
14 to report, they could do that without having to go to
15 more expense?

16 A. We could look into it.

17 CHAIRMAN CARTER: Ms. Bradley, are you about
18 -- are you ready to go into another section?

19 MS. BRADLEY: I was just checking to see if I
20 had a couple more questions.

21 CHAIRMAN CARTER: Okay.

22 MS. BRADLEY: I'll try to be quick.

23 CHAIRMAN CARTER: No. I was going to say, if
24 you're at a breaking point, then that would work for us,
25 because --

1 MS. BRADLEY: Well, if you want to take a
2 break, that's fine.

3 CHAIRMAN CARTER: I mean, if you can give me
4 some kind of idea, that would let me know whether to
5 take the break now or to take it later.

6 MS. BRADLEY: I have a couple more areas to
7 ask him about.

8 CHAIRMAN CARTER: Okay. Then let's do this.
9 Commissioners, we've got some matters that require all
10 of our attention. Staff you're aware of that. We're
11 going to probably be out for an hour, so we'll be back
12 at 3:30.

13 (Recess from 2:28 to 4:00 p.m.)

14 CHAIRMAN CARTER: We are back on the record.
15 Ms. Bradley, you're recognized.

16 MS. BRADLEY: Thank you.

17 CHAIRMAN CARTER: Let's get our witness first.

18 MS. BRADLEY: That would be helpful.

19 BY MS. BRADLEY:

20 Q. Mr. Lihvarcik, Mr. Franklin, I think you also
21 mentioned something about the water usage in -- I
22 believe it was in Chuluota averaging something around
23 10,000 gallons a month?

24 A. That's correct.

25 Q. Now, is that the average of all your Chuluota

1 customers?

2 A. It's primarily in the newer sections with the
3 larger lots and the homeowners covenants that they must
4 maintain their grass that's green.

5 Q. But you said it was an average of 10,000. Is
6 that the average of all your customers in that area?

7 A. I believe so.

8 Q. Okay. Now, the water usage, I guess you would
9 admit, is obviously an issue that's in dispute. We've
10 heard testimony at all the hearings about the
11 three-minute showers and looking at their water usage
12 morning and evening and recording it. You would concede
13 that that is something that the customers dispute?

14 A. They've questioned their usage.

15 Q. There was a discussion about the flushing of
16 the water, and you said you sent somebody out last night
17 to check on that or something.

18 A. Yes.

19 Q. The pipes that you're using to flush, have
20 they been changed recently?

21 A. Can you clarify? Pipes meaning the --

22 Q. Have you replaced any of those pipes since
23 you've been at Aqua?

24 A. The pipes that are feeding the flushers or the
25 distribution lines that are out in the street.

1 Q. Okay. So --

2 A. No, I'm asking you to clarify. The water
3 mains that are located out in the street that are
4 feeding the customers, or the lines that are actually
5 where the flushers are hooked up to?

6 Q. I'm talking about the lines that the flushing
7 is hooked up to?

8 A. We have replaced lines in Chuluota, installed
9 new water mains in certain areas in Chuluota. We've
10 abandoned old lines that we've found that were not
11 located or shown on any of our maps that were
12 contributing to discolored water or water quality
13 problems. And we've seen an improvement in those areas
14 where we've been replacing mains.

15 Q. When they talk about lines that were flushed,
16 what does that mean?

17 A. We're talking about the water distribution
18 lines, the water mains that are located out in the
19 streets.

20 Q. Okay. And you said some of those have been
21 changed?

22 A. That's correct.

23 Q. Were they replaced with similar lines or
24 pipes?

25 A. If they were galvanized or cast iron, they

1 were replaced with plastic.

2 Q. Okay. Same diameter lines?

3 A. If we had the opportunity to upscale, we would
4 have increased the sizes. If they were six-inch and
5 eight-inch and were providing adequate service to those
6 areas, they were replaced in kind.

7 Q. All right. Did you replace all of the smaller
8 ones?

9 A. As of this time, no.

10 Q. Okay. The sewage plant that you built, when
11 was it finished?

12 A. 2006.

13 Q. When you all designed that plant, I think you
14 said something about 400,000 --

15 A. Gallons per day.

16 Q. Okay. Which would handle -- do you know
17 roughly how many people that would service?

18 A. Well, if you look at the estimated, somewhere
19 between 200 to 250 gallons per day, the low side could
20 be 2,000 customers.

21 Q. Okay. That's probably almost twice as many
22 customers as you have in that area. Was there any
23 discussion when you were building something that large
24 about selling some of that to Oviedo, who I understand
25 has need for additional sewage service?

1 A. At the time, no. The study that we looked at
2 from Florida Water, there was some anticipation of
3 extending lines out to the older sections of Chuluota
4 and abandoning some of those septic systems that would
5 then be tied into the sewer plant. We also looked at
6 what can additionally be constructed as new building
7 within our service area, in-fill, a lot here, a home
8 there, a commercial unit that would tie in and use the
9 plant. So it was a combination of abandoning septic
10 systems and new construction.

11 Q. You said when you were anticipating it.
12 Currently, is there any discussion about selling some of
13 that to Oviedo?

14 A. At this time, no. The only discussions we had
15 was the sale of the system.

16 Q. Mr. Franklin also talked about the problem
17 with the meters, the new meters, and indicated that
18 there was a -- it was not an extra zero. It was
19 something about a problem that wound up or resulted in
20 estimated rather than actual readings.

21 A. Yes.

22 Q. And has that been fixed?

23 A. Yes, it has.

24 Q. And when was that fixed?

25 A. As we were going through the process. Like we

1 were talking about before, when you're doing 14,000
2 meters in one big project, there are startup problems
3 and some issues. And it was a data transfer between our
4 contractor and getting the information in a timely
5 manner to our office to upload the information. As we
6 worked through the process, we refined it. And by using
7 computers and sending files up, we were able to get the
8 information from the field to the office a lot quicker.

9 Then we also implemented a plan where would we
10 go through -- once the meters were installed and prior
11 to the next meter reading, we would do what you would
12 call a dry run meter read, where we would load the
13 accounts up in the meter reading equipment and drive
14 through the development and see that we were recording
15 all of the meter reads. If we got a meter where it
16 didn't accept the read, the utility tech would go out
17 there and check to make sure the meter serial number was
18 correct that was in our system, the transponder number
19 was correct, and whether both of them were working. And
20 that was done probably in June.

21 Q. So the meter problem was resolved by June of
22 this year?

23 A. The problem that we were having getting the
24 information back and assuring that the next billing that
25 went out, the bills were correct.

1 Q. I don't remember if I asked you or if I was
2 talking to Mr. Franklin, but are you aware of the
3 complaint from Ms. Dirk (phonetic) a couple of months
4 ago, who was still having problems with the meter
5 reading?

6 A. I'm not personally aware of that. I heard
7 discussion with Mr. Franklin. If she was in Chuluota,
8 those meters were changed out back in April, so that was
9 before we actually implemented the plan to assure that
10 we got the accurate reads.

11 MR. MAY: Mr. Chair, there has been a number
12 of questions regarding this relay of information from
13 Ms. Bradley to the company. We're kind of scratching
14 our heads. Could you provide us with that
15 correspondence where, Ms. Bradley, you alerted the
16 company to this? We simply cannot locate it.

17 MS. BRADLEY: I asked if he was aware of that
18 communication, aware of that problem with this lady.

19 MR. MAY: No, but I think you've mentioned
20 throughout the course of this hearing that you've been
21 providing correspondence to the company, and we simply
22 can't find that. If you could help us out in that
23 regard, it would speed things up. We could know which
24 e-mail you're referring to.

25 MS. BRADLEY: I've talked with Ms. Joyce about

1 providing her with one of the recent ones. Can we talk
2 about that after I finish my questioning?

3 MR. MAY: We can talk about it, but you
4 continue to ask the witness and suggest that you've
5 provided the company with correspondence, and we can't
6 find that correspondence, Ms. Bradley.

7 MS. BRADLEY: Mr. May, I don't know what
8 you're talking about. I didn't ask Mr. Lihvarcik about
9 that. I asked him if he was aware of the situation with
10 this lady.

11 CHAIRMAN CARTER: Let's zero in on the issues.
12 It's getting a little late in the day, but let's zero in
13 on the issues and move forward. If there's something
14 specific, then we need to lay foundations and move
15 forward on that. Let's zero in on it.

16 BY MS. BRADLEY:

17 Q. Well, I don't know whether I need to repeat
18 that or not, since Mr. May interrupted, but you said you
19 were not aware of the situation that occurred a couple
20 of months ago with Ms. Dirk?

21 A. The only situations that I was aware of were
22 the two that you provided us back in July. Between July
23 and now, I haven't seen any correspondence from your
24 office about customer complaints or haven't been made
25 aware of any customer complaints that have gone through

1 your office or through the OPC since that time.

2 Q. Are you aware in your office, though, of
3 communications with Ms. Dirk, and I believe she
4 indicated with Stacey?

5 A. I personally am not aware of any, that we had
6 correspondence with her or had met with her.

7 MS. BRADLEY: Okay. I don't think I have
8 anything else, Mr. Chairman.

9 CHAIRMAN CARTER: Thank you. Commissioners, I
10 want to go to staff first and then come back.

11 You had your chance. Have you got a burning
12 desire? I mean, what's up?

13 MR. REILLY: I can wait. I just -- I'll wait.
14 That's fine.

15 CHAIRMAN CARTER: I don't plan on coming back
16 to you, so --

17 MR. REILLY: I just wanted exhibit
18 identification on the two cross-examination. I can wait
19 till later. We identified them, but we just didn't give
20 them exhibit numbers.

21 CHAIRMAN CARTER: 190 and 191.

22 MR. REILLY: I think that was the late-fileds.
23 Did you give late-filed numbers?

24 MR. JAEGER: Chairman Carter, I think --

25 CHAIRMAN CARTER: Did you want those others in

1 there? Hang on a second. Hang on. Everybody just hold
2 what you've got.

3 Now, the other ones, you said that you were
4 just using them for cross-examination. Were you going
5 to -- do you want to --

6 MR. REILLY: I would like to just --

7 CHAIRMAN CARTER: Okay. Then hold on. Back
8 up, everybody. So then the letter from Tetra Tech --

9 MR. REILLY: I believe that was the second
10 one.

11 CHAIRMAN CARTER: So that would be 192. Okay.
12 Since that was the second one, that will be the second
13 one. That will be Number 192, Commissioners.

14 MR. REILLY: And then the earlier one was --

15 MR. JAEGER: The transcript. I don't think we
16 need to make the transcript an exhibit. It's a part of
17 -- the transcript is a part of the official record.

18 MR. REILLY: And that's fine.

19 MR. JAEGER: So you want to move the Tetra
20 Tech letter.

21 MR. REILLY: And that will work for us.

22 CHAIRMAN CARTER: Well, since it's an excerpt
23 and I've skipped my block on here, you're stuck with 190
24 -- well --

25 MR. REILLY: Okay. We'll be happy to accept

1 that. It's an excerpt of the transcript.

2 CHAIRMAN CARTER: Okay. We'll use the excerpt
3 as a transcript. So this will be -- 192 will be the
4 Tetra Tech letter, and the other you were just using for
5 cross-examination purposes from the transcript.

6 MR. REILLY: That will be fine.

7 CHAIRMAN CARTER: Okay, Commissioners. So 192
8 would be the Tetra Tech letter.

9 (Exhibit 192 was marked for identification.)

10 CHAIRMAN CARTER: Thank you, Mr. Reilly. Any
11 -- did we cover that? That was all, just those two
12 documents there?

13 MR. REILLY: Yes.

14 CHAIRMAN CARTER: I want you to know, you're
15 messing up my sheet, but that's all right. For you, not
16 a problem. Mr. Beck, we would have to have questions.

17 MR. REILLY: Thank you, Mr. Chairman.

18 CHAIRMAN CARTER: Staff, you're recognized.

19 MR. JAEGER: Thank you, Chairman.

20 CROSS-EXAMINATION

21 BY MR. JAEGER:

22 Q. Mr. Lihvarcik, there was some rustling over
23 here when you were talking about the looping project,
24 and I wanted to make sure. When did that looping
25 project start?

1 A. Excuse me. I'm sorry. I missed -- which
2 project?

3 Q. For Chuluota, the looping project, when did
4 that start?

5 A. I believe construction started the end of
6 October, the beginning of November of this year.

7 Q. And how long was the planning stage or getting
8 up to the construction?

9 A. We designed it around June of this year,
10 permitted it with DEP. The issue that we had -- we
11 planned upon starting in August. Tropical Storm Faye
12 came through. We had the large rain in the Chuluota
13 area. In the Chuluota area where we were going to do
14 the construction, there was a lot of standing water, so
15 that delayed the project until the water receded in the
16 construction area.

17 Q. Okay. And one last question. The consent
18 order that was issued in January of '07 that was for
19 exceeding the MCLs for total trihalomethanes, that was
20 after you had gone back to chlorine and had abandoned
21 the prior chloramination project; is that right?

22 A. That is correct.

23 MR. JAEGER: That's all I have.

24 CHAIRMAN CARTER: Thank you. Mr. May.

25 MR. MAY: Thank you, Mr. Chairman.

REDIRECT EXAMINATION

1
2 BY MR. MAY:

3 Q. Good afternoon, Mr. Lihvarcik.

4 A. Good afternoon, or good evening.

5 Q. Good evening. Do you recall being asked by
6 Ms. Bradley about what she claimed to be a broken meter
7 at one of your wells?

8 A. Yes, I do.

9 Q. How often does Aqua test and calibrate its
10 meters?

11 A. We test them annually, and calibrate them.

12 Q. Do you have calibration records?

13 A. Yes, we do. We have -- the contractor that we
14 use that calibrates the meter provides us with a report.

15 Q. And when were your meters last tested?

16 A. We finished them this week. Yesterday it was
17 completed.

18 Q. Does anything in your records indicate that
19 there was a meter broken at one of your wells?

20 A. No. We have records from 2005, 2006, and
21 2007, and nothing indicated that the meters were broken.

22 Q. Mr. Lihvarcik, you were asked some questions
23 by Mr. Reilly concerning the cost of the bottled water
24 that Aqua was supplying to the daycare center. Do you
25 recall that line of questioning?

1 A. Yes, I do.

2 Q. Is the cost of the bottled water that Aqua is
3 providing to the daycare included in this rate case?

4 A. No, it isn't.

5 Q. You also were asked about the cost of
6 electricity at a lift station in Chuluota. Do you
7 recall that?

8 A. Yes, I do.

9 Q. Would those electrical costs be included in
10 this rate case?

11 A. No, they are not.

12 Q. Do you have the cross-examination exhibit that
13 Mr. Reilly distributed? I think it has been given the
14 number 192.

15 A. Yes, I do.

16 Q. I've had a chance to read this over the break,
17 and it's a fascinating letter. I had a couple of
18 questions about it.

19 Do you recall Mr. Reilly and Ms. Bradley
20 questioning you extensively regarding flushing?

21 A. Yes, I do.

22 Q. Can you turn to page 5 of 7 of that letter?

23 A. Yes.

24 Q. Down about the middle of the page, there is a
25 recommendation under paragraph 2. Can you read that?

1 A. Paragraph 2, systematic flushing of the water
2 distribution system?

3 Q. Yes.

4 A. "The existing flushing program should be
5 evaluated and modified if necessary. Consider the
6 feasibility of installing one or more automatic flushing
7 hydrants that can work with a monitor for chlorine
8 residual."

9 Q. So the Tetra Tech engineering firm recommended
10 that you perform systematic flushing; correct?

11 A. That's correct.

12 Q. Can you turn to page 6 of 7? At the bottom of
13 that page, there are recommended measures to avoid
14 recurrence. Do you see that?

15 A. Item number 5.

16 Q. Can you read item 4 and 5 for the record,
17 please?

18 A. "Establish a preventive flushing program that
19 includes monitoring and recording chlorine residuals at
20 the beginning and end of flushing at each flushing
21 point. Investigate the use of automatic flushing with
22 chlorine residual monitoring."

23 Item number 5 is to evaluate the distribution
24 system for opportunities to tie in dead ends and/or
25 install blow-offs on dead ends that cannot be tied in.

1 Q. So your engineering firm, Tetra Tech, had
2 recommended that you establish a preventative flushing
3 program and also install blow-offs at dead ends that
4 cannot be tied in; is that correct?

5 A. That is correct.

6 Q. Can you turn to the first page of this
7 document, please?

8 A. Yes.

9 Q. In the upper right-hand corner of that, the
10 second name on the list of individuals who are members
11 of this Tetra Tech firm, can you read that for the
12 record?

13 A. Yes. Andrew T. Woodcock, P.E., M.B.A.

14 Q. Do you recall Ms. Bradley questioning
15 Mr. Woodcock extensively yesterday regarding flushing?

16 A. Yes, I do.

17 Q. Isn't it correct that Mr. Woodcock's firm,
18 Tetra Tech, recommended that Aqua implement flushing for
19 its system in Chuluota?

20 A. That is correct.

21 MR. MAY: No further questions.

22 CHAIRMAN CARTER: Okay. Let's see here.
23 First of all, we've got Exhibits Number 78 and 79.
24 Mr. May moves into evidence. Are there any objections?

25 MR. REILLY: No objection.

1 CHAIRMAN CARTER: Without objection, show it
2 done. Commissioners, for your records, Numbers 78 and
3 79.

4 (Exhibits 78 and 79 were admitted into the
5 record.)

6 CHAIRMAN CARTER: Also, Mr. Reilly moves
7 exhibits that have been marked for identification as
8 190, 191, and 192. Mr. May, any objections?

9 MR. MAY: No, Mr. Chairman.

10 CHAIRMAN CARTER: Without objection, show it
11 done.

12 Okay.

13 (Exhibits 190, 191, and 192 were admitted into
14 the record.)

15 CHAIRMAN CARTER: Okay. Let's see here. You
16 may call your next witness. And I think, Staff, where
17 we are is Prettyman, Gary Prettyman, which is a witness
18 that has been stipulated. Is that correct?

19 MS. ROLLINI: That's correct.

20 CHAIRMAN CARTER: Okay. And the prefiled
21 testimony of the witness will be entered into the record
22 as though read.

23
24
25

1 **BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION**

2 **AQUA UTILITIES FLORIDA, INC.**

3 **DIRECT TESTIMONY OF GARY S. PRETTYMAN**

4 **DOCKET NO. 080121-WS**

5
6 **Q. Please state your name, occupation and business address.**

7 A. My name is Gary S. Prettyman and I am a Principal of AUS Consultants. My business
8 address is 155 Gaither Drive, Suite A, Mt. Laurel, New Jersey 08054.

9 **Q. Please summarize your educational background and professional experience.**

10 A. I have more than twenty-eight years experience in water and wastewater utility
11 management and regulatory practice including all aspects of rate increase applications.
12 I have testified before regulatory commissions on accounting issues, tariff design, and
13 company policy in numerous proceedings. The details of my professional experience
14 and educational background are shown in Appendix A supplementing this testimony.

15 **Q. What is the purpose of your testimony?**

16 A. The purpose of my testimony is to support the Aqua Utilities Florida, Inc.'s ("AUF" or
17 "Company") level of Present Rate Revenues.

18 **Q. Are you sponsoring any Schedules contained in the MFRs filed by AUF in this
19 proceeding?**

20 A. Yes. I am sponsoring MFR Schedule Nos. E-2 and E-14. These schedules were
21 prepared by me or under my direct supervision. My testimony discusses each of these
22 schedules.

23 **Q. Please describe the process you used to develop present rate revenues.**

1 A. The first step was to obtain the billing data for all of the 82 separate systems included in
2 this petition. The data file contained all of the billing records of the customers for 2007
3 contained in the Company's billing System. This data was then separated by system.
4 An initial review was made to test the reasonableness of the gross data received as
5 compared to the actual books and records of AUF. Analysis then began on a system by
6 system basis.

7 **Q. What type of data was included in the customer records?**

8 A. The data included actual bills, adjustments, miscellaneous charges, surcharges and any
9 other items that were contained in a customers account, excluding payments.

10 **Q. How did you proceed?**

11 A. All of the items were separated based upon their various rate codes in order to
12 determine what was billed to the customer for water and/or wastewater service. I
13 needed to determine the appropriate number of bills and consumption to use for present
14 rate revenues which were ultimately used to calculate AUF's proposed rates. In any
15 instance where a customer received a revised bill, I adjusted my analysis accordingly
16 based on actual consumption.

17 **Q. How did you handle the base facility charges?**

18 A. The Company considers a full monthly period to be between 26 and 33 days. I took the
19 billing data for each rate code for the entire year and if that group was within the full
20 month service window then I considered the group to be an average monthly bill. The
21 majority of the averages were approximately 30 to 31 days. If the average was too
22 great, I would look to determine if there were exceptions that needed to be adjusted. On
23 occasion with a small group of bills, a long service period on one bill would cause a

1 variance. This would then be adjusted accordingly.

2 **Q. Please explain any adjustments you made for the interim rate increase refund in**
3 **Docket No. 060368-WS.**

4 A. When the interim rate increase was refunded in September 2007, the billing system
5 created a duplicate entry in the customers' accounts. This affected any bill which had a
6 service period which crossed April 12, 2007, the initial date of the interim rate increase.
7 Each of the duplicate entries needed to be eliminated.

8 **Q. What was your next step?**

9 A. After the appropriate adjustments were made, I had representative data to proceed. I
10 then determined the number of bills and usage at each 1,000 gallon increment to
11 develop the consolidated factors as shown on the billing analysis contained in MFR
12 Schedule E-14. From this data, the actual pricing of the billing determinants was made
13 and summarized on MFR Schedule E-2. The level of present rates as developed was
14 then compared to actual book revenues to determine if the billing analysis was
15 appropriate to use for setting final rates in this proceeding. A billing analysis variance
16 is shown on each schedule.

17 **Q. Were any of the booked revenue amounts adjusted for comparison purposes?**

18 A. Yes, in January 2007, large credit adjustments were made to customers' accounts in
19 Gibsonia Estates and Jasmine Lakes. These adjustments lowered the booked revenues
20 in January 2007 while the adjusted consumption was reflected in December 2006.
21 Therefore, for comparison purposes, the credit amount was added back to book
22 revenues.

23 **Q. Did you make any adjustments to normalize the addition of customers during the**

1 **historic test year?**

2 A. Yes. There was occasion where a small customer group (usually commercial) may have
3 had less than 12 bills in 2007 on a case by case basis. This may have been because they
4 were new or may have had one bill for a long service period. In such cases, the
5 customer was adjusted to reflect 12 bills for present rates.

6 **Q. How did you assemble the billing analysis?**

7 A. The billing analysis was assembled in two parts. The first part includes a full year
8 analysis by system. The second part includes a three period analysis (January – April,
9 May – August, and September – December). Both parts are organized by accounting
10 unit as shown in Appendix B attached to my testimony.

11 **Q. Does this conclude your testimony at this time?**

12 A. Yes, it does.

1 CHAIRMAN CARTER: Are there any exhibits for
2 this witness?

3 MS. ROLLINI: Yes, Mr. Chairman. We would
4 also respectfully request to move into evidence Appendix
5 A and Attachment B to Mr. Prettyman's prefiled direct
6 testimony.

7 CHAIRMAN CARTER: Commissioners, for your
8 records, that's shown as Exhibits 80 and 81, 80 and 81.

9 Are there any objections? This is stipulated.

10 MR. BECK: No.

11 CHAIRMAN CARTER: Without objection, show it
12 done.

13 (Exhibits 80 and 81 were admitted into the
14 record.)

15 CHAIRMAN CARTER: Okay. Mr. Beck.

16 MR. MAY: Thank you, Mr. Chairman. The
17 Citizens call Kimberly Dismukes.
18 Thereupon,

19 KIMBERLY H. DISMUKES
20 was called as a witness on behalf of the Citizens of the
21 State of Florida and, having been first duly sworn, was
22 examined and testified as follows:

23 DIRECT EXAMINATION.

24 BY MR. BECK:

25 Q. Ms. Dismukes, would you please state your name

1 and business address for the record?

2 A. Kimberly Dismukes, 6455 Overton Street, Baton
3 Rouge, Louisiana, 70808.

4 Q. And did you file on behalf of the Office of
5 Public Counsel 140 pages of direct testimony on
6 October 13th, 2008?

7 A. Yes, I did.

8 Q. Do you have any changes to make to that
9 testimony?

10 A. Yes, I do. Page 3, line 6, there's a figure
11 of 1.2, and that should be changed to .7 million.

12 And if you go down to the next line, line 7,
13 there's a figure of 1.0. That should be changed to
14 .9 million.

15 And if you turn to page 56, line 12, there's a
16 figure of \$10,838. That should be 9,627.

17 Page 58, line 6, the very -- I'm sorry. Page
18 58, line 16, the very last word says "four." That
19 should be six.

20 Page 74, line 14, the line begins with "have
21 higher." You need to strike the word "higher." And
22 then it continues "costs per ERC," and then insert
23 "close to" and strike "than."

24 Do you need me to repeat that? Okay. It's
25 line 14, and it begins "have higher," and you need to

1 strike "higher." And then it says "costs per ERC."
2 Keep that. Insert "close to," and then strike the word
3 "than." So it would read, "have costs per ERC close to
4 AUF."

5 And on page 78, line 19, Schedule 18 should be
6 Schedule 17.

7 Page 80, line 7, the sentence that begins, "I
8 have prepared Schedule 18 that duplicates," you should
9 insert the word "incorporates" for "duplicates."

10 Page 86, line 3, there's a figure of
11 \$1,519,033. That should be changed to \$1,514,894.

12 And if you continue down to line 21, there's a
13 figure of 1,727,488. That should be changed to 114,535.

14 Page 89, line 20, the word "necessary" should
15 be changed to "unnecessary."

16 Page 94, line 2, there's a figure of
17 \$2,702,963. That should be changed to \$1,892,000 -- let
18 me try again. \$1,892,074.

19 Page 103, line 21, if you go all the way to
20 the end of that sentence or that line, "May" should be
21 changed to "February."

22 Page 127, there's a table. And where it says
23 Lake Gibson and it has a negative 4, that should be
24 changed to a negative 182. And then for Zephyr Shores,
25 there's a figure of 2,432. That should be changed to a

1 negative 1,437.

2 And then on page 140, line 12, there's a
3 figure of 1,182,284. This is the same change as the
4 earlier one. That should be changed to 699,502.

5 And then on line 13, there's a figure of
6 \$967,349, and that should be changed to 912,356.

7 That completes my changes.

8 Q. Ms. Dismukes, with those changes, if I were to
9 ask you the same questions today, would your answers be
10 the same?

11 A. Yes, basically, except when I read the
12 rebuttal testimony of -- I believe it was Mr. Szczygiel,
13 he was addressing the issue of my recommendation to move
14 above the line some non-utility revenue. He explained
15 in his rebuttal testimony that they had actually
16 recorded the non-utility expenses below the line. And
17 so I'm basically agreeing with him at that point, that
18 as long as the expenses are recorded below the line, I
19 also agree that the revenue should be recorded below the
20 line as well.

21 Q. Okay. And with that change, would your
22 answers be the same to the questions as you described?

23 A. Yes, they would.

24 MR. BECK: I would ask that Ms. Dismukes'
25 testimony be inserted into the record as though read.

1 CHAIRMAN CARTER: The prefiled testimony of
2 the witness will be entered into the record as though
3 read.

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PUBLIC VERSION**TESTIMONY
OF
KIMBERLY H. DISMUKES**

On Behalf of the
Florida Office of the Public Counsel

Before the
Florida Public Service Commission

Docket No. 080121-WS

1 **Q. WHAT IS YOUR NAME AND ADDRESS?**

2 A. Kimberly H. Dismukes, 6455 Overton Street, Baton Rouge, Louisiana 70808.

3 **Q. BY WHOM AND IN WHAT CAPACITY ARE YOU EMPLOYED?**

4 A. I am a partner in the firm of Acadian Consulting Group, which specializes in the
5 field of public utility regulation. I have been retained by the Office of the Public
6 Counsel ("OPC") on behalf of the Citizens of the State of Florida to analyze the
7 application of Aqua Utilities Florida, Inc. ("AUF" Aqua, or the "Company") for
8 increased rates and increased service availability charges for its water and
9 wastewater systems in sixteen Florida counties.

10 **Q. DO YOU HAVE AN APPENDIX THAT DESCRIBES YOUR**
11 **QUALIFICATIONS IN REGULATION?**

12 A. Yes. Appendix I, attached to my testimony, was prepared for this purpose.

13 **Q. DO YOU HAVE AN EXHIBIT IN SUPPORT OF YOUR TESTIMONY?**

14 A. Yes. Exhibit KHD-1 contains 29 schedules that support my testimony.

PUBLIC VERSION**1 Q. HOW IS YOUR TESTIMONY ORGANIZED?**

2 A. My testimony is organized into seven sections. In the first section I give a brief
3 background of the instant proceeding. In the second section, I discuss significant
4 deficiencies in the Company's customer service and water quality. In this section
5 I also recommend that because of these deficiencies the Commission should
6 reduce the Company's allowed return on equity by at least 150 basis points and
7 also reduce the salaries and benefits of the Company's president by 50% and the
8 Aqua America's president by 50%. In the third section, I address the Company's
9 revenue issues and problems with the Company's billing.

10 In the fourth section I address relationships between AUF and its affiliates.
11 In this section I also discuss adjustments that I recommend concerning
12 transactions between AUF and its affiliates. In the fifth section, I present my
13 recommendations concerning rate base adjustments. Sixth, I discuss the
14 Company's expenses and my recommendations concerning adjustments. Finally,
15 in the seventh section, I combine the recommendations of OPC witnesses to
16 present a revenue requirement.

17 Q. WHO ARE THE WITNESSES FOR THE OPC IN THIS PROCEEDING?

18 A. OPC is sponsoring five witnesses. I am testifying on revenue requirement issues
19 and quality of service issues. Ms. Patricia Merchant is testifying on Allowance for
20 Funds Prudently Invested (AFPI), working capital, and deferred taxes. Mr. Earl
21 Poucher is presenting testimony on customers that OPC has had contact with
22 concerning customer concerns. Mr. Andrew Woodcock is testifying on

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1 engineering issues. Mr. Rothschild is testifying on the appropriate capital
2 structure and cost of equity that should be utilized in this proceeding.

3 **Q. WHAT IS THE OVERALL REVENUE RECOMMENDATION OF THE**
4 **OPC?**

5 A. The combined recommendation of the witnesses for OPC produce a revenue
6 requirement increase which should not exceed ~~\$4.2~~^{.7} million for the water
7 operations and ~~\$4.0~~^{.9} million for the wastewater systems. This compares to the
8 increase requested by the Company of \$4.5 million for the water operations and
9 \$3.9 million for the wastewater operations.

10 **I. Background**

11 **Q. WOULD YOU PLEASE PROVIDE SOME BACKGROUND TO THIS**
12 **PROCEEDING?**

13 A. Aqua Utilities Florida, Inc., is a wholly-owned subsidiary of Aqua America, Inc.
14 ("Aqua America"), a publicly traded corporation providing water and wastewater
15 utility service to more than 950,000 customers in 13 states at year end 2007.
16 Aqua America, originally Philadelphia Suburban Corporation, first acquired water
17 and wastewater facilities in Florida when it acquired AquaSource Utility, Inc.
18 (AquaSource) and its five regulated Florida subsidiaries in 2003.

19 In 2004, Aqua Utilities Florida, Inc., one of the subsidiaries of
20 AquaSource, purchased the water and wastewater systems of Florida Water
21 Services Corporation (FWSC) located in 10 Florida counties.

22 Following a corporate reorganization in 2006, all of Aqua America's
23 Florida water and wastewater systems that were under the jurisdiction of the

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1 Florida Public Service Commission were organized as part of AUF, which was
2 made a direct subsidiary of Aqua America. On May 22, 2008 AUF filed an
3 application to increase rates and service availability charges for its systems in
4 Alachua, Brevard, DeSoto, Highlands, Lake, Lee, Marion, Orange, Palm Beach,
5 Pasco, Polk, Putnam, Seminole, Sumter, Volusia, and Washington Counties. It
6 also sought approval for AFPI charges for certain of its systems in Highlands,
7 Lake, Polk, Putnam, Orange, Sumter, and Washington Counties. In addition,
8 AUF sought authority to collect interim rates until the effective date of the
9 Commission's Final Order regarding its application for an increase in rates. This
10 authority, with adjustments to the Company's interim rate request, was granted in
11 Order No. PSC-08-0534-FOF-WS issued August 18, 2008.

12 In the instant proceeding, AUF has requested an annual increase of
13 \$4,518,353 for 57 water systems and \$3,856,179 for 25 wastewater systems.

14 **Q. DO YOU HAVE A SCHEDULE WHICH SUMMARIZES THE**
15 **COMPANY'S RATE REQUEST?**

16 **A.** Yes. Schedule 1 of my exhibit shows the Company's requested revenue and the
17 percent increase over current rates. As shown on this schedule, the Company is
18 requesting an increase in rates of 80% for water systems and 115% for wastewater
19 systems. This is a substantial increase regardless of the number of years since the
20 Company's systems last sought an increase in rates.

21 **II. Quality of Service**

22 **Q. WHAT RULES MUST THE COMMISSION FOLLOW REGARDING A**
23 **UTILITY'S QUALITY OF SERVICE?**

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1 A. According to PSC Rule 25-30.433(I), Florida Administrative Code:

2 The commission in every rate case shall make a determination of
3 the quality of service provided by the utility. This shall be derived
4 from an evaluation of three separate components of water and
5 wastewater utility operation: quality of utility's product (water and
6 wastewater); operational conditions of utility's plant and facilities;
7 and the utility's attempt to address customer satisfaction. Sanitary
8 surveys, outstanding citations, violations and consent orders on file
9 with the Department of Environmental protection (DEP) and
10 county health departments or lack thereof over the preceding 3
11 year period shall also be considered. DEP and county health
12 department officials' testimony concerning quality of service as
13 well as the testimony of utility's customers shall be considered.
14

15 **Customer Service**

16 **Q. WOULD YOU PLEASE DESCRIBE WHAT YOU MEAN BY THE TERM**
17 **"CUSTOMER SERVICE?"**

18 A. I use the term Customer Service in the most commonly understood way to mean
19 the service the Company provides to customers who have issues, questions, or
20 concerns with any aspect of the customer's water or wastewater service or billing.
21 Customer Service encompasses all the ways in which the Company communicates
22 with customers, the speed and courtesy of the response to customer queries, the
23 satisfaction level of customers with the service personnel they speak with, and
24 their satisfaction with the Company resolution of the issue that prompted the call
25 or letter to the Company. Customer Service includes all interactions between the
26 Company and its customers regarding all facets of the service and products
27 customers are purchasing.

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1 Q. WHAT RESOURCES HAVE YOU CONSULTED IN ANALYZING THE
2 LEVEL AND QUALITY OF CUSTOMER SERVICE PROVIDED BY THE
3 COMPANY?

4 A. I utilized the customer testimony from the Commission's Service Hearings.
5 Customer Service Hearings were held in July, August, and September by the
6 Commission in Palatka, Gainesville, Sebring, Lakeland, Mt. Dora, Oviedo,
7 Chipley, Greenacres, and New Port Richey. Over 109 without New Port Richey¹
8 and approximately 159 with New Port Richey² water and wastewater customers
9 of AUF testified at these hearings, resulting in over 1,000 pages of transcripts,
10 excluding New Port Richey³. Several of the people appearing at the hearings also
11 brought petitions and letters signed by their neighbors, representing more than
12 587 additional customers, again excluding the New Port Richey hearing.

13 In addition, customers have mailed and emailed comments and complaints
14 to the PSC as part of this docket, and in many instances, prior to the opening of
15 this docket. I have reviewed both the written complaints and the testimony of
16 AUF customers at the customer service hearings. Schedule 2 of my exhibit
17 contains the letters and comments that have been received by the Commission in
18 connection with this case.

19 Schedule 3 of my exhibit summarizes the complaints that have been
20 received by the Commission between the conclusion of the last rate proceeding
21 and June 2, 2008. As this schedule shows, in little over a year, 179 written
22 complaints were filed with the Commission. Seventy-four of these involved

¹ Transcripts for the New Port Richey hearing were not available at the time of the filing of this testimony.

² It is my understanding that approximately 50 customers testified at the New Port Richey hearing.

³ Transcripts for the New Port Richey hearing were not available at the time of the filing of this testimony.

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1 violations of Commission rules. On average it took 60 days, or two months, for a
2 complaint to be resolved. My review of these complaints showed that the
3 overwhelming majority, 120 of the total 179 complaints, addressed billing issues.
4 Such problems included, but were not limited to, a customer billed for 256,000
5 gallons during a month when no one was in residence, an account billed at an
6 incorrect rate, an account where Aqua billed the customer for thousands rather
7 than hundreds of gallons, bills that were incorrect because the new meter
8 information had not been correctly entered into the database, and estimated
9 billings. Quality of the service was the subject of 46 complaints, there were six
10 instances of improper disconnects, and a variety of issues made up the remaining
11 complaints. These complaints, as well as the Company's response, are all
12 summarized on this schedule.

13 I have also examined the testimony of Mr. Poucher and the exhibits
14 attached to his testimony which contains customer responses to Mr. Franklin's
15 exhibit responding to customer concerns from the service hearing.

16 Schedule 4 of my exhibit contains a sampling of customer bills during the
17 test year. This sample shows instances where estimated bills are substantially
18 higher than actual usage and other instances where usage is very low in every
19 month but skyrockets in one month. In addition, there are several instances where
20 customers were given credits, although the reasons, except for the rate refund, are
21 not explained. Finally, there are instances where a charge for street lighting
22 appears. The Company has claimed that street lighting revenue is non-utility. If

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1 that is the case, the charge should not appear on the water and wastewater bills
2 sent by the Company.

3 **Q. WOULD YOU PLEASE DESCRIBE THE COMPANY'S CUSTOMER**
4 **SERVICE OPERATIONS?**

5 A. Yes. As explained by Mr. Franklin in his testimony, the Company has a Customer
6 Service Field Supervisor in Florida who manages customer service functions
7 between the Call Centers, Billing, and Customer Service. Calls from Florida
8 customers are handled by the call center in Cary, North Carolina. Two other
9 centers, located in Pennsylvania and Illinois, handle any overflow of calls from
10 the Cary call center.

11 **Q. HAVE ANY CHANGES BEEN MADE TO THE COMPANY'S**
12 **CUSTOMER SERVICE OPERATIONS SINCE THE COMPANY'S**
13 **FILINGS IN DOCKET NO. 060368-WS IN 2007?**

14 A. Yes. According to Mr. Franklin, ten employees were added to the customer
15 service centers, as well as a full-time training team following the Company's
16 withdrawal of its application in Docket No. 060368-WS.⁴ More recently, Mr.
17 Franklin stated that following consumer testimony at service hearings in the
18 instant docket, a log sheet has been implemented to track all supervisor call backs
19 to customers.⁵

20 **Q. ARE THESE CUSTOMER SERVICE SPECIALISTS AVAILABLE 24**
21 **HOURS 7 DAYS A WEEK?**

⁴ Franklin Direct Testimony, p. 5.

⁵ Franklin Supplemental Direct Testimony, p. 10.

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1 A. That does not appear to be the case. The bills I have examined have a toll-free
2 number for Aqua Utilities. However, when I called it in the evening I reached a
3 recording saying that normal business hours were 7:30 AM to 5:00 PM. I was
4 then asked to provide my account number, and not having one, I followed the
5 alternate direction to provide my zip code. After providing a Florida zip code in
6 an area served by AUF, and having told the voice recognition answering machine
7 that it was an "emergency" my call was directed to a telephone answering service
8 in Florida. The answering service representative explained that she takes
9 information regarding an emergency and then pages a contact assigned to the
10 county in which the emergency is located. She has no further interaction with the
11 AUF customer and no way of knowing if the problem was resolved to the
12 customer's satisfaction.

13 The Company provided no information in its testimony or application
14 regarding the number of calls to their service center, the issues customers most
15 often call about, the average time it takes to resolve different issues, or the
16 incidence of repeat calls from the same customer regarding the same problem.
17 Mr. Franklin, however, did state that "[t]he performance metrics in our customer
18 call centers have improved dramatically since the third quarter of 2007."⁶
19 Through the discovery process, OPC requested that the Company identify these
20 metrics, the benchmark at which the Company believes the metric measures
21 adequate service, and the results of the metrics since the AUF systems were
22 purchase. In response, AUF provided the results which I have reproduced as my
23 Schedule 5. As the schedule shows, the Company provided monthly data for

⁶ Franklin Direct Testimony, p. 5.

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1 2006, 2007 and the first quarter of 2008. These results are for the total call center
2 and include all states, so it is impossible to determine if Florida customers, whose
3 calls go first to the Cary, NC service center, receive service that is comparable to
4 that of customers in other states.

5 The Company stated it has four customer service targets:

6
7 1) Abandoned call rate – Company target is less than 5%;

8
9 2) Answer speed service level (or percent of calls customer service
10 representative can answer in less than 90 seconds) – Company
11 target is greater than 80%;

12
13 3) Average speed to answer – Company target is less than 60
14 seconds; and

15
16 4) Average handle time, includes CSR talking, listening, hold-time
17 and CSR time between calls while entering information from last
18 call - (Company target is 4 minutes or less)⁷
19

20 As this schedule shows, the Company rarely meets its targets. It is true
21 that the Abandoned Call Rate from October 2007 through February 2008 was
22 significantly better than during the summer of 2007. But, in March 2008 it had
23 climbed to 9.1%, almost twice the target of less than 5%. The Abandoned Call
24 Rate was actually lower throughout 2006 than in 2007 and 2008.

25 The Average Speed Service Level also shows better results in 2006 than in
26 2007 to 2008. The Company's target of greater than 80% was met in nine months
27 of 2006, and since then only in two months: December 2007 and January 2008.
28 In March 2008, the last month for which data was presented, it had dropped to
29 56%. Results for Average Speed to Answer showed a similar pattern of good
30 performance in 2006 and dramatically worse performance through the summer of

⁷ Response to OPC Interrogatory 151.

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1 2007. While calls were answered more quickly from late 2007 onward, the March
2 2008 metric of 130 seconds is more than twice the targeted 60 seconds or less.
3 The data for Average Handle Time shows a moderate increase in call length from
4 2006 through first quarter 2008. There is no metric to track the number of repeat
5 calls per customer, or the number of issues that are resolved with only one call. If
6 the longer Average Handle Time results in fewer repeat calls, I believe it is worth
7 it. However, nothing was provided by the Company to lead me to such a
8 conclusion.

9 The Company also provided weekly data for the period September 19,
10 2004 through June 3, 2006. These data reflect Florida customers only and report
11 different statistics than the monthly data discussed above. As shown on Schedule
12 5, this data consisted of the number of calls, the average call time, the number of
13 calls abandoned, average abandoned time, and average longest wait. There are
14 no data identifying the average speed of answer, or any data to allow one to
15 calculate whether 80% of these calls are answered within 90 seconds. There is no
16 explanation whether the "average longest wait" refers to the time before the
17 automatic call device picked up the call, or whether it also includes however long
18 the customer was on hold between the ACD answering and the customer reaching
19 an actual service representative. Interestingly, when asked to supply supporting
20 documentation for the data contained in this response the Company responded:
21 "There are no documents responsive to this request."⁸

22 I have added a column to the schedule to calculate the abandoned call rate
23 from the weekly data provided. My calculation assumes that the abandoned calls

⁸ Response to OPC Interrogatory 218.

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1 were included in the total number of ACD calls in the first column of the
2 schedule. This assumption on my part may be incorrect, but again, the document
3 supplied did not explain what the columns represented in any detail. In 2004,
4 abandoned calls were as high as 22% of calls in a given week. By the first half of
5 2006, they ranged from 2% to 9% of weekly calls, which is similar to the results
6 reported on a monthly basis throughout 2006.

7 In addition, the Company did not explain any of the seeming anomalies
8 among the weekly data they provided. For example, in the first week of January
9 2005, there were 1,034 calls, with an average call time of 2 minutes, and a total of
10 63 abandoned calls. During the following week there were 15,608 calls, with an
11 average call time of 3 minutes, and only 41 calls abandoned. The week of
12 February 6 through 12, 2005, there were 19 calls, with an average call time of 916
13 minutes, or close to 15 and ½ hours! The data provided for the first 5 months of
14 2006 does not contain anything as astonishing as a 15 hour phone call to customer
15 service. Yet again, there is considerable variation from one week to the next.
16 While most weeks saw more than 1,000 calls, the week of May 14 through 20 had
17 only 68 calls, the following week had 48 calls, and the last week of May the total
18 calls were up to 1,281. The Average Longest Wait experienced in the first five
19 months of 2006 ranged from 1.25 minutes, to 8.42 minutes.

20 The monthly data provided for 2007 through first quarter 2008 does not
21 include the Average Longest Wait or Average Abandoned Time. These two
22 metrics could help the Company judge the accessibility of their call center to their
23 customers.

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1 **Q. WOULD YOU DISCUSS THE TYPES OF PROBLEMS CUSTOMERS**
2 **HAVE HAD WITH AUF'S CUSTOMER SERVICE?**

3 A. Yes. Customers complain of customer service representatives who are rude,
4 unknowledgeable, and unable to provide needed information or assistance.
5 Several customers stated when they asked to speak with a supervisor they were
6 told there were no supervisors, or they were told a supervisor would call them, but
7 no one ever did.⁹ Other customers said they were put on hold for so long they
8 were disconnected.¹⁰ Some customers speaking at the customer service hearings
9 did not have complaints about the customer service centers, and a few even
10 praised specific employees. But these customers were a very small minority of all
11 who spoke or filed complaints.

12 **Q. WOULD YOU DISCUSS THE CUSTOMERS' PROBLEMS WITH THE**
13 **CUSTOMER CALL CENTER?**

14 A. Customers call customer service for a number of reasons. The reasons most
15 frequently addressed in the service hearing transcripts and written complaints to
16 the Commission are that they question the usage shown on their bill and the
17 quality of their water is unacceptable. Many also call customer service with
18 questions about their meters, broken pipes, low water pressure, shut-off notices,
19 payment questions, and other queries. Regardless of why they are calling, they
20 need and expect answers.

⁹ Transcript of Mt. Dora Service Hearing, p. 40; Transcript of Lakeland Service Hearing, pp. 75-76;
Transcript of Oviedo PM Service Hearing, pp. 135-137.

¹⁰ Transcript of Oviedo PM Service Hearing, pp. 78 and 116; Transcript of Lakeland Service Hearing, p.
27.

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1 Instead, many customers have found it difficult to speak to a customer
2 service representative as they are put on hold, disconnected, and never receive the
3 call backs they are told they will receive. A few examples of these problems are
4 cited below.

5 One customer testifying at the Lakeland hearing spoke of his ongoing
6 dealings with Aqua's customer service to straighten out a billing issue as "six
7 months of hell." He explained:

8 They don't know the sleepless nights that I went through laying
9 there worrying about my water getting shut off. And just the bills
10 that they were sending me, shut off notices, and improper bills, and
11 no one talking to me. Being left on hold, being told that someone
12 would be with you. Asking for a supervisor and never getting a
13 call back from anybody. It is just -- this is a poor company. This
14 is not a good company.¹¹

15
16 Another customer described his experiences with the call center as
17 follows:

18
19 I have had customer service operators put me on hold and never
20 come back. Now, I have had them say, let me check this out and I
21 will call you tomorrow, but never called back. Now, the Leesburg
22 office, I don't think I have ever talked to a person there. I get a
23 recording to leave a message and they will return my call
24 promptly. The last time I called was June the 26th about 11:30
25 a.m., and I have not been called back.¹²

26
27 Another customer with an ongoing billing dispute turned to her state
28 representative for assistance in dealing with Aqua. Her chronicle, somewhat
29 shortened, is as follows:

30 Customer service satisfaction is nonexistent until a member of the
31 State House of Representatives makes a phone call to Aqua. And
32 immediately after that, the next day I got --I got action from Aqua.
33 They have been to my house every day since. But up until that, the

¹¹ Transcript of Lakeland Service Hearings, pp. 75-76.

¹² Ibid., pp. 27-28.

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1 last two or three months, I have had -- I've had 13 phone calls,
2 been on the phone 150 minutes, I have spoke with ten Aqua
3 employees. I have their names, times, all of that. They have
4 promised to send me a corrected bill five times. I haven't received
5 one yet. They promised to call me back twice. I haven't been
6 called back. I have received zero corrected bills so far and also
7 two shutoff notices.

8
9 When they tell me doesn't pay your bill yet because we are trying
10 to work it out, don't pay it. So I don't pay it, but they still send me
11 a shutoff notice because I'm not paying my bill. So I'm not quite
12 sure what am going on there.¹³
13

14 Several customers stated that when they called to question the usage on
15 their bill they were told they must have a leak. One customer's story is as
16 follows:

17 What they told us is we had a water leak, to dig up our irrigation
18 and find the leak in our yard because we're using 24,700 gallons a
19 month. I came from Oviedo, as I said. Our monthly usage was
20 right around 6,000 gallons a month. So we called the builder out,
21 he dug up, he look around. He actually dug up one of the
22 sprinklers thinking he may have found something, but, no,
23 everything was great. No leak whatsoever. Called them back, got
24 disconnected. Called them back again, left a message. Called
25 them back again, got somebody finally, transferred us, got
26 disconnected, gave up. What do you do? So that's service for
27 you.¹⁴
28

29 Mr. Franklin states that the customer service centers have hired new
30 personnel and improved training since last year. I have found, however, that the
31 problems reported by customers in Docket No. 060368-WS, still plague the
32 Company. If Mr. Franklin has metrics to contradict this conclusion, they have not
33 been provided. As one of his customers who attended the Greenacres service
34 hearing stated:

¹³ Transcript of Oviedo AM Service Hearing, pp. 161-162.

¹⁴ Transcript of Oviedo PM Service Hearing, pp. 116-117.

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1 And we had complaints about calling in and the response we got
2 when we called in last year, and I haven't noticed anything that has
3 changed in the past year. I didn't get any response any differently
4 when I've called in with any problem.¹⁵
5

6 In Docket No. 060368-WS, one customer stated "I have a lot of
7 complaints, but the main one is, oh that customer service. Get on the telephone
8 and try to get something straight with the company. It is a lost cause."¹⁶ The
9 same sense of futility was voiced in the more recent hearings held in the instant
10 docket: "I also don't have time. No one answers your e-mail, no one answers
11 your phones, so pretty much it's ridiculous."¹⁷

12 Another customer stated: "Whenever I need to call their customer service,
13 I usually find that their representatives are curt or treat me with some disdain.
14 With one exception that benefited Aqua Utilities I have never had a call
15 returned."¹⁸

16 **Q. WHAT ABOUT OTHER COMMUNICATIONS WITH THE COMPANY?**
17 **DID CUSTOMERS HAVE PROBLEMS WITH THE COMPANY'S BOIL**
18 **WATER NOTIFICATIONS?**

19 **A.** Yes, unfortunately, some of them did. One complaint voiced was not receiving
20 the boil water notice until after the warning had been lifted. Another complaint
21 was that in instances of low pressure, which customers believed warranted a boil
22 water notice, no notice was given by the Company. Mr. Franklin states in his

¹⁵ Transcript of Greenacres Service Hearing, p. 47.

¹⁶ Docket No. 060368-WS, Transcript of New Port Richey AM Service Hearing, p. 28.

¹⁷ Transcript of Oviedo PM Service hearing, p. 107.

¹⁸ Transcript of Greenacres Service Hearing, p. 61.

PUBLIC VERSION

1 supplemental testimony that “[c]ontrary to some customers’ testimony, a Boil
2 Water Advisory does not need to be dispatched every time pressure may drop.”¹⁹

3 One customer recounted a water main break in 2004 and the inadequacy of
4 the signage posted at the entrances to Lake Osborne Estates, a situation which he
5 had reported at the service hearings in Docket No. 060368-WS. He said that the
6 boil water signage was still inadequate in 2007.

7 Further, we experienced another such break in 2007 with the same
8 set of circumstances and results. Only when the local county
9 commissioner insisted on improvements did Aqua Utilities Florida
10 agree to provide standard signage. They have done that now.²⁰
11

12 At the first service hearing held by the Commission in the instant
13 proceeding, the July 2, 2008 meeting in Palatka, one of Aqua’s customers made
14 the following comments and suggestion about the Company’s boil notices.

15 When there is a line break that requires a boil water notice, a
16 person comes down from Palatka and delivers the notices to each
17 of our homes on foot. He hangs a little hanger on the doorknob.
18 This can take up to 24 hours or more before a consumer is aware of
19 the notice. In this day of modern communications, it would seem
20 that a company dedicated to the water business could do better
21 than that. For example, the City of Ormond Beach uses a
22 telephone code red signal that contacts each home and leaves a
23 message when the notice is issued and when it is ended.²¹
24

25 Aqua apparently does value the input of its customers, as evidenced by
26 Mr. Franklin’s discussion of boil water notices in his Supplemental Direct
27 Testimony. After describing the Company’s current policy of hanging door
28 notices and in some cases notifying newspapers and/or other media he stated:

¹⁹ Franklin Supplemental Direct Testimony, p. 11.

²⁰ Transcript of Greenacres Service Hearing, pp. 58-59.

²¹ Transcript of Palatka Service Hearing, pp. 23-24.

PUBLIC VERSION

1 Recently, Aqua contracted with a company to provide automated
2 telephone emergency notifications to customers. The system is
3 being populated with customer addresses and phone numbers and
4 we anticipate the system will be operation in Florida this year.²²
5

6 Any such system should include a fallback notification system for any
7 customers who do not have phone service, or do not have an answering machine
8 to receive such a call if they are not available.

9 There was also considerable discussion at the Oviedo service hearings
10 about Walker Elementary School which receives water from the Chuluota water
11 system. Residents of Live Oak are not on the Aqua Chuluota system, so they do
12 not receive notices concerning the water their children are exposed to while at
13 school. Boil water advisories and other test results are sent to the school board,
14 and customers were uncertain how much information was transferred down to the
15 teachers at the school. One customer testified that whenever she received a notice
16 from Aqua she personally sent it to the principal at Walker Elementary School to
17 make sure the school was aware of the problem.²³

18 **Q. WHAT ABOUT METER READING? ARE THERE PROBLEMS THERE**
19 **AS WELL?**

20 **A.** Meter reading continues to be a problem for Aqua customers. In Docket No.
21 060368-WS customers presented the Commission with copies of bills in which
22 repeatedly the Company had estimated their monthly usage. In the instant docket,
23 while some customers continue to have estimated bills, the more widespread
24 problem is with the accuracy of the readings.

²² Franklin Supplemental Direct Testimony, pp. 11-12.

²³ Transcript of Oviedo PM Service Hearing, p. 45.

PUBLIC VERSION

1 As Aqua witness Franklin discussed in his testimony, the Company is in
2 the process of replacing all manually read meters with new radio frequency (“RF”)
3 meters.

4 The RF device will transmit the meter reading electronically and
5 the meter reader will no longer need to enter the customer’s
6 property. The RF meter will help ensure accurate usage reads
7 which in turn, will result in fewer estimated bills.²⁴
8

9 The installation of the new meters, however, has itself been a source of
10 billing errors and estimated bills. As Mr. Franklin explains:

11 In some instances, the new meter information (e.g. serial number,
12 RF number) did not get uploaded into the billing system after the
13 meter was installed. As a result, even though actual reads were
14 taken, the reads did not match the account in the system and an
15 estimated bill was issued.²⁵
16

17 Mr. Franklin’s explanation makes the meter installation errors sound quite
18 simple and easily corrected. But from the customers’ viewpoint, the result was
19 another round of erroneous billings, calls to customer service, and waiting for a
20 corrected bill.

21 In response to OPC’s Production of Documents Request 205, when asked
22 what instructions were provided to customer service representatives related to the
23 installation of Radio Frequency (RF) meters, the Company replied: “The General
24 Objections stated above are incorporated herein by reference. Without waiving
25 any such objections, AUF states that no such documents exist.” Given the billing
26 problems and problems experienced in other territories with changing meters, I
27 would have expected the Company to advise its customer service representatives

²⁴ Franklin Direct Testimony, p. 4.

²⁵ Franklin Supplemental Direct Testimony, p. 12.

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1 about the areas where meter replacements are taking place so that they can be
2 more in touch with possible complications.

3 One customer who was being billed for the wrong meter said it took three
4 to four months for the Company to correct the bills. Despite the billing problem
5 and the wait for it to be resolved, she was one of the few customers to testify at a
6 service hearing who was pleased with the customer service.

7 First off, my husband ends up usually dealing with Aqua Source
8 because I just wanted to call a lawyer at first because they would
9 not get -- they gave us a bill for water and it wasn't the meter
10 number that was for our property and then it was for too much
11 because nobody was living there at the time. And then even after
12 we rented our mobile home they would keep it at 1,000 gallons or
13 1,200 and it would still be off. So they were nice and they let us
14 postpone paying because we didn't want to pay to complicate the
15 error by agreeing to the error. And I think it took them three to
16 four months to get it straightened out, then we paid and everybody
17 was kind of happy. The people in their office are very nice, the
18 ones that answer the phone.²⁶
19

20 One problem the customers themselves addressed was that with the
21 Company's history of estimating meter readings, customers tend to question the
22 accuracy of any bill from Aqua.

23 If you have a company that has a history of estimating, which --
24 another word for estimate would be guess. If you have a company
25 that has a history of guessing at people's water usage in order to
26 bill them on it, and then after fixing the problem -- we have had
27 our water meter for a grand total of two months now, so we have
28 hardly had a chance to look at it yet. By the way, our usage last
29 month was 55,400 gallons, according to them. I checked the meter
30 yesterday. We have not received our new bill yet, and it's been a
31 little over a month, but since that meter was read, we have used
32 10,000 gallons of water. Again, no rhyme or reason to it. I can
33 assume that with watering there is going to be a difference, but that
34 seems like a pretty dramatic difference.²⁷

²⁶ Transcript of Gainesville Service Hearing, p. 38.

²⁷ Transcript of Mt. Dora Service Hearing, pp. 63-64.

PUBLIC VERSION

1

2 **Q. ARE THERE OTHER PROBLEMS WITH THE COMPANY'S BILLING?**

3 A. Yes, there seems to be a problem with readings from the new meters being
4 entered in the billing system with an extra "0" added to the gallonage, so that the
5 readings are off by a factor of 10. In his Supplemental Direct Testimony, Mr.
6 Franklin stated: "AUF extensively investigated this issue but discovered only one
7 single instance where the "added digit (zero)" actually occurred."²⁸

8 From Mr. Franklin's discussion of the problem, I am not sure if the
9 Company's investigation was limited to customers appearing at the service
10 hearings, (excluding Greenacres and New Port Richey which were not addressed
11 in supplemental testimony), or if it also encompassed complaints filed with the
12 Commission and the Attorney General. My review of the complaints indicates
13 that the "added zero" problem, if not an actual problem, is perceived by customers
14 as a possible explanation for discrepancies between the usage they are billed for,
15 and the usage they see when reading their meters themselves.

16 We have recently been the fortunate customers of Aqua Utilities to
17 get the new meter. My first reading read 89,800 gallons of water
18 for two people. I called, sent a message, spoke, got the comments
19 we don't know how you are using your water. When we finally --
20 my husband did most of the conversations with Aqua Utilities.
21 Until he reached one girl, which was about the fifth or sixth phone
22 call, she admitted that the zeros were put in the wrong place, and
23 they would get the bill fixed promptly. We are going on three
24 months now, the bill has not been fixed. I expect the third bill to
25 come in any day, because I think they read the meters on the 16th,
26 if I'm correct.

27
28 My second month of my reading with my new Neptune meter was
29 57,000 gallons for two people. Obviously, they are not reading the
30 meters correctly. It's a concern to me. I have records from past

²⁸ Franklin Supplemental Direct Testimony, p. 13.

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1 bills. On a high month our daily usage is 126 gallons a day. So
2 there is obviously a problem here.²⁹
3

4 In the above instance, the Company determined that the problem was not
5 an added zero" but an "undocumented meter exchange" with the meter
6 information not updated in the database.³⁰

7 Another customer who thought his large bill was caused by the "added
8 zero" told the following story:

9 I'm a new customer to Aqua Utilities. I just received my bill about
10 two weeks ago, and it was for over \$1,000. My wife contacted the
11 utility and explained the problem. They said they would check
12 into it and get back to her. They did call her back and say the
13 meter was reread and the amount was correct: 224,000 gallons.
14

15 So yesterday I went out to the property and read the meter myself,
16 I have a utility background, it's not a hard thing to do, and what I
17 discovered is they had transposed an extra zero on to this reading
18 from day one. Now they told my wife that we had a water leak and
19 we needed to call a plumber. And they said -- we asked for a
20 supervisor to return the call. They said they would return within
21 three days, and that was about six or seven days ago. So we still
22 haven't resolved this problem.³¹
23

24 In the above instance, the Company determined that the problem was not
25 an additional zero. Rather, the meter had been set up incorrectly as a 2 inch
26 meter, rather than a 5/8 inch meter. This is the only instance of this particular
27 error I have seen in the documentation in this proceeding, but I have not seen any
28 evidence that would convince me it is the only instance in which a customer's
29 meter size has been recorded incorrectly.

²⁹ Transcript of Oviedo PM Service Hearing, pp. 30-31.

³⁰ Franklin Supplemental Direct Testimony, Composite Exhibit CHF-1. p. 21.

³¹ Transcript of Oviedo AM Service Hearing, pp. 69-70.

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1 Another instance of an "added zero" problem was told by the president of
2 a civic association about some of his neighbors who were not attending the
3 customer service hearing themselves. In this particularly distressing instance, the
4 family members have limited English language skills. When they called customer
5 service about their high water bill and were told by customer service "you must
6 have a leak" the family spent \$3,000 to replumb their house. And no one
7 replacing the pipes had found any that were broken.³²

8 A Vietnamese family is currently battling with the Aqua accounts
9 today. They have difficulty speaking and understanding English.
10 They were told they had a leak by billing personnel and, probably
11 due to the language problems, ended up spending \$3,000 to
12 replumb their house and run a pipe from the meter into their house
13 because they were billed for 54 -- for 94,000 gallons of water in
14 one month. In other words, they called up and said, "What is
15 going on?" And they were told by customer service personnel up
16 there that "You must have a leak." And as you can understand,
17 someone who doesn't comprehend English too much thought that
18 was the case, I have a leak. So they hired a plumber and said, "We
19 want to redo this whole thing." When I -- by the time I got into
20 this thing, that was done. David, our local service personnel guy
21 who I talked to and who is excellent, went over there and
22 explained to them what was going on. And it turned out that
23 94,000 gallons of water is really 9,400 gallons of water, as had
24 been the case previously in my case and several other cases.³³
25

26 I have seen nothing to indicate if or how this matter has been resolved by
27 the Company.

28 Other customers are sure the meter readings are incorrect, but do not have
29 any explanation other than incorrect readings. The Company, however, as in the
30 instance below, believes that its bills reflect accurate meter readings.

³² Transcript of Palatka Service Hearing, p. 34.

³³ Ibid., pp. 22-23.

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1 My meter reading seems to be inaccurate and some months are as
 2 high as 400 percent over my actual usage. Aqua put in their new
 3 meter in my house April 2nd, and I have taken my own readings
 4 myself. I have done exactly a one-week period. I have done a
 5 three-week period. I have done the math. I've calculated my
 6 usage, and I'm at 12,000 gallons, and that's not using it to cook
 7 with, not using it to brush my teeth with, very minimal usage.

8
 9 I have received bills for 20,000 gallons, 30,000 gallons, and a
 10 50,000-gallon bill. It just doesn't add up, because my numbers
 11 aren't the same as their numbers. Aqua themselves have admitted
 12 to misreading my meter and billing me incorrectly for an amount
 13 which adds up to be about 15,000 gallons in one month. On June
 14 24th an Aqua customer service representative told me that they did
 15 read my meter incorrectly, and she gave me the new meter
 16 numbers. So I took those numbers -- they read it again. It was
 17 three weeks later, and they read it, and the number ended up being
 18 6,000 less than what they told me it was three weeks ago. So that
 19 adds up to, with the numbers, about 15,000 on gallons that they say
 20 I have used that I didn't.³⁴
 21

22 **Q. YOU STATED THAT YOU HAD REVIEWED CORRESPONDENCE**
 23 **FILED BY AQUA CUSTOMERS WITH THE ATTORNEY GENERAL'S**
 24 **OFFICE. DID ANY OF THIS CORRESPONDENCE HAVE TO DO WITH**
 25 **METER AND BILLING PROBLEMS?**

26 **A.** Yes, I have attached as my Schedule 6 an email sent from new residents of
 27 Chuluota to the Attorney General's office. As indicated in the letter, this couple
 28 also contacted Representative Sandy Adams about their problems with Aqua
 29 Utilities. They closed on their home July 24 of this year, moved in on August 14,
 30 and have spent a considerable amount of time since then on the phone with
 31 Aqua's service center and reading their water meter, which they now do twice a
 32 day. In the six weeks between moving into their new home, which has no
 33 swimming pool, and writing the Attorney General, Aqua has billed them for over

³⁴ Transcript of Oviedo AM Service Hearing, pp. 162-163.

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1 54,000 gallons of water. According to the customer, this is more than they used
 2 in a year when living in Oviedo, with a swimming pool. As this letter shows, the
 3 problems with the billing led to calls to customer service, where they experienced
 4 the same problems other customers reported when calling the service center.

5 **Q. HAVE ANY CUSTOMERS REPORTED WATER SHUT-OFFS WITHOUT**
 6 **PRIOR NOTIFICATION?**

7 A. Yes, customers have reported having their water shut off without the proper
 8 notification. A customer attending the Oviedo service hearing had her water shut
 9 off with no advance notice, even though she was current with her payments.

10 I pay my bills in a very timely manner, I'm going to bill payer
 11 heaven, and I came home from work and my water is not working.
 12 So I went and asked the neighbors, "Problem?" And they're like,
 13 "No. Everybody has got water." There's a lock on my box. I'm
 14 like, "Oh, no, no, no, no, no," because I know my bills are paid.
 15 No question in my mind. I even have the little receipt, the date,
 16 the time, the check, everything I write out. I called for eight hours,
 17 eight hours, and I'm talking to people in PA, Pennsylvania. Are
 18 you flying them down? I mean, they could have flown down and
 19 turned my water back on. It was ridiculous. I finally cut the lock
 20 off in order to have water.

21
 22 And I tried to talk to a supervisor. There was not -- the next day --
 23 I tried, I mean, that evening I tried to talk to a supervisor. But to
 24 pay your bill, have someone shut your water off and someone may
 25 have showed up, at what time, it was well after 9:00 because I
 26 went to bed and left the lock laying there. But mind you, my bill
 27 was paid and I was having even these people on the phone arguing,
 28 "Well, when you get your water shut off, you know you have to
 29 wait 24 hours before -- it's paid. Get my water back on."³⁵

30
 31 Another customer reported receiving a shut off notice for an account on
 32 which she was disputing the bill. As Mr. Jaeger of the FPSC noted at the evening

³⁵ Ibid., pp.81-82.

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1 Oviedo Service Hearing, bills that are under dispute cannot be shut off.³⁶ Yet this
2 customer received a shutoff notice before her dispute was resolved.

3 I disputed a bill which stated consumption of 28,000 gallons of
4 water for three people. No irrigation usage. I called customer
5 service. The person instructed me don't pay the bill. We'll send
6 someone out. It never happened. Two days later I got a shutoff
7 notice. I had to call the bank over the phone through customer
8 service, give them my account number so my water wasn't shut off.
9 Asked for a new meter. It took about two months and I still do not
10 believe that meter is accurate.³⁷
11

12 **Q. HAVE YOU SEEN ANY EVIDENCE THAT AQUA HAS HAD**
13 **PROBLEMS PROVIDING ADEQUATE CUSTOMER SERVICE IN**
14 **OTHER STATES IN WHICH IT OPERATES?**

15 **A.** Yes, I have. In Missouri, Aqua implemented new billing software in May, 2007.
16 This resulted in several problems, including extended billing periods and unbilled
17 service which in turn caused an increase in the customer service center's
18 Abandoned Call Rate and Average Speed to Answer.³⁸

19 In a recent rate case in Ohio, Aqua customers complained of problems
20 reaching the company with issues including service disconnection, payment
21 arrangements, and customer service. The Staff observed:

22 Staff is concerned that the company has not responded in a timely
23 manner to PUCO customer complaints, which is required by
24 O.A.C 4901:1-15-33, complaints and complaint handling
25 procedures. Under this section companies are required to
26 investigate complaints and report the results to the commission
27 staff within ten business days. Staff reminds the company of their
28 expectation that the company comply with this rule.³⁹
29

³⁶ Transcript of Oviedo PM Service Hearing, p. 139.

³⁷ Ibid., pp. 60-61.

³⁸ Missouri Public Service Commission, EMSD Report, Case No. WR-2008-0266.

³⁹ Public Service Commission of Ohio, Case No. 07-564-WW-AIR, Staff's Report of Investigation.

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1 In Pennsylvania, customers complained of low water pressure, dirty water,
2 and inadequate service.

3 An engineer providing testimony for the Office of Consumer Advocate
4 ("OCA") stated his investigation revealed (1) one of Aqua's water sources has
5 exceeded one of the Safe Drinking Water Primary Maximum Contaminant Levels
6 (MCLs): (2) seventeen of Aqua's water sources have exceeded some of the Safe
7 Drinking Water Secondary MCLs; and (3) some of Aqua's systems supply
8 extremely hard water that causes customers extraordinary expense and
9 inconvenience.⁴⁰

10 According to a recent announcement in the Ohio Consumer Counsel's
11 newsletter Aqua has come to an agreement that includes its intent to lead to better
12 Aqua Ohio service. The newsletter reported:

13 The Office of the Ohio Consumers' Counsel (OCC) came to an
14 agreement with Aqua Ohio that reduced a rate increase request and
15 should improve customer service and address other issues facing
16 residential water customers of the utility. The OCC heard about
17 problems from customers and made sure Aqua Ohio will take
18 direct action to solve their issues.

19
20 Under the agreement approved by the Public Utilities Commission
21 of Ohio (PUCO) in May, ongoing billing issues that have posed
22 problems throughout Aqua Ohio's service territory will be
23 addressed. Customers affected by these issues will be notified and
24 receive an immediate credit for any late fees and be offered
25 extended payment plans.

26
27 Consumers should contact Aqua Ohio if they believe that late
28 payment charges have been assessed improperly. These issues
29 must be resolved before July 1 or the PUCO could seek financial
30 penalties against the utility.

⁴⁰ Pennsylvania Public Utility Commission v. Aqua Pennsylvania, Inc., Docket No. R-00072711, Office of Consumer Advocate's Main Brief.

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1
2 Aqua Ohio also will complete a meter reading to ensure accurate
3 bills going forward, address discoloration issues and provide water
4 conservation tools and techniques....
5

6 **Q. GIVEN THE NUMBER AND VARIETY OF PROBLEMS YOU HAVE**
7 **DISCUSSED, WHAT IS YOUR OPINION OF THE COMPANY'S**
8 **CUSTOMER SERVICE IN FLORIDA?**

9 A. While I believe the Company has made some changes to its customer service call
10 center and meter installation program, I find that customer service is still far
11 below acceptable. As shown in many of the quotations I have extracted from
12 customer testimony and correspondence, any matter that entails a call to the
13 customer service center generally results in an unhappy encounter with an Aqua
14 customer service representative. Now, in addition to the original billing dispute
15 or water quality issue, the customer is also unhappy with the customer service the
16 Company provides at its call center.

17 Aqua states that since withdrawing its application in Docket No. 060368-
18 WS it has added personnel to its call center and hired full-time trainers.⁴¹ It also,
19 upon learning of problems with its meter installation program, instituted an audit
20 process to verify that the correct meter information is updated for each customer
21 location,⁴² and a program to alert people to the added zero problem.⁴³ In addition,
22 since hearing repeated customers testify that the supervisor never called back as
23 the customer service representative they spoke to said he would, they are now

⁴¹ Franklin Direct Testimony, p.5.

⁴² Franklin Supplemental Direct Testimony, p. 12.

⁴³ Ibid., p. 13.

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1 instituting a supervisor call back log book.⁴⁴ All of these actions should help to
2 improve customer service. However, I am concerned that every effort Aqua has
3 made to improve customer service has only been undertaken in reaction to
4 criticism by customers, Staff and OPC.

5 According to the Company's response to OPC Interrogatory 89, the Call
6 Center and Billing centralization is described as: "AUF answer that, in 2005,
7 Aqua America, Inc. initiated a project, entitled Meritage, which created three
8 central call centers to accept customer calls from the entire Company and dispatch
9 work to our field operations. These call centers are located in Kankakee, Illinois,
10 Cary, North Carolina and Bryn Mawr, Pennsylvania. The project also centralized
11 the billing and back office collections functions in Bryn Mawr. Florida calls
12 moved to the centralized call center in the third quarter of 2006. As a result,
13 customer service and support employees in Florida were offered and accepted
14 severance packages."⁴⁵

15 Unfortunately, these reductions in customer service and support staff have
16 not resulted in a net decrease in cost. In response to several of OPC's
17 interrogatories about cost increases in the category Contractual Services – Other
18 (the account that houses these costs) the Company's response was: "Contractual
19 services other. The increase in 2007 is primarily related to the increased charges
20 related to the centralized billing and call center. There were only 2 months of
21 charges in 2006 vs. 12 months of charges in 2007."⁴⁶

⁴⁴ Ibid., p. 10.

⁴⁵ Response to OPC Interrogatory 89.

⁴⁶ Response to OPC Interrogatory 230.

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1 Not surprisingly, when asked to “[p]lease quantify the savings associated
2 with the consolidation of the customer service and state how such savings are
3 reflected in the Company’s filing, including the location in the MFRs and
4 associated workpapers of the calculations by filename and tab”, the Company
5 responded: “AUF is unable to quantify the saving with the consolidation of
6 customer service. Any such savings is reflected in the Affiliated Transactions
7 Volume 1, Appendix 1.”⁴⁷

8 In addition, to questions about the costs and benefits of the new Aqua
9 Customer Services Operations, there does not appear to be a proactive measure on
10 the part of the Company to provide quality customer service. Instead, it appears
11 that the whole area of customer service is problematic for them. Until a problem
12 is brought to their attention, they appear to have no process in place to handle it.
13 At each customer service hearing, Mr. Franklin spoke to how the Aqua America’s
14 operating companies had been providing water service for over 100 years. Surely
15 in 100 years some internal systems and standards should have been developed to
16 ensure that customers are handled efficiently and courteously.

Water Quality

18 **Q. IN YOUR OPINION, IS THE WATER CUSTOMERS RECEIVE FROM**
19 **AUF OF A SATISFACTORY QUALITY?**

20 **A.** Not based upon the testimony of the Company’s customers. In hearing after
21 hearing, customers presented testimony regarding a large number of water quality
22 problems. These included low water pressure, water odor, sediment and other
23 particulate matter in the water, unpleasant taste, and DEP water quality reports

⁴⁷ Response to OPC Interrogatory 136.

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1 showing excessive amounts of various chemicals. Customers testified regarding
2 health concerns for themselves, family members, local school children, and
3 family pets. Customers testified regarding corroded pipes and the frequent
4 replacement of filters and appliances. Overwhelmingly, the customers of AUF
5 said they did not drink the water provided, and those that do drink it usually do so
6 only after filtration and boiling.

7 My Schedule 2 presents recent correspondence between the Commission
8 and AUF customers during this rate case proceeding. A large percentage of the
9 correspondence reproduced in this exhibit refers to water quality issues as well as
10 billing and other problems.

11 **Q. WHAT WERE THE MOST COMMON CUSTOMER COMPLAINTS**
12 **REGARDING?**

13 A. The complaints varied somewhat by water system, but overwhelmingly,
14 customers did not consider the water they purchased from Aqua to be potable. At
15 the Palatka service hearing one customer spoke of “odor, coliform contamination,
16 and a residual fear of THMs”.⁴⁸ Two other customers at the same hearing stated
17 that the quality of the water seemed to have improved since last year’s hearings,
18 but one of these gentlemen added that he had a UV filter on his house plus a
19 reverse osmosis filter system for the kitchen sink.⁴⁹

20 At the Gainesville hearing, water quality was described as “crappy,”
21 “terrible,” and one customer who had performed a home test of her water said the
22 copper levels were at the EPA’s maximum. This customer complained of stains,

⁴⁸ Transcript of Palatka Service Hearing, p. 21.

⁴⁹ Ibid., pp. 60-61.

PUBLIC VERSION

1 mineral deposits, and like others in Gainesville, stated her family drank bottled
2 water.

3 Many of the Company's customers complained of the water quality, even
4 after they had installed filtering systems in the homes. As a customer in Sebring
5 said:

6 I spent \$5,000 on a water filter system to get something safe
7 enough to drink and cook with. . . . Between the chlorine, the
8 smell, the sediment, it's quite ridiculous.⁵⁰
9

10 Another customer in Sebring said his water was good, but then went on to
11 describe his home filter system, which must, at least in part, be responsible for his
12 water quality.

13 And as far as the quality of water, I'm on Josephine, too, and our
14 water has been good. Of course, I put in a whole house filter
15 before it ever goes into my water softener, and then I put in a
16 reverse osmosis in the house for drinking water. But I don't drink
17 the water anyway. We use bottled water to drink. But it should be
18 okay, I guess. I don't smell any chlorine because I put the filter in
19 outside, which takes care of the chlorine smell.⁵¹
20

21 At hearings in Lakeland, Mt. Dora, and Chipley customers complained of
22 a variety of problems: cloudy water, sediment, bad taste, and chlorine and sulfur
23 odors. One customer testified at the Mt. Dora hearing that she had received four
24 letters in one month stating the water was contaminated and questioned the safety
25 of the water.⁵² The twelve customers testifying at the Greenacres service hearing
26 did not have any complaints about water quality. Although, as one of the Lake

⁵⁰ Transcript of Sebring Service Hearing, p. 18-19.

⁵¹ Ibid., p. 43.

⁵² Transcript of Mt. Dora Service Hearing, p.66.

PUBLIC VERSION

1 Osborne Estates customers pointed out, Aqua delivers water to them which it has
2 purchased from Lake Worth Utilities.

3 Periods of low water pressure were reported by customers appearing at
4 several of the service hearings.⁵³ As one customer stated: “. . . the low water
5 pressure, this is not uncommon. This is a common thing. I've turned on the faucet
6 and it is just barely drizzling out.”⁵⁴

7 The customers who testified at the service hearings in Oviedo, who are
8 served by the Company's Chuluota water system, had the most extensive and
9 serious complaints. The complaints here ranged from sediment, discoloration,
10 foul odors and taste, to ruined appliances, faucets, and sinks, to real concerns
11 about the health risks associated even with bathing in the water, let alone drinking
12 it.

13 **Q. WOULD YOU DISCUSS THE CONCERNS OF CUSTOMERS ON THE**
14 **CHULUOTA WATER SYSTEM?**

15 **A.** Certainly. The Company reports that the Chuluota water system had 1,420 water
16 customers as of June 30, 2007, making it one of the Company's largest water
17 systems in Florida. Thirty-nine of these customers testified at the two service
18 hearings held in Oviedo. Chuluota was also well represented in the complaints
19 filed with the Commission.

20 In addition, Representative Sandy Adams, state representative for District
21 33 consisting of parts of Volusia, Seminole, and Orange Counties, attended both

⁵³ Transcript of Gainesville Service Hearing, pp. 81-82; Transcript of Greenacres Service Hearing, p. 54, p. 60; Transcript of Lakeland Service Hearing, pp. 106-108, p. 112; Transcript of Oviedo AM Service Hearing, p. 74, p. 123; Transcript of Sebring Service Hearing, p. 22, p. 27.

⁵⁴ Transcript of Sebring Service Hearing, p. 27.

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1 the morning and evening hearings in Oviedo. Seminole County Commissioner
 2 Bob Dallari attended the morning hearing, as did Oviedo Mayor Mary Lou
 3 Andrew. At the evening session, Oviedo Deputy Mayor Persampiere attended the
 4 hearing. In addition, Jeff Prather with the Orlando District Office of Florida DEP
 5 also took part in the Oviedo hearings.

6 While Chuluota customers, like customers of other Aqua systems, had
 7 problems with the Company's billing, meters, and customer service, the
 8 overriding concern in this community is the quality of the water, and especially
 9 the possible health effects of the water. Customers attributed any number of
 10 physical ailments, from skin problems to cancer, to the water. Customers voiced
 11 their belief that Aqua's water had resulted in the death of their pets. One
 12 customer testified that her pediatrician told her not to let her child drink the water
 13 or bathe in it. Chuluota customers reported that they could not sell their houses
 14 and were reluctant to rent them out because of concerns with the water quality.
 15 People in Chuluota are not just dissatisfied with their water, they are afraid of it.

16 **Q. WOULD YOU DESCRIBE SPECIFIC PROBLEMS CUSTOMERS IN**
 17 **CHULUOTA HAVE WITH THE WATER QUALITY?**

18 **A.** Chuluota customers complained of the hardness of the water, and its corrosive
 19 effect on their sinks, tubs, faucets, and appliances.

20 . . . we moved into Osprey Lakes, which, again, was a new
 21 subdivision, brand new home. We've been there approximately
 22 five years. In that five-year period we have replaced two hot water
 23 elements, we have replaced an entire hot water heater, we've
 24 replaced a dishwasher, we've replaced a complete kitchen faucet
 25 and all associated parts and pipes, we've replaced two complete
 26 showerheads, we've replaced three shower cartridges, two tub
 27 faucet cartridges and two sink faucet cartridges. Luckily we have

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1 Moen, which is a brand name cartridge, but luckily it's a lifetime
2 warranty. So I just keep sending the cartridges to Moen and they
3 keep sending them back. The last time I spoke to somebody they
4 said, "Are you sure there's not something wrong with your water?
5 We don't have this problem anyplace else."⁵⁵

6
7 I've replaced the plumbing in all of my toilets, they totally rusted
8 out, three toilets. I replaced all of it. Two and a half years it took
9 to eat away.⁵⁶

10
11 I've got a 13-month-old house. I've got black gook coming out of
12 my marble faucet drain already. I've got green stains all over my
13 white marble, I'm sorry, white Silestone kitchen vanity areas. All
14 of my clothes stink to high heaven.⁵⁷

15

16 Because of the water problems, Chuluota customers testifying at the
17 hearing overwhelmingly drank bottled water, and many have extensive filtering
18 systems in their homes as well. These people are spending considerable sums of
19 money in addition to the payments to Aqua, because of the problems with the
20 water.

21 I have to buy bottled water. I wouldn't even consider drinking this
22 stuff. As a one-person family, it costs me at least \$35 a month to
23 buy bottled water. . . Then there's the water filters. Of course, I
24 had to put the system in to put the filters in, but I have to change
25 the filters. That costs me at least \$15 a month to change those
26 filters out, plus the extra effort to do it.

27

28 I have to buy extra cleaning agents. I buy CLR in the great
29 economy size bottles because that's the only thing that will take all
30 the mineral and all the residue from all this yucky water. . .

31

32 You do your laundry, you have to put stuff in your rinse cycle in
33 your washer so your clothes don't smell bad. . .⁵⁸

34

35 We purchased two, a whole house system with two extra
36 dechlorinator tanks to address the TTHMs in my home, in my

⁵⁵ Transcript of Oviedo AM Service Hearing, p. 181.

⁵⁶ Ibid., p. 188.

⁵⁷ Transcript of Oviedo PM Service Hearing, p. 115.

⁵⁸ Transcript of Oviedo AM Service Hearing, p. 76.

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1 water, because they say that the carbon tanks are the best things or
2 one of the best things for this for your house. So I purchased that
3 in April. We spent over \$4,000 for that tank.⁵⁹
4

5 **Q. WOULD YOU ADDRESS THE QUESTION OF THE SAFETY OF THE**
6 **WATER?**

7 A. Aqua has been in violation of the allowable levels of TTHM (total
8 trihalomethanes), a byproduct of the chlorine used to treat the water according to
9 Mr. Prather of the Florida DEP who testified:

10 What happens is when you disinfect water with chlorine, the
11 interaction with organic material, you get a by-product from that.
12 And there's four chemicals that are associated. The sum of them
13 give you this number which we would consider TTHMs, total
14 trihalomethanes. And there's a regulatory limit for that sum, and
15 that's what we're -- it's 80 parts per billion. So on a quarterly basis
16 we are getting that information from Aqua Utilities.
17

18 Now utilities as a whole are required to do all types of sampling.
19 On a daily basis they're looking at chlorine residuals throughout
20 the distribution system, on a monthly basis they're looking at
21 bacteria, they're taking bacterial samples throughout the
22 distribution line. And then on an annual and triennial basis they're
23 doing various types of sampling for other primary drinking water
24 standards.
25

26 Right now the violation for Aqua Utilities is disinfectant by-
27 products, and we have been working for an extensive amount of
28 time trying to get this problem solved.⁶⁰
29

30 The TTHMs must test at an acceptable level on a running annual average,
31 four consecutive quarterly tests, for the Company to considered in compliance.
32 And they have yet to do so.

⁵⁹ Ibid., p.91.

⁶⁰ Ibid., pp. 46-47.

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1 In addition, AUF's water has been found to have coliform bacteria. When
2 a utility tests positive for coliform bacteria, it is required to notify customers
3 within 30 days. It is also required to retest the water until it tests negative.⁶¹ The
4 notice for coliform bacteria is not a boil water advisory, but customers are
5 understandably concerned to receive such notices month after month. Some
6 customers specifically link the coliform problem to health issues they have had.

7 . . . and it just so happens around the same time frame that, of
8 course, we got the notice about the coliform over 30 days from
9 when they found it, was the same time frame two of my dogs had
10 severe diarrhea, could hold nothing down at either end. They had
11 to just live outside for a while, because I couldn't -- I couldn't
12 control it. And my son was having that, and I was having stomach
13 problems.⁶²
14

15 In another instance, the owner of a day care had her water tested by Aqua.
16 Aqua must have found some problem with it, as they began providing her with
17 bottled water, free of charge. Yet she never received the results of the tests to
18 know exactly what the health risks are.

19 And then we started noticing large amounts of yellow-orange stuff
20 coming out, brown stuff coming out of the water. And then about
21 a month ago Aqua came and they asked me to fill up some
22 containers so they could test my water. And then actually that was,
23 let me see, approximately I guess early June that they showed up.
24

25 . . .
26 The biggest concern I think is when I asked for test, the test results
27 from the water that they tested, no one will provide them. But they
28 mysteriously showed up with huge quantities of bottled water from
29 the head local people who are sitting in the back row today, Ryan
30 from Aqua, Bill and Eddie, who are both technicians. Certain
31 technicians could not look me in the eye and had tears in their eyes
32 over the concern that I had with the children at my school.⁶³

⁶¹ Ibid., pp. 134-135.

⁶² Ibid., p.148.

⁶³ Ibid., pp. 190-191.

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1 A resident of The Trails, which like Chuluota has high levels of TTHMs,
2 testified at the Oviedo service hearing as follows:

3 I have an eight-week-old, and I'm concerned that he can't bathe in
4 the water, he can't drink the water. We went to the pediatrician
5 today, and he said keep him as far away from the water as
6 possible.⁶⁴
7

8 Other customers testified of miscarriages, birth defects, and a fear of
9 conceiving because of the water provided by Aqua.⁶⁵ Other customers blamed
10 Aqua's water for the death of their pets, their skin problems, and their husband's
11 cancer. The customers who are paying for this water are afraid to drink it, bathe in
12 it, or have their children inhale the steam from it in the shower.⁶⁶

13 I am not an expert in water quality issues, but from the evidence presented
14 by the Company's customers, I must conclude that there are serious health
15 concerns in The Trails and Chuluota. I recommend that the Commission follow-
16 up with the Department of the Environment Protection to rigorously test the water
17 provided by Aqua to these customers.

18 **Q. CUSTOMERS AND MR. FRANKLIN HAVE DISCUSSED THE**
19 **POSSIBILITY OF OVIEDO PURCHASING THE CHULUOTA SYSTEM**
20 **FROM AQUA AMERICA, OR OF AQUA PURCHASING WATER FROM**
21 **THE CITY OF OVIEDO FOR DELIVERY TO CHULUOTA**
22 **CUSTOMERS. OTHER CUSTOMERS HAVE SUGGESTED THE STATE**

⁶⁴ Transcript of Oviedo PM Service Hearing, p. 25.

⁶⁵ Transcript of Oviedo AM Service Hearing, p. 203; Transcript of Oviedo PM Service Hearing, p. 98, pp. 127-128.

⁶⁶ Transcript of Oviedo AM Service Hearing, p. 90, pp. 107-108, p. 143; Transcript of Oviedo PM Service Hearing, p. 25, pp. 102-103, p. 115, p. 123, p. 146; Transcript of Palatka Service Hearing, p. 60, Transcript of Sebring Service Hearing, pp. 18-19, p. 28; Transcript of Gainesville Service Hearing, p. 55, p. 62; Transcript of Lakeland Service Hearing, p. 25, p. 39, p. 52, p. 94; Transcript of Mt. Dora Service Hearing, p. 66-67.

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1 **EXERCISE EMINENT DOMAIN AND SEIZE THE PROPERTY FROM**
2 **AQUA. HAVE YOU ANY POSITION ON THESE VARIED**
3 **SUGGESTIONS?**

4 A. I have not been involved in any discussion between the City of Oviedo and Aqua
5 Utilities. Thus, my knowledge is limited to that presented in the customer
6 hearings and in Company testimony. Nor am I a lawyer conversant in the
7 eminent domain laws that would apply to this situation. I do believe, however,
8 that the Commission should encourage Aqua, and work with Aqua if necessary, to
9 resolve these problems.

10 As many of the customers testifying at the various service hearings, and
11 especially the hearings in Oviedo, stated: Aqua knew what it was buying when it
12 purchased the system. At this point, Aqua states that its water in Chuluota is
13 meeting all EPA requirements and that it is secondary "aesthetic" qualities that
14 customers find objectionable. Aqua may be correct, but customers in Chuluota
15 perceive that their water as unsafe. When their bath water is green, their
16 children's hair turns orange after shampooing, their laundry comes out of the
17 machine smelling of manure, the filters on their expensive home filter systems
18 need replacing at several times the recommended rate, faucets and appliances are
19 ruined within two years, their pediatrician advises them to keep their children out
20 of the water, I do not see how Aqua is going to be able to change these customers'
21 perception that Aqua water is unsafe.⁶⁷

⁶⁷ Transcript of Oviedo AM Service Hearing, pp. 75-76, p. 81, p. 133, p. 181, p. 191, p. 199; Transcript of Oviedo PM Service Hearing, p. 25, p. 71, p. 83, p. 114, p. 121, pp. 145-146, p. 117.

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1 Q. IN THE LAST RATE CASE – JUST OVER A YEAR AGO, YOU FILED
2 TESTIMONY ON ISSUES REGARDING CUSTOMER AND QUALITY
3 OF SERVICE. DOES IT APPEAR THAT THE COMPANY’S CUSTOMER
4 AND QUALITY OF SERVICE HAVE IMPROVED?

5 A. No, it does not. While a few customers in certain systems have voiced approval
6 of the water quality, they are in the distinct minority. In addition, while the
7 number of estimated bills has declined, the incidence of billing errors and billing
8 disputes does not seem to have changed at all. It is simply the issues that have
9 changed, not the incidence of issues.

10 For example, customers at last year’s hearing also had significant
11 problems with customer service.

12 But you call the office, if you're lucky to get a live person and you
13 ask too many questions, they hang up on you. You can't get any
14 response. If you leave your name and number, no one calls you
15 back.⁶⁸

16
17 I have a lot of complaints, but the main one is, oh, that customer
18 service. Get on the telephone and try to get something straight with
19 the company. It is a lost cause.⁶⁹

20

21 Customers last year also reported problems with the lack of boil water
22 advisory notices, as evidenced by the following witnesses’ testimony.

23 Never once have I received a boil water notice since I've lived
24 there, seen a sign, anything. Never once have I known that there's
25 been any kind of problem with the water, except that later down
26 the road I found out that there was one but now it's been lifted, and
27 it's been way too late for me or anyone in my household that's
28 staying with me or my animals I'm giving that water to do anything
29 about [it].⁷⁰

⁶⁸ Docket No. 060638-WS, Transcript of Gainesville Service Hearing, p. 39.

⁶⁹ Docket No., 060638-WS, Transcript of New Port Richey AM Service Hearing, p. 28.

⁷⁰ Docket No. 060638-WS, Transcript of Greenacres Service Hearing, p. 48.

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1
2 We never get notifications about anything. If they are going to turn
3 off the water, we do not get notified. If they are going to turn the
4 water back on, we do not get notified. We don't know if we need to
5 boil our water or not. We get no notice at all.⁷¹
6

7 Customers last year also repeated many problems with the meter readings.

8 The most widespread problem last year was estimated bills. This problem
9 appears, to some degree, to be lessened this year. However, customers were also
10 plagued by other billing errors and anomalies, as shown in the following
11 quotations from the customer service hearings.

12 . . . every time we called Aqua Utilities, they would say, well,
13 your water consumption is about the same as it was last year at this
14 time. And I said the house was empty last year at this time. How is
15 that possible? Now there are four people living in this house. . .⁷²

16 They estimated on May 23rd, you got a copy of that one, they
17 estimated that my bill was 21,600 gallons. How could I use that if
18 they just changed my meter? Well, I called them. They say, no,
19 that is estimated. Why don't you just wait to read it? Oh, because
20 we estimated. You will get credit on the next one. Okay. I hang up.
21 Two or three days later in the mail I get a new bill. If you could
22 please read that for me for the audience?

23 Commissioner Argenziano: Well, the bill was – this is astounding.
24 The average daily use is 205,634 gallons, and the total for the
25 month was 9,664,800, and the bill was \$51,704.⁷³
26

27 **Q. DO YOU RECOMMEND THAT THE COMMISSION ADJUST THE**
28 **COMPANY'S ALLOWED RETURN ON EQUITY DUE TO ITS POOR**
29 **CUSTOMER AND QUALITY OF SERVICE?**

30 **A. Yes, I do. Section 367.111(2), Florida Statutes states that a public utility must**
31 **provide:**

⁷¹ Docket No. 060638-WS, Transcript of Gainesville Service Hearing, p. 62.

⁷² Docket No. 060638-WS, Transcript of Oviedo Service Hearing, p. 198..

⁷³ Ibid., p. 204.

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1 . . . such safe, efficient, and sufficient service as is prescribed by
2 part VI of Chapter 403 and parts I and II of chapter 373, or rules
3 adopted pursuant thereto; but such service shall not be less safe,
4 less efficient, or less sufficient than is consistent with the approved
5 engineering design of the system and the reasonable and proper
6 operation of the utility in the public interest. If the Commission
7 finds that a utility has failed to provide its customers with water or
8 wastewater service that meets the standards promulgated by the
9 Department of Environmental Protection or the water management
10 districts, the commission may reduce the utility's return on equity
11 until the standards are met.
12

13 I have found little to suggest that AUF operates its systems "in the public
14 interest." Customers are provided water that many will not drink because of its
15 color, odor, and levels of contaminants. Water pressure is sometimes low.
16 Communications from the Company regarding boil notices or possible water shut
17 off are often lacking. Meters appear sporadically read, and many readings appear
18 erroneous. Customers are billed for water usage in amounts and for dollars that
19 vary greatly from month to month with no underlying reasons for this variation.
20 Customer Service is difficult to reach, and by most accounts, less than helpful.

21 Florida Statutes Section 367.081(2) (a) 1 provides that the Commission
22 will "fix rates which are just, reasonable, compensatory, and not unfairly
23 discriminatory" and in every proceeding will "consider the value and quality of
24 the service and the cost of providing the service." As I have shown, the quality of
25 the service that AUF customers receive is so poor that many customers purchase
26 bottled water for drinking, cooking, and feeding their pets. They receive bills
27 with errors, have their bills estimated, have water meters buried in sand that
28 appear to have not been read in a long period of time, and are asked to pay rates
29 that are double and triple those of neighboring communities. I, therefore,

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1 recommend that the Commission reduce the return on equity it would authorize in
 2 this proceeding by at least 50 basis points for its poor customer service, 50 basis
 3 points for its customers' dissatisfaction with its water quality, and 50 basis points
 4 for its billing errors, for a total of 150 basis points. In addition, I recommend that
 5 the Commission reduce the salary of the President and CEO of Aqua America by
 6 \$1.953 million and the salaries of the President of Aqua Utilities Florida, Inc. by
 7 50%. Aqua's share of this salary has been removed in my adjustment to affiliate
 8 charges from Aqua Services. It should not be eliminated twice. However, if the
 9 Commission does not accept my affiliate adjustments, then 50% of Mr.
 10 DeBenedictis salary charges to AUF, or \$20,275 should be removed from test year
 11 expenses.

12 **Q. IS THERE ANY PRECEDENT FOR REDUCING A UTILITY'S RETURN**
 13 **BECAUSE OF POOR CUSTOMER SERVICE?**

14 **A.** Yes, there is. In Docket No. 010503-WU, the Commission set Aloha Utilities'
 15 rate of return at the minimum of its authorized range and also cut both the
 16 president and vice president's salaries by 50%.

17 In that docket the Commission noted:

18 We have set the rates at the minimum of the range of return on
 19 equity because of the overwhelming dissatisfaction of Aloha's
 20 customers due to the poor quality of the water service and their
 21 treatment by the utility in regards to their complaints and inquiries.
 22 Our actions are consistent with past decisions in this regard. See
 23 Order No. 14931, issued September 11, 1985, in Docket No.
 24 840267-WS, Order No. 17760, issued June 28, 1987, in Docket
 25 No. 850646-SU, Order No. 24643, issued June 10, 1991, in Docket
 26 No. 910276-WS, and Order No. PSC-96-1320-FOF-WS, issued
 27 October 30, 1996, in docket No. 950495-WS.⁷⁴
 28

⁷⁴ Commission Order PSC-02-0593-FOF-WU.

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1 In Docket No. 840267-WS, Consolidated Utilities Company filed for an
2 increase in its water and wastewater rates in Palm Beach County. The
3 Commission's order in that docket had the following discussion of the utility's
4 quality of service:

5 An informal customer meeting was held on February 21, 1985, in
6 Riviera Beach and was attended by approximately twenty persons.
7 The most common complaint was an apparent lack of concern by
8 the utility for the customer's service problems. The utility neither
9 had the facilities which would permit the customer to establish
10 easy contact nor did it make the best use of what it had -
11 sometimes taking four days to return a call.

12
13 Further, staff's investigation discloses that the utility is not
14 properly maintaining its books and records which is reflected in its
15 quality of service.

16
17 On balance, we find that the quality of service is less than
18 satisfactory for which the utility should be penalized one
19 percentage point on its equity return.⁷⁵
20

21 In Docket No. 17760, the Ocean Reef Club, Inc. of Monroe County filed
22 for an increase in its sewer rates. The Ocean Reef Club had a history of service
23 quality problems, including a 1985 indictment by the federal government for
24 discharging untreated effluent onto the coral reefs. That case was settled with
25 Ocean Reef Club paying a fine prior to the filing of its rate case. Ocean Reef
26 showed that it had made repairs and replacements in its plant. Of the nine
27 customers who testified at the service hearing, none had any complaints about
28 service quality.

29 Based upon both the recent history of the utility, and its then current
30 status, the Commission ruled as follows:

⁷⁵ Commission Order No. 14931.

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1 . . . we find that although there have been improvements, quality of
 2 service is only marginally satisfactory. We find that given the
 3 inadequacies in quality of service, the appropriate return on
 4 common equity should be reduced by 50-basis points (.5%).

5 In addition, we find that the utility should be required to file with
 6 the Commission a monthly report for a period of twelve months.
 7 These reports shall include a summary of each customer complaint
 8 received and the action taken by the utility to resolve each
 9 complaint.⁷⁶

10
 11 Still another water and wastewater rate case in which the Commission
 12 found the utility's quality of service unacceptable was the 1990 application of
 13 Pine Island Utility Corporation of Volusia County. A customer service hearing
 14 was held in that docket at which some 45 customers presented comments and
 15 complaints. The general complaint was that the water quality was poor, with
 16 offensive taste, odors, and excessive chlorine. Customers also complained about
 17 the lack of an accessible maintenance person, and the need for meters. At the
 18 time, the water system was operating under a DER consent order, but the utility
 19 had not made the repairs required by the order. The Commission determined that
 20 "the problems experienced by the customers are the result of the utility's violating
 21 DER standards." In this docket the Commission ruled:

22 . . . we find that the utility's quality of service for both water and
 23 wastewater is unsatisfactory. In other cases in which we have
 24 found a utility's quality of service to be unsatisfactory, we have
 25 fined the utility a dollar amount equal to a 1% reduction to its
 26 return on common equity. We shall impose a fine on PIU for its
 27 failure to provide safe, efficient, and sufficient service

28 The dollar amount associated with a 1% reduction in this utility's
 29 return on common equity is \$ 314. We believe that in order to
 30 properly encourage the utility to satisfy DER requirements in a
 31 timely manner a \$ 314 fine is insufficient. We therefore impose a

⁷⁶ Commission Order No. 17760.

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1 \$ 1,000 fine, or \$ 500 per system, for the utility's unsatisfactory
2 quality of service. However, with the purpose of encouraging
3 compliance with DER's requirements in mind, we hereby suspend
4 this fine for six months, until December 10, 1991, in order to allow
5 the utility time to satisfy DER requirements. If all DER
6 requirements are not satisfied by this date, the fine is hereby
7 reinstated and, thus becomes due and payable.⁷⁷

8
9 In 1996, the Commission issued an order in Southern States Utilities,
10 Inc.'s application for water and wastewater rate increases in 23 counties across
11 Florida. In its order the Commission noted that the regulatory agency witnesses
12 indicated the utility was in compliance with agency standards for water and
13 wastewater quality. However, customers in many of the company's service areas
14 were not satisfied with the quality of the water or the quality of customer service.
15 The majority of the complaints sound very similar to those of many of AUF's
16 customer complaints in the instant proceeding.

17 Customers from several regions in the state complained that the
18 water is not potable. Others shared physical or medical problems
19 that apparently occurred from the water. Customers from
20 numerous service areas complained about the strength or odor
21 from chlorine disinfection. Customers also reported a sulphur or
22 rotten egg odor. Some customers have purchased home purifying
23 systems or filters because of odor, taste, or other reasons. Others
24 stated that they purchase bottled water to drink.

25 A number of customers in numerous service areas complained of
26 water that stained tile and fixtures, and clogged pipes. Others
27 spoke of corrosion and premature replacement of plumbing
28 fixtures, and in some cases complete repiping of homes due to
29 leaks caused by corrosive water. Some customers found the water
30 pressure to be unacceptably low, while others stated that it was too
31 high. A few customers complained of sewage odors, overflows, or
32 backups.

33 Customers expressed concern over the utility's failure to notify its
34 customers of outages, or to notify them of the potential health or
35 safety problems that might result from the outages. There was also

⁷⁷ Commission Order No.24643.

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1 general dissatisfaction with the utility's response to service calls or
2 questions. Customers reported that the utility was slow to respond,
3 or did not properly respond to water quality problems such as
4 sedimentation, discoloration, or excessive lead levels. Incidents
5 were reported where the company damaged customers' property
6 and would not repair the damage. The utility took a long time to
7 answer requests to have tests conducted.

8 Customers presented a variety of complaints with billing. Two
9 customers had problems with their meter readings. They either had
10 not seen anyone read their meter, or could not obtain meter reading
11 data from the utility. Others cited billing problems where SSU was
12 not responsive, or gave an answer that did not aid in resolving the
13 problem. . . .

14 . . . We have required remedial measures, quarterly reports and
15 customer education for several specific situations. However, we
16 find that the utility's less than satisfactory customer service also
17 merits an adjustment in the utility's return on equity. Therefore, in
18 addition to the corrective measures imposed upon the utility, we
19 find it appropriate to make an adjustment to reduce the utility's
20 return on equity by 25 basis points.⁷⁸

21
22 I believe that the customers of AUF have a similar, if not greater level, of
23 dissatisfaction with the water service, water quality, and customer service they are
24 receiving than customers of all of the above cited utilities. In the above dockets,
25 the Commission reduced the company's return on equity by 25 to 100 basis
26 points. In the first case cited, the Commission also reduced the salaries and
27 benefits of the company president and vice president by 50%.

28 In regards to AUF, given the number of customer complaints, the number
29 and variety of water quality problems reported, the widespread prevalence of
30 billing errors and miscalculations, the lack of any explicit accountability in the
31 customer service department, a reduction to the cost of equity of at least 150 basis
32 points and a reduction to the salaries of the top executives, should send the proper

⁷⁸ Commission Order PSC-96-1320-FOF-WS.

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1 message to management that a utility service in Florida cannot be run without
2 proper attention to the ratepayers and the quality of the product that is provided
3 them.

4 III. Billing and Revenue Issues

5 **Q. AUF's CUSTOMERS HAVE PROVIDED INFORMATION REGARDING**
6 **ERRORS AND THE INACCURACY OF THE COMPANY'S BILLING**
7 **RECORDS. DID YOU FIND ERRORS IN THESE RECORDS ALSO?**

8 A. Yes. Schedule 7 of my exhibit summarizes some of the errors that were reflected
9 in the billing records provided by the Company in response to OPC Production of
10 Document Request 153. Although these billing errors appear to have been
11 corrected, the Commission should be concerned with the magnitude of the errors
12 depicted on this schedule and any potential errors that were not caught.

13 Billing errors after adjustment for the rate refund for the Chuluota water
14 system, totaled \$161,329 in 2007, or 21 percent of revenue. On the wastewater
15 side, the errors and adjustments amounted to \$21,401 or 5 percent of revenue. As
16 can be seen on page 1 of Schedule 7 the magnitude of billing errors ranges from a
17 high of 129 percent for Arredondo Farms to a low of 2 percent for Stone
18 Mountain and Quail Ridge. On average for the entire water operations the
19 Company adjusted test year bills by 23 percent.

20 For the wastewater operations the largest error rate was experience by
21 Beechers Point at 106 percent. The lowest error rate was again 2 percent for
22 Morningview. On average the Company's billing errors for its wastewater
23 operations averaged 11 percent.

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1 Q. IS THERE OTHER INFORMATION THAT YOU HAVE REVIEWED
2 THAT INDICATES THE COMPANY HAS HAD SOME SIGNIFICANT
3 BILLING PROBLEMS?

4 A. Yes. The Audit Committee of Aqua America recently completed an internal audit
5 of AUF's billing system and the conversion from the old Avatar billing system to
6 the new Banner system which is being used in four other states in the Aqua
7 America footprint. The executive summary states:

8 BEGIN CONFIDENTIAL

9 [REDACTED]
10 [REDACTED]
11 [REDACTED]
12 [REDACTED]
13 [REDACTED]
14 [REDACTED]
15 [REDACTED]
16 [REDACTED]

17 END CONFIDENTIAL

18 The audit explains that there were significant billing problems that lead to
19 questions about the veracity of test year billing determinants. Specifically, the
20 auditor wrote:

21 BEGIN CONFIDENTIAL

22 [REDACTED]
23 [REDACTED]
24 [REDACTED]
25 [REDACTED]
26 [REDACTED]
27 [REDACTED]
28 [REDACTED]
29 [REDACTED]
30 [REDACTED]

⁷⁹ Response to OPC Document Request 12.

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1
2
3
4
5

[REDACTED]

6 **END CONFIDENTIAL**

7 The auditor also found problems with meter reading:

8 **BEGIN CONFIDENTIAL**

9
10
11
12
13
14
15
16
17
18
19
20

[REDACTED]

21 **END CONFIDENTIAL**

22 The audit findings confirm what customers have addressed at the customer
23 service hearings – that the Company has had significant billing and meter reading
24 problems during the test year. The Commission should seriously question test
25 year billing determinants.

26 **Q. IS THERE ANY OTHER INFORMATION THAT SUGGESTS THE**
27 **COMMISSION SHOULD BE CONCERNED ABOUT TEST YEAR**
28 **BILLINGS AS REFLECTED IN THE COMPANY'S APPLICATION?**

29 **A.** Yes. In response to Staff's deficiency letter, the Company supplied an explanation
30 of how it developed its billing analysis. The explanation indicated that the

⁸⁰ Ibid.

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1 difference between the billing analysis and the per books revenue was in excess of
 2 an acceptable level of approximately 1 percent. The Company stated:

3 If the revenue results from the unadjusted billing analysis were
 4 utilized for present ratemaking purposes then AUF would have
 5 been requesting a larger increase than it may be entitled to. This
 6 ultimately may result in a larger rate increase to customers than
 7 necessary. On the other hand, if the actual booked revenue were
 8 utilized, the opposite would be true and the AUF may under-
 9 recover its true cost of service.

10
 11 Therefore, to establish an accurate revenue level upon which rates
 12 can be established and balance the impact on the customers and the
 13 AUF booked revenue were adjusted to the level supported by the
 14 detailed bill analysis for each system. Thereafter, the ongoing
 15 number bills and associated consumption were priced at tariffed
 16 rates to produce total revenues.⁸¹
 17

18 **Q. DID THE COMPANY HIRE A CONSULTANT TO ASSIST WITH ITS**
 19 **TEST YEAR BILLING ANALYSIS?**

20 **A.** Yes. The Company hired Mr. Gary Prettyman of AUS to perform the billing
 21 analysis for the test year. During Mr. Prettyman's deposition, it was discovered
 22 Mr. Prettyman made an unexplained "consumption adjustment" to several
 23 systems' actual billed consumption in order to show a variance between booked
 24 and billed revenue within the 1 percent range. Mr. Prettyman explained this in his
 25 deposition, as it is not explained in his testimony.

26 **Q** Okay. First the original. We see a difference between -- let me --
 27 let me start again. On the original MFRs we see a -- on row 65, a
 28 difference of 649 -- I'm sorry, \$649 for .5 percent?

29
 30 **A** Yes.

31
 32 **Q** But on your worksheet it shows a variance of 1,687; is that
 33 right?
 34

⁸¹ Attachment 23 to AUF's Response to Staff Deficiency Letter.

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1 A That's correct.

2

3 Q Okay. And why is there a difference between those two?

4

5 A Are you looking at also the response to 23A?

6

7 Q I do not have it in front of me.

8

9 A Okay. I'll just explain it then. In that response, you will see
10 exactly what you see on the bill analysis tab, except you will also
11 see a handwritten adjustment. Because, as I tried to say before, my
12 goal was to always get it, the variance within 1 percent by doing
13 very detailed analysis. Although this was at 1.19 percent, I was still
14 a little bit uncomfortable. So on -- on several of the systems I made
15 a consumption adjustment which increased the bill analysis level
16 that I had which actually benefits the customer in order to get the
17 variance percentage down to less than 1 percent.⁸²

18

19 Mr. Prettyman also explained that he needed to remove duplicate entries
20 for every system due to a glitch in the download of the billing data.

21 Then after I had it into each of its systems, I then took the raw data
22 and started sorting it by the different rate codes, by the different
23 meter sizes and looking at the canceled bills, sorting them out, and
24 also the interim increase in April when the information was
25 downloaded from the system, during that download a duplicate
26 record was reflected which is not in the billing system. It just
27 occurred during the download because of the interim increase. And
28 went through all of those processes and down sorting -- sorting the
29 data to ultimately produce the bill analysis results.⁸³

30

31 Although Mr. Prettyman indicated that the April duplicate entry was not in
32 the billing system, the Aqua internal auditor **BEGIN CONFIDENTIAL** [REDACTED]

33 [REDACTED]

34 [REDACTED]

35 [REDACTED]

⁸² Prettyman Deposition, pp. 29-30.

⁸³ Ibid., pp. 45-46.

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END CONFIDENTIAL

4

Q. DID YOU DETERMINE FOR HOW MANY SYSTEMS MR. PRETTYMAN ADJUSTED THE CONSUMPTION TO GET THE VARIANCE BETWEEN THE BOOKED AND BILLED REVENUE WITHIN THE ONE PERCENT RANGE?

5

6

7

8

A. Yes. Of the 82 systems that make up the instant rate proceeding, about 68 percent had their consumption adjusted by Mr. Prettyman to give the illusion that the Company's billing records were more accurate than they really were.

9

10

11

Q. BUT DIDN'T MR. PRETTYMAN'S ADJUSTMENTS BENEFIT CUSTOMERS?

12

13

A. Yes, they did. However, the "consumption adjustment" or "fudge factor" was not discussed in his testimony. In fact, Mr. Prettyman explained that he compared the booked revenue to the billing analysis to determine if the billing analysis was appropriate for use for setting final rates in this proceeding. Apparently, the bill analysis was not appropriate for use in this proceeding as Mr. Prettyman adjusted the consumption from the bill analysis for approximately 56 systems. Mr. Prettyman's discussion on his use of the billing analysis is described below.

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After the appropriate adjustments were made [removing duplicate entries], I had representative data to proceed. I then determined the number of bills and usage at each 1,000 gallon increment to develop the consolidated factors as shown on the billing analysis contained in MFR Schedule E-14. From this data, the actual pricing of the billing determinants was made and summarized on MFR Schedule E-2. The level of present rates as developed was

⁸⁴ Response to OPC Document Request 12.

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1 then compared to actual book revenues to determine if the billing
2 analysis was appropriate to use for setting final rates in this
3 proceeding. A billing analysis variance is shown on each
4 schedule.⁸⁵
5

6 **Q. WHAT ARE YOUR CONCLUSIONS ABOUT TEST YEAR BILLING**
7 **DATA?**

8 A. The Commission should be concerned about the accuracy of the Company's
9 billing information. Not only because of the customer testimony and the audit
10 findings, but because the Company's witness found it necessary to "fudge"
11 consumption data to give the appearance of accuracy which did not exist. While I
12 am not making any adjustment to test year revenues, I recommend that the
13 Commission consider this when weighing its decision on the amount of penalty
14 that should be assessed against the Company.

15 **Q. ARE YOU MAKING ANY ADJSUTMENTS TO TEST YEAR REVENUE?**

16 A. Yes. I am recommending that the Commission move above the line the non-utility
17 income that it had recorded below the line. In response to OPC Interrogatory 49,
18 the Company explained: "For AUF, this income is a result of collecting
19 miscellaneous fees which AUF expenses as paid to the municipality offsetting
20 amounts to nonutility expense." Unfortunately, the Company's response is not
21 clear. I have seen no evidence that the cost of providing this function is recorded
22 below the line. Moreover, as discussed earlier in my testimony, the charge for
23 street lighting is included on the customer bills. I doubt that the associated cost
24 has been moved below the line. Therefore, I recommend that \$222,145 be moved
25 above the line for ratemaking purposes. This is consistent with the Commission's

⁸⁵ Prettyman Testimony, p. 3.

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1 treatment of street lighting revenue in the Southern States case in Docket No.
2 950495-WS. In that case the Commission found:

3 "We conclude that test year wastewater revenue shall be increased
4 by \$50,595 for wastewater provided free of charge or at a discount,
5 as this choice should be borne by shareholders. Therefore, test year
6 revenue was increased by \$1,025 for Tropical Isles and \$49,570 for
7 University Shores. Furthermore, test year revenue shall be
8 increased by \$7,000 for the revenue received from the customers
9 for street lighting service which was recorded below the line.
10 Although SSU believed that there was no marginal cost to the
11 ratepayers, allowing SSU to charge for non-utility services while
12 utilizing its employees would send the wrong signal to utilities
13 Therefore, test year income shall be increased by \$7,000 for Palm
14 Terrace.⁸⁶
15

16 I am also recommending that the Commission move above the line
17 \$479,643 of revenue related to Home Service commissions earned by Aqua
18 America. In response to OPC Interrogatory 49, the Company gave the following
19 explanation of this service:

20 Aqua America entered into a marketing agreement with Home
21 Service USA Corporation, effective October 1, 2003. Home
22 Service is in the business of providing Service Agreements for the
23 emergency repair of domestic water and sewage systems to a base
24 of customers within a defined geographic area.
25

26 Aqua America receives a 5% commission of the Service
27 Agreement fees for all new and renewing Service Agreements. In
28 addition to the standard commission, Home Service shall pay Aqua
29 America 1% of the total Service Agreement fee for all new and
30 renewed Service Agreements sold throughout the United States by
31 Home Service through investor-owned or municipal water
32 companies other than Aqua America during the term of the
33 agreement.
34

35 Further inquiry produced the following response, whereby Aqua America
36 is essentially selling a customer list for which it receives a commission.

⁸⁶ Commission Order PSC-96-1320-FOF-WS.

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1 There are no person or persons that perform services that generate
 2 these commissions. Aqua America provides Home Service with a
 3 customer list. If Aqua America customers sign up for the service
 4 agreement program, then Aqua America will receive a 5%
 5 commission on the service agreement fees for all new and
 6 renewing service agreements.⁸⁷
 7

8 I see no reason why Aqua America should reap the benefits of selling its
 9 customer lists to Home Service. Clearly, if it were not for the fact that Aqua
 10 America had these customers in the first place, no commissions would be earned.
 11 Therefore, I recommend that \$479,643 be moved above the line for ratemaking
 12 purposes. The amount applicable to the AUF operations is ^{9,627}~~\$10,838~~.

13 **IV. Affiliate Transactions**

14 **Q. WHY IS IT IMPORTANT TO CLOSELY EXAMINE AFFILIATE**
 15 **TRANSACTIONS?**

16 A. In a situation involving the provision of services between affiliated companies,
 17 the associated transactions and costs do not represent arms-length dealings. Cost
 18 allocation techniques and methods of charging affiliates should be frequently
 19 reviewed and analyzed to ensure that the company's regulated operations are not
 20 subsidizing the non-regulated operations. Because of the affiliation between AUF
 21 and the affiliates that contribute to expenses included on the books of AUF, the
 22 arms-length bargaining of a normal competitive environment is not present in
 23 their transactions. Although each of the affiliated companies is supposedly
 24 separate, relationships between AUF and its affiliates are still close; they all
 25 belong to one corporate family.

26 In the absence of regulation, there is no assurance that affiliate

⁸⁷ Response to OPC Interrogatory 220.

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1 transactions and allocations will not translate into unnecessarily high charges for
 2 AUF's customers. Even when the methodologies for cost allocation and pricing
 3 have been explicitly stated, close scrutiny of affiliate relationships is still
 4 warranted. Regardless of whether or not Aqua America, Inc., the holding
 5 company, explicitly establishes a methodology for the allocation and distribution
 6 of affiliate costs, there is an incentive to misallocate or shift costs to regulated
 7 companies so that the unregulated companies can reap the benefits.

8 **Q. DOES THE COMMISSION HAVE ANY GUIDELINES WHICH**
 9 **CONTROL THE PRICING ARRANGEMENTS BETWEEN UTILITIES**
 10 **AND THEIR AFFILIATES?**

11 A. Yes. The Commission has expressed its opinion on affiliate transactions and the
 12 precedent that should be followed when examining affiliate transactions.

13 By their very nature, related party transactions require closer
 14 scrutiny. Although a transaction between related parties is not per
 15 se unreasonable, it is the utility's burden to prove that its costs are
 16 reasonable. Florida Power Corp. v. Cresse, 413 So. 2d 1187, 1191
 17 (Fla. 1982). This burden is even greater when the transaction is
 18 between related parties. In GTE Florida, Inc. v. Deason, 642 So.
 19 2d 545 (Fla. 1994) (GTE), the Court established that the standard
 20 to use in evaluating affiliate transactions is whether those
 21 transactions exceed the going market rate or are otherwise
 22 inherently unfair. (In re: Investigation of rates of Aloha Utilities,
 23 Inc. in Pasco County for possible overearnings for the Aloha
 24 Gardens water and wastewater systems and the Seven Springs
 25 water system.⁸⁸
 26

27 **Aqua Utilities, Inc. Affiliates**

28 **Q. WOULD YOU PLEASE DESCRIBE AUF AND ITS AFFILIATES?**

29 A. Aqua America, Inc., the parent company of AUF, is a publicly traded holding

⁸⁸ Commission Order No. PSC-01-1374-PAA-WS.

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1 company with both regulated and non-regulated subsidiaries operating in thirteen
2 states. Schedule 8 of my exhibit contains an organizational chart of Aqua America,
3 Inc. and its affiliates. In addition to its regulated subsidiaries, such as AUF, which
4 provide water and wastewater service, Aqua America has several unregulated
5 subsidiaries.

6 According to Aqua America's website, "Aqua America, Inc. is a publicly
7 traded water and wastewater utility holding company, with operating subsidiaries
8 serving approximately three million people in Pennsylvania, Ohio, North
9 Carolina, Illinois, Texas, New Jersey, New York, Indiana, Florida, Virginia,
10 Maine, Missouri, and South Carolina. Aqua America is listed on the New York
11 and Philadelphia Stock Exchanges under the ticker symbol WTR. Its aggressive
12 growth-through-acquisition strategy has resulted in nearly 200 acquisitions and
13 growth ventures in the last ten years. These growth ventures have allowed Aqua
14 America to achieve its growth goals and has had a favorable impact on its
15 financial performance."⁸⁹

16 In response to OPC Interrogatory 58, AUF identified the following ~~four~~^{six}
17 subsidiaries of Aqua America as unregulated companies.

- 18 1) Aqua Resources: Parent company of Aqua Wastewater Management,
19 Inc. which provides hauling services of residential and commercial
20 septic waste; installation and maintenance of residential/commercial
21 septic systems;
- 22 2) Aqua Services: Provides managerial, general and administrative,
23 engineering, and operation services;

⁸⁹ <http://ir.aquaamerica.com/>

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- 1 3) Aqua Indiana – Western Hancock, Inc.: Provides unregulated
2 wastewater services;
- 3 4) Aqua Operations: Provides water and wastewater operating contracts
4 with municipal authorities and other parities;
- 5 5) Utility & Municipal Services: Provides data processing, network
6 and communication support to Aqua Pennsylvania, Inc. (a regulated
7 water and wastewater utility); and
- 8 6) Suburban Environmental Services: Provides contract operation and
9 maintenance support for water and wastewater systems.⁹⁰

10 **Q. ARE THERE TRANSACTIONS BETWEEN AUF AND ANY OF ITS**
11 **UNREGULATED AFFILIATES?**

12 **A.** Yes. AUF has contracted with Aqua Services Inc. for the provisioning of a variety
13 of managerial, operations, and regulatory support. In addition, Aqua America
14 allocates insurance costs and charges other costs to AUF. In total for the test
15 year, the systems in this rate proceeding were charged \$1.9 million for services
16 provided by Aqua Services and Aqua America.⁹¹ Cost allocated to the systems in
17 this rate proceeding from AUF amounted to \$1.4 million. This compares to the
18 Company's total direct costs of \$4.9 million. Thus, of the total Operations and
19 Maintenance expenses included in the test year of \$8.2 million, 23% of the costs
20 are charged from Aqua Services or Aqua America and 17% are charged from
21 AUF. Therefore, only 60% of costs included in the test year are directly incurred
22 by the individual water and wastewater systems.

⁹⁰ Response to OPC Interrogatory 58.

⁹¹ MFRs, Volume 1, Appendix 1, p. 10.

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1 **Q. HAVE THE COSTS CHARGED TO AUF FROM ITS AFFILIATES**
 2 **INCREASED?**

3 A. Yes, they have. In 2005, affiliate charges to the Company were \$1.8 million. In
 4 2006, these charges increased to \$2.0 million or 11%. In 2008, these charges
 5 increased to \$2.2 million – a 10% increase over 2007.⁹²

6 **Q. HOW ARE COSTS CHARGED BETWEEN AQUA SERVICES AND AUF?**

7 A. Aqua Services charges AUF for employee time used to provide services to AUF.
 8 The services AUF purchases from Aqua Services are governed by a Service
 9 Company Agreement. The Service Company Agreement identifies the
 10 following services which Aqua Services will furnish to AUF:

- 11 • corporate management
- 12 • accounting
- 13 • administration
- 14 • communication
- 15 • corporate secretarial
- 16 • customer services
- 17 • engineering
- 18 • financial
- 19 • human resources
- 20 • information systems
- 21 • operations
- 22 • rates and regulatory
- 23 • risk management
- 24 • water quality
- 25 • legal
- 26 • purchasing
- 27 • fleet services
- 28

29 The cost of Aqua Service employees' time billed to AUF and other
 30 affiliates is computed from the employee's total labor rate. This is including base
 31 pay, other compensation, payroll taxes, benefits, and an overhead factor. In

⁹² Response to OPC Interrogatory 58.

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1 addition, any direct expenses incurred in connection with services to AUF are
2 charged directly to that affiliate.

3 If an employee of Aqua Services performs work that is only of benefit to
4 AUF, his time, computed at the labor rate as described above, is charged to AUF.
5 If the project the employee is working on will benefit several subsidiaries, his
6 time is allocated among those subsidiaries based on the subsidiaries respective
7 number of customers. Such charges for employee time related directly to work for
8 one or more affiliates are referred to as "service charges." In addition, the
9 departmental costs associated with the daily operations of Aqua Services are also
10 allocated among the Aqua America affiliates as either direct charges to a specific
11 affiliate, or allocations among a group of affiliates.

12 **Q. DO YOU AGREE WITH THIS ALLOCATION METHOD USING**
13 **CUSTOMERS?**

14 **A.** I believe that when allocating costs between water and wastewater systems, where
15 there are no unregulated businesses, that the use of customers for simplicity
16 purposes is generally acceptable.

17 However, there are some problems with the Company methodology. First,
18 a pure customer allocation methodology does not necessarily consider usage
19 and/or volume in the allocation formula. Therefore, a company with several large
20 commercial customers, but few residential customers, may use the same level of
21 services as a company with many residential customers and no commercial
22 customers. Yet, under a strict customer method, the company with the larger

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1 number of customers would be allocated more costs, regardless of the benefits
2 received from the services provided.

3 Of a greater concern however, is the Company's failure to allocate any
4 overhead costs to unregulated companies.

5 **Q. HAVE THE NONREGULATED ACTIVITIES OF AQUA AMERICA**
6 **CHANGED IN RECENT YEARS?**

7 A. Yes. From 2005 through 2007, Aqua America acquired several non-regulated
8 companies that provide septic tank pumping, sludge hauling, and other
9 wastewater related services. Prior to the acquisition of these companies, Aqua
10 America states its non-regulated operations were operated "as part of our
11 regulated operating segments." (2006 Annual Report, page 7.) In its 2007 Annual
12 Report, Aqua America stated:

13 During 2005 and 2006, we completed six acquisitions of non-
14 regulated companies that provide on-site septic tank pumping,
15 sludge hauling and other wastewater-related services to customers
16 in eastern Pennsylvania, New Jersey, Delaware, New York and
17 Maryland. The operating revenues of these businesses for the years
18 ended December 31, 2007 and 2006 were \$10,216 and \$5,424,
19 respectively, and are excluded from our Regulated segment. In
20 total during 2006, \$7,897 in cash was invested in these non-
21 regulated wastewater and septage acquisitions on which we believe
22 we will earn an appropriate return.⁹³
23

24 **Q. HAVE THE COMPANY'S REGULATED AFFILIATES CHANGED AS**
25 **WELL DURING THIS PERIOD?**

26 A. Yes.. Aqua America has been acquiring water and wastewater systems throughout
27 the United States. In its 2007 Annual Report, it explained that it will continue to
28 acquire new systems:

⁹³ Aqua America 2007 Annual Report, pp. 3-4.

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1 Because of the fragmented nature of the water and wastewater
2 utility industries, we believe that there are many potential water
3 and wastewater system acquisition candidates throughout the
4 United States. We believe the factors driving the consolidation of
5 these systems are:

- 6 ● the benefits of economies of scale;
- 7 ● increasingly stringent environmental regulations;
- 8 ● the need for substantial capital investment; and
- 9 ● the need for technological and managerial expertise.

10 We are actively exploring other opportunities to expand our water
11 and wastewater utility operations through acquisitions or
12 otherwise. We intend to continue to pursue acquisitions of
13 municipally-owned and investor-owned water and wastewater
14 systems of all sizes that provide services in areas adjacent to our
15 existing service territories or in new service areas. We continue to
16 explore opportunities for the acquisition of other non-regulated
17 wastewater service and septage businesses that are located near our
18 existing markets, growing our existing revenue base in this
19 business by offering the wastewater services to nearby residents
20 with on-site sewer systems, adding new customers to this business
21 and expanding the services that are provided to them.⁹⁴

22
23
24
25 In 2004, Aqua America acquired the systems of Florida Water Services
26 Corporation, as well as the water and wastewater systems of Heater Utilities, Inc.
27 (“Heater”) in North Carolina. The Heater systems added over 50,000 customers to
28 Aqua America. In addition, Aqua America completed twenty seven smaller
29 acquisitions that year.⁹⁵ In 2005, Aqua America made over thirty acquisitions of
30 both water and wastewater systems in seven of the states in which it was then
31 operating. Its 2005 acquisitions also included the first of its purchases of sludge and
32 bulk wastewater hauling and septic tank clean-out company.⁹⁶ In 2006, the company
33 acquired twenty four water and wastewater systems and four additional non-

⁹⁴ Ibid., p. 4.

⁹⁵ Aqua America 2006 Annual Report, pp. 32-33.

⁹⁶ Ibid., Letter to Shareholders.

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1 regulated septage hauling operations. During 2007, Aqua America completed
2 twenty six acquisitions.⁹⁷

3 Aqua America has been active in 2008 acquisitions as well. In May 2008,
4 Aqua America purchased a regulated wastewater and a local irrigation system.
5 The wastewater system serves approximately 3,000 residents in the Fountain
6 Lakes development in Estero, Lee County, Florida. Aqua also purchased the
7 community's independent irrigation system, which is supplied by on-site wells
8 and ponds and is used by nearly 1,000 residents.⁹⁸ In a news release, Aqua
9 America Chairman and Chief Executive Officer Nicholas DeBenedictis stated:

10 "This acquisition is a win-win for Florida: It shows Aqua's
11 commitment to improving the operations of the systems we buy --
12 making them better for customers and the environment. It also
13 complements our acquisition strategy, allowing us to further
14 expand our customer base and gain economies of scale in the
15 state's growth areas."⁹⁹
16

17 In May 2008 Aqua Wastewater Management, Inc. (an unregulated
18 company) announced that it had signed an agreement with Mopac of Souderton,
19 that will allow both companies to begin providing grease removal services to
20 customers. According to the President of Aqua Wastewater Management, "This is
21 a unique agreement that allows Aqua and Mopac to grow our operations in
22 specific areas of the grease removal business by concentrating our resources on
23 our predominate services."¹⁰⁰

⁹⁷ Aqua America 2007 Annual Report, p. 4.

⁹⁸ Aqua America Inc. Aqua America Expands Florida Operations with \$1.6 Million Acquisition. Press Release. May 5, 2008.

⁹⁹ Ibid.

¹⁰⁰ Aqua Wastewater Management and Smithfield Beef Group Partner on Grease Services. Press Release. May 19, 2008.

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1 Later, in August, an Aqua subsidiary in Indiana acquired South Haven
2 Sewer Works, Inc. The wastewater system serves approximately 4,000 customers
3 in the community of South Haven in Porter County in northwest Indiana.¹⁰¹ In
4 the news release DeBenedictis noted:

5 "This new acquisition will enable Aqua to create synergies and
6 economies of scale between South Haven and our growing Indiana
7 operations. Aqua is committed to reaching new customers in
8 Indiana, and we look forward to enhancing wastewater service for
9 South Haven residents."¹⁰²
10

11 Most recently, Aqua's Pennsylvania subsidiary merged with the
12 Honesdale Consolidated Water Company which serves approximately 6,000
13 people within portions of Honesdale Borough and Texas Township, Wayne
14 County.¹⁰³

15 **Q. HAS THE COMPANY PROVIDED AN ALLOCATIONS MANUAL**
16 **EXPLAINING HOW ALLOCATIONS FROM AQUA SERVICES ARE**
17 **MADE?**

18 A. Yes. The Corporate Charges Allocations Manual was provided in response to
19 OPC's Production Of Documents. The manual contains much language identical
20 to that found in the Service Agreement between Aqua Services and AUF
21 regarding the types of support provided. It also explains the distinction between
22 the categorization of expenses as either service expenses or sundry expenses.
23 Service expenses are defined as "labor and overhead of employees" expended on

¹⁰¹ Aqua America Inc. Aqua America Expands Indiana Operations with \$9.7 Million Acquisition. Press Release. August 4, 2008.

¹⁰² Ibid.

¹⁰³ Aqua America Inc. Aqua America Pennsylvania Subsidiary Acquires Water System in Honesdale, Wayne County Seat. Press Release. September 30, 2008.

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1 work for a specific subsidiary or group of subsidiaries. These employees of Aqua
2 Services are categorized by the following types of services: Accounting &
3 Financial, Administration, Customer Service, Communications, Corporate
4 Secretarial, Engineering, Human Resources, Information Services, Legal,
5 Purchasing, Rates & Regulatory, and Water Quality.

6 Sundry expenses “. . . are departmental costs associated with the normal
7 operations of Aqua Services, Inc. and can also be categorized as listed above.”¹⁰⁴

8 Both the service and the sundry expenses are classified as either direct or indirect.
9 Direct charges are billed to the specific affiliate using a code for that entity;
10 indirect charges are allocated using codes created for groups of affiliates. The
11 basis of the allocations is the number of customers. In addition, an activity code
12 is assigned to the charge to indicate the type of work performed. The Manual
13 states that a control sheet is used to check that all charges relating to accounting
14 units equal the charges allocated to the various states. In addition, there are
15 reports providing backup support for the charges allocated to each state.
16 According to the Corporate Charges Allocations Manual, these reports contain
17 “total costs by employee, by type of service, and for the amount of hours
18 charged.” Sundry charges are also either direct or indirect charges and identified
19 by activity codes. For sundry charges, “[a]ctivity codes are created to identify
20 entity or group of entities allocations. Activities are attached to each sundry
21 expense and are used to determine how costs should be allocated to the state. In
22 this methodology, activities determine whether costs are to be directly charged to
23 a state or allocated to a group of states.”

¹⁰⁴ Corporate Charges Allocations Manual, p. 3.

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1 Q. COULD YOU PLEASE SUMMARIZE YOUR CONCERNS ABOUT THE
2 ALLOCATION OF COSTS BETWEEN THE COMPANY AND ITS
3 AFFILIATED SISTER COMPANIES?

4 A. Yes. First, Aqua Services performs services for Aqua Wastewater Management,
5 an unregulated affiliate, but allocates no costs to this affiliate. In response to
6 OPC's Interrogatory 17, the Company stated: "Aqua Wastewater Management is
7 the business providing on-site septic tank pumping and sludge hauling services.
8 No common costs were allocated to Aqua Wastewater Management in either 2006
9 or 2007. Common costs will be allocated to Aqua Wastewater Management in
10 2008." When asked if an adjustment was included in the test year to allocate
11 common costs to the unregulated operations, the Company gave the following
12 response: "No adjustment was made in the rate case. AUF's rate case is based on a
13 historic year 2007. If applicable, any common cost allocations related to Aqua
14 Wastewater Management will be reflected in any future rate case."¹⁰⁵ I find it
15 unusual that the Company did not make a proforma adjustment to test year
16 expenses to allocate common costs to these unrelated operations. AUF made
17 proforma adjustments for 2008 wage and salary increases. It would seem
18 reasonable to also make adjustments to reflect the fact that costs are incurred on
19 behalf of the Aqua Wastewater Management that should be allocated accordingly.

20 In OPC Interrogatory 206, the Company was asked to explain why "... the
21 allocation of common costs to the septic tank pumping and sludge hauling
22 services that were acquired in 2006 would not be appropriate in 2007." The

¹⁰⁵ Response to OPC Interrogatory 17.

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1 Company's response was evasive, only explaining that the allocation is in a newer
2 cost allocation manual:

3 For purposes of responding to OPC's Interrogatory No. 206 and
4 subparts, septic tank pumping and sludge hauling service are
5 services provided by Aqua Wastewater Management, Inc.
6 ("AWM"). AWM is classified as a nonregulated company for
7 purposes of allocation of common costs. Prior to 2008, non-
8 regulated companies were not included in the allocation of
9 common costs incurred by Aqua Services, Inc. although non-
10 regulated companies did outlined in the current affiliate agreement
11 as reflected in the response to section (b) of OPC's Interrogatory
12 No. 206 became effective 1/1/2008.¹⁰⁶
13

14 In response to subpart (b) of this interrogatory, the Company explained
15 how it was going to allocate these common costs to Aqua Wastewater
16 Management, Inc.

17 Per section 2.2 of the Affiliate agreement, services that are made
18 available by Service Company in common to other Aqua America
19 Subsidiaries, including Aqua, which services cannot be identified
20 and related exclusively to a particular Subsidiary, the cost for such
21 services will be allocated between the Utility Companies and the
22 Non-Regulated Companies based on the relative proportion at the
23 most recent fiscal year end of each Subsidiary's total assets to the
24 total assets of all the Subsidiaries combined. The portion of such
25 costs for such common services allocated to the Utility Companies
26 or a group of Utility Companies will be further allocated to each
27 Utility Company or group of Utility Companies, including Aqua,
28 based on the ratio of the number of customers served by each
29 Utility Company or the group of Utility Companies at the most
30 recent fiscal year end to the number of customers served by all
31 Utility Companies. For purposes of this calculation, customers of
32 the Utility Companies who receive both water and wastewater
33 services from a Utility Company will be counted as 1.5
34 customers.¹⁰⁷
35

¹⁰⁶ Response to OPC Interrogatory 206.

¹⁰⁷ Ibid.

PUBLIC VERSION

1 The fact that the allocation methodology was not set forth until the 2008
2 allocations manual was prepared is not a valid reason for not making an
3 adjustment to test year expenses.

4 My next concern relates to the fact that several of Aqua America's
5 subsidiaries perform contract services and management services for systems that
6 Aqua America does not own. Neither Aqua America nor Aqua Services allocates
7 costs to these clients. The Company explained: "Contract operator contracts are
8 obtained and executed by the affiliate company performing the requirements or is
9 named in the agreement (contract) and/or both. Direct operating cost incurred by
10 the affiliate company in performance of the contract are tracked by the affiliate
11 company and are recorded on the affiliate's books.... Aqua America, Inc and
12 Aqua Services, Inc. currently do not allocate common costs to these contracts."¹⁰⁸

13 Unfortunately, this fails to take into consideration the fact that the
14 operations of the affiliates that manage these systems are larger and more
15 complex. Therefore, additional oversight and management costs should be
16 allocated to these systems to recognize the added complexities and size
17 differentials. Failure to take this into consideration, under allocates costs to the
18 systems that generate additional nonregulated revenue for the parent company and
19 over allocates costs to the regulated companies that do not have analogous
20 nonregulated operations.

21 Schedules 9 and 10 of my exhibit show that these contract systems receive
22 a range of services from the AUF affiliates including managerial, accounting,
23 billing, operations, customer service, A&G, sales, and cash collection services.

¹⁰⁸ Response to OPC Interrogatory 63.

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1 Customer counts are not available for the majority of the systems listed. But
2 having failed to allocate any costs to these contact systems, the Company has over
3 allocated costs to AUF.

4 **Q. DO THE NONREGULATED COMPANIES OF AQUA AMERICA HAVE**
5 **COMMON OFFICERS AND DIRECTORS WITH THE REGULATED**
6 **COMPANIES?**

7 A. Yes. Schedule 11 of my exhibit shows the common officers and directors of the
8 various Aqua America affiliates. As shown, Mr. DeBenedictis, Chairman,
9 President, and CEO of Aqua America and Chairman and President of Aqua
10 Services is also the Chairman or President of the following unregulated
11 companies: Aqua America, Utility & Municipal Services, Suburban
12 Environmental Services, and Aqua Resources. Mr. Stahl, Chief Administrative
13 Officer, General Counsel, Secretary of Aqua America, Senior Vice President of
14 Law & Administration, and Assistant Secretary is also Senior Vice President and
15 Assistant Secretary of Aqua Resources. As shown on this schedule, there are
16 several officers or directors of Aqua Services and/or Aqua America who are also
17 an officer or director of Aqua Resources, Suburban Environmental Services, and
18 Utility & Municipal Services. However, none of their salaries or benefits are
19 allocated to these unregulated companies.

20 **Q. ARE YOU RECOMMENDING AN ADJUSTMENT FOR THE FACT**
21 **THAT THERE ARE ADMINISTRATIVE SERVICES PROVIDED TO**
22 **THESE NONREGULATED AFFILIATES AND FOR THE PROVISION**
23 **OF CONTRACT OPERATIONS SERVICES?**

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1 A. No, I am not, because of the adjustment that I recommend in total for the affiliate
2 salaries, benefits, and management fees. However, if the Commission does not
3 adopt this recommendation, then an adjustment should be made to account for the
4 services being provided to nonregulated companies and operations free of charge.
5 Consequently, Aqua America's nonregulated operations are being subsidized by
6 AUF's regulated operations. However, if the Commission does not accept my
7 adjustment to remove the excessive costs charged to the Company by Aqua
8 Services, then I recommend that the Commission reduce test year expenses by
9 \$6,703 to assign some costs to these nonregulated companies. I have estimated a
10 conservative adjustment by comparing the 2007 revenue of these unregulated
11 companies to the total revenue of Aqua America to develop an allocation factor
12 based upon revenue. My analysis indicates that 2.1% of the common costs from
13 Aqua Services should be allowed to the unregulated companies. While this will
14 understate the amount of expenses that should be charged to the unregulated
15 operations, it's the best option available, at this time, to allocate these costs since
16 the Company failed to do so.

17 **Q. IT SEEMS LIKE THERE ARE A LOT OF EXPENSES BEING CHARGED**
18 **TO THE COMPANY BY ITS AFFILIATES. ARE THERE ECONOMIES**
19 **OF SCALE ASSOCIATED WITH BEING OPERATED BY A LARGER**
20 **COMPANY AND HAVING THE ADMINISTRATIVE FUNCTIONS**
21 **SHARED BY MANY OTHER COMPANIES?**

22 A. In theory there should be economies of scale associated with being part of a larger
23 company. Both Mr. Franklin and Mr. Lihvarcik discuss economies of scale of a

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1 bigger company like AUF which is provided administrative support from its
 2 affiliated companies. Mr. Franklin states: "Our operating strategy included the
 3 use of economies of scale to share the cost of running the business over the entire
 4 customer base, similar to an electric utility, thereby minimizing the impact of any
 5 single expenditure on any small group of customers."¹⁰⁹

6 Mr. Lihvarcik states in his testimony that Aqua takes advantage of
 7 "economies of scale by contracting for various products and services in bulk." He
 8 goes on to say

9 AUF has national contracts for items such as meters, hydrants, pipe
 10 and fittings, meter reading equipment, purchasing of vehicles, and
 11 vehicle maintenance. We also have state wide contracts for
 12 laboratory services, utility contracting, and supplies. Our objective
 13 is to continue to standardize these purchasing practices and
 14 purchase in bulk, where possible, for items and services that we
 15 use on a daily basis, thereby achieving the lowest possible price
 16 and improve services and response time.¹¹⁰

17 **Q. DID THE COMPANY PROVIDE AN ANALYSIS OF ITS OPERATIONAL**
 18 **EFFICIENCIES?**

19 **A.** Yes. OPC requested Aqua to "provide a comparison of operation efficiency levels
 20 in the most detailed format available for each operating segment of Aqua
 21 America, Inc., for the last three years."¹¹¹ Aqua provided the following
 22 information.

¹⁰⁹ Franklin Testimony, p. 3.

¹¹⁰ Lihvarcik Testimony, p. 10.

¹¹¹ OPC Document Request 112.

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AQUA AMERICA, INC. O&M expense / Revenue %			
<u>Segment</u>	<u>YTD 12/31/2007</u>	<u>YTD 12/31/2006</u>	<u>YTD 12/31/2005</u>
Pennsylvania	33.3%	33.7%	33.1%
New Jersey	41.5%	42.5%	39.6%
New York	39.0%	149.1%	67.9%
Total Mid-Atlantic	34.3%	34.5%	33.6%
Ohio	42.8%	41.2%	41.6%
Illinois	40.6%	41.5%	42.9%
Maine	47.5%	48.1%	47.6%
Indiana	53.1%	54.0%	53.3%
Missouri	112.1%	120.3%	112.4%
Total North Region	44.8%	44.8%	45.3%
Texas	50.4%	49.0%	51.7%
Florida	96.7%	75.3%	78.3%
Virginia	54.9%	59.5%	71.5%
North Carolina	63.9%	60.5%	60.1%
South Carolina	130.6%	121.9%	118.4%
Total South Region	62.3%	57.8%	60.8%
Aqua Resources	90.1%	87.3%	n/a
Consolidated	42.2%	41.2%	40.9%
YTD 12/31/2007 New York reflects 12 months of NYWS & ASI NY, and 8 months of Sea Cliff			

1

2

3

4

As shown on the table above, AUF's expenses as a percent of revenue is the third highest of the 13 states in which Aqua America operates. Moreover, its expenses as a percent of revenue increased significantly between 2006 and 2007.

5

Comparative Analysis

6

Q. HAVE YOU PREPARED AN ANALYSIS WHICH EXAMINES AUF

7

RELATIVE TO OTHER COMPANIES OF A SIMILAR SIZE TO DETERMINE

8

HOW THEIR COSTS COMPARE TO COMPARABLE COMPANIES AND IF

9

THERE ARE ECONOMIES OF SCALE?

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1 A. Yes. I compared Aqua with other Class A Utilities that have both water and
2 wastewater regulated operations in the state of Florida. On a combined revenue
3 basis, Aqua is the second largest Class A water and wastewater utility regulated
4 by the Commission. Schedule 12 of my exhibit shows the Operations and
5 Maintenance (O&M) expenses and revenues.

6 Examining revenues on an ERC basis, Aqua generates \$313 and \$448 per
7 ERC for water and wastewater operations, respectively. The comparison group
8 shows revenue of \$193 and \$371 per ERC for water and wastewater operations,
9 respectively.

10 As shown on this schedule, Aqua's water total Operations and
11 Maintenance expenses per ERC is \$293 compared to the average of all Class A
12 water and wastewater companies of \$146. On a per ERC basis, AUF's expenses
13 are 101% higher than the average. Of the 14 water companies shown, only two
14 have ~~higher~~ costs per ERC ^{close to} ~~than~~ AUF—North Fort Myers Utility at \$220 per ERC
15 and Royal Utility Company at \$218.

16 For the Company's wastewater operations, 2007 Operations and
17 Maintenance expenses are \$450 per ERC compared to the average of \$232, or
18 94% higher than average. Of the 14 wastewater companies shown, again only two
19 have higher costs per ERC than AUF—Indiantown Company at \$522, and
20 Rainbow Springs Utilities at \$631.

21 **Q. HOW DO THE INDIVIDUAL O&M EXPENSE ACCOUNTS COMPARE**
22 **TO THE COMPARISON GROUP?**

PUBLIC VERSION

1 A. Schedule 13 of my exhibit shows that Aqua's water Operations and Maintenance
 2 expenses per customer were at least 80 percent greater than the comparison group
 3 for the following categories: Salaries and Wages – Employees, Purchased Water,
 4 Fuel for Power Purchased, Contractual Services – Management Fees, Contractual
 5 Services – Testing, Contractual Services – Other, Rental of Building/Real
 6 Property, Transportation Expenses, Insurance-Vehicle, Insurance-General
 7 Liability, and Bad Debt Expenses. As shown on Schedule 13, AUF's costs per
 8 customer are substantially higher than the comparison group. The table below
 9 depicts several categories where the Company's cost per ERC is substantially
 10 higher than the comparison group.

Account Description	Comparison Group Expenses Per ERC	Aqua Per ERC
Salaries and Wages - Employees	\$ 33.96	\$ 63.33
Purchased Water	\$ 8.43	\$ 56.70
Purchased Power	\$ 16.05	\$ 20.19
Fuel for Power Purchased	\$ 0.10	\$ 0.95
Contractual Services - Mgt. Fees	\$ 5.54	\$ 22.93
Contractual Services - Testing	\$ 1.13	\$ 8.73
Contractual Services - Other	\$ 13.44	\$ 36.01
Rental of Building/Real Property	\$ 0.79	\$ 4.66
Bad Debt Expense	\$ 0.75	\$ 6.41

11
 12 For wastewater, Aqua's Operations and Maintenance expenses were at
 13 least 80 percent greater than the comparison group for the following categories:
 14 Salaries and Wages – Employees, Employee Pensions and Benefits, Sludge

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1 Removal Expense, Fuel for Power Purchased, Chemicals, Contractual Services –
 2 Management Fees, Contractual Services – Testing, Contractual Services – Other,
 3 Rental of Building/Real Property, Transportation Expenses, Bad Debt Expenses,
 4 and Miscellaneous Expenses.

5 Like the water operations, the cost per customer for many individual
 6 expense accounts are significantly higher than the comparison group as depicted
 7 in the table below.

Account Description	Comparison Group Expenses Per ERC	Aqua Per ERC
Salaries and Wages - Employees	\$ 31.11	\$ 90.78
Employee Pensions and Benefits	\$ 9.96	\$ 18.71
Sludge Removal Expense	\$ 29.91	\$ 54.64
Purchased Power	\$ 29.55	\$ 41.98
Chemicals	\$ 3.32	\$ 20.71
Contractual Services - Mgt Fees	\$ 7.67	\$ 21.64
Contractual Services - Testing	\$ 2.32	\$ 18.60
Contractual Services - Other	\$ 34.71	\$ 79.03
Rental of Building/Real Property	\$ 1.91	\$ 13.47
Bad Debt Expense	\$ 0.86	\$ 3.52
Miscellaneous Expenses	\$ 11.64	\$ 22.79

8
 9 Taking into consideration that AUF is part of the nation's largest investor
 10 owned provider of water and wastewater services, I would have expected to see a
 11 benefit to the customers of Florida as a result of their association with Aqua
 12 America. However, as the above tables and Schedules 12 and 13 demonstrate,

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1 customers do not appear to have experienced any economies of scale associated
2 with being part of a larger organization.

3 **Q. IF YOU REMOVE THE COSTS CHARGED TO THE COMPANY FROM**
4 **AQUA SERVICES AND AQUA AMERICA, HOW DOES AUF COMPARE**
5 **TO THE OTHER COMPANIES?**

6 A. Schedules 14 and 15 provide the same comparison as depicted on Schedules 12
7 and 13, but they remove the charges from Aqua Services and Aqua America. As
8 shown on these schedules, the Company's costs per ERC become more in line
9 with the comparison group, but they are still considerably higher. In total for the
10 water O&M expenses, the cost per ERC drops from \$293 to \$214 compared to
11 \$146 for the comparison group. On the wastewater side, the cost per ERC
12 decreased from \$450 to \$369 compared to \$232 for the comparison group.

13 **Q. HOW DO THE INDIVIDUAL COMPANY COSTS PER EXPENSE**
14 **ACCOUNT COMPARE TO AQUA?**

15 A. As shown on Schedule 17, even when comparing Aqua to the individual
16 companies, Aqua's expenses are significantly higher than the other companies.
17 For example, Aqua's water salaries and wages per ERC is \$63.33. The next
18 highest company is Lake Utility at \$56.82. Lake Utility, however, has no
19 management fee, whereas AUF's management fee per ERC is \$22.93 in addition
20 to the wages and salaries of \$63.33 per ERC. Similarly, on the wastewater side,
21 Rainbow Springs' salaries and wage expenses is \$112.72 per ERC compared to
22 Aqua of \$90.78. However, Rainbow Springs does not have a management fee,

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1 whereas Aqua charges \$21.64 per ERC for a management fee—which are charges
2 from Aqua Services.

3 **Q. IS THERE A WAY THE COMMISSION CAN EXAMINE THE CHARGES**
4 **FROM AUF'S AFFILIATES TO ENSURE THAT COSTS CHARGED TO**
5 **CUSTOMERS ARE NOT ACTUALLY HIGHER AS A RESULT OF THE**
6 **AFFILIATE RELATIONSHIPS?**

7 A. Yes. I recommend that the Commission examine the cost for salaries and wages,
8 including salaries and wages of officers, benefits, and contractual services-
9 management fee (these are the accounts which include the labor-related charges
10 from Aqua Services) compared to other Class A water and wastewater companies.
11 This comparison will tell the Commission if the labor-related charges from Aqua
12 Services combined with the AUF labor costs (both direct and allocated within
13 AUF) exceed the going market rate when compared to comparably sized
14 companies. Some of the Companies in the comparison group also include affiliate
15 charges while others do not. Since AUF's labor-related affiliate charges are
16 included in these accounts, a comparison to comparable companies will indicate if
17 the affiliate charges to the Company are excessive.

18 **Q. HAVE YOU MADE SUCH A COMPARISON?**

19 A. Yes, I have. Schedule ~~18~~¹⁷ compares these expenses per ERC of salaries and
20 wages-employees, salaries and wages-officers, directors and shareholders,
21 benefits, and management fees¹¹² for Aqua and the other Class A water and
22 wastewater companies operating in Florida. As shown on this schedule, Aqua's

¹¹² Sundry Expenses have been removed from the management fee because sundry expenses include costs other than salaries and wages of Aqua Services.

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1 total water salaries, benefits, and management fees per ERC is \$95 compared to
2 the comparable group of \$58 per ERC—a difference of \$37 per ERC. For the
3 wastewater operations, Aqua's cost per ERC is \$130 compared to \$54 for the
4 comparison group, resulting in a difference of \$76 per ERC.

5 **Q. ARE YOU MAKING AN ADJUSTMENT FOR THE ADDED COSTS FOR**
6 **SALARIES, WAGES, BENEFITS, AND MANAGEMENT FEES**
7 **CHARGED FROM AQUA SERVICES?**

8 A. Yes. I recommend that the Commission reduce test year expenses to reflect a
9 lower cost consistent with the costs that are incurred by other Class A water and
10 wastewater companies. The analysis that I have conducted shows that the layers
11 of management associated with ownership by Aqua America have not produced
12 any cost savings for customers and in fact have resulted in excessive costs. The
13 Company has failed to demonstrate that there are economies of scale associated
14 with being part of a bigger organization where costs allegedly can be spread over
15 more customers resulting in a lower cost per customer. In fact, when compared to
16 other companies, the opposite appears to be true—there are diseconomies of
17 scale. Therefore, I recommend that the Commission reduce test year expenses for
18 the water operations by \$641,156 and the wastewater operations by \$329,646 for
19 the salaries, benefits, and management fees that are being allocated to the
20 Company from Aqua Services. As shown on Schedule 17, the adjustment that I
21 recommend for the wastewater operations is less than the total that would result
22 from a strict application of the difference per ERC multiplied by AUF's ERCs.

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1 This is because I limited the amount of the adjustment to the Aqua Services test
 2 year expenses included in the rate case.

3 **V. Rate Base Adjustments**

4 **Q. WHAT AMOUNT OF CAPITAL ADDITIONS IS THE COMPANY**
 5 **PROPOSING TO ADD TO PLANT?**

6 A. According to its filing, Aqua proposes to add \$4,177,750 to plant in service as a
 7 proforma adjustment. I have prepared Schedule 18 that ~~duplicate~~ ^{incorporates} the 2008 pro
 8 forma budget provided by the Company. The majority of capital additions are
 9 meter replacements. Other projects include an alternative effluent disposal project
 10 for Chuluota wastewater, rehabilitation of the wastewater effluent pond for
 11 Jasmine Lakes, construction of a new water treatment plant for Lake Josephine,
 12 an effluent disposal project, replacement of miscellaneous equipment for South
 13 Seas wastewater, replacement of a water pump and motor for Sunny Hills,
 14 construction of a SCADA Telemetry system for Valencia Terrace Water, and
 15 construction of an effluent disposal site for Village Water Wastewater.

16 **Q. WOULD YOU PLEASE DESCRIBE THE UTILITY'S METER**
 17 **REPLACEMENT PROJECT?**

18 A. The Company is in the process of replacing all its meters with radio frequency
 19 meters. Regional President of Southern Operations Mr. Franklin describes the
 20 replacement program in his testimony.

21 The Company is in the midst of replacing all of its manually read
 22 meters with new meters equipped with a radio frequency ("RF")
 23 device. By replacing the old manually read meters, usage is
 24 recorded automatically by a Company meter reader driving by
 25 each customer location. The RF device will transmit the meter
 26 reading electronically and the meter reader will no longer need to

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1 enter the customers' property. The RF meter will help ensure
 2 accurate usage reads which in turn, will result in fewer estimated
 3 bills.¹¹³
 4

5 The Company has included \$2,817,750 in pro forma capital additions for the
 6 meter replacement program.

7 **Q. WHAT ARE THE BENEFITS TO CUSTOMERS ASSOCIATED WITH**
 8 **AQUA CONVERTING ITS METERS TO RADIO-FREQUENCY (RF)?**

9 A. AUF Vice President and COO Mr. Lihvarcik explained the benefits of the RF
 10 meter conversion in his testimony:

11 RF water meters are beneficial because they produce accurate
 12 readings and reduce the need for meter readers to go door to
 13 door.... With RF water meters, we are able to read meters in a
 14 much more timely and efficient manner. Our Utility Techs are then
 15 able to spend more time performing maintenance work, answering
 16 customer service calls, and responding to daily calls.¹¹⁴

17
 18 Mr. Franklin further explains, "The RF meter will help ensure accurate
 19 usage reads which in turn, will result in fewer estimated bills. In fact, the
 20 Company now estimates less than one and one half percent of customer (*sic*) each
 21 month. The goal is to estimate less than one percent of all meters."¹¹⁵

22 Itron, Inc., the company from which Aqua purchased its RF meters, states
 23 many cost savings can be realized through the conversion to RF.

24 By deploying automation, costs can be reduced substantially, even
 25 from just electron meter reading or offsite meter reading (a
 26 handheld equipped with a radio device to read meters from a
 27 distance). Other costs associated with manual meter reading that
 28 are all but eliminated with automation include salaries, benefits,

¹¹³ Franklin Testimony, p. 4.

¹¹⁴ Lihvarcik Testimony, p. 12.

¹¹⁵ Franklin Testimony, p. 4.

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1 vehicle costs, cellular phone expenses, handheld meter reading
 2 systems, maintenance and some general overhead expense, etc.¹¹⁶
 3

4 Other areas affected by implementing automation include the following:

- 5 • Reduction in accounts receivable,
- 6 • Substantial reduction in re-bill costs,
- 7 • Decreased customer calls and abandoned calls,
- 8 • Increase in overall customer service satisfaction,
- 9 • Minimizing employee safety and security concerns,
- 10 • Increased leak detection, and
- 11 • Increased revenues through accurate reporting of consumption.¹¹⁷

12 **Q. WHAT, IF ANY, COST SAVINGS HAS THE COMPANY PROPOSED BE**
 13 **PASSED TO THE CUSTOMER?**

14 A. The only savings that have been included in the filing are for the elimination of
 15 the meter reader contract expenses experienced in 2007. "Since AUF will now
 16 be using its employees to remotely read its water meters by vehicle, AUF has
 17 made adjustments to remove all contracted water meter reading expense as
 18 recorded in 2007."¹¹⁸ This adjustment amounts to \$105,426.

19 Although the Company reduced the contract meter reading costs in the test
 20 year, it did not reduce costs for other persons that read meters. According to
 21 AUF, it currently has seven employees who are responsible for meter reading.
 22 Upon conversion to RF meters, only two employees will be responsible for

¹¹⁶ Bowers, Darla, "Benefits Derived from Automating Meter Reading: Developing Your Business Case,"
 p.2.

¹¹⁷ Ibid, pp. 2-5.

¹¹⁸ Szczgiel Direct Testimony, p. 11.

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1 obtaining meter readings. The remaining five employees will spend their time
2 “performing maintenance work, answering customer service calls, and
3 responding to daily calls.”¹¹⁹

4 **Q. IN YOUR OPINION, DID THE COMPANY ADEQUATELY**
5 **INCORPORATE THE COST SAVINGS INTO ITS REVENUE**
6 **REQUIREMENT FOR RF METERS?**

7 A. No, It did not. Considering the many avenues the Company has to realize
8 savings, only incorporating the elimination of outside contractors used for meter
9 readings prior to the RF conversion substantially understates the benefits of
10 moving to RF meters. I have examined the capital cost of the RF meters
11 compared to the cost savings from elimination of the contract meter reader. Over
12 the 20-year life of the RF meters, under the Company’s proposal, there is no
13 benefit (cost savings) to customers associated with replacing old meters with RF
14 meters. Unless the Company is able to generate other cost savings, which are not
15 realized in its proforma adjustments to the test year, the decision to purchase RF
16 meters is questionable at best.

17 **Q, WHAT IS YOUR RECOMMENDATION FOR RECOGNIZING THE**
18 **COST SAVINGS ASSOCIATED WITH SWITCHING TO RF METERS?**

19 A. I have several recommendations. First, as discussed later in my testimony, I
20 recommend an adjustment for bad debt expense. Clearly, one of the benefits of
21 RF meters is more accurate meter reading, which should reduce uncollectibles
22 expenses. The Commission should at a minimum adopt my recommendation to
23 reduce bad debt expense. However, I do not believe that this recognizes the full

¹¹⁹ Response to OPC Interrogatory 137.

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1 extent of additional cost savings and benefits that will be realized by the
2 Company. For example, the Company has not recognized any savings for fuel
3 and vehicle maintenance, reduced labor due to fewer customer complaints and
4 fewer rebills. As indicated above, although the Company intends to only use
5 two meter readers in the future it has made no adjustment to the cost savings of
6 the other five meter readers that it will no longer use. Instead, it suggests that
7 these employees will absorb other responsibilities. In the absence of a
8 demonstration by the Company that the five displaced meter readers will be
9 efficiently absorbed in other positions, I recommend that the Commission
10 reduce test year expense by the labor costs associated with these other five meter
11 readers. If the Company can demonstrate that these employees will be used and
12 also provide a credible evaluation of the cost savings associated with RF meters,
13 I will consider an alternative adjustment. However, lacking this information, I
14 recommend that the Commission reduce test year expenses by \$55,813.

15 **Q. DO YOU HAVE CONCERNS ABOUT THE LEVEL OF PROFORMA**
16 **PLANT INCLUDED IN THE TEST YEAR REGARDING RF METER**
17 **CONVERSION?**

18 A. Yes. The Company assumes that all of its pro forma capital additions to plant
19 are in service for the entire year. This certainly is not the case. Meter
20 replacements have been completed throughout 2008, and some projects have not
21 even begun as of July 31. However, the Company does not present its
22 adjustment on a 13-month average basis consistent with the test year.

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1 If Aqua had requested a 2008 projected test year, if all meters were placed
2 in service during the last month of the test year only 1/13 of the investment
3 would be included in rate base. Or if they were placed in service throughout the
4 year, the investment would be averaged. However, under the Company's
5 proposal, 100% of the meter replacements are assumed to be in service on the
6 first day of 2008.

7 In addition, it does not appear that the meters and other capital additions
8 are being completed on time.

9 **Q. WHAT DID YOU FIND WHEN YOU EXAMINED AQUA'S BUDGET**
10 **VARIANCES FOR 2006 AND 2007?**

11 A. In 2006, Aqua budgeted \$13.7 million for capital projects. By the end of 2006, it
12 spent \$10.4 million – 24 percent less than it budgeted.¹²⁰ In 2007, Aqua's capital
13 budget was \$6.4 million, and approximately \$6 million was expended. The
14 variance was 6%.¹²¹

15 **Q. DID YOU EXAMINE THE BUDGET COMPARED TO ACTUAL**
16 **EXPENDITURES FOR THE TEST YEAR PROFORMA ADJUSTMENT?**

17 A. The most recent capital budget information provided by the Company is through
18 July 31, 2008. I examined the capital budget as if all expenditures would have
19 occurred equally over 12 months. Then I compared the expenditures through
20 July 31 to the level of expenditure that would have occurred through the same
21 time period as if they occurred equally every month. For those systems that
22 spent less than the benchmark, I took the remaining budget and multiplied it by

¹²⁰ Response to OPC Document Request 5.

¹²¹ Ibid.

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1 five twelfths to estimate the amount that will be expended by year-end 2008. As
 2 shown on Schedule 18, my recommended adjustments reduce the Company's
 3 proforma adjustments by ~~\$1,519,099~~ ^{1,514,894}.

4 **Q. HAVE YOU REMOVED PRO FORMA COSTS FOR ANY BUDGETED**
 5 **PROJECTS?**

6 A. Yes. I have removed the projects for Jasmine Lakes Wastewater and Village
 7 Water Wastewater. Based on Mr. Woodcock's inspections, both of these
 8 projects do not appear they will take place during 2008. The removal of these
 9 costs is included in the \$1.5 million figure above.

10 **Q. WHAT ADMINISTRATIVE PROJECTS ARE INCLUDED IN THE PRO**
 11 **FORMA ADDITIONS TO PLANT?**

12 A. The Company has included a pro forma adjustment of \$634,994 for information
 13 technology (IT) costs. This includes desktop and laptop replacements, network
 14 infrastructure enhancements, and on-going IT allocations from the parent
 15 company.

16 **Q. WHAT ADJUSTMENTS DO YOU RECOMMEND FOR THE PRO**
 17 **FORMA PLANT RELATED TO ITS COSTS?**

18 A. I followed the same logic I used for general plant projects discussed previously.
 19 In addition, I have removed the cancelled project, renovations to the customer
 20 service area, in my adjustment.¹²² As shown on Schedule 18, my recommended
 21 adjustments reduce the Company's proforma adjustments by ~~\$1,727,488~~ ^{114,535}.

¹²² Response to OPC Interrogatory 197.

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1 Q. WOULD YOU DESCRIBE AQUA AMERICA'S PURCHASE OF THE
2 WATER AND WASTEWATER SYSTEMS FROM FLORIDA WATER
3 SERVICES CORPORATION (FWSC)?

4 A. Yes. On April 20, 2004, FWSC entered into an asset purchase agreement with
5 AUF valued at \$13,038,951. The closing took place June 30, 2004. On August
6 24, 2004, FWSC and the Company filed an application for the transfer of FWSC's
7 land, facilities and certificates in Brevard, Highlands, Lake Orange, Pasco, Polk,
8 Putnam, a portion of Seminole, Volusia, and Washington Counties. They also
9 filed a separate application concerning the Chuluota systems in Seminole Count
10 because they were concerned that there might be customer objections due to the
11 prior complaints about the rates in Chuluota.

12 According to the Commission's Transfer Order, PSC-05-1242, the
13 application contained a statement that the "buyer has performed a reasonable
14 investigation of the utility system and found the overall condition of the water and
15 wastewater facilities to be in satisfactory condition and in general compliance
16 with the requirements of the Florida Department of Environmental Protection
17 (DEP). Our staff contacted DEP and verified that there are no outstanding notices
18 of violation."¹²³

19 Aqua also represented to the Commission that the transfer was in the
20 public interest because:

21 the FWSC customers will continue to receive the same quality
22 service to which they are accustomed. With regard to the buyer's
23 technical ability, Aqua is a wholly owned subsidiary of Aqua
24 Utilities, Inc., which is a wholly owned subsidiary of Aqua
25 America, the largest publicly traded water and wastewater utility

¹²³ Commission Order PSC-05-1242.

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1 based in the United States. According to the application, at the
 2 present time, Aqua America provides safe and reliable water and
 3 wastewater service to approximately 800,000 customers in thirteen
 4 states. Aqua and its affiliates currently own and operate 14 systems
 5 in Florida that provide service to approximately 5,828 water
 6 customers and 2,724 wastewater customers. The application states
 7 that the FWSC systems will be owned by an experienced company
 8 and industry leader. The utility is staffed with trained and licensed
 9 personnel. According to the application, Aqua is committed to
 10 providing its customers with the highest quality of water and
 11 wastewater service.¹²⁴
 12

13 **Q. WHAT WAS THE PURCHASE PRICE OF THE FWSC SYSTEMS AND**
 14 **WHAT WAS THERE RATE BASE AT THE TIME OF PURCHASE?**

15 A. According to the Commission's Order, the purchase price for these assets was
 16 \$13,038,951 and the rate base at time of transfer was \$15,741,914. This results in
 17 a negative acquisition of \$2,702,963.

18 **Q. WHAT IS THE COMMISSION'S POLICY WITH RESPECT TO**
 19 **ACQUISITION ADJUSTMENTS?**

20 A. The Commission is bound by FAC 25-30.0371 for its treatment of acquisition
 21 adjustments. According to this rule, an acquisition adjustment is defined as "the
 22 difference between the purchase price of utility system assets to an acquiring
 23 utility and the net book value of the utility assets. A positive acquisition
 24 adjustment exists when the purchase price is greater than the net book value. A
 25 negative acquisition adjustment exists when the purchase price is less than the net
 26 book value."¹²⁵

27 The rule provides that a positive acquisition adjustment will be not be
 28 included in rate base "absent proof of extraordinary circumstances." Likewise it

¹²⁴ Ibid.

¹²⁵ FAC 25-30.0371.

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1 states that a negative acquisition adjustment shall not be included in rate base
 2 unless there is proof of extraordinary circumstances or where the purchase price is
 3 less than 80 percent of net book value. The FAC also shifts the burden of proof
 4 from the utility to the party requesting a negative acquisition, specifically stating:

5 Any entity that believes a full or partial negative acquisition
 6 adjustment should be made has the burden to prove the existence
 7 of extraordinary circumstances. Under no circumstance, however,
 8 shall the purchaser be required to record on its books more than 70
 9 percent of a negative acquisition adjustment. In determining
 10 whether extraordinary circumstances have been demonstrated, the
 11 Commission shall consider evidence provided to the Commission
 12 such as the anticipated retirement of the acquired assets and the
 13 condition of the assets acquired.
 14

15 **Q. HAS THE ABOVE REQUIREMENT GENERALLY BEEN THE POLICY**
 16 **OF THE COMMISSION OVER THE LAST 10 OR MORE YEARS?**

17 A. Yes, for the most part the Commission has not allowed negative or positive
 18 acquisition adjustments absent extraordinary circumstances.

19 **Q. DID THE COMMISSION FIND IN THE TRANSFER DOCKET THAT A**
 20 **NEGATIVE ACQUISITION ADJUSTMENT WAS ~~NECESSARY~~ ^{UNNECESSARY}?**

21 A. Yes, it did. However, it examined this from the perspective of whether or not the
 22 purchase price was less than 80% of book value. With respect to whether or not
 23 there were extraordinary circumstances the Commission found that "The buyer
 24 has neither requested an acquisition adjustment nor identified any extraordinary
 25 circumstances. Based upon the above, no acquisition adjustment shall be
 26 approved for rate-making purposes."¹²⁶ From reading the Commission's order, it
 27 does not appear that the Company presented any evidence as to why a negative

¹²⁶Commission Order PSC-05-1242.

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1 acquisition adjustment should be made, which would be expected. Apparently,
2 because it was a transfer case no other party presented any evidence about the
3 need for a negative acquisition adjustment.

4 **Q. DO YOU BELIEVE THERE ARE CIRCUMSTANCES ASSOCIATED**
5 **WITH THE ACQUISITION OF THE FWSC SYSTEMS THAT WARRANT**
6 **A NEGATIVE ACQUISITION ADJUSTMENT?**

7 A. Yes. The Company knew when it purchased many of the FWSC systems that
8 they were purchasing old and deteriorating systems that would require repairs and
9 capital dollars to fix. For example, with respect to the Hobby Hills water system
10 the Company has stated that the "infrastructure is old causing service line and
11 main breaks."¹²⁷ While the system is old, apparently there is little that can be
12 done to fix the problem. In response to OPC Interrogatory 140, the Company
13 responded: "There is 2-inch PVC piping which was installed in the 1970's in the
14 rear of the homes. The easements and right-of-ways were given up by the County
15 so it would be difficult to begin replacing the water mains. AUF makes repairs
16 when there are main breaks as conditions dictate." Not only can the problems not
17 be fixed, the Company apparently gave up the easement and right-of-ways.

18 Mr. Lihvarcik addressed the deteriorated state of Palms Mobile Home
19 Park stating: "Old distribution system requires a lot of maintenance."¹²⁸

20 In fact, Mr. Lihvarcik had negative comments to say about many of the
21 systems that were purchased from FWSC indicating that they were in a
22 deteriorated state when they were purchased from FWSC and would require either

¹²⁷ Lihvarcik, Exhibit JML-2

¹²⁸ Ibid.

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1 an infusion of funds to repair, or higher operations expenses. Mr. Lihvarcik's
 2 comments from his Exhibit JML-2 are listed below, along with the Company's
 3 response to OPC Interrogatory 140 as to how it will rectify the situation.

- 4 • Valencia Terrace Wastewater, Mr. Lihvarcik states, "The wwtp is old
 5 and requires numerous hours of operations to maintain optimum
 6 results."

7
 8 AUF is in the process of designing new headworks, blowers, and
 9 diffusers to improve the efficiencies of the plant. These
 10 improvements should minimize the total number of hours to
 11 operate the plant.

- 12
 13 • Tangerine Water, Mr. Lihvarcik states, "The distribution system is
 14 aging and we have been receiving numerous service line and main line
 15 breaks. We are preparing plans to begin replacing the aging water
 16 mains and service lines."

17
 18 AUF is currently involved in a main replacement program for the
 19 next 5 years to replace old and undersized water mains and service
 20 lines.

- 21
 22 • Chuluota Water, Mr. Lihvarcik states, "The system is aging resulting
 23 in service line and water main breaks."

24
 25 AUF has been replacing water mains located in the older section of
 26 Chuluota, and also participating with Seminole County to relocate
 27 mains and/or replace mains which coincide with the storm drain
 28 program. AUF also submitted an application to DEP to connect
 29 dead-end lines on various streets.

- 30
 31 • Pomona Park Water, Mr. Lihvarcik states, "Because of the age of the
 32 system we are beginning to replace the older service lines and water
 33 main."

34
 35 The system has aging and undersized water mains. The system was
 36 constructed in the 1960's and currently there are funds appropriated
 37 in the budget.

- 38
 39 • Arrendondo Estates Water, Mr. Lihvarcik states, "We have numerous
 40 water service line and main breaks because of the age of the system."

41
 42 The water mains are located in the rear yards of the homes, in
 43 sandy soil. These mains consist of asbestos pipe. It would be very

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1 costly to begin replacing the water main in these yards with having
2 to remove trees, structures, and fences. AUF repairs and replaces
3 all water main and service line leaks as situations dictate.
4

5 Other information which shows that the systems were in need of repair
6 was provided in response to OPC's Interrogatory 150.

7 At the time acquisition for Florida Water Services (FWS),
8 following up on an inspection by FDEP, FDEP directed actions to
9 address hydrogen sulfide complaints in the Chuluota Water
10 System. AUF subsequently took actions and documented those
11 actions in correspondence to FDEP. AUF continues to investigate
12 the causes of these complaints and work on short term and long
13 term measures to avoid their recurrence. In a letter from FDEP
14 dated 3/8/04, DEP required follow-up work on a reuse study for
15 the Florida Central Commerce Park WWTP. AUF continued work
16 begun by FWS on this study, specific day the bypassed sand filter
17 was replaced with an automatic filter, irrigation controls upgraded,
18 and the drainage ditches were cleaned out. In addition, the Palm
19 Terrace system exceeded the action level of copper in 2003. The
20 system is supplied with water purchased from Pasco County. AUF
21 worked with FDEP and Pasco County to reduce copper levels in
22 these systems and the system achieved compliance. FWS
23 converted disinfection at the Twin Rivers System from chlorine to
24 chloramines on June 23, 2003 to achieve compliance with the
25 drinking water MCL for TTHMs.
26

27 In a memorandum to Mr. Kropilak and Rick Hugus from Preston
28 Luitweiler dated April 14, 2004, some of the problems associated with the
29 Chuluota system were addressed.

30 The steady stream of disclosures of issue over the past two weeks
31 including the recent disclosure of the allocation issue of at
32 Chuluota has persuaded me that it will be essential to have
33 someone who can focus on these issues from day one, preferably
34 someone with good institutional knowledge of the issue, the FWS
35 systems, and the Florida regulations and regulator.
36

37 Problems with the Chuluota system apparently got to the point that there
38 was a suggestion by Aqua America that it might need to submit a claim for

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1 indemnification. In a letter to Mr. Roy Stahl of Aqua America from Mr. Forrest
2 Ludsen (FWSC), the subject of Chuluota and indemnification arose:

3 Thank you for your letter of July 20, 2004. Needless to say, we do
4 not agree with a number of the statement and conclusion which
5 you have drawn, but we see no benefit to be derived by detailing
6 the disagreements at this time. Florida Water is aware of the
7 undertaking that it made with regard to the water quality incident in
8 Chuluota that commenced on or about June 25, 2004, and intends
9 to perform its obligation under the contract.

10 If Aqua America determines to submit a claim for indemnification,
11 we will review that claim and respond in accordance with our
12 Agreement.
13

14 **Q. DO YOU BELIEVE THAT THE INFORMATION ABOVE INDICATES**
15 **THAT THE CIRCUMSTANCES ASSOCIATED WITH THE PURCHASE**
16 **OF THE FWSC SYSTEMS WAS EXTRAORDINARY?**

17 **A.** Yes, I do. As the above information indicates, Aqua America purchased several of
18 FWSC systems that were old and in poor condition and would require
19 considerable funds to improve and operate properly. Although AUF apparently
20 represented to the Commission that the "overall condition of the water and
21 wastewater facilities [were] in satisfactory condition and in general compliance
22 with the requirements of the Florida Department of Environmental Protection
23 (DEP),"¹²⁹ information supplied after the acquisition in connection with this rate
24 case indicates otherwise. As the Commission is aware from the service hearings
25 in this case, customers are very unhappy with the quality of their water, which
26 may be due to the condition of the systems at the time that Aqua purchased them.
27 The documents that I have reviewed indicate that with respect to the Chuluota
28 system the Company was well aware of the problems associated with this system

¹²⁹ Commission Order PSC-05-1242.

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1 prior to acquisition. For these reasons, I recommend that the Commission include
 2 a negative acquisition adjustment in rate base of ~~\$2,702,963~~ ^{1,892,074}.

3 **Q. HAS THE COMMISSION INCLUDED A NEGATIVE ACQUISITION**
 4 **ADJUSTMENT IN THE PAST UNDER CIRCUMSTANCES SIMILAR TO**
 5 **THESE?**

6 **A.** Yes, it has. In a case involving Jasmine Lakes, the Commission found that a
 7 negative acquisition adjustment was warranted because the system was purchased
 8 in poor condition and had not been maintained for seven years. The Commission
 9 found:

10 It is the utility's position that no negative acquisition adjustment
 11 should be included in rate base. The utility argues that this
 12 Commission previously disallowed inclusion of a negative
 13 acquisition adjustment for the utility in PAA Order No. 23728,
 14 issued November 7, 1990, which became final and effective
 15 without protest. The utility further argues that the record in this
 16 case is devoid of evidence that extraordinary circumstances existed
 17 at the time of transfer.

18 OPC witness Dismukes testified that a negative acquisition
 19 adjustment of \$ 17,753 should be included in rate base. To support
 20 this position, OPC cites utility witness Dreher's testimony that the
 21 utility was in bad shape prior to purchase, that the utility had not
 22 been maintained in seven years, and that the previous owner had
 23 neglected the utility for a long time. OPC witness Dismukes
 24 concluded that recognition of this cost/book value difference
 25 should be made. OPC further argues that recognition of this
 26 difference would insulate the ratepayers from failures or
 27 negligence by the prior utility management.

28
 29 We agree with OPC. The facts of this case are such that even
 30 though this Commission did not include an acquisition adjustment
 31 to rate base in the transfer docket, Docket No. 900291-WS, we find
 32 that it is patently unfair and unjust to the customers of this utility,
 33 for the investors to receive a return on that portion of the original
 34 purchase price that was less than rate base. In reaching this
 35 conclusion, we have relied on customer testimony, the need for
 36 repairs and improvements to the system at the time of the transfer,
 37 and the lack of responsibility in management. In Order No. 23728,

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1 this Commission determined that the transfer of the Jasmine Lakes
 2 system to the current owner was in the public interest because, " . . .
 3 the utility's water and wastewater systems need improvements and
 4 the stockholders have committed to making the improvements
 5 necessary to provide the customers with quality of service." Order
 6 No. 23728 at 4. Further, we note that in 1990, the time of the
 7 transfer, the utility was already purchasing 80 percent of its water
 8 from Pasco County, yet the utility has earned a return on the water
 9 plant components for the past two years. Order No. 23728 at 3. In
 10 addition, we find that rate base was adjusted in the transfer docket
 11 to, "reflect repairs and improvements that need to be made to the
 12 wastewater plant." Id. Based on the foregoing, we find it
 13 appropriate to adjust rate base to include a negative acquisition
 14 adjustment of \$ 6,495 to water and \$ 11,258 to wastewater.¹³⁰
 15

16 **VI. Test Year Expenses**

17 **Company Normalization Adjustments**

18 **Q. THE COMPANY HAS PROPOSED SEVERAL NORMALIZATION**
 19 **ADJUSTMENTS. DO YOU AGREE WITH THESE ADJUSTMENTS?**

20 **A.** No, I do not. I disagree with four of these adjustments. The first adjustment
 21 concerns a normalization of Lake Suzy land rent and sale. According to the
 22 testimony of Mr. Szczygiel, this adjustment is for "a new lease of land that the
 23 plant is located on at Lake Suzy.¹³¹" No other information was presented in the
 24 Company's testimony other than this one partial sentence. The adjustment
 25 proposed by the Company reduced test year expenses for Lake Suzy by \$22,615.
 26 In examining the workpaper supporting the Company's normalization
 27 adjustments, it became apparent that the Company reduced this amount by an
 28 alleged loss on the sale of related property. The Company has not justified why
 29 customers should absorb this loss or that a loss was even incurred. Staff's Audit

¹³⁰ Commission Order PSC-93-1675-FOF-WS.

¹³¹ Szczygiel Direct Testimony, p. 10.

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1 Finding 18 found, after correcting the Company's general ledger for the value of
2 the land, that there was not a loss. I have therefore removed this loss. The
3 normalization adjustment that I recommend is (\$26,890).

4 The next three adjustments relate to an increase in expenses of \$247,827
5 for allocated payroll taxes from the administration department, a \$7,420 increase
6 in expenses to normalize the service company's headcount, and a \$37,777
7 increase in expenses to normalize Aqua Customer Operations (ACO) costs. This
8 last adjustment was apparently accomplished by taking fourth quarter results and
9 multiplying by four.¹³² I recommend that the Commission reject these adjustments
10 as the Company supplied no workpapers in support of them.

11 Moreover, with respect to the Aqua Customer Operations I see no reason
12 to "normalize" these expenses. The Company's test year expenses include
13 significant expenses associated with this operation that were not previously
14 included in costs of AUF. In several responses to OPC discovery inquiring about
15 cost increases associated with account 636, the Company responded that the cost
16 increase was due to the addition of the customer operations group. These are
17 costs associated with implementing the new centralized billing and customer
18 operations at Aqua Services. Florida recently came under the allocation for these
19 costs and it caused large cost increases in 2007. In addition, there are costs
20 associated with the old billing system provided by Severn Trent also included in
21 the test year. For these reasons as well as the lack of support the Commission
22 should reject this adjustment. I also recommend that the Commission remove the
23 costs included in the test year associated with billings from Severn Trent because

¹³² Response to OPC Document Request 147, Attachment 2.

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1 it is duplicative of services being provided by ACO. Unfortunately, I have been
2 unable to quantify the amount of expense reduction at this time.

3 OPC requested on several occasions that the Company supply workpapers
4 supporting all of its adjustments to the test year. In particular, OPC requested in
5 Production of Documents Request 2: "Please provide all documents, accounting
6 records, memoranda, workpapers, studies undertaken, and calculations that
7 support all adjustments to the Company's test year revenues, rate base and
8 expenses, by system. Please provide all workpapers in electronic spreadsheet
9 format with all formulas and links intact." While the Company supplied some
10 supporting spreadsheets, not all spreadsheets or other documents were provided.
11 In Production of Documents Request 147, OPC specifically requested certain
12 spreadsheets which were linked into the Company MFRs. In response to
13 Production of Documents Request 147 the Company supplied some additional
14 electronic spreadsheets. The information supplied in response to these document
15 requests contained some of the workpapers that would support the Company's
16 normalization and proforma adjustments, but it did not include all of them. OPC
17 also asked that the Company provide all workpapers and other documents
18 supporting its test year adjustments in one Production of Documents response, so
19 that OPC could be certain that it had all documents the Company believed to be
20 responsive to OPC's Production of Documents Request 2. As a compromise,
21 OPC agreed to have the Company provide a matrix of every document that it
22 believed that it produced supporting its adjustments and the location of the
23 supporting documentation. In its supplemental response to OPC Production of

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1 Documents Request 147, the Company supplied the documents shown on my
2 Schedule 19.

3 In my opinion, the Company failed to provide sufficient information to
4 support these three adjustments. The Company did supply a spreadsheet with a
5 long list of numbers for the unallocated payroll taxes, but the data was not
6 explained. In addition, Aqua did not supply an explanation or description of this
7 adjustment in its testimony. With respect to the normalization for the service
8 company headcount and ACO normalization, the Company supplied no
9 workpapers or other supporting documentation. Likewise, there was no testimony
10 on the subject.

11 The Company also had adjustments to normalize salary increases. I
12 discuss these adjustments with the proforma adjustments below.

13 **Proforma Adjustments**

14 **Q. THE COMPANY ALSO PREPARED SEVERAL PROFORMA**
15 **ADJUSTMENTS. DO YOU HAVE ANY RECOMMENDATIONS**
16 **CONCERNING THESE ADJUSTMENTS?**

17 **A.** Yes, I have several recommendations on the following adjustments: salaries and
18 wages; the Rates Manager salary and related rent; the Controller salary; Aqua
19 Connects expenses; and unsupported proforma adjustments.

20 **Q. WOULD YOU ADDRESS THE COMPANY'S ADJUSTMENT TO**
21 **NORMALIZE WAGES AND THE RELATED PROFORMA**
22 **ADJUSTMENT?**

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1 A. Yes. The Company made three payroll adjustments. The first was to normalize a
2 4% pay increase effective April 1, 2007, for the full year. The methodology used
3 by the Company to normalize the increase overstates the amount of the increase if
4 it were in effect for the entire year. The Company has essentially compounded
5 the impact of the pay increase effective on April 1, 2007, by increasing the salary
6 amount as of December 31, 2007, (which included 9 months of the increase) by
7 1%. However, the correct method would be to apply the 4% to the salary amount
8 before the increase.

9 I have prepared Schedule 20 to demonstrate the impact of the Company's
10 methodology. As shown on this schedule, under Aqua's methodology, the
11 Company applied a 1% increase to a salary amount of \$86,771. However, this
12 amount already included the 4% pay increase for 9 months. Applying the 1% to
13 the increased salary level produces a 1% increase on the 4% increase already in
14 effect. The correct method would be to apply the 4% increase to the base salary
15 before the increase, as shown under the column "Correct Method." As shown,
16 applying the 4% to the base salary before the increase yields an increase of \$842
17 as opposed to the Company's increase of \$868, or an overcharge of \$25.

18 The Company then carried this error into the 2008 proforma by starting
19 with an inflated salary amount and then increasing it again by 4% for the 12
20 months of 2008 even though the 2008 increase will not be effective until April 1,
21 2008. In other words, although the increase will not be in effect until 04/01/08,
22 the Company normalized the increase back to January 1, 2008. However, the
23 methodology employed by the Company will overstate the actual amount of

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1 salaries in 2008 because it assumes the increase will be effective 4 months early.
2 As shown on Schedule 20, under this hypothetical example, the Company's
3 methodology overstates the amount of the increase in 2008 by \$877. Adding
4 both the impact of the test year normalization and the 2008 proforma shows an
5 overcharge of \$902 in this hypothetical example. I have corrected the
6 Company's proforma adjustment to account only for the 2008 increase effective
7 in April.

8 Q. WHAT IS YOUR NEXT SALARY ADJUSTMENT?

9 A. My next adjustment relates to a 10% increase proposed for certain AUF
10 operational staff. According to Mr. Lihvaricik, Aqua reviewed:

11 the job descriptions for each of the positions involved. The job
12 descriptions were then sent to the field personnel to gather their
13 input on specific tasks they perform that was not captured in the
14 job description. Once the job descriptions were updated, all like
15 titles were reviewed and updated with the common tasks
16 performed by each person. An analysis was performed to compare
17 AUF's salary's to other industry standards. With this information,
18 salaries were developed for each of the geographical locations
19 within Florida.¹³³

20
21 Apparently, based upon this analysis, Aqua believed that it was
22 appropriate to propose a 2008 increase of 10% over and above a merit increase.
23 According to the Company's response to OPC Interrogatory 92, this increase is
24 not supposed to go into effect until October 2008.¹³⁴ The methodology employed
25 by the Company indicates that pay increases during 2008 for these employees
26 would range between 10% and 17% over 2007 pay levels.

27 An examination of the Company's calculations for this proposed increase

¹³³ Lihvaricik Direct Testimony, p. 11.

¹³⁴ Response to OPC Interrogatory 92.

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1 indicates that at the 10% increase proposed by the Company, using the low,
2 middle, and high end of the market-based ranges, all 42 employees would exceed
3 the low end of the range, 36 would exceed the mid-point of the range, and 6
4 would exceed the high end. Even without any market based increase, every
5 position listed would exceed the low end of the market-based ranges.

6 Given the economic conditions of today and the Company's failure to
7 demonstrate that its salaries are below normal, it does not seem reasonable to
8 assume a blanket 10% increase across all positions.

9 *Instead, I recommend that the Commission allow an increase of 4%*
10 *consistent with the increases allowed for other employees. Using the 4% that I*
11 *recommend still ensures that all operations employees are earning above the low-*
12 *end of the market range and many will still earn above the midpoint of the market*
13 *range with five still earning above the high end of the range. The Company has*
14 *failed to demonstrate that the proposed increase is necessary given current*
15 *economic conditions and the support provided in its testimony. Therefore, I have*
16 *removed the proposed market based increase from the Company's proposed*
17 *adjustments.*

18 **Q. HAVE YOU ADJUSTED PAYROLL TAXES CONSISTENT WITH YOUR**
19 **NORMALIZATION AND PROFORMA ADJUSTMENTS FOR**
20 **SALARIES?**

21 A. Yes, I have. My recommended adjustments are reflected on Schedule 28.

22 **Q. WHAT ARE THE NEXT PROFORMA ADJUSTMENTS YOU WOULD**
23 **LIKE TO DISCUSS?**

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1 A. The next adjustments relate to the new position for the Rates Manager and the
2 associated lease expense for his office as well as the salary for a Florida
3 Controller position.

4 **Q. WOULD YOU PLEASE DISCUSS THE RATES MANAGER AND**
5 **RELATED LEASE PROFORMA ADJUSTMENTS PROPOSED BY THE**
6 **COMPANY?**

7 A. Yes. The Company is proposing a \$95,000 proforma adjustment for the salary of
8 a Rates Manager recently hired, at least in part, to assist with the instant rate case.
9 However, for several reasons, I question to what degree this position will benefit
10 ratepayers. First, although the Rates Manager filed testimony in this proceeding,
11 this testimony is now being sponsored by Mr. Smeltzer.

12 Second, because of the Rates Manager's past employment with the Florida
13 Public Service Commission, customers have raised valid concerns about his
14 involvement in the instant rate proceeding. For example, Mr. McKay wrote in an
15 e-mail to OPC and the Commission:

16 Aqua's actions by hiring Mr. Rendell were calculated to achieve its
17 goal of raising rates. Their intent of pushing the ethical envelope
18 by hiring Mr. Rendell, was to capitalize on every opportunity to
19 "slip" through the rate process as quickly as possible. They are
20 fully aware of the value and knowledge that Mr. Rendell possesses
21 for having worked as staff to the PSC. Mr. Rendell has insider
22 knowledge as well as relationships with current PSC employees. I
23 am doing my very best to point out the fact that this is a very
24 dangerous formula for biased favoritism and the PSC should
25 disallow his involvement. It is a citizen's responsibility to raise
26 these issues and concerns.¹³⁵
27

¹³⁵ E-Mail from Mr. McKay, dated April 22, 2008 to the Office of the Public Counsel and Florida Public Service Commission Commissioners.

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1 Third, although the Company proposes to expense this cost for the test
 2 year, Mr. Rendell's salary may not, in fact, be expensed on a going forward basis,
 3 but instead be capitalized. In response to OPC Interrogatory 165 the Company
 4 stated:

5 Troy Rendell was budgeted to have 25% of his time charged to
 6 acquisition expense (non-utility expense) and the remainder
 7 charged to deferred rate case, thus none of his time was budgeted
 8 to expense. All of his time in January was charged to regular labor
 9 expense. Very little of his time is actually charged to acquisition
 10 expense. Further, none of Mr. Rendell's time has been, or will be
 11 charged, to deferred rate case.¹³⁶
 12

13 Given the above response, I question why the Company has included a
 14 proforma adjustment for the salary of Mr. Rendell in the instant rate proceeding.

15 For these reasons, I recommend that the Commission remove the
 16 requested proforma adjustment for Mr. Rendell's salary in the amount of \$95,000.
 17 In addition, I recommend that the Commission not allow the associated lease
 18 expense of \$8,400.

19 I also recommend that the \$75,000 adjustment for the Florida Controller
 20 be disallowed. The Company provided no testimony on this subject. Nor did it
 21 provide any other information in its workpapers. In addition, as of ~~May~~ ^{February} 2008,
 22 this position had not been filled.¹³⁷ The Company has failed to show that the
 23 position is needed or would be beneficial to customers. Therefore, I recommend
 24 that the Commission disallow this proposed adjustment.

25 **Q, WOULD YOU DISCUSS THE AQUA CONNECTS PROFORMA**
 26 **ADJUSTMENT?**

¹³⁶ Response to OPC Interrogatory 165.

¹³⁷ Supplemental Response to OPC Interrogatory 90.

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1 A. Yes. The Company is proposing a \$60,000 adjustment for its Aqua Connects
2 program. According to AUF, it implemented Aqua Connects, also known as town
3 hall meetings, in 2008, with the first meeting being held on January 16, 2008.

4 Since its inception, the Company has held 11 meetings in Florida.
5 However, it has or will hold meetings in other states as well.¹³⁸ According to the
6 Company, the intent of these meetings is to: “nurture our relationship with and
7 educate Aqua's customers.”¹³⁹ According to AUF, the Open House meeting is the
8 focus of Aqua Connects with customers being mailed invitations approximately
9 three weeks prior to each meeting so the invitations would arrive in the homes of
10 customers approximately two weeks ahead of the event. Attached as Schedule 21
11 is an example of the invitation that is sent to customers. As shown on Schedule
12 21, the invitation indicates that light refreshments will be provided and attendants
13 will have an opportunity to win an iPod.

14 **Q. DID YOU REVIEW THE GUIDE BOOK ON HOW THESE MEETINGS**
15 **ARE TO BE CONDUCTED?**

16 A. Yes. I have attached as Schedule 22 to my testimony the document supplied in
17 response to OPC Request for Production 102. The guide explains the three
18 situations where the AquaConnects program is to be used:

- 19 • To welcome new customers where Aqua purchases water systems;
- 20 • To nurture relationships with customers well ahead of rate cases;
- 21 • In a contentious rate case, where these events can help educate

¹³⁸ Response to OPC Interrogatory 154.

¹³⁹ Ibid.

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1 customers.¹⁴⁰

2 According to the guidebook, these meetings will “create goodwill in
3 communities and additionally will explain the necessity of a rate increase when
4 appropriate.”

5 While there may be some educational aspects to the Aqua Connects
6 program, the purpose of the program appears to be more for public relations and
7 image enhancement. The three situations when the program is to be used are
8 indicative of creating an environment of acceptance or creating goodwill to make
9 it easier for customers to digest a rate increase or a purchase by Aqua America.

10 **Q. DO YOU BELIEVE THE COMMISSION SHOULD ALLOW THESE**
11 **COSTS?**

12 **A.** No, I do not. The invitation to the meetings, as well as the guidebook, show that
13 the main purpose of these events is to improve the Company’s image and to
14 soften customers to rate increases or takeovers. In similar situations the
15 Commission has not permitted such costs to be passed on to ratepayers. For
16 example, when discussing the inclusion of membership dues and contributions in
17 a utility’s test year expenses that are public relations oriented, the Commission
18 found:

19 We acknowledge that some benefits may be accrued as a result of
20 these expenses. However, we agree with OPC that costs related to
21 contributions and membership dues, which are public relations
22 oriented, should be disallowed. These costs serve to improve the
23 image of the company, resulting in a direct benefit to the utility’s
24 shareholders, not to the customers. This treatment has been
25 consistently applied by the Commission, as evidenced by Orders
26 Nos. PSC-93-0301-FOF-WS at 19-20 and PSC 96-1320-FOF-WS

¹⁴⁰ Response to OPC Document Request 102.

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1 at 151-153, which Orders were officially recognized in this
 2 proceeding.¹⁴¹
 3

4 In a large water and wastewater case involving Southern States Utilities,
 5 Inc., the Commission made several findings on what was appropriate to charge
 6 customers as it related to public relations-related expenses, including findings on
 7 open houses similar to Aqua Connects.

8 Mr. Ludsen disagreed with OPC that a public relations retainer is
 9 generally not a proper charge for rate case expense. Although he
 10 did not know specifics about the charge, Mr. Ludsen stated that the
 11 uniform rate investigation benefited this case because of broader
 12 customer input. Mr. Ludsen did not think that SSU was trying to
 13 enhance its image, but instead trying to inform customers through
 14 brochures about the issues in the case.

15 When asked about legislative charges from the Messer Vickers law
 16 firm, Mr. Ludsen could not explain to what those related. He
 17 agreed, in general, that legislative expenses should not be charged
 18 to customers. Specifically, Mr. Ludsen agreed that charges from
 19 Landers and Parsons for preparing testimony for a Senate hearing
 20 should be removed.
 21

22 Mr. Ludsen's response to why open houses with customers, in
 23 addition to the Commission hearings, should be charged to
 24 customers was that it was a benefit to the case. If it benefited the
 25 case, then it benefited the customers. He did admit that those open
 26 houses were not required by the Commission.
 27

28 ...

29 We believe that if SSU sees a need to inform its customers or the
 30 press about the issues in the case beyond what our rules require,
 31 then those expenditures must be borne by SSU, not the customers.
 32 Accordingly, all charges related to telemarketing, public relations,
 33 uniform rate bill inserts, mailings and door hangers, cellular
 34 telephone bills and bus transportation shall be removed. Mr.
 35 Ludsen was unable to justify why a banquet or lunch was
 36 necessary and reasonable; accordingly, this amount shall be
 37 removed. As agreed to by Mr. Ludsen, any legislative or lobbying
 38 charges shall also be removed.¹⁴²

¹⁴¹ Florida Public Service Commission, United Water Florida Inc., Docket No. 960451-WS PSC-97-0618-FOF-WS, May 30, 1997.

¹⁴² Commission Order No. PSC-96-1320-FOF-WS.

PUBLIC VERSION

1

2

This order provides an excellent analysis of the types of public relations expenses that should not be charged to customers.

3

4

Consistent with past Commission practices, the \$60,000 for Aqua Connects should be disallowed.

5

6

Q. WHAT IS THE NEXT GROUP OF PROFORMA ADJUSTMENTS THAT YOU RECOMMEND BE DISALLOWED?

7

8

A. There were several proforma adjustments for which the Company provided no supporting workpapers or other supportive documents. In my opinion, the Commission should disallow all proposed adjustments where the Company has failed to provide supporting workpapers and documentation. OPC had requested electronic versions of all workpapers supporting the Company's adjustments to its test year, and I have been unable to locate any workpapers supporting the following adjustments. Therefore, I recommend that the adjustments that should be disallowed include:

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- \$122,190 for property taxes on 2007 net additions;
- \$4,996 for additional 2008 service company headcount;
- \$13,227 for additional 2008 service company benefits; and
- \$59,362 for additional 2008 Aqua Customer Operations employee benefits.

21

Operation and Maintenance (O&M) Expenses

22

Q. WHAT ADJUSTMENTS ARE YOU RECOMMENDING TO TEST YEAR OPERATION AND MAINTENANCE EXPENSES?

23

PUBLIC VERSION

1 A. I am recommending several adjustments. The first group consists of expenses
 2 which the Commission typically does not allow to be recovered from ratepayers.
 3 These include lobbying expenses, certain advertising expenses, corporate and
 4 development costs.

5 **Q. WHAT ADJUSTMENT DO YOU RECOMMEND FOR ADVERTISING?**

6 A. The Company expensed \$1,050 on an advertisement which is geared toward
 7 image enhancement and goodwill. As discussed above, the Commission
 8 consistently disallows advertising costs that promote a company's image, as
 9 stated below:

10 United has included intrastate institutional or image advertising
 11 costs of \$ 848,000 in its proposed test year operating expense. The
 12 Company asserts that LECs today are facing various forms of
 13 competition and advertising is an effective tool to deal with it.
 14 United is receiving payments from UTLD to compensate for the
 15 many tangible and intangible benefits it receives from the
 16 Company. United contends that, since the ratepayer is being
 17 compensated through the payment for the value of United's name,
 18 logo and reputation, it is only fair that the ratepayer pay for the
 19 expenditures necessary to maintain this value.

20
 21 OPC does not agree with United's argument; OPC asserts that it is
 22 flawed and a misunderstanding of the UTLD docket. The
 23 compensating payment was primarily to compensate United for
 24 marketing and operation benefits derived by UTLD. OPC
 25 recommends that we continue our long-standing, well reasoned
 26 policy of assigning the costs of institutional or image advertising to
 27 the shareholder.

28
 29 We agree with OPC that institutional or image advertising benefits
 30 the nonregulated portions of the business to a greater extent than
 31 the regulated operations and that the UTLD compensating payment
 32 is for benefits already funded by the ratepayers. We will continue
 33 our policy of excluding institutional or image advertising from the
 34 cost of service.¹⁴³
 35

¹⁴³ Commission Order No. 24049.

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1 The advertisement, which appeared in the Florida Insider magazine, states
2 at the beginning: “Investing now in water quality ...before the well runs dry.”¹⁴⁴
3 Later in the ad, there is a description of the Company and how it is investing in
4 Florida: “Aqua Utilities Florida is an investor-owned water and wastewater
5 company whose business depends on sustainable water resources. Our capital
6 spending for pumps, pipes, wells and treatment plants totaled approximately \$30
7 million between 2005 and 2007 – and we’ll continue to invest in Florida’s future
8 in 2008.”

9 This is the kind of image enhancing advertising that the Commission has
10 disallowed in the past. Therefore, I recommend that the Commission remove
11 \$1,050 from test year expenses.

12 **Q. THE COMPANY INCURRED \$39,387¹⁴⁵ IN LOBBYING CHARGES**
13 **DURING THE TEST YEAR. DOES THE COMMISSION USUALLY**
14 **ALLOW THESE TYPES OF EXPENSES?**

15 A. No, it does not.

16 **Q. COULD YOU DESCRIBE THE LOBBYING SERVICES PROVIDED?**

17 A. Yes. In Interrogatory 217, OPC requested additional information about lobbying
18 charges. In particular, OPC asked: “Please refer to the Company’s response to
19 OPC’s Interrogatory 41. Please provide a detailed explanation of the activities
20 performed by each firm listed in the attachments to this response. Please indicate
21 if the amounts provided in the response are for the Florida systems included in the
22 case or precisely at what level the expenses are incurred and charged to Florida.”

¹⁴⁴ Response to OPC Document Request 85.

¹⁴⁵ Response to OPC Interrogatory 41.

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1 AUF responded as follows:

2 The General Objections stated above are incorporated herein by
 3 reference. Without waiving such objections, AUF answers that
 4 George Lane was previously registered as a lobbyist until
 5 December 31, 2005, at which time he had five registered clients,
 6 one of which was AUF. George Lane has not been registered as a
 7 lobbyist since January 1, 2006. George Lane was a rural marketing
 8 consultant and a media management specialist for AUF with more
 9 than 40 years experience with the Florida news media. His role had
 10 been to provide input on media articles, customer letters, managing
 11 situations where news media is involved and recommending
 12 newspaper outlets for AUF to place required regulation notices.
 13 With Mr. Lane's knowledge of Florida, he provided background
 14 information on cities, towns and counties in which AUF would like
 15 to purchase water or wastewater systems. At times he would set up
 16 meetings with various department heads, or administrators to
 17 discuss these potential acquisitions. With his contacts throughout
 18 the state, Mr. Lane would facilitate a meeting if a community,
 19 developer, or builder required water or wastewater utility services.

20
 21 AUF ceased to utilize the services of George Lane in mid 2007.
 22 Cynergy currently provides legislative services for AUF. This
 23 includes monitoring and advising AUF of any pending or potential
 24 legislative actions and/or issues related to the water and
 25 wastewater industry either on the state or local level. Cynergy also
 26 participates in customer relation issues when requested.¹⁴⁶
 27

28 As can be seen from the Company's response, the charges from both
 29 consultants are related to lobbying efforts and/or acquisition efforts, both of which
 30 are not allowed by the Commission.

31 **Q. WHAT IS THE COMMISSION'S POLICY ON THESE TYPES OF**
 32 **EXPENSES?**

33 **A.** As indicated above, the Commission does not allow lobbying charges to be
 34 recovered from ratepayers as such efforts are for the benefit of stockholders, not

¹⁴⁶ Response to OPC Interrogatory 217.

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1 ratepayers.¹⁴⁷ Therefore, I recommend that the Commission remove these
2 expenses from the test year.

3 **Q. DID THE COMPANY INCUR EXPENSES FOR CORPORATE**
4 **ACQUISITIONS AND DEVELOPMENT IN THE TEST YEAR?**

5 A. Yes, it did. During the test year the Company incurred wages and benefits for Mr.
6 Carl Smith in the amount of \$93,541. Mr. Smith is in charge of corporate
7 development and acquisitions in the State of Florida. In addition, the Company
8 was also charged for \$3,953 for Mr. Kropilak who is in charge of acquisitions at
9 the Aqua Services level. In response to discovery, the Company provided the
10 following job descriptions:

11 Carl Smith; Director of Corporate Development at Aqua Utilities
12 Florida, Inc. Carl is responsible for the acquisition of water and
13 wastewater systems at Aqua Utilities Florida, Inc. Carl also acts as
14 AUF's Tapping Agent and coordinates main extensions for areas
15 outside the company's service territory. Additionally, Carl is
16 responsible for working with developers on new satellite systems
17 in Florida.

18
19 Mark Kropilak, Senior Vice President-Corporate Development.
20 Mark Kropilak is an employee of Aqua Services, Inc. Mark is
21 responsible for reviewing potential acquisitions in all states to
22 determine if the acquisition is an appropriate fit for the company.
23 Although Mark is located in Pennsylvania and most of his time is
24 spent on matters involving Pennsylvania, Mark advises Carl Smith
25 on the soundness of a potential acquisition. Mark also provides
26 assistance in structuring deals and preparing the necessary
27 documentation.¹⁴⁸

28
29 The job descriptions for both of these individuals indicate that the
30 functions they perform are not normal utility functions, but are instead associated
31 with acquisition efforts which should be considered nonutility.

¹⁴⁷ Commission Order No. PSC-96-1320-FOF-WS.

¹⁴⁸ Response to OPC Interrogatory 19.

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1 Schedule 23, of my exhibit shows the number of acquisitions that Aqua
 2 America has made during the last two years is extensive. As shown, in 2006 Aqua
 3 America acquired 26 systems or companies both regulated and nonregulated
 4 resulting in additional revenue of \$9.6 million or which \$7.9 million is
 5 attributable to nonregulated acquisitions. In 2007 Aqua America acquired 27
 6 systems of which six were in Florida. In total these acquisitions result in addition
 7 revenue to Aqua America of \$27.9 million.

8 **Q. HAS THE COMMISSION DISALLOWED SALARIES AND WAGES**
 9 **ASSOCIATED WITH ACQUISITION EFFORTS IN OTHER RATE**
 10 **PROCEEDINGS?**

11 **A. Yes, it has. In Order No. PSC-**

12 ... there is sufficient evidence in the record to indicate that
 13 the amount of acquisition related salaries recorded below-the-line
 14 was considerably lower than what should have reasonably been
 15 recorded. In effect, SSU conceded to this point in that the utility
 16 only disagreed with the portion of OPC's adjustment related to the
 17 percentage disallowance associated with Mr. Sweat's department.
 18 We do not find SSU's proposal to record 50 percent of this
 19 department's salaries and related expenses below-the-line to be
 20 reasonable. We note that 50 percent of Mr. Sweat's salary alone is
 21 more than what the utility originally recorded below-the-line. The
 22 record indicated that the level of effort expended on acquisitions
 23 has increased over previous years, but the amount of salaries SSU
 24 recorded below-the-line has decreased. We also note that SSU
 25 provided no evidence to support how its recommended percent
 26 disallowance was determined, or any substantive basis as to why
 27 that percentage would be reasonable.

28
 29 As in the case of salaries and expenses related to lobbying, SSU
 30 has shifted the burden of proof onto OPC to disprove the
 31 reasonableness of SSU's expenses by arguing that because OPC
 32 did not present historical time sheets or any other evidence, we
 33 should adopt the utility's suggested alternative. We reiterate that in
 34 a rate proceeding, it is the utility's burden to prove that its expenses
 35 are prudent and reasonable. Based on SSU's concession that the

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1 amount of acquisition related salaries recorded below-the-line was
 2 insufficient, in addition to the preceding discussion, we find that
 3 SSU has not met its burden of proof. While SSU argued that time
 4 sheets should be used as the determining factor,

5
 6 SSU did not adequately support its original estimate nor its
 7 proposed estimate with regard to the salaries for the corporate
 8 development section. Considering that Ms. Dismukes used a
 9 conservative estimate to calculate the disallowance for all other
 10 employees who spend time related to acquisitions, we find that
 11 proposed adjustment to be reasonable. Therefore, test year
 12 expenses shall be reduced by \$175,928 for salaries and \$ 10,742
 13 for related expenses.¹⁴⁹

14
 15 The above citation relates to the last Southern States case, Docket No.
 16 950495-WS which involved many of the same water and wastewater systems that
 17 are part of AUF. In that proceeding the Commission disallowed the costs
 18 associated with the personnel that were responsible for acquisitions. I agree with
 19 the Commission and recommend that in the instant rate proceeding the
 20 Commission reduce test year expense for Mr. Smith's salary and benefits of
 21 \$93,541. In addition, the Commission should remove the costs allocated to the
 22 Company from Mr. Kropilak of \$3,953. However this latter adjustment is not
 23 necessary if the Commission adopts my adjustments to charges for the excessive
 24 charges from Aqua Services.

25 **Q. DURING THE TEST YEAR DID THE COMPANY INCUR ANY**
 26 **EXPENSES FOR FINES AND PENALTIES?**

27 **A.** Yes. During the test year the Company incurred \$85,984 for fines and penalties.
 28 According to AUF's response to OPC's Interrogatory 30, these fines and penalties
 29 were largely related to late payment fees for the late payment of utility bills, late
 30 filing fee from the Commission, and several penalties from environmental

¹⁴⁹ Commission Order No. PSC 96-1320-FOF-WS.

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1 agencies for the following systems: Tamoka/Twin Towers, Imperial Mobile
2 Terrace, Morningview, Interlachen Lake, Pomona Park, River Grove and
3 Chuluota. These expenses should have been booked below the line for
4 ratemaking purposes as required by the NARUC Uniform System of Accounts.

5 **Q. WOULD YOU ADDRESS THE ADJUSTMENT FOR RELOCATION**
6 **EXPENSES?**

7 A. Yes. During the test year the Company incurred \$35,758 of expenses associated
8 with relocating Jack Lihvarcik, Jerry Connolly, and Carl Smith to Leesburg,
9 Florida from various locations. This level of expense compares to \$21,550 in
10 2006 and \$7,282 in 2005.¹⁵⁰ This information shows that during the test year the
11 Company incurred a higher than normal level of relocation expenses. Therefore, I
12 recommend that test expenses be reduced by \$14,228 to reflect the three year
13 average level of relocation expenses. Although this information was requested
14 by system, it was not provided in that manner. Therefore, I estimated the
15 distribution to the systems in this rate proceeding based upon customers.

16 **Q. WHAT IS YOUR NEXT ADJUSTMENT?**

17 A. My next adjustment relates to Directors and Officers Liability insurance.
18 According to the Company, this insurance protects Aqua America's Corporate
19 Directors and Officers against claims, most often by stockholders and employees,
20 alleging financial loss arising from mismanagement. The policies purchased by
21 Aqua America contain two types of coverage. The first reimburses Aqua
22 America when it is legally obligated (typically by corporate charter or state
23 statute) to indemnify corporate directors and officers for their acts. The second

¹⁵⁰ Response to OPC Interrogatory 97.

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1 provides direct coverage to directors and officers when the organization is not
 2 legally obligated to indemnify them.¹⁵¹ During the test year Aqua Services
 3 incurred \$522,702 in insurance for its executives. Aqua America has the
 4 following three coverage's or policies for Directors and Officers Liability.

5 A - Directors and Officers Liability Deductible Limits of Liability

- 6 • Year 2005 \$1,000,000 Indemnifiable loss \$15,000,000 aggregate,
 7 inclusive of defense costs
- 8 • Year 2006 \$1,000,000 Indemnifiable loss \$15,000,000 aggregate,
 9 inclusive of defense costs
- 10 • Year 2007 \$1,000,000 Indemnifiable loss \$15,000,000 aggregate,
 11 inclusive of defense costs

12 •
 13 B - Excess Directors and Officers Liability

- 14 • Deductible Limits of Liability
- 15 • Year 2005 N/A \$10,000,000 aggregate excess of \$15,000,000
 16 aggregate
- 17 • Year 2006 N/A \$10,000,000 aggregate excess of \$15,000,000
 18 aggregate
- 19 • Year 2007 N/A \$10,000,000 aggregate excess of \$15,000,000
 20 aggregate

21 •
 22 C - Excess Directors and Officers Liability - Side A Deductible
 23 Limits of Liability

- 24 • Year 2006 N/A \$5,000,000 aggregate excess of \$25,000,000
 25 aggregate
- 26 • Year 2007 N/A \$5,000,000 aggregate excess of \$25,000,000
 27 aggregate¹⁵²

28 In OPC Interrogatory 35 the Company was asked to list all claims made
 29 against directors and officers and the amount of any claims paid during the period
 30 2003 through 2007. The Company responded “. . . AUF answers that there were
 31 no claims made against directors and officers over the period 2005-2007.” The
 32 Company offered no explanation why it had ignored the years 2003 and 2004 in

¹⁵¹ Response to OPC Interrogatory 37.

¹⁵² Response to OPC Interrogatory 34.

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1 its response.¹⁵³ In Interrogatory 36, OPC asked: “With respect to Directors and
2 Officers Liability Insurance coverage obtained, state whether any customer, who
3 is not a shareholder, has ever filed a claim against a director or officer of the
4 Company and if so provide the number of times this has occurred and the
5 outcome of the claim.” In response to this question the Company responded:
6 “AUF answers that there are none.”

7 I recommend that the Commission remove these expenses from the test
8 year. This cost, at least in part, is designed to protect directors from the financial
9 losses that they might incur for wrong doing. In addition, as indicated above, no
10 customers have filed a claim that would activate this insurance. In addition, as
11 Aqua admits, most likely claims that would require the use of this insurance will
12 be the result of actions taken by stockholders or employees. I do not think
13 customers should be responsible for protecting the directors and offices of Aqua
14 America; since its stockholders are more likely to make a claim against the
15 Company, stockholders should absorb the cost. Therefore, I recommend that test
16 year expenses be reduced by \$12,399.

17 **Q. WHAT IS THE NEXT ADJUSTMENT YOU RECOMMEND?**

18 A. The next adjustment I propose removes from test year expenses deferred
19 maintenance projects that have been improperly amortized or which will be fully
20 amortized by 2008 –the same year as the Company’s proforma test year.

21 **Q. WHAT TYPES OF MAINTENANCE PROJECTS ARE DEFERRED BY**
22 **THE COMPANY?**

¹⁵³ Response to OPC Interrogatory 35.

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1 A. OPC's request regarding deferred maintenance projects and the Company's
2 response follow:

3 OPC Interrogatory 108: For purposes of this request, please refer
4 to Mr. Griffin's testimony, p. 10, lines 7-19. Please provide for
5 each system and each deferred maintenance item, a description of
6 the deferred maintenance including type and purpose, the original
7 and test year balance of the deferred maintenance, the date the
8 deferred maintenance was incurred, the years of amortization, how
9 often the maintenance is required, and the annual amortization
10 amount.

11
12 Company's Response: The General Objections stated above are
13 incorporated herein by reference. Without waiving such objections,
14 AUF answers that documents responsive to this Interrogatory are
15 provided on the attached CD labeled "AUF's 7-28-08 Answers to
16 OPC 2nd ROGs," which documents include the requested
17 information for each system.
18

19 In the file provided by the Company, deferred maintenance expenses
20 included permit renewals, O&M manuals, pond berm clearing, engineering
21 studies, jetting/cleaning, repairs, and tank inspection and report.

22 **Q. WHAT IS THE COMPANY'S POLICY USED TO DETERMINE**
23 **WHETHER A MAINTENANCE PROJECT SHOULD BE EXPENSED OR**
24 **CAPITALIZED?**

25 A. In response to OPC's Document Request, the Company stated:

26 AUF states there is no formal Company policy for the deferred
27 maintenance items referenced in AUF's response to OPC
28 Interrogatory No. 108. Deferred maintenance items are recorded in
29 a deferred debit account and amortized monthly. The practice of
30 matching expenses over the period of benefit is a basic accounting
31 concept. The deferrals are primarily comprised of permits (which
32 must be renewed), required DEP inspections and repairs. Company
33 practice is to amortize the costs for permits over the life of the
34 permit. If a permit is renewed every 3 years, then the amortization
35 period is 36 months. If a permit is renewed every 5 years, then the
36 amortization period is 60 months. The same practice is used for

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1 DEP-related inspections. If the DEP requires inspection every 3
2 years, then the amortization period is 36 months. The remaining
3 deferred debits are for repairs. The Company practice for O&M
4 type costs is to amortize them over a maximum of 3 years, as
5 repairs or replacements are likely to recur beyond that length of
6 time.¹⁵⁴
7

8 **Q. DID YOU FIND PROBLEMS WITH THE COMPANY'S DEFERRED**
9 **MAINTENANCE AMORTIZATIONS?**

10 A. Yes. First Aqua overstated test year expenses because it did not begin
11 amortization of its maintenance projects the month after the expense was incurred.
12 For example, the Company is amortizing the expense to clear the pond berm for
13 the Village Water and Wastewater system. The expense was incurred in July
14 2004. Using a five-year amortization period, amortization would end June 2009.
15 However, the amortization didn't begin until March 2005. The Company then
16 amortized the expense over the remaining period, leading to an amortization over
17 46 months instead of 60 and increasing the amortization amount. I recommend
18 that the Commission determine the amount of expense that would be incurred
19 during the test year assuming the Company had started its amortization when the
20 expense was incurred. Amortizing the expense over a shorter period results in an
21 overstatement of the test year expenses, which is shown on Schedule 24.

22 Second, in some cases the Company used an amortization period of less
23 than five years. However, no justification was provided to demonstrate that a
24 period less than five years is appropriate. For instance, the jetting/cleaning for
25 Jasmine Lakes are amortized over three years, yet there has been no showing that
26 these costs should be amortized over a shorter period of time.

¹⁵⁴ Response to OPC Document Request 214.

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1 **Q. DO YOU RECOMMEND ANY OTHER CHANGES TO THE**
2 **COMPANY'S TEST YEAR AMORTIZATIONS?**

3 A. Yes. I recommend that any deferred maintenance projects that will be completed
4 before the end of 2008 be removed from test year expenses. The Company has not
5 demonstrated that these cost will beyond 2008, therefore they should be removed
6 from the test year, consistent with the Company's 2008 proforma adjustments.

7 **Q. DO YOU HAVE A SCHEDULE THAT SHOWS THE ADJUSTMENTS**
8 **THAT YOU RECOMMEND FOR DEFERRED MAINTENANCE**
9 **AMORTIZATIONS?**

10 A. Yes. The adjustments that I recommend are reflected on Schedule 24. As shown,
11 in total the adjustments that I recommend reduce test year expenses by \$22,978.

12 **Q. HAVE YOU MADE AN ADJUSTMENT FOR THE NEW SYSTEMS**
13 **WHICH WERE ADDED TO THE COMPANY IN 2007 WHICH WERE**
14 **NOT PART OF THE COMPANY'S ORIGINAL ALLOCATIONS?**

15 A. Yes, I have. The adjustment that I recommend takes into consideration the
16 addition of 3,367 customers that were added to Aqua America's water and
17 wastewater operations during 2007 that were not included in the test year
18 allocation factors. The adjustment that I recommend reduces test year expenses by
19 \$3,343. However, because of the adjustment that I am recommending for
20 excessive charges from Aqua Services, I have not incorporated this adjustment
21 into the test year revenue requirement.

22

23

PUBLIC VERSION

1 *Bad Debt Expense*

2

3 **Q. HAVE YOU PERFORMED AN ANALYSIS OF THE LEVELS OF BAD**
4 **DEBT?**

5 A. Yes. I have prepared Schedule 25 of my exhibit to show the levels of bad debt for
6 each system. On a combined system basis, the percentage of bad debt to revenue
7 was 1.5 percent for 2007.

8 **Q. DOES IT APPEAR THAT AQUA'S BAD DEBT EXPENSE IS**
9 **UNUSUALLY HIGH DURING THE TEST YEAR?**

10 A. Yes. The Company explained in response to OPC Interrogatory 165, that its bad
11 debt expense was high in 2007 and was expected to be even higher in 2008. Aqua
12 estimated that 2008 bad debt expense would be 2 percent of its revenue. The
13 reason for this estimate was: "[Aqua's] aging is still compromised due to all of the
14 credits/cancelled bills issued the end of 2007. A calculation based on [its] actual
15 over 90 aging wouldn't give a true picture, therefore bad debt expense was
16 estimated at 2% of revenue."¹⁵⁵

17 The Company further explained:

18 AUF has an open item billing system. In November 2007 AUF
19 processed the interim rate refund by canceling the bills processed
20 with the higher interim rates and then re-billed them at the
21 previous rates. This left credits on the customers' accounts that
22 eliminated in future periods as they were being billed. Due to the
23 fact that we cancelled and re-billed rather than processing current
24 period adjustments, the credits on the customers' accounts aged
25 according to the original billing period.¹⁵⁶
26

¹⁵⁵ Response to OPC Interrogatory 165.

¹⁵⁶ Ibid.

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1 Q. WHAT CHANGES TO THE COMPANY'S COLLECTION POLICIES
2 OCCURRED DURING THE TEST YEAR?

3 A. Aqua America disclosed in its annual report, "During certain periods in 2007, we
4 temporarily discontinued collection efforts in some of our divisions in connection
5 with the installation of a new billing system which resulted in increased amounts
6 written off and higher bad debt expense."¹⁵⁷ Clearly, such a change would lead to
7 higher levels of bad debt expense than normal and should not be included in
8 expenses used to set rates.

9 Q. HAVE THERE BEEN BILLING PROBLEMS IN 2007 THAT WOULD
10 LEAD TO HIGHER BAD DEBT EXPENSE DURING THE TEST YEAR
11 THAN A NORMAL YEAR?

12 A. Yes. As just addressed the Company has experienced significant billing problems
13 which undoubtedly led to higher bad debt expense during the test year. As
14 explained in the first section of my testimony, customers have experienced
15 significant billing problems associated with the change in billing systems as well
16 as the installation of new meters which also contributed to significant billing
17 errors. As shown on Schedule 3 which details the complaints filed at the
18 Commission since the last rate case, 67 percent of the complaints dealt with
19 billing issues.

20 In addition, as depicted on Schedule 7, the Company had a number of
21 significant billing errors in 2007. As shown, the difference between the booked
22 revenue and billed revenue for each of Aqua's water and wastewater systems was
23 significant. For the water systems the highest error rate was in the Arredondo

¹⁵⁷ Aqua America, Inc. 2007 Annual Report, p. 9.

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1 Farms system which showed a difference between billed and booked revenue was
2 140 percent. On the wastewater side the most significant difference between
3 booked and billed revenue was Beecher's Point with an error rate of 119 percent.
4 In total for water the difference between booked and billed revenue was 35
5 percent and for wastewater the difference was 21 percent. Clearly, the Company
6 had billing problems during the test year that resulted in an unusually high level
7 of bad debt expense.

8 **Q. DID THE COMPANY MAKE ANY ADJUSTMENTS TO ITS TEST YEAR**
9 **FOR BAD DEBT EXPENSE?**

10 A. No it did not. When asked if it made an adjustment to test year bad debt
11 expenses, the Company provided the following response: "The Company's normal
12 process of monthly bad debt expense recognizes the appropriate level of reserve
13 and the Company believes that no separate adjustment is necessary."¹⁵⁸

14 **Q. WHAT RECOMMENDATION ARE YOU MAKING REGARDING BAD**
15 **DEBT EXPENSE?**

16 A. Typically, the Commission uses a four-year average to test the reasonableness of
17 a utility's bad debt expense.¹⁵⁹ However, in this case four years' data is not
18 available. The Company has only been able to produce requested financial data
19 for three years. However, even examining the data for the past three years would
20 not be appropriate. AUF has experienced significant and continuing billing
21 problems which render the historic data unreliable. Therefore, I recommend

¹⁵⁸ Response to OPC Interrogatory 56.

¹⁵⁹ Commission Order No. PSC-0505-SC-WS.

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1 establishing a reasonable level of bad debt expense by comparing Aqua with other
2 Florida Class A utilities.

3 **Q. HOW DOES AQUA'S BAD DEBT LEVEL COMPARE TO OTHER**
4 **FLORIDA CLASS A UTILITIES?**

5 A. Aqua's bad debt ratio is substantially higher than the industry. As shown on
6 Schedule 25, the Company's ratio of bad debt to revenue is 1.5 percent whereas
7 the average for other jurisdictional Class A water and wastewater utilities is 0.3
8 percent. On a system specific level, the bad debt ratio ranges from a high of
9 17.3 percent to a low of negative 1.2 percent.

10 I also examined the level of bad debt on a per customer basis. As shown
11 on this schedule, the average bad per customer for AUF is \$5.26 compared to the
12 average for all class A companies of \$.94 – a difference of over 450 percent. The
13 difference between the Company's bad debt and the average for comparable
14 companies is significant and clearly demonstrates that the Company's test year
15 bad debt is abnormally high.

16 Consequently, I recommend that the Commission adjust test year bad debt
17 to a more normal level consistent with good billing and meter reading practices. It
18 would be unfair to customers for them to be charged for the Company's failure to
19 properly bill them and accurately install and read meters.

20 **Q. DO YOU HAVE A RECOMMENDATION THAT WILL REMOVE THESE**
21 **ABNORMALITIES FROM THE TEST YEAR?**

22 A. Yes. Schedule 25 shows a comparison of the test year bad debt to revenue and bad
23 debt per customer for all systems compared to the average Class A water and

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1 wastewater utility. As shown on this schedule the bad debt allowance for Aqua
 2 under both methods is comparable—\$27,065 based on bad debt as a percentage of
 3 revenue and \$23,418 based upon revenue per customer. This compares to Aqua’s
 4 test year bad debt of \$131,291.

5 I recommend that the Commission average the bad debt allowance under
 6 both methods to determine the bad debt allowance applicable to the test year. As
 7 shown on this schedule, using this methodology, the resulting adjustment to test
 8 year bad debt expense is \$106,049.

9 **Q. HAS THE COMMISSION ACCEPTED A COMPARABLE APPROACH**
 10 **TO EXAMINING BAD DEBT IN THE PAST?**

11 A. Yes. In Docket No. 940109-WU, St. George Island Utility Company, Ltd., could
 12 not support its requested bad debt expense. Therefore, a methodology which
 13 examined “an amount [of bad debt] comparable to that experienced by other Class
 14 B utilities” was adopted by the Commission.¹⁶⁰

15 **Q. WHAT SYSTEM SPECIFIC ADJUSTMENTS DO YOU RECOMMEND?**

16 A. I am recommending several system specific adjustments. First, during the test
 17 year the Company purchased and installed generators at several of its treatment
 18 plants as part of its hurricane preparedness. In response to OPC’s Fourth Set of
 19 Interrogatories Nos. 264-379 which asked system-specific questions about cost
 20 increases, the Company explained why costs had increased in the account Fuel for
 21 Power Production. In response to these questions on fuel expenses, Aqua
 22 provided the following response for each system for which OPC requested the
 23 information:

¹⁶⁰ Commission Order No. PSC-94-1383-FOF-WU.

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1 The General Objections stated above are incorporated herein by
 2 reference. Without waiving any such objections, **AUF states that**
 3 **as part of its hurricane preparedness program, the utility**
 4 **purchased and installed generators for its treatment plants.**
 5 **These purchases were to provide a back-up power source for**
 6 **these plants during times of power outages due to adverse**
 7 **weather conditions. The increased costs were due to the need to**
 8 **purchase fuel for the back-up generators.** There was no capacity
 9 for an old generator. There are no cost reductions associated with
 10 the installation of the new generator. AUF states that documents
 11 responsive to this Interrogatory, which include generator data, will
 12 be made available for OPC's inspection and copying at the office
 13 of Holland & Knight LLP, 315 S. Calhoun Street, Suite 600,
 14 Tallahassee, Florida 32301, upon OPC's reasonable notice to Gigi
 15 Rollini, Esquire, or D. Bruce May, Jr., Esquire, counsel for AUF,
 16 of OPC's desire to inspect such documents. Ms. Rollini, Mr. May,
 17 or their designee will be made available to assist OPC to locate and
 18 identify the records at the time they are produced.¹⁶¹
 19

20 According to the Company response, the fuel expense included in the test
 21 year is overstated due to the fueling of the generators purchased in preparation for
 22 hurricanes. The Commission typically requires that costs associated with
 23 hurricanes be amortized over four years. I therefore recommend that the
 24 additional fuel costs included in the test year for the following systems be
 25 amortized over four years: 48 Estates, Chuluota, Friendly Center, Grand Terrace,
 26 Haines Creek, Hobby Hills, Holiday Haven, Lake Josephine, Lake Suzy, Leisure
 27 Lakes, Ocala Oaks, Picciola Island, Rosalie Oaks, The Woods, Sebring Lakes,
 28 South Seas, Summit Chase, and Sunny Hills. The impact of my recommendation
 29 reduces test year expenses by \$7,095.

30 **Q. WHAT IS YOUR NEXT ADJUSTMENT?**

31 A. In this same set of discovery, OPC asked questions about increased chemical
 32 expenses. In response to several questions the Company indicated that increased

¹⁶¹ Supplemental Response to OPC's Fourth Set of Interrogatories.

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1 flushing caused an increase in chemical expenses. For several systems flushing
 2 during the test year appears to be higher than normal—in some instances
 3 considerably higher—as shown in the table below. For example, for the Orange
 4 Hill/Sugar Creek system, flushing increased by 43% during the test year, but
 5 flows actually decreased. In addition, when comparing test year flows to the prior
 6 two years, the test year looks unusually high.

7 In addition, for all of the systems identified in the table below, an increase
 8 in test year flows does not appear to be the reason for line flushing.

Chemical Increase Due to Flushing									
Orange Hill/Sugar Creek					Skycrest				
	Flows (000,000)	% Increase	Flushing	% Increase		Flows (000,000)	% Increase	Flushing	% Increase
2005	20.948		515,000		2005	8.163		9,000	
2006	21.614	3%	528,100	3%	2006	9.041	11%	-	-100%
2007	20.189	-7%	754,000	43%	2007	10.507	16%	127,500	
Palm MHP					Tangerine				
			Flushing	% Increase		Flows (000,000)	% Increase	Flushing	% Increase
2005	Not Provided		223,800		2005	42.720		825,700	
2006	Not Provided		241,200	8%	2006	50.337	18%	1,000	-100%
2007	Not Provided		605,600	151%	2007	44.253	-12%	1,649,000	164800%
Picciola Island					Tomoka/Twin Towers				
	Flows (000,000)	% Increase	Flushing	% Increase		Flows (000,000)	% Increase	Flushing	% Increase
2005	11.562		-		2005	20.985		-	
2006	15.321	33%	-		2006	29.746	42%	43,500	
2007	13.806	-10%	24,500		2007	28.886	-3%	1,412,000	3146%
Quail Ridge					Valencia Terrace				
	Flows (000,000)	% Increase	Flushing	% Increase		Flows (000,000)	% Increase	Flushing	% Increase
2005	5.629		14,000		2005	25.735		1,498,000	
2006	6.124	9%	2,000	-86%	2006	30.926	20%	60,300	-96%
2007	7.000	14%	37,500	1775%	2007	27.741	-10%	319,500	430%
Silver Lake Estates/Western Shores									
	Flows (000,000)	% Increase	Flushing	% Increase					
2005	25.735		1,498,000						
2006	30.926	20%	60,300	-96%					
2007	27.741	-10%	319,500	430%					

9

10 **Q. HAVE YOU MADE AN ADJUSTMENT TO ACCOUNT FOR THE**
 11 **ABNORMAL LEVEL OF CHEMICAL AND PURCHASED POWER**
 12 **EXPENSES ASSOCIATED WITH THE INCREASED FLUSHING?**

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1 A. Yes. To develop my recommended adjustment, I divided test year chemical and
 2 purchased power expenses by test year flows to arrive at a chemical cost per
 3 gallon. I estimated the normal level of flushing by averaging flushing of either the
 4 most recent two years or most recent three years. The difference between the
 5 estimated normal level of flushing and test year flushing was multiplied by the
 6 chemical expense per gallon to arrive at an adjustment amount for each system.
 7 My recommended adjustments reduce test year expenses by \$2,388.

8 **Q. HAVE YOU MADE ANY ADJUSTMENTS TO TESTING EXPENSES?**

9 A. Yes. In response to OPC Interrogatory 173, the Company provided information
 10 about testing expenses incurred during the test year and the prior two years. After
 11 evaluating the information supplied by the Company, I am recommending
 12 adjustments to test year testing expenses for the following systems: Fern Terrace,
 13 Grand Terrace, Jasmine Lakes, Lake Gibson, Pomona Park, River Grove, and
 14 Zephyr Shores. In each of these systems, the level of test year expenses increased
 15 by more than 25% compared to the three year average from 2005-07. The
 16 adjustments that I recommend are shown below.

Testing Expense Adjustments	
System	Amount
Fern Terrace	\$ (474)
Grand Terrace	\$ (832)
Jasmine Lakes	\$ (3,071)
Lake Gibson	\$ (4) (182)
Panoma Park	\$ (1,677)
River Grove	\$ (434)
Zephyr Shores	\$ (2,432) (1,437)
Total	\$ (8,924)

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1 Q. WHAT OTHER SYSTEM SPECIFIC ADJUSTMENTS HAVE YOU MADE
2 TO TEST YEAR EXPENSES?

3 A. I have made several other system specific adjustments for unusually high or
4 abnormal test year expenses. First, I recommend that the Commission reduce test
5 year Contractual Services-Other expenses for Leisure Lakes by \$2,348 for repairs
6 and maintenance expenses that occurred during the test year, which do not appear
7 to be recurring costs. Interestingly, the Company deferred and amortized such
8 expenses for several systems in 2005. But now during the year for a rate increase,
9 the Company is expensing similar repair costs all in one year. I am utilizing three
10 years to normalize the costs consistent with the Company's treatment of similar
11 repairs.

12 Second, I recommend an adjustment to the Lake Josephine system. The
13 Company explained that the test year expense increase related to the Lake
14 Josephine plant being offline for a period of time. Rehab work was done on the
15 plant and it was then brought back on-line. In addition, there was "also a lot of
16 line flushing in this area during this time period which would also contribute to
17 increased power."¹⁶² I am recommending that the Commission reduce test year
18 expenses by \$3,795 to recognize the higher level of expense included in the test
19 year relative to a more normal level.

20 Third, I recommend two adjustments to Sunny Hills. Specifically, I am
21 recommending that the Commission reduce test year expenses for abnormal
22 sludge hauling expenses in the amount of \$350 and abnormal Contractual
23 Services - Other in the amount of \$1,575. Concerning the sludge hauling

¹⁶² Response to OPC Interrogatory 180.

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1 expenses during the test year, the Company explained that there was a cleaning or
2 pumping of the chlorine contact chamber at the sewer plant. This is not a normal
3 recurring expense and should be normalized for ratemaking purposes.
4 Concerning Contractual Services – Other, the information supplied by the
5 Company showed additional work required for building and grounds
6 maintenance. This also does not appear to be routine maintenance and therefore
7 should be adjusted.

8 Fourth, I recommend that the Commission reduce material and supplies
9 expenses for the Oakwood system. In response to discovery, Aqua explained:
10 “Materials & supplies are purchased on an ‘as needed’ basis. These are items
11 needed in the daily operations and maintenance of the systems that are not capital.
12 Unexpected repairs and maintenance can make this account more variable than
13 other more predictable expense items.”¹⁶³ During the test year, this account had
14 considerably more charges from Sunstate Meter and Supply than in the prior year.
15 In fact, test year expenses for these charges was 95% greater than in 2006.
16 Therefore, I recommend that the Commission reduce test year expenses by \$197.

17 Fifth, for the same reasons as given with respect to Oakwood, I
18 recommend that the Commission reduce test year materials and supplies expense
19 for Arredondo Estates by \$172.

20 Sixth, I recommend that the Commission reduce test year material and
21 supplies by \$3,324 for Imperial Mobile Terrace. In response to OPC Interrogatory
22 416, the Company explained that the increase in 2007 was due in part to an
23 increase of \$4,986 for transmission and distribution maintenance, the hand

¹⁶³ Response to OPC Interrogatory 179.

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1 evacuation of a 2 inch water main, and the installation of gate valves with valve
2 boxes and pads. These expenses were not incurred in the prior year and appear to
3 be abnormal. Therefore, I recommend that this cost be amortized over three years,
4 thereby reducing test year expenses by \$3,324.

5 Seventh, I recommend that the Commission reduce Ravenswood test year
6 Fuel for Purchased Power for expenses associated with additional fuel required
7 due to a tank leak and for the repair of the tank leak. Using a 3-year amortization,
8 test year Fuel for Purchased Power should be reduced by \$355.¹⁶⁴

9 Eighth, test year expenses for Florida Central Commerce should be
10 reduced due to abnormal expenses in the test year. In response to OPC
11 Interrogatory 258, the Company gave the following explanation for the test year
12 increase in contractual services: "The increase from 2006 to 2007 is related to the
13 following: \$22,650 is related to a full year of amortizing a large pond cleanup
14 project, \$4,135 due to repairs on the collection system and sewer plant, \$2,600 for
15 outside plant operators, \$3,900 for grounds and pond maintenance and bushhog
16 work, \$1,300 for major maintenance work to rebuild a pump & motor and \$1,100
17 for lift station cleaning. The centralized billing and call center was up \$500. There
18 were only 2 months of charges in 2006 vs 12 months of charges in 2007."¹⁶⁵

19 As can be seen from the above response the expenses included in the test
20 year were abnormal. Therefore I recommend that the Commission reduce test year
21 expenses by \$11,447.

¹⁶⁴ Response to OPC Interrogatory 236.

¹⁶⁵ Response to OPC Interrogatory 258.

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1 Ninth, I recommend that the Commission reduce test year expenses for the
2 Jungle Den system by \$1,500 for the repair of a water pipe and \$1,260 for lift
3 station maintenance and cleaning. If these costs are normalized over three years,
4 test year expenses should be reduced by \$1,840.

5 Tenth, I recommend that the Commission reduce test year expenses for the
6 Village Water system by \$25,712. This legal expense is unusually high and
7 should be removed from test year expenses and normalized. When asked to
8 explain these legal expenses in OPC Interrogatory 28, the Company replied:

9 The 2007 legal fees associated with lawsuits are \$25,571.57, and
10 were paid to the law firm of Holland + Knight in defense of a
11 singular lawsuit brought by George and Donna DeMint. In this
12 suit, Mr. and Mrs. DeMint allege that, in 2004, the wastewater
13 percolation pond at the Jasmine Lakes facility overflowed causing
14 damage to their house. AUF denies that the pond overflowed and
15 that it has any liability to the DeMints. The legal fees were
16 incurred in defense of this matter, including responding to
17 discovery requests and preparing for trial.

18 In a subsequent response, the Company indicated that the amount should
19 not have been charged to Village Water, but instead should have been charged to
20 Jasmine Lakes.

21 Contractual services - Legal. In 2006 there were charges of
22 \$34,641 that were related to a Jasmine Lakes legal issue, they were
23 charged to Village Water in error. In 2007 there were charges of
24 \$25,572 that were related to a Jasmine Lakes legal issue, they were
25 charged to Village Water in error. These 2007 charges should be
26 included in the 2007 operating expenses for Jasmine Lakes.¹⁶⁶

27
28 I recommend that the Commission reduce test year expenses for Village
29 Water by \$25,572. I also recommend that the Commission normalize the legal
30 expense over five years and include \$5,142 in the expenses for Jasmine Lakes.

¹⁶⁶ Response to OPC Interrogatory 249.

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1 Q. HAVE YOU INCORPORATED THE STAFF AUDIT
2 RECOMMENDATIONS INTO YOUR REVENUE REQUIREMENT
3 CALCULATIONS?

4 A. Yes, I have. I agree with the recommendations from the Staff Audit Report,
5 issued September 18, 2008, and have incorporated in my analysis those
6 recommendations that I have not already captured in the adjustments that I
7 recommend.

8 Rate Case Expense

9 Q. WOULD YOU PLEASE DISCUSS RATE CASE EXPENSE?

10 A. Yes. The Company is requesting rate case expenses of \$1,364,000 as set forth on
11 Schedule 26.

12 Q. ARE THERE AREAS OF THIS CASE THAT WOULD WARRANT
13 DISALLOWANCE OF THE COMPANY'S RATE CASE EXPENSE?

14 A. Yes. I recommend that the Commission disallow a portion of the rate case
15 expense requested in this proceeding in several areas. First, the Company was
16 required to file significant modifications to its MFRs due to the 37 deficiencies in
17 the MFRs found by the Staff. It is common practice for the Commission to
18 disallow the costs associated with revising MFRs.

19 Second, all excessive costs associated with bringing unnecessary Aqua
20 persons to the service hearings should be removed from rate case expense. To the
21 extent that Aqua believes that it is necessary to have 10 or more employees attend
22 these service hearings, that is a cost the Company should bear, not the ratepayers.
23 It is unclear why the Company needs such an entourage to attend these service

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1 hearings. If it is an attempt to overcome Aqua's "out of town" feel, this is a cost
2 Aqua should bear. Customers should not be required to absorb these extra costs to
3 help improve the Company's image and local presence in Florida.

4 Third, I recommend that the Commission remove the consulting fees of
5 Mr. Prettyman of AUS for the work performed on the Company's billing analysis.
6 These costs should not be passed on to ratepayers. This effort was undertaken
7 because of the Company's past billing problems. The letter from Mr. Prettyman
8 on the scope of services to be provided specifically included "...rather extensive
9 analysis of some problem areas..." According to the letter, tasks included:

- 10 • Review monthly revenue reports for 2007
- 11 • Review monthly consumption reports for 2007
- 12 • Review monthly production reports for 2007
- 13 • Review annual summary reports for the above items for the past three to
- 14 five years
- 15 • Prepare bill analysis for each system
- 16 • Florida - review problem areas of estimated bills, meter reading and
- 17 other adjustments.
- 18 Make adjustments where necessary.
- 19 • Florida - review impact of previously issued interim rates and subsequent
- 20 refunds that occurred in 2007
- 21 • Prepare filing schedules for present rate revenues
- 22 • Work with Company in development equalized rates
- 23 • Write testimony if required¹⁶⁷

24

25 As identified above, many of Mr. Prettyman's tasks and work effort were
26 required because of past billing errors and meter reading problems. In addition,
27 Mr. Pettyman's tasks also involved review of the impact of the interim rates that
28 were awarded in the last rate case that was withdrawn. Clearly, ratepayers should
29 not be expected to pay for the consulting fees associated with work that is
30 required because of billing errors and meter reading problems. Also, as the

¹⁶⁷ Response to OPC Document Request 9.

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1 Company withdrew its 2007 rate case, customers should not be expected to pay
2 for any consulting fees or Company incurred expenses related to the interim
3 increase from that application. Finally, it is likely that if it were not for the
4 Company's billing and meter reading problems, the billing analysis performed by
5 Mr. Prettyman could have been performed in-house without the need for an
6 outside consultant. In fact, in Docket No. 060368-WS, Mr. Schreyer's name
7 appeared on the MFR E-Schedules. Mr. Schreyer was the Manager of Rates for
8 Aqua America. Mr. Griffen prepared the billing analysis. Mr. Griffen was the
9 Senior Manager of Regulatory Accounting for Aqua Pennsylvania. Therefore, I
10 recommend that the costs for Mr. Prettyman's consulting services be absorbed by
11 the Company's stockholders, not its ratepayers.

12 Fourth, any costs included in the rate case associated with producing
13 unnecessary hard copies of documents that are available electronically should be
14 disallowed. This would include the costs of printing and compiling the documents
15 as well as the persons that monitored the on-site reviews at the law office of
16 Holland and Knight. This tactic not only created more costs for ratepayers, it also
17 caused OPC to expend valuable resources to review documents which could have
18 been provided more efficiently in an electronic format without all the wasted
19 paper.

20 **Q. IS THERE PRECEDENT FOR DISALLOWING RATE CASE EXPENSES**
21 **IN FLORIDA?**

22 **A.** Yes, the Commission has disallowed rate case expenses on many occasions
23 because it has found them to be imprudent. Many of the Commission's decisions

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1 on this issue are set forth in Order No. PSC-02-0593-FOF-WU. In that order, the
2 Commission addressed Order No. PSC-98-1583-FOF-WS, issued November
3 25,1998, in Docket No. 971663-WS, where Florida Cities Water Company was
4 seeking recovery of court costs (and the rate case expense associated with the
5 docket filing). In that case the Commission found that the incurrence of rate case
6 expense was imprudent and denied the utility's request for recovery. Also, in
7 Order No. PSC-96-1320-FOF-WS, issued October 30, 1996, in Docket No.
8 950495-WS, the Commission denied legal rate case expense of \$25,000 incurred
9 for what it deemed an imprudent appeal of an oral decision on interim rates. In
10 addition, in Order No. 18960, issued March 7, 1988, in Docket No. 861338-WS,
11 the Commission determined that expenditures for misspent time were imprudent
12 and reduced the requested rate case expense by \$32,500. Finally, in Order No.
13 PSC-02-0593-FOF-WU, issued April 30, 2002, the Commission found: "As
14 discussed above, it is the utility's burden to prove that its requested costs are
15 reasonable. We find that filing combined water and wastewater rate cases would
16 have resulted in material cost savings, and the customers should not be made to
17 pay because Aloha incurred imprudent rate case expense."

18 In Order No. PSC-06-0170-PAA-WS issued March 1, 2006 for Plantation
19 Bay Utility Company, the Commission stated that "[u]nder this Commission's rate
20 setting authority, a utility seeking a change in rates must demonstrate that its
21 present rates are unreasonable." The Commission found it inappropriate to
22 approve rate case expense for water because of the utility's recent overearnings
23 posture. The utility's decision to file for water rate relief was imprudent and "the

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1 customers should therefore not have to bear this cost.” No rate case expense was
2 allowed for water.

3 In a 2006 rate case, Utilities Inc. of Florida provided two sets of estimates
4 for its consultants to complete the case. However no justification was provided
5 for the high set of estimates. Therefore, in Order No. PSC-07-0505-SC-WS,
6 issued June 13, 2007, the Commission removed the differences. The Commission
7 also made several adjustments related to costs incurred to correct deficiencies in
8 the MFR filing, as well as several adjustments for unsupported hours and
9 expenses. In addition to the adjustments, the allocation of rate case expense for
10 two counties was disallowed. Because the rates did not change for one county,
11 and were reduced for the other, the rate case expense associated with the filings
12 for those counties was disallowed. In all, the Commission disallowed \$173,052 in
13 rate case expense.

14 More recently, in Order No. PSC-07-0865-PAA-SU issued October 29,
15 2007, the Commission stated “[w]e have broad discretion with respect to
16 allowance of rate case expense; however, it would constitute an abuse of
17 discretion to automatically award rate case expense without reference to the
18 prudence of the costs incurred in the rate case proceedings.” In this case, the
19 Commission disallowed \$50,543 of the \$196,080 in rate case expense requested
20 by Utilities, Inc. of Sandalhaven. The Commission cited a number of adjustments
21 for MFR deficiencies, errors, undocumented and unsupported hours and
22 unreasonable expenses of employees and consultants.

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1 Similarly, in Order No. PSC-07-0287-PAA-WS issued April 3, 2007 for
 2 Lake Placid Utilities, Inc., the Commission's adjustments and disallowances
 3 totaled \$101,239 for MFR deficiencies, and for unsupported and unreasonable
 4 expenses.

5 The table below shows thirteen recent rate cases where the Commission
 6 disallowed significant portions of the rate case expense. In each of these cases,
 7 adjustments were made for hours spent on MFR filing deficiencies and for
 8 expenses that were not supported by detailed documentation.

Company	Docket	Date	MFR Estimate	Utility Revised	Commission Adjustment	Allowed Total
				and Actual Estimate		
(S)						
Utilities, Inc. of Sandalhaven	060285-SU	29-Oct-07	\$ 196,080	\$ 191,561	\$ (50,543)	\$ 141,019
Utilities, Inc.	060253-WS	13-Jun-07	324,474	479,096	(173,052)	306,044
Lake Placid Utilities, Inc.	060260-WS	3-Apr-07	131,261	171,859	(101,239)	70,620
Sanlando Utilities Corp.	060258-WS	6-Mar-07	170,338	229,143	(73,243)	155,900
Cypress Lakes Utilities, Inc.	060257-WS	5-Mar-07	135,720	182,586	(97,727)	84,859
Mid-County Services, Inc.	060254-SU	16-Feb-07	161,122	183,244	(99,447)	83,796
Alafaya Utilities, Inc.	060256-SU	15-Feb-07	184,974	236,901	(124,940)	111,961
Utilities, Inc. of Pennbrooke	060261-WS	31-Jan-07	170,338	202,733	(101,520)	101,216
Tierra Verde Utilities, Inc.	060255-SU	29-Jan-07	187,574	n.a.	(93,489)	94,089
Plantation Bay Utility Company	050281-WS	9-Mar-06	139,000	215,894	(137,181)	78,713
Indiantown Company, Inc.	040450-WS	7-Jun-05	94,000	121,468	(6,026)	115,442
Utilities, Inc. of Eagle Ridge	030445-SU	8-Nov-04	103,634	73,336	(10,690)	62,646
Bayside Utility Services, Inc.	030444-WS	23-Aug-04	102,909	62,887	(3,518)	59,369
Utilities, Inc.	020071-WS	22-Dec-03	497,724	n.a.	(100,127)	397,597

9
 10 **Q. WHAT IS YOUR RECOMMENDATION WITH RESPECT TO THE**
 11 **RATE CASE EXPENSE REQUESTED IN THIS PROCEEDING?**

12 **A.** It is the intention of OPC to provide a recommendation on the subject of rate case
 13 expense once complete documentation is submitted by the Company. The
 14 revenue requirement reflected on Schedule 27 excludes rate case expense at this
 15 time.

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1 **Q. DO YOU RECOMMEND THAT THE COMPANY RECOVER 100% OF**
2 **THE RATE CASE EXPENSE FOUND REASONABLE BY THE**
3 **COMMISSION?**

4 A. No. I recommend that the Commission require that rate case expense be shared
5 between ratepayers and stockholders. In particular, I recommend a 50/50 sharing.
6 There is no reason to require customers to bear the entire burden of rate case
7 expense. Customers do not directly benefit from a rate case and are not the party
8 asking for rates to be increased. Aqua is the party asking for rates to be increased.
9 Furthermore, the beneficiary of increased rates is predominately the Company's
10 stockholders. A primary motivation for filing a rate increase is to increase
11 shareholder wealth. Therefore, I recommend that prudent rate case expense be
12 shared equally between ratepayers and stockholder.

13 **Q. ARE YOU AWARE OF ANY COMMISSIONS THAT REQUIRE RATE**
14 **CASE EXPENSE TO BE SHARED BETWEEN RATEPAYERS AND**
15 **STOCKHOLDERS?**

16 A. Yes. In New Jersey, the Board of Public Utilities has had a long-standing and well
17 established policy of a 50/50 sharing of rate case expenses. In a recent case for
18 Jersey Central Power and Light, the Board Staff noted that "[w]hile a rate case
19 benefits the ratepayers through the continuation of safe, adequate and proper
20 utility service, it also benefits shareholders, because the Company has a renewed
21 opportunity to earn a fair return on equity."¹⁶⁸ This is not only for electric
22 companies in New Jersey. In fact, as recently as 2007, Aqua New Jersey was

¹⁶⁸ BPU Docket No. ER02080506; Docket No. ER02080507; Docket No. EO02070417; Docket No. ER02030173; Docket No. ER95120633, New Jersey Board of Public Utilities, May 17, 2004, Dated.

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1 ordered to split its rate case expenses 50/50 between shareholders and customer as
2 “[a] rate case arises for the benefit of a company's shareholders, who should then
3 be required to shoulder some of the burden.”¹⁶⁹

4 In Illinois, in 2006 the Commission approved Staff's proposed treatment
5 of rate case expense for Commonwealth Edison Company which required
6 shareholder to “bear the capital costs associated with improving their investment
7 through increased rates, while ratepayers bear the average annual cost for the
8 continued provision of safe reliable service.” Staff explained that without this
9 treatment, there is little to no incentive for the Company to keep its rate case
10 expenses to a minimum.¹⁷⁰

11 Sharing of rate case expenses has also been ordered in Minnesota. The
12 Commission found “that that shareholders as well as ratepayers benefit from the
13 rate case process and, therefore, the costs incurred by the Company in the course
14 of that process should be shared between ratepayers and shareholders.”¹⁷¹

15 **Q. ARE YOU AWARE OF ANY UTILITIES THAT HAVE ACCEPTED A**
16 **SHARING OF RATE CASE EXPENSE BETWEEN STOCKHOLDERS**
17 **AND RATEPAYERS?**

18 **A.** Yes. In Docket No. PUC 7281-03 before the New Jersey Board of Public
19 Utilities, Mr. Prettyman, testifying on behalf of Elizabethtown Water Company,
20 stated in his rebuttal testimony that: “Although the costs of a rate case filing are a
21 reasonable cost of operation for any utility particularly in this case where the

¹⁶⁹ BPU Docket No. WR05121022; OAL Docket No. PUC 3338-06; BPU Docket No. WRO6120897, New Jersey Board of Public Utilities, January 17, 2007, Dated.

¹⁷⁰ Docket No. 05-0597, Illinois Commerce Commission, July 26, 2006.

¹⁷¹ Docket No. E-001/GR-91-605, Minnesota Public Utilities Commission, June 12, 1992.

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1 Company was required to file pursuant to a Board Order, the Company will not
 2 oppose Mr. Henkes' proposal that those costs be shared between ratepayers and
 3 shareholders."¹⁷²

4 **VII. Recommendations**

5 **Q. DO YOU HAVE A SCHEDULE THAT SHOWS YOUR RECOMMENDED**
 6 **ADJUSTMENTS BY SYSTEM?**

7 A. Yes. Schedule 28 contains the rate base adjustments that are recommended by
 8 OPC. Schedule 29 contains the revenue and expense adjustments recommended
 9 by OPC. The result of the recommendations of OPC's witnesses and the not-to-
 10 exceed rate increase for the combined water and wastewater operations is shown
 11 on Schedule 27. As shown, the rate increase for the water operations is
 12 ~~\$1,182,284~~ ^{699,502} compared to the Company's request of \$4,518,353. The rate increase
 13 for the wastewater operations is ~~\$967,349~~ ^{912,366} compared to the Company's request of
 14 \$3,856,179

15 **Q. DOES THIS COMPLETE YOUR TESTIMONY PREFILED ON**
 16 **OCTOBER 13, 2008?**

17 A. Yes, it does.

¹⁷² Response to OPC Document Request 197.

1 BY MR. BECK:

2 Q. Mr. Dismukes, you also have 29 schedules; is
3 that correct?

4 A. Yes.

5 Q. And let me ask you just a couple of questions
6 about the schedules. Schedule 2 is a two-volume
7 schedule; is that right?

8 A. Yes.

9 Q. Okay. And that lists letters addressed to the
10 Commission as of October 7, 2008?

11 A. Yes, I believe you're correct.

12 Q. Which is what you could incorporate into your
13 testimony filed on October 13th; is that right?

14 A. Yes.

15 MR. BECK: Mr. Chairman, this is a little out
16 of the usual, but what I would ask is that we would like
17 to update the record with all consumer correspondence in
18 the docket through the hearing date, I guess through
19 tomorrow if we finish tomorrow, and would ask that we be
20 allowed to add that as a late-filed exhibit.

21 CHAIRMAN CARTER: How about let's give you
22 placeholder number 193?

23 (Late-filed Exhibit 193 was identified for the
24 record.)

25 MR. MAY: Mr. Chairman, could I get some

1 clarification from Charlie? Charlie, have all those
2 been passed on to the company?

3 MR. BECK: They're all on the website. The
4 Schedule 2 that Ms. Dismukes is sponsoring is in fact
5 the consumer correspondence that has gone to the
6 Commission. It's in two volumes. This would
7 essentially be a continuation of what those two
8 schedules are through the present, so that the
9 Commission has in the record all of the correspondence
10 and comments that customers have sent to the Commission.

11 MR. MAY: Okay. With that clarification, no
12 problem.

13 CHAIRMAN CARTER: Okay. You may proceed.

14 BY MR. BECK:

15 Q. And then with respect to your Schedules 27
16 through 29, could you briefly just describe what they
17 are?

18 A. Yes. Schedules 27 through 29 are schedules
19 that essentially develop the revenue requirement based
20 upon the recommendations of the Office of Public Counsel
21 witnesses.

22 Schedule 28 presents the rate base adjustments
23 that I'm recommending, as well as any rate base
24 adjustments that were proposed by other witnesses,
25 primarily Ms. Patricia Merchant.

1 Schedule 29 presents expense adjustments
2 based upon my recommendations, as well as Ms. Merchant's
3 recommendations based upon the testimony that I filed in
4 this proceeding.

5 Q. So would it be fair to say those schedules
6 represent the impact of the adjustments you make
7 elsewhere in your testimony?

8 A. Yes. Basically, these schedules take the
9 recommendations of my testimony, which address each
10 adjustment that I recommend, and distributes those
11 numbers to the various systems that are in this rate
12 proceeding. And then based upon that, there's also a
13 roll-up of what the total revenue requirement would be
14 if you were to add all the systems together, and that's
15 what's on Schedule 27.

16 Q. And do you recall at the deposition that was
17 taken by staff that you identified a series of changes
18 to the schedules originally filed?

19 A. Yes.

20 Q. Those three schedules, 27 through 29?

21 A. That's correct.

22 Q. And did you commit during the deposition to
23 file revised schedules reflecting the changes you
24 described at the deposition?

25 A. Yes, I did.

1 Q. And so you have now filed, or the Office of
2 Public Counsel has filed revised schedules for 27, 28,
3 and 29; is that correct?

4 A. Yes.

5 MR. BECK: Mr. Chairman, the exhibit list
6 shows 86, hearing I.D. Exhibit Number 86 as the
7 schedules of Ms. Dismukes, but it's all one hearing
8 identification, and we would ask that those refer to her
9 Schedules 1 through 29, but with the revised Schedules
10 27, 28, and 29.

11 CHAIRMAN CARTER: Are you comfortable with
12 that, Mr. May?

13 MR. MAY: I would like all of the schedules,
14 the original and the revised, to be part of the record.

15 MR. BECK: We would be fine with that. So it
16 would have that all incorporated into 86?

17 MR. MAY: Yes, that would be fine.

18 CHAIRMAN CARTER: So we don't need 193? Is
19 that what you're saying?

20 MR. BECK: I'm sorry? Don't need --

21 CHAIRMAN CARTER: 193.

22 MR. BECK: No, 193 is different.

23 CHAIRMAN CARTER: Okay.

24 MS. FLEMING: I believe what the Office of
25 Public Counsel is saying is, for purposes of

1 clarification of the description of Exhibit 86, we could
2 just clarify that the schedules refer to Schedules 1
3 through 29, which include the revised schedules for 27,
4 28, and 29, and we would still keep Exhibit 193 as a
5 late-filed.

6 CHAIRMAN CARTER: So this will be Schedules 1
7 through 26?

8 MS. FLEMING: Twenty-nine.

9 CHAIRMAN CARTER: One through 29. Okay.

10 MR. BECK: I wish I had said it that clearly
11 myself.

12 CHAIRMAN CARTER: Yeah, me too. But that's
13 okay. It's getting late in the day. No problem.

14 BY MR. BECK:

15 Q. Ms. Dismukes, have you prepared a summary of
16 your testimony?

17 A. Yes, I have.

18 Q. Would you please provide that?

19 A. Good afternoon, Commissioners. My name is Kim
20 Dismukes. I am presenting testimony in this proceeding
21 on revenue requirement issues and quality of service
22 issues.

23 The recommendations of the Citizens' witnesses
24 on cost of capital, used and useful, quality of service,
25 and adjustments to expenses in rate base produce a rate

1 increase of \$699,502 for the water operations and
2 \$912,356 for the wastewater operations.

3 These recommendations do not include any
4 allowance for rate case expense. However, I have
5 developed a recommendation on rate case expense after
6 reviewing the information supplied in response to Staff
7 POD 25. In addition, this recommendation does not
8 include the revenue requirements for the Tomoka/Twin
9 Rivers systems due to a problem in running that system
10 through the company's revenue requirement model.

11 As the Commission is aware, the service
12 hearings in this proceeding were replete with customers'
13 dissatisfaction with the company's customer service,
14 billing accuracy, and water quality.

15 Customer testimony on the subject of customer
16 service was extensive and critical. Complaints included
17 rude customer service representatives, difficulty
18 speaking with customer service representatives, as
19 customers were often put on hold, disconnected, and did
20 not receive promised call-backs. Customers were
21 routinely informed that they had a leak if their bill
22 was increased, when they actually did not.

23 Customers also raised concerns about billing
24 accuracy. Billing problems included estimated bills,
25 inaccurate bills, bills where an extra zero was added to

1 usage, and the associated problems with installation of
2 the radio frequency meters.

3 On the matter of water quality, customers
4 complained that the water was so bad they did not drink
5 it and they wouldn't bathe in it. Other complaints
6 included black water, over-chlorinated water, and smelly
7 water. In some places, the water was so bad customers
8 were forced to purchase filtering systems. Customers
9 also raised concerns about lack of timely boil water
10 notices.

11 Because of the serious deficiencies in the
12 company's quality of service, I recommend that the
13 Commission disallow 50 percent of the salary of
14 Mr. Lihvarcik, president of AUF, and 50 percent of the
15 salary allocated to the company by the president of Aqua
16 America, Mr. DeBenedictis. In addition, I'm also
17 recommending that the Commission reduce the company's
18 return on equity by 150 basis point for its failure to
19 provide satisfactory customer service, accurate bills,
20 and satisfactory water quality.

21 As you've heard today, the company has
22 purchased many systems in this rate proceeding from
23 Florida Water Services Corporation. At the time of the
24 acquisition, these systems had a net book value of
25 15.7 million compared to an acquisition price of

1 13 million, resulting in a negative acquisition
2 adjustment of 2.7 million.

3 The Commission's rules state that no negative
4 or positive acquisition adjustment should be included in
5 rate base absent extraordinary circumstances. The
6 company has admitted on many occasions that the systems
7 it purchased in Florida were in disrepair and had not
8 been maintained for several years prior to acquisition.
9 Because of this, I am recommending that the Commission
10 include a negative acquisition adjustment in rate base.

11 The Commission should also look very closely
12 at charges passed on to the company from its affiliates,
13 Aqua America and Aqua Services. To examine the
14 reasonableness of the charges from the company's
15 affiliates, I conducted a comparative analysis of the
16 expenses of the company, including charges from its
17 affiliates, to all other Class A water and wastewater
18 companies in the State of Florida.

19 My analysis showed that for the water
20 operations, the company's O&M expenses per ERC was
21 \$293 compared to the Class A group of \$146, or more than
22 100 percent above the industry average. Likewise, for
23 the wastewater operations, the company's O&M expenses
24 per customer was \$450 compared to the industry group of
25 \$232, or 94 percent above the industry average. My

1 analysis indicates that charges from Aqua Services and
2 Aqua America should be reduced by \$641,000 for the
3 company's water operations and by \$330,000 for the
4 company's wastewater operations.

5 I am also recommending several adjustments to
6 the company's operation and maintenance expenses in rate
7 base. Some of these adjustments include lobbying
8 expenses, costs associated with the acquisitions,
9 abnormal and nonrecurring expenses, relocation expenses,
10 directors' and officers' liability insurance, Aqua
11 Connect expenses, and bad debt expense.

12 When combined with the recommendations of the
13 other OPC witnesses, the company's requested revenue
14 increase should be reduced by 6.8 million.

15 That completes my summary.

16 MR. BECK: Thank you. Ms. Dismukes is
17 available for cross-examination.

18 CHAIRMAN CARTER: Ms. Bradley.

19 CROSS-EXAMINATION

20 BY MS. BRADLEY:

21 Q. Ms. Dismukes, on page 137 of your testimony --

22 CHAIRMAN CARTER: Turn your mike on, please,
23 your microphone.

24 MS. BRADLEY: Sorry. Thank you.

25 BY MS. BRADLEY:

1 Q. Ms. Dismukes, on page 137 of your testimony,
2 you indicated that you had not provided all the
3 information necessary to give an opinion as to rate case
4 expense requested.

5 A. I indicated that my revenue requirements did
6 not include rate case expense at this point in time,
7 yes.

8 Q. Have you gotten sufficient data to have an
9 opinion as to that at this time?

10 A. In response to Staff Production of Documents
11 Request 25, the company did produce some requested rate
12 case expense with supporting vouchers through -- I
13 believe actual -- it depends on the consultant or the
14 attorneys. It was either through August or September,
15 and we don't have anything beyond that point. We have
16 estimates for beyond that point. But I have had an
17 opportunity to examine that and develop a recommendation
18 based upon what I've been presented thus far.

19 Q. And what is that recommendation?

20 MR. MAY: Mr. Chairman, if I may, just to get
21 clarification, this is brand new to us. We've never
22 seen this recommendation. It's quarter to 5:00 on the
23 second day of the hearing. Getting information like
24 this, I think it would be only fair if she would provide
25 us with her written recommendation so that we can

1 adequately respond at the appropriate time. I don't --

2 CHAIRMAN CARTER: Okay. Let's do this. It is
3 new information. Staff, do you have the information?

4 MR. SAYLER: It's new to us, Chairman.

5 CHAIRMAN CARTER: Okay. It's new to the
6 staff, and it's new to the party. Let's do this. That,
7 as well as whatever adjustments she has made subsequent
8 to then, Mr. Reilly, can we just get that and have it
9 available and give it to the parties, and we can look it
10 over.

11 And let's do this. Let's get that, and we'll
12 start anew first thing in the morning at 9:30. We're on
13 recess.

14 (Proceedings recessed at 4:45 p.m.)

15 (Transcript continues in sequence with
16 Volume 6.)

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CERTIFICATE OF REPORTER


STATE OF FLORIDA:

COUNTY OF LEON:

I, MARY ALLEN NEEL, Registered Professional Reporter, do hereby certify that the foregoing proceedings were taken before me at the time and place therein designated; that my shorthand notes were thereafter translated under my supervision; and the foregoing pages numbered 540 through 770 are a true and correct record of the aforesaid proceedings.

I FURTHER CERTIFY that I am not a relative, employee, attorney or counsel of any of the parties, nor relative or employee of such attorney or counsel, or financially interested in the foregoing action.

DATED THIS 10th day of December, 2008.


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