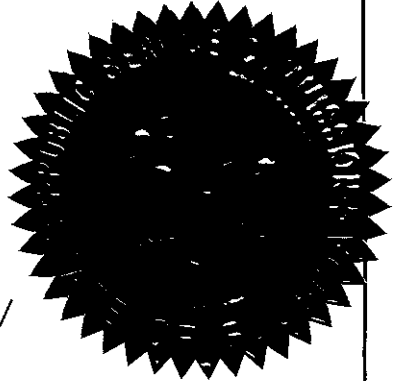


BEFORE THE
FLORIDA PUBLIC SERVICE COMMISSION

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 8

Pages 981 through 1190

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THE OFFICIAL TRANSCRIPT OF THE HEARING.
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PROCEEDINGS:	HEARING
BEFORE:	CHAIRMAN MATTHEW M. CARTER, II COMMISSIONER LISA POLAK EDGAR COMMISSIONER KATRINA J. McMURRIAN COMMISSIONER NANCY ARGENZIANO COMMISSIONER NATHAN A. SKOP
DATE:	Wednesday, December 10, 2008
TIME:	Commenced at 9:30 p.m. Recessed at 7:26 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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COMMISSION CLERK

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P R O C E E D I N G S

(Transcript follows in sequence from
Volume 7.)

Thereupon,

CATHERINE A. WALKER

continues her testimony under oath as follows:

COMMISSIONER ARGENZIANO: Let me stop you for
a second, because what I'm hearing you say -- and I
don't mean this with disrespect. I mean it with true
angst, I guess, because I'm not sure if you're hearing
what I'm saying. The bureaucratic answer goes all over
the place. What I'm trying to get to is, are there
limitations on what is allowed to be flushed?

First of all, I can't believe they're just
allowed to flush water out in the street, and I think
you're telling me they are. And when it comes to the
wetlands, which are so protected -- I mean, if an
average homeowner walks in a wetland, he's got a
violation of some kind on him. You have to have some
kind of standards that says if you're going to flush
water that's been treated with chemicals, that has
chemicals in it, or whatever it is, there must be some
type of standards, parts per million, something, that
you are allowing or permitting, because I'm sure that
the utility can't just go out there and flush whatever

1 they want into the wetlands. That's what I'm trying to
2 get at, and I'm trying to get at who checks to see what
3 is actually being flushed out.

4 THE WITNESS: Well, I'll respond to your
5 question by saying that in the consumptive use
6 permitting program, what we look at is the quantity of
7 what that is used for that particular purpose. Where it
8 is discharged, we --

9 COMMISSIONER ARGENZIANO: If you're going to
10 tell me you don't care, I'm going to jump out of my seat
11 and scream.

12 THE WITNESS: No, I'm not going to tell you --

13 CHAIRMAN CARTER: Don't jump out of your seat.

14 THE WITNESS: I'm not going to tell you that
15 we don't care. I'm going to tell you that the
16 environmental resource permitting program evaluates
17 discharges to wetlands, although --

18 COMMISSIONER ARGENZIANO: You're talking about
19 the ERPs, which you now have control over, not DEP
20 anymore.

21 THE WITNESS: That's correct. That's correct.
22 And what I'll tell you is, specific to the complaints
23 that the District has received with respect to flushing
24 in this area, District staff have gone out and responded
25 to complaints and investigated, and our staff has not

1 documented any harm to wetlands as a result of this
2 activity.

3 COMMISSIONER ARGENZIANO: Okay. That's great.
4 But what I want from you, and I don't expect it in a
5 minute, and if I have to, I'll ask someone in the Senate
6 to request it. I don't think I'll have to do that. But
7 what I want is some type of formula or something that
8 you use in regards to flushing in wetlands and out in
9 people's streets and neighborhoods as to what's allowed,
10 because truthfully, I've had cases when I was in the
11 Legislature when the average homeowner was in so many
12 violations for flushing something.

13 I don't know. The point I'm trying to get is,
14 I would like to know what your specifics are. Tell me
15 the amounts of water and what they're allowed to flush,
16 because you can't be telling me, and I hope you're not
17 telling me that a utility can flush out anything they
18 want as long as there's, you know, a million gallons to
19 -- there's got to be chemicals that are not allowed to
20 be flushed, or if they are, to be certainly mixed or
21 diluted with parts per million in water, or whatever,
22 however it's done. So if you can, in the near future,
23 maybe get something to my office that would give me a
24 better understanding of how it's allowed.

25 And then to answer the other question, I

1 guess, in the CUP, you're indicating that that is the
2 permit to allow the utility to flush -- or under the
3 ERP, to flush the water out, whether it's out in the
4 street or out in the wetland?

5 THE WITNESS: No. What I said is that the
6 flushing is an authorized use under the consumptive use
7 permit. We do not have a numerical standard or a
8 formula to determine what the correct amount is or what
9 the quality that comes out of a potable water
10 distribution main has to be before it is discharged.

11 COMMISSIONER ARGENZIANO: So even though they
12 use chemicals in the water, there's no standard for what
13 chemicals get released into the wetlands?

14 THE WITNESS: I'm trying to think if there's a
15 standard in the ERP or the DEP program, and I think I'm
16 going to defer to the DEP witness that will follow me on
17 that.

18 COMMISSIONER ARGENZIANO: Okay. Whatever you
19 could find out, I would appreciate it.

20 THE WITNESS: Generally, our CUP standard
21 requires that a water use not cause harm to a resource,
22 and we have --

23 COMMISSIONER ARGENZIANO: But if you have no
24 standards or no criteria to meet, the harm would already
25 be caused before you knew about it, wouldn't it?

1 THE WITNESS: Not necessarily.

2 COMMISSIONER ARGENZIANO: Really? How would
3 you know? Let's say Utility A was flushing out arsenic
4 or large levels of arsenic today. How would you know
5 until you went and tested it if you didn't have them
6 follow some type of standards?

7 THE WITNESS: Well, no disrespect intended,
8 but I think if the utility had distribution system lines
9 full of arsenic, they would have a lot of problems
10 before they started discharging it.

11 COMMISSIONER ARGENZIANO: Well, we're talking
12 about a utility that has a lot of problems. That's what
13 I'm trying to get at, and I'm trying to get at what the
14 standards are. I just cannot believe -- I really
15 thought you were going to tell me there's a certain
16 formula to allow the release of water, you know, that
17 comes from a plant.

18 Maybe the company could answer something or
19 whatever that would make more sense to me than just
20 saying, "Well, under the ERP, we allow for a utility to
21 flush whatever you want out into the wetland." But God
22 forbid the little homeowner does it. Boy, let's put him
23 up on the cross and, you know, do whatever we've got to
24 do. And I hate to be sarcastic, but I had years and
25 years of that stuff and know exactly, you know, what

1 happens, and I'm just curious how this comes about with
2 any kind of formula.

3 And, Mr. Chair, I'm sorry to belabor the
4 point, but it really boggles my mind that I have no
5 formula. And maybe afterwards -- I know it's putting
6 her on the spot, but maybe afterwards there may be
7 something that they come up with that may ease my
8 concern in that area that I would appreciate.

9 CHAIRMAN CARTER: Okay.

10 MS. FLEMING: Chairman, if I may.

11 CHAIRMAN CARTER: You're recognized.

12 MS. FLEMING: At this point, I would suggest a
13 late-filed exhibit from staff on behalf of witness
14 Walker to address some of the questions raised.

15 CHAIRMAN CARTER: And that will be Number 201,
16 Commissioners, Exhibit Number 201.

17 MS. FLEMING: And I'm looking, and I'm
18 thinking with respect to the late-filed exhibit, we can
19 address the consumptive use standards and how they
20 address possibly the flushing discharge and any concerns
21 that Commissioner Argenziano has raised.

22 CHAIRMAN CARTER: Okay. That's fine.
23 Commissioner, we'll have that as a late-filed exhibit,
24 so we'll have it before we complete our deliberations on
25 that.

1 COMMISSIONER ARGENZIANO: Great. Thank you,
2 Mr. Chair.

3 (Late-filed Exhibit 201 was identified for the
4 record.)

5 CHAIRMAN CARTER: Anything further for
6 Ms. Walker?

7 BY MS. FLEMING:

8 Q. Ms. Walker, have you completed your summary?

9 A. Yes, I have.

10 MS. FLEMING: Okay. This witness is now
11 tendered for cross.

12 CHAIRMAN CARTER: Wait. Mr. Reilly.

13 MR. REILLY: I'm just waiting for cross.

14 CHAIRMAN CARTER: Okay. Well, wait no longer.

15 MR. REILLY: Okay. Thank you very much.

16 CHAIRMAN CARTER: You're recognized.

17 CROSS-EXAMINATION

18 BY MR. REILLY:

19 Q. Good afternoon, Ms. Walker.

20 A. Good afternoon Mr. Reilly.

21 Q. We really do appreciate you being here this
22 afternoon and offering your expertise to address these
23 water quality issues. If I could, I'll just try to
24 touch on a few questions so that I can comprehend a
25 little better your exchange with Commissioner

1 Argenziano.

2 The first question is, what are the District
3 requirements for, say, a single-family residential
4 homeowner who decides that it's in his interest to sink
5 a well for personal home irrigation purposes? Is there
6 some threshold that the District looks at to even --
7 whether that person would even be required to have a
8 permit to sink that small well?

9 A. The District -- within Seminole County and
10 Chuluota, well construction permits for wells less than
11 six inches in diameter fall below the District
12 consumptive use permitting threshold.

13 However, the District regulates irrigation use
14 through those wells under what we refer to as the
15 general permit by rule, which is in 40C-2.042, and that
16 limits irrigation currently to two days a week, and it
17 prohibits irrigation between the hours of 10:00 a.m. and
18 4:00 p.m.

19 The construction of the well requires the
20 submittal of a well completion report to the Water
21 Management District, and that assures that the well is
22 constructed by a licensed contractor and meets well
23 construction standards. But the use of it is regulated
24 under the general permit by rule.

25 Q. So that's anything below six inches in

1 diameter? I mean, that's a pretty big well.

2 A. That's correct.

3 Q. I mean, even like a four-inch well would draw
4 a tremendous amount of water, would it not?

5 A. Well, we have a number of different thresholds
6 for permitting in the CUP program. The six-inch
7 diameter is one threshold. If a use exceeds 100,000
8 gallons per day on an annual average day, or if it has a
9 capacity of withdrawing more than 1 million gallons per
10 day, it's required to come in to the District and get a
11 consumptive use permit.

12 Q. Now, more typically, a private residential
13 well, it would be more -- what? A two-inch?

14 A. Generally, yes.

15 Q. More generally?

16 A. Yes.

17 Q. Did I understand your testimony earlier to be
18 that all things being equal, meaning not considering
19 more or less quantity of water, that having multiple,
20 multiple irrigation, residential irrigation wells
21 throughout the service territory might cause more harm
22 to the water source than having Aqua provide that water
23 through its facilities?

24 A. Theoretically, that scenario could cause an
25 acceleration of the deterioration in the water quality,

1 particularly salt water intrusion.

2 Q. Okay. Now, in addition to that -- and I don't
3 pretend to understand the reasons for that, but I'm
4 going to take it as a given. But in addition to that,
5 would you --

6 COMMISSIONER ARGENZIANO: Mr. Chair.

7 MR. REILLY: Excuse me?

8 COMMISSIONER ARGENZIANO: Mr. Chair.

9 CHAIRMAN CARTER: Commissioner Argenziano.

10 COMMISSIONER ARGENZIANO: I'm sorry, but I'm
11 going to have to make a statement that I don't think the
12 witness said that, and I don't think it is a given.
13 That's misleading, and at some point down the line, if
14 you want to get a water expert in, we can do that. But
15 I just want to get it on the record that the company is
16 pumping -- and I'm not saying it is, but any well
17 pumping is detrimental, not just a person's right to
18 have their own irrigation well, which, by the way, an
19 average homeowner's irrigation well is far less than six
20 inches. It's about two inches.

21 MR. REILLY: Sure.

22 COMMISSIONER ARGENZIANO: And I just think
23 that's an inaccurate statement, and I want to be on the
24 record saying that. I'm not trying to say that the
25 utility is causing harm, but any well, whether it's the

1 utility -- the utilities probably would not want those
2 irrigation wells in there, for several reasons.

3 And one, it would be because if -- what I
4 heard the Water Management District say and what I'm
5 thinking I'm understanding -- and I will look at the
6 maps of those water zones. What I understand it to be
7 saying is that those wells, those irrigation wells are
8 at a higher level than the utility's wells, and, of
9 course, it would take the water that the utility --
10 laterally first, which, if they have the right to do,
11 that would be their right. That's one of the reasons
12 the utility wouldn't want that to happen.

13 But I don't want it as a given. Until you get
14 a real expert in there who can tell you whether that's
15 true or not, I have concerns that that is not a given.
16 And I thank you, Mr. Chairman, for letting me cut in
17 there.

18 CHAIRMAN CARTER: Thank you Commissioner.

19 MR. REILLY: Thank you, Commissioner.

20 BY MR. REILLY:

21 Q. Well, just setting aside that entire issue,
22 the genesis of this whole question of irrigation and
23 whether people will go out and sink wells came from
24 Ms. Kelly's comments on the first day of the hearing
25 when she, I guess, speculated that if a very substantial

1 rate increase was put into place as a result of this
2 case, and even that rate increase, as substantial as it
3 is, was weighted for usage above 5,000 gallons per day,
4 which would be essentially your irrigation usage, that
5 there would be a tremendous financial incentive for
6 many, many people in the Chuluota area to go out and get
7 unpermitted two-inch wells and begin paying for those
8 facilities and, according to her numbers, depending on
9 what the rate increase is, basically recovering the cost
10 of that private well within the first year of operation,
11 and then saying that this is an unintended consequence
12 of this proceeding, that it could accelerate the water
13 resource problem.

14 Would you comment on that observation?

15 A. Yes, I would. And I mentioned to you that
16 that irrigation usage is regulated by the Water
17 Management District under general permit by rule. And
18 we currently -- just yesterday our board considered some
19 amendments to that general permit by rule that would
20 strengthen it to further limit the use of irrigation,
21 regardless of whether it comes from the utility or
22 whether it comes from a private irrigation well or
23 whether it comes from a lake. We also had consideration
24 for limiting sources, including reclaimed water, in
25 terms of how much irrigation could be allowed from

1 reclaimed water, because we want to encourage people to
2 be efficient in their irrigation practices.

3 One of the steps that we took yesterday in the
4 rulemaking is to include a provision in that rule that
5 prohibits the use of a private irrigation well if
6 reclaimed water is available. It may be the case that
7 we could further do rulemaking to prohibit the use of
8 irrigation wells under different circumstances, the
9 point being that we want to encourage people to be
10 conservative in their water use and irrigate no more
11 than is necessary. Regardless of what source it is, we
12 really want to reduce consumption that is directed
13 towards irrigation.

14 Q. Chuluota's water system, what is -- the
15 consumptive use permit, what is the average annual
16 gallons per day allotted withdrawal?

17 A. I think I have the technical staff report here
18 with me.

19 The current permit authorizes 581,000 gallons
20 per day on an annual average basis.

21 Q. And what is your understanding of how much of
22 this allotment has historically, say, the last year the
23 Chuluota system been using?

24 A. I don't have that number in front of me. I
25 would be able to find that for you.

1 Q. In a little bit, we'll get into it a little
2 bit more, but that is not one of the problems with the
3 consent order with Chuluota, overwithdrawing, which
4 we'll talk about in a minute, the Chuluota consent
5 order?

6 A. Yes, there's a consent order that has been
7 finalized and closed. There's not an active consent
8 order for Chuluota.

9 Q. Okay. You had said that the City of Oviedo,
10 there was some discussion about them providing water for
11 Chuluota, but problem is, Oviedo's consumptive use
12 permit was not of sufficient size to really allow them
13 to supply Chuluota. Did I understand you to say that?

14 A. Yes. Basically what the Oviedo permit now --
15 it contemplates the service area for the City of Oviedo,
16 so their allocation should be matched with the
17 anticipated demand from Oviedo's service area. In order
18 to service Chuluota, that service area would need to be
19 incorporated into the other permit. And to increase the
20 other permit by half a million gallons per day, more or
21 less, to serve Chuluota, I'm not -- I would have to --
22 you know, we would have to go through and review that,
23 but based on the regional resource impacts, I think we
24 would be hard pressed to recommend an increase in
25 groundwater allocation for Oviedo.

1 Q. My question with regard to that would be, if
2 Oviedo and Aqua negotiated some arrangement where Oviedo
3 did provide water, and to the extent that water kept
4 Aqua from spending a great deal of money and effort to
5 clean up its water, could not some of Aqua's consumptive
6 use permit be assigned or sold or otherwise allocated to
7 Oviedo so that the Oviedo water could, in effect,
8 replace the withdrawals, and you could have an effect
9 where the consumptive use permit for Aqua would be
10 reduced and a commensurate increase by Oviedo?

11 A. What we would have to do is analyze the
12 difference in shifting the location of the pumpage from
13 Oviedo's wellfield to -- or from Chuluota's wellfield
14 over to Oviedo and determine whether or not that would
15 cause or contribute to resource impacts.

16 We don't do -- you know, you can't buy and
17 sell allocations. You can't trade allocations. It
18 doesn't quite work that way. We look at the reasonable
19 beneficial need, and we evaluate the impacts associated
20 with the withdrawals.

21 Q. Is that something that has been done in the
22 District before?

23 A. Well, certainly there are a number of
24 utilities that have acquired other utilities and
25 redistributed withdrawals such that they achieve a

1 scenario that is permissible under our criteria.

2 Q. Okay. Moving right along, and time is of the
3 essence, you did offer an incredibly helpful two-page
4 exhibit, CAW-3, which is our comprehensive Exhibit
5 Number 129. And what I was hoping to do this afternoon
6 briskly, but taking advantage of your presence here, is
7 to basically go through that exhibit and look at the
8 material violations and see if we have in the record the
9 most updated and true, accurate representation of what
10 the status is of the various systems, and focusing our
11 attention only on those systems, you know, that had
12 problems and violations with the District.

13 So if I could direct your attention to page 1
14 of 2 to begin with, and we'll just try as quickly as we
15 can -- because there was some testimony, rebuttal
16 testimony to your testimony that questioned some of your
17 statements, and if we could just get your last
18 pronouncement on each of these things.

19 The first system is Arrendondo Estates and
20 Farms, and you say there are violations. And at the
21 time that you prepared this, you said that that permit
22 was still not in the name of Aqua Utilities Florida.
23 Has that been corrected? Have they come in, and what is
24 the status of that permit holder?

25 A. Well, I think I stated at the beginning of my

1 testimony that this exhibit is current to the best of my
2 knowledge, so as far as I know, there should not be any
3 changes to each of these comments here.

4 Q. Okay. And that's true all the way down the
5 line?

6 Let me ask you this. I notice you have
7 violations, and then you have -- it results in either --
8 there has been no enforcement, and you have an NOV or
9 notice of violation, and the next step is a consent
10 order. Could you share with us the process from having
11 a problem and you notify the company and it gets to a
12 high enough level where you give them a notice of
13 violation, and then it seems to go to the next step,
14 which is an actual consent order? Could you share how
15 that occurs so we can better understand this schedule?

16 A. Well, if there's a "yes" in this violation
17 comment, it could be anything as minor as a water use
18 report that was submitted a week late. If it didn't
19 come in specifically on time in accordance with the due
20 date, we would have identified that there was a
21 violation. If we get the report in, you know, a week
22 later, it's very likely that we're not going to send an
23 NOV or pursue any further enforcement, because we've
24 gotten the reporting that we need.

25 If we send an NOV, it typically is something

1 that we have sent a reminder letter and asked the
2 utility to please submit the report, and it's either
3 gone unacknowledged or it comes in significantly late,
4 and we'll send a notice of violation. If we send a
5 notice of violation and the permittee comes in pretty
6 quickly after that and gets into shape, so to speak,
7 after they get a nastygram, then very often we do not
8 pursue enforcement. We typically do enforcement if
9 there is no cooperation on the part of the permittee or
10 if the violation is significant enough that we
11 anticipate that there could be potentially harm to the
12 resource, or if we're not getting information that we
13 need to evaluate the condition of the resource, then we
14 would step up the enforcement.

15 Q. There are a number of these systems where you
16 say they have exceeded their allocation. How long does
17 that go on before the district feels it's appropriate to
18 really begin this -- the nasty letter and then follow up
19 with the consent?

20 A. Well, utilities report every six months, and
21 their allocation is on an annual basis. If they have
22 one year where they exceed their allocation by, you
23 know, maybe, you know, a slight percentage, maybe
24 5 percent, typically what we'll do is, we'll ask them to
25 submit a corrective action plan and evaluate the causes

1 of why they have exceeded their allocation and come up
2 with a plan to either reduce the demand, or if the
3 allocation is exceeded because growth has occurred in
4 the area that they didn't anticipate when they applied
5 for their permit, they would need to come in and request
6 a modification and provide documentation that an
7 increase in allocation is warranted.

8 Q. Okay. So you stand by all the comments made
9 on this two-page exhibit at this point?

10 A. Yes, sir.

11 Q. Are you aware that Chuluota, because of the
12 quality of water problems, has very recently begun to
13 embark on what they call an aggressive and extensive
14 water flushing program? And my question to you is, I
15 guess that wouldn't have an impact or concern to you,
16 except to the extent that that program might cause them
17 to exceed their drawdown? Is that pretty much the
18 District's position?

19 A. Well, I have not been informed that they have
20 embarked on a new aggressive flushing program. As I
21 mentioned before, it is considered a reasonable
22 beneficial use, and it is necessary to maintain
23 distribution water quality. If in fact that caused them
24 to exceed their permit allocation, we would need to sit
25 down and talk to them about whether or not that's the

1 most efficient and effective thing they could do to
2 remediate the water quality and provide a plan for
3 either staying in compliance or demonstrating that it's
4 essential that they continue on this program.

5 Q. And that is particularly true because Chuluota
6 is located in a priority water resource caution area; is
7 that correct?

8 A. Yes. I mean, conservation is critical in a
9 priority water resource caution area, but the need for
10 them to stay within their allocation is really
11 independent of being in a priority water resource
12 caution area.

13 MR. REILLY: I think that concludes our
14 questions at this time.

15 CHAIRMAN CARTER: Thank you, Mr. Reilly.
16 Ms. Bradley.

17 MS. BRADLEY: Thank you.

18 CROSS-EXAMINATION

19 BY MS. BRADLEY:

20 Q. Ms. Walker, I was looking at your chart here,
21 and it indicates that Chuluota's permit expired
22 4/12/2007?

23 A. That's correct.

24 Q. What happened --

25 A. They have submitted a renewal application, and

1 when they submit a renewal application prior to the
2 expiration date, their current permit is
3 administratively continued until the application is
4 complete and a new permit is issued.

5 Q. Did they do that before their permit expired?

6 A. Yes.

7 Q. And it also indicates that they're under a
8 consent order?

9 A. The consent order was issued and completed in
10 January of this year.

11 Q. And what does that --

12 A. And that means the consent order is closed.
13 There are no further activities required under that
14 consent order.

15 Q. And that's the consent order for your Water
16 Management District? That doesn't have anything to do
17 with the DEP one; is that correct?

18 A. That's correct. The consent order that the
19 District issues is specific to Water Management District
20 rule and permit violations.

21 Q. Your chart says that was issued for multiple
22 violations. Could you be more specific?

23 A. I don't have the document in front of me. I'm
24 sorry. I could provide that at a later date if that
25 would be helpful.

1 MS. BRADLEY: I would certainly be interested
2 if we could do that, Mr. Chairman.

3 CHAIRMAN CARTER: Okay. That will be
4 Late-filed Exhibit Number 202, Commissioners.

5 COMMISSIONER ARGENZIANO: Mr. Chair.

6 CHAIRMAN CARTER: You're recognized,
7 Commissioner.

8 COMMISSIONER ARGENZIANO: If Ms. Bradley is
9 finished, I would just like to ask Ms. Walker another
10 question.

11 CHAIRMAN CARTER: I think she's -- she looks
12 like she's getting second wind, Commissioner.

13 MS. BRADLEY: But I'll be happy to defer if
14 the Commissioner would like to ask --

15 CHAIRMAN CARTER: Hang on a second. Let's get
16 the title for the late-filed.

17 MS. BRADLEY: I guess Consent Order Specifics.

18 CHAIRMAN CARTER: Okay. Ms. Walker, does that
19 give you enough information to know what we need on
20 that?

21 THE WITNESS: Yes, sir.

22 (Late-filed Exhibit 202 was identified for the
23 record.)

24 CHAIRMAN CARTER: Okay. Commissioner
25 Argenziano.

1 COMMISSIONER ARGENZIANO: I can wait for
2 Ms. Bradley to finish. That's not a problem at all.

3 CHAIRMAN CARTER: Ms. Bradley, you're
4 recognized.

5 MS. BRADLEY: Thank you.

6 BY MS. BRADLEY:

7 Q. With this consumptive use permit, who measures
8 how much they're withdrawing? I mean, is that something
9 you all do or something Aqua does?

10 A. Aqua does that. They're required to have
11 meters on their withdrawal points, and they're required
12 to calibrate and certify those meters on a regular
13 basis.

14 Q. And are you involved in the calibration or
15 certification?

16 A. They submit calibration reports to the
17 District as a requirement of their permit.

18 Q. And is there any check by your district?

19 A. I'm sorry?

20 Q. Is there any checkup on that by your district?

21 A. Yes. We review the calibration reports that
22 are submitted by the utility.

23 Q. How often are they submitted?

24 A. Once every three years, I believe.

25 Q. Do you know when the last time you got one of

1 those reports was?

2 A. Not at this time. That is something I could
3 find out, though.

4 Q. All right. Now, you said you met with the
5 consumers in this area and talked to them about
6 conservation. And we've had testimony at different
7 hearings about people taking three-minute showers. Some
8 said they were only watering once a week, or a few
9 people said they had pretty much just let their lawns go
10 because they couldn't afford to water, and they're
11 checking their water consumption morning and evening to
12 make sure it has decreased. Is that the type things
13 that you were talking about as far as water
14 conservation?

15 A. Well, in the community meetings, we talked
16 about basically limiting irrigation, that if you're
17 going to irrigate, you need to have an efficient
18 irrigation system and have not deliver any more water
19 than is necessary for the survival of the landscape. We
20 talked about just being conscious of how much water you
21 use in your home and not letting the water run. We did
22 provide some materials that had to do with landscape
23 design and the installation of plants that would require
24 minimal supplemental irrigation.

25 Q. Have you had an opportunity to review any of

1 the testimony for this case or the hearings where the
2 people have talked about doing exactly the type things
3 you're talking about?

4 A. No, ma'am, I haven't.

5 Q. When you said something about -- and this may
6 have already been asked, and forgive me if it has, but
7 you said something about you wouldn't do anything about
8 the amount they were taking out unless it was excessive;
9 is that correct? Actually, that may have been in regard
10 to flushing. You were asked about the flushing, and I
11 believe your statement was that that wouldn't affect
12 anything unless you found that it was excessive.

13 A. Well, I think what I tried to communicate is
14 that we consider it a necessary and reasonable
15 beneficial use. And I did say that provided that it's
16 not excessive, but we don't have a real standard. It
17 really has to do with judgment.

18 But one thing that I think I would suggest is
19 that, you know, it costs the utility money to run the
20 pumps and discharge water that they're not able to sell,
21 so I would think that they would flush the minimum
22 required to maintain the water quality.

23 Q. Do you have any idea what that would be, or
24 what you would consider reasonable?

25 A. It really depends on the distribution system

1 configuration and a number of factors that affect the
2 water quality in the distribution system. And I think
3 the DEP witness might be more qualified to testify to
4 the factors that affect distribution system water
5 quality and public health associated with what is needed
6 to maintain the disinfectant residual.

7 Q. Have you gotten any complaints from that area
8 about -- there was testimony that one lady complained to
9 somebody because -- I don't even think she was in that,
10 but she was living close enough, and the water was
11 piling up in her yard and that type of thing. Have you
12 gotten any of those complaints?

13 A. The District has received complaints from
14 residents in Chuluota, and we have gone out and
15 investigated a number of those complaints. And what the
16 staff has reported to me is that they have not observed
17 any harm that's associated with the flushing of the
18 mains.

19 Q. What about the nuisance value to the customers
20 who suddenly have their yards filled up with water? Is
21 that something that comes within your jurisdiction?

22 A. Well, that particular issue hasn't been
23 brought to my attention.

24 Q. Okay. This water that's being flushed, where
25 does it go?

1 A. I'm sorry?

2 Q. Where does this water go when it's flushed?

3 A. Well, it's my understanding that it's often
4 discharged into the roadways, where it might go to a
5 storm drain and eventually into a stormwater management
6 area. And I've heard from the witnesses here, the
7 testimony of others that it is discharged to wetlands,
8 but to my knowledge it basically goes into a stormwater
9 management system.

10 Q. And where does that water go?

11 A. Well, it either gets retained there in that
12 stormwater management area, where it eventually
13 recharges into the ground, or it may overflow. I'm not
14 specifically familiar with the layout of the stormwater
15 management system there.

16 Q. For those of us who are not familiar with this
17 issue like you are, when you say recharges into the
18 ground, does that mean eventually it all goes back to
19 the aquifer?

20 A. It would percolate into the ground, and
21 eventually it would go back into the aquifer, yes.

22 COMMISSIONER ARGENZIANO: Mr. Chair.

23 CHAIRMAN CARTER: You're recognized.

24 COMMISSIONER ARGENZIANO: Just to interject
25 something, not all of it would go back. There's plenty

1 lost to evaporation. But, yes, it would go back, but I
2 just wanted to add that, because not all of it returns
3 as recharge.

4 MS. BRADLEY: Thank you.

5 BY MS. BRADLEY:

6 Q. And did you say that you don't have the actual
7 figures on -- or that you all don't keep the actual
8 figures about how much they're using or withdrawing
9 monthly, that that's something that's submitted every
10 three years?

11 A. No. What I said was that they report their
12 water use twice a year. They are required to submit
13 monthly water use reporting, and they submit it to the
14 District twice a year. So they would collect and record
15 water use on a monthly basis and submit it to the
16 District twice a year. So in July, we get a report that
17 shows what they used January through June each month,
18 and then in January, we would get July through December.

19 Q. Does it just have a total amount, or does it
20 show we used this much for the plant, we used this much
21 for flushing, we used this much for our consumers. Is
22 there any breakdown on that?

23 A. Well, it's broken down by the well. It will
24 show how much is used -- or how much is pumped from each
25 well. And the figures in terms of how it's broken down

1 by use are submitted when they come in either for a
2 permanent application or a renewal.

3 Q. How many wells does Aqua have?

4 A. I believe they have two or three production
5 wells. Let me see if I can -- it's my understanding
6 that they have two active production wells and two
7 monitoring wells.

8 Q. Two active production, and what was the second
9 one?

10 A. Two active monitoring wells.

11 Q. What are active monitoring wells?

12 A. These are wells that -- they observe water
13 quality on a regular basis, and water levels. In other
14 words, they don't withdraw from the wells. They just
15 use them to sample for water quality.

16 Q. So they don't actually test the active wells?
17 They test these monitoring wells?

18 A. They test the active wells too, but the
19 monitoring wells are used as an indicator for the
20 movement of the saline water interface.

21 Q. Okay. Now, how far -- where does the water
22 for these wells come from, actually?

23 A. It comes from the Upper Floridan Aquifer.

24 Q. And how many wells does Oviedo have?

25 A. I don't have that information on the tip of my

1 tongue. It is --

2 Q. Do you know where that water comes from?

3 A. It generally comes from the same source, the
4 Upper Floridan Aquifer, yes.

5 Q. We've had testimony from numerous people that
6 Oviedo is, like, a mile down the road from a lot of
7 these customers, and the testimony is that the water in
8 Oviedo is very clear. They don't seem to have any
9 problem with that, and yet the Chuluota water a mile
10 down the road has black stuff in it, and they refer to
11 the goo and this type thing. Why would the two waters
12 coming from the same source be so different?

13 MS. FLEMING: Chairman, I would like to
14 object. It sounds to me as if Cecelia Bradley's
15 question is leading more to the quality of the water,
16 which is really not the scope of this --

17 CHAIRMAN CARTER: That is the DEP witness.
18 Objection sustained. Let's move on, Ms. Bradley.

19 MS. BRADLEY: Mr. Chairman, can I point out
20 that in her testimony, she indicated that she works with
21 hydrologists and environmental folks? And it was my
22 understanding that was part of what they do.

23 CHAIRMAN CARTER: Your question went more to
24 the quality of the water. She did not say that. She
25 was talking about the quantity. She was saying what the

1 District's responsibility was was the quantity. So the
2 objection is sustained. Move on.

3 BY MS. BRADLEY:

4 Q. And you indicated that you all -- something
5 about you all go out and monitor the water that's
6 actually being flushed.

7 A. I did not say that we monitor the water that's
8 being flushed.

9 Q. You didn't indicate that you go out and check
10 to see what's coming out in that water?

11 A. I did not say that we do that.

12 Q. All right. I misunderstood you, then. What
13 were you talking about checking when you got the reports
14 of the flushed water?

15 A. What I was trying to explain is, when we look
16 at a consumptive use permit application to determine the
17 reasonable need for water, we require them to submit
18 water audit reports that identify how much water is used
19 for utility use, water utility use, which includes line
20 flushing. So the quantity of water is reported in their
21 water audit form.

22 Q. So you don't check to see what's being flushed
23 or if there's any problem with the water quality?

24 MS. FLEMING: Chairman, objection. She has
25 already answered this question.

1 CHAIRMAN CARTER: Sustained. Ms. Bradley,
2 we've been down this road, and we said that we're going
3 to get that question answered by the DEP witness.
4 You're asking the same question. The objection has been
5 raised, the objection has been sustained, and I caution
6 you.

7 MS. BRADLEY: I was just trying to get the
8 information, sir.

9 CHAIRMAN CARTER: From the wrong witness.

10 MS. BRADLEY: I have no further questions if I
11 can't ask my questions.

12 CHAIRMAN CARTER: Thank you. Commissioner
13 Argenziano.

14 COMMISSIONER ARGENZIANO: Thank you,
15 Mr. Chairman. Just a couple of questions very quickly.

16 Do you know the average household in
17 Chuluota's water use per day, how many gallons?

18 THE WITNESS: I'm sorry. I couldn't hear and
19 understand the whole question.

20 COMMISSIONER ARGENZIANO: Okay. Can you hear
21 me now?

22 THE WITNESS: Yes.

23 COMMISSIONER ARGENZIANO: This is not a
24 Verizon commercial. Can you hear me now?

25 THE WITNESS: I can hear you now.

1 COMMISSIONER ARGENZIANO: Okay. Do you know
2 the average Chuluota homeowner's use per day, water use
3 per day in gallons?

4 THE WITNESS: Not off the top of my head.
5 Again, that is another number that I could go and find
6 out for you.

7 COMMISSIONER ARGENZIANO: I would like that,
8 because I don't know how you can -- I mean, if the
9 utility is using more than its consumptive use permit,
10 it's either for two reasons. One is that there's too
11 many people on the system or adding to the system, or
12 that the homeowners are using more than the average
13 person throughout Florida does a day.

14 And from what I heard from the hearings down
15 there, people were truly, I mean, putting timers, as was
16 indicated before, on their showers, and truly having to
17 because they can't financially afford any more water.
18 They were really conserving.

19 So without knowing the gallonage used per day,
20 it may not be the homeowner that's actually not
21 conserving water. There may be something else involved
22 there, and the growth. I would like our staff maybe,
23 Mr. Chairman, also to tell me how much that utility has
24 expanded or how many more people have moved into the
25 utility's base, you know, adding on more customers and

1 how that affects the consumptive use permit, as well as
2 if the utility has an idea of the average use per
3 customer, 125 gallons a day, 150 gallons a day,
4 something like that. And that makes a big difference
5 when it comes to conservation. There's only a certain
6 amount you can conserve, and if they're at that point,
7 then it's not the consumer. There's something else
8 going on.

9 The second question I --

10 CHAIRMAN CARTER: Hang on. Hang on a second,
11 Commissioner. Ms. Fleming?

12 MS. FLEMING: Chairman, we can get the average
13 use on a per customer basis. I believe that that number
14 is available, and we can provide that as a late-filed
15 exhibit.

16 CHAIRMAN CARTER: That will be Number 203,
17 Commissioners, Number 203. It will be a late-filed.

18 (Late-filed Exhibit Number 203 was identified
19 for the record.)

20 CHAIRMAN CARTER: Commissioner, you may
21 proceed.

22 MR. MAY: Mr. Chairman.

23 CHAIRMAN CARTER: Wait one second. Mr. May.

24 MR. MAY: Just to answer -- Commissioner
25 Argenziano, I apologize, but I just wanted to let you

1 know that the average consumption for the Chuluota area
2 is in witness Franceski's Exhibit DTF-1. It's 9,308
3 gallons per month.

4 COMMISSIONER ARGENZIANO: Okay. What does
5 that break out to a day?

6 MR. MAY: I'll have to get my calculator.

7 COMMISSIONER ARGENZIANO: I don't have one in
8 front of me either. And that would give me an idea of
9 whether the consumer is using more and whether they can
10 possibly conserve any more. You know, especially since
11 most of them don't drink the water, I don't think that
12 -- I just have some feeling that it's not on their part.
13 All the testimony we heard sounded like they were
14 conserving a lot.

15 And the other question I had, Mr. Chairman, of
16 course, was how many more people were added to the
17 system, you know, new homes, new people moving in the
18 area, which could be a result of them exceeding their
19 consumptive use permit, which is only logical.

20 And the other question I have --

21 CHAIRMAN CARTER: Hang on a second,
22 Commissioner.

23 COMMISSIONER ARGENZIANO: Okay.

24 CHAIRMAN CARTER: Staff, did you get that
25 second one?

1 MS. FLEMING: No.

2 CHAIRMAN CARTER: Commissioner, can you
3 restate that? We'll make that -- that will be 204.

4 COMMISSIONER ARGENZIANO: Yes. And my concern
5 would be how many new homes, new additions to the
6 utility. If you started out the utility and had 500
7 homes, or how many new homes or how many new customers
8 have been included in their base, because that has to
9 affect the consumptive use permit if the CUP hasn't
10 changed, reflecting that, you know, there's more water
11 being used, which is a logical thing to look at when
12 you're talking about conservation and exceeding the CUP.
13 So I would be concerned with new additions to the
14 utility.

15 CHAIRMAN CARTER: Okay. Staff, did you get
16 that?

17 MS. FLEMING: Yes, we did.

18 CHAIRMAN CARTER: And that will be number --
19 Commissioners, that will be 204.

20 (Late-filed Exhibit Number 204 was identified
21 for the record.)

22 CHAIRMAN CARTER: Commissioner, you may
23 proceed.

24 COMMISSIONER ARGENZIANO: Thank you. The
25 other question, in regards to going back to using --

1 whether they're private irrigation wells or the
2 utility's well, in your capacity at the Water Management
3 District, wouldn't you agree that the more water taken
4 out of the ground, even the surface water, but let's say
5 groundwater, the more you take out, if Mother Nature is
6 not replenishing it in a timely manner, you're going to
7 have adverse impacts to that resource no matter how many
8 wells, whether they're private or non-private? Would
9 you agree with that?

10 THE WITNESS: Absolutely. And that's the
11 point that we were trying to make when we met with the
12 residents in Chuluota in October of 2007.

13 COMMISSIONER ARGENZIANO: Right, right. And I
14 understand that. And I know how the Water Management
15 District works and how they have to work. But my point
16 is, if you don't know how much they're using
17 individually, you can't determine whether they're
18 conserving or not. And from what I've heard, these
19 people were conserving beyond what I've seen in
20 conservation, and that is a factor that was not factored
21 in.

22 And I also understand the Water Management
23 District is trying to protect the resource. But as I
24 stated, whether they put in private irrigation wells or
25 not -- and the reason I mention the private irrigation

1 wells is because I've been frustrated, I guess, in the
2 fact that when people have no choice and have to be on a
3 utility and then have problems with that utility, or
4 even if they have no problems with the utility, can't
5 afford it anymore, when their rights are kind of taken
6 away because they can't even put in an irrigation well.
7 And many times it's not even the water management
8 district. It's the city or the county who disallows the
9 right of having a well, whether it's for drinking or for
10 irrigation.

11 So, to me, I'm looking at it as if you're
12 going to take somebody's right away, especially when
13 they're financially strapped, to put in an irrigation
14 well, let's make sure it's, you know, for the right
15 reasons. And I understand the Water Management
16 District's reasons really to be -- and as you said it
17 before, and it was the point I originally tried to make,
18 was that the detrimental effects of private irrigation
19 wells really would be that the people aren't paying for
20 it, and the conservation may not take place as if they
21 were paying for it. And I think you stated that when
22 Mr. -- I can't remember who it was. OPC, Mr. Reilly had
23 asked you, and I would be happy to go back into the
24 transcript.

25 So the other point that I had to make was that

1 if we're talking -- and being general here,
2 Mr. Chairman, excuse me, but if the State, DCA and the
3 counties and the cities allow building and building and
4 building, at some point, no matter what you do to
5 conserve, if you're not using reuse or desalination or
6 something else, you are adversely impacting the
7 resource.

8 And I guess the point I wanted to make, and I
9 think I just did, was that no matter what you do, if you
10 keep overpumping or keep pumping from the traditional
11 source and Mother Nature is not putting it back in time,
12 regardless of anybody's irrigation wells or a utility
13 well, the resource is going to be adversely affected.
14 And it is adversely affected in the State of Florida,
15 and I think you agreed with me on that.

16 CHAIRMAN CARTER: Absolutely.

17 COMMISSIONER ARGENZIANO: Okay. So,
18 Mr. Chairman, I guess the things that I had asked staff
19 to get were important in making a decision, whether
20 we're talking about people who are not conserving and
21 whether they are, because no matter what you're talking
22 about, whether it's a private well or a utility's well,
23 if there are other things involved, such as allowing
24 more building in the area, more people on the utility's
25 -- you know, more customers added to the base, that may

1 be the real reason that the -- or the flushing, maybe
2 excessive flushing to try to get the water where it
3 needs to be, could be the real reasons of them going
4 above the CUP.

5 I think I've asked this witness as much as I
6 can, and if she could provide any information afterwards
7 that would be helpful, I would appreciate it.

8 MS. FLEMING: Chairman, if I may.

9 CHAIRMAN CARTER: You're recognized.

10 MS. FLEMING: With respect to -- I think we
11 had a question regarding the Chuluota customers' average
12 use of water, and I believe the utility provided 9,308
13 per month. I think it turns out to be about 310 gallons
14 per day, if that's helpful.

15 And also, with respect to --

16 CHAIRMAN CARTER: Hang on a second.
17 Commissioner, did you hear that?

18 COMMISSIONER ARGENZIANO: That is -- that
19 can't be. That just can't be. Mr. Chairman, I would
20 respectfully request that we look into that number,
21 because people in Tampa Bay don't even use that much
22 water per day. And if that's the case, their bills
23 would be extremely high, and they would be drinking a
24 lot of water, which I don't think they are. And I don't
25 see how that can be. I really don't.

1 CHAIRMAN CARTER: I think what we ought to do
2 is -- I think that was on one of the late-fileds we
3 requested, and I think it's 203.

4 MS. FLEMING: That's correct.

5 CHAIRMAN CARTER: So let's just have that.
6 We'll just have that so we can look and do it, and that
7 way we can do our own math on that.

8 MS. FLEMING: We can provide calculations as
9 well.

10 COMMISSIONER ARGENZIANO: Thank you. Thank
11 you. Mr. Chair, if the people in Chuluota are using
12 310 gallons a day, then they really need to learn
13 conservation. I just have a hard time believing that.
14 Even irrigating a lawn, that's just an awful high
15 number.

16 CHAIRMAN CARTER: Okay. And we'll add that in
17 with Exhibit 203 as well as the calculations.

18 Thank you, Commissioner. Let me move forward.

19 Mr. May, I didn't give you an opportunity.
20 You're recognized.

21 MR. MAY: For cross?

22 CHAIRMAN CARTER: Yes, sir.

23 MR. MAY: We have no questions.

24 CHAIRMAN CARTER: Okay. Anything further from
25 the bench?

1 Staff, you're recognized. I missed staff.

2 Staff, you're recognized.

3 REDIRECT EXAMINATION

4 BY MS. FLEMING:

5 Q. I just have a couple of questions for you,
6 Ms. Walker. There's been a lot of discussion regarding
7 the irrigation wells. Did the District staff meet with
8 the Chuluota residents in October of 2007?

9 A. Yes.

10 Q. And when the customers discussed switching to
11 the irrigation wells, did they also recognize the need
12 to reduce their water consumption?

13 A. I would say yes. I'm not sure that based on
14 the transcript that I read earlier this week that that
15 was the case. I think what I heard was that the
16 customers were looking for another source that's less
17 expensive.

18 Q. Did the District emphasize the need for a
19 reduction in water consumption to the Chuluota
20 residents?

21 A. Absolutely. I mean, we talked about the need
22 to reduce the consumption specific to the service area,
23 but also in the region, because of the regional resource
24 impacts.

25 Q. Is the reduction of landscape irrigation a

1 primary tool for customers to reduce their consumption?

2 A. Yes.

3 MS. FLEMING: We have no further questions.

4 CHAIRMAN CARTER: Okay. Let's do this. On
5 exhibits, I've got -- is it 127 through 130? Is that
6 correct.

7 MS. FLEMING: That's correct.

8 CHAIRMAN CARTER: Any objection? Without
9 objection, show it done, Exhibits Number 127 through
10 130.

11 (Exhibits 127, 128, 129, and 130 were admitted
12 into the record.)

13 CHAIRMAN CARTER: Also -- let me see if I can
14 calibrate this. 201, which would be a late-filed,
15 that's the consumptive use permitted discharge of
16 flushing water; 202, which is a late-filed, the consent
17 order specifics; 203, late-filed, which would be the
18 average use per customer per day; 204, which would be a
19 late-filed, the number of new homes or new customers
20 that have been added to the base.

21 MS. FLEMING: That's correct, Chairman. And
22 with respect to Late-filed Exhibit 204, it's my
23 understanding that the utility can provide that
24 information.

25 MR. MAY: We would be glad to, Mr. Chairman.

1 CHAIRMAN CARTER: Okay. That will be fine.

2 (Late-filed Exhibits 201, 202, 203, and 204
3 were admitted into the record.)

4 CHAIRMAN CARTER: Commissioner McMurrin,
5 you're recognized.

6 COMMISSIONER McMURRIAN: Thank you. And I
7 just thought of this, and I apologize.

8 CHAIRMAN CARTER: Not a problem.

9 COMMISSIONER McMURRIAN: But with respect to
10 Exhibit 203 -- and I guess it would be best to ask
11 Ms. Walker. Is there a way to have average water use
12 per customer per day with respect to the City of Oviedo?
13 I know the utility probably doesn't have that
14 information because they're not -- it's a different
15 utility. But is there some way that we can see what in
16 the City of Oviedo the average customer per day uses?

17 THE WITNESS: Certainly.

18 COMMISSIONER McMURRIAN: So could you include
19 that with Exhibit 203 as well?

20 THE WITNESS: I'll be glad to.

21 CHAIRMAN CARTER: Just make it a composite.

22 COMMISSIONER McMURRIAN: Thank you, Chairman.

23 CHAIRMAN CARTER: Thank you. Commissioners,
24 anything further for Ms. Walker?

25 Thank you, Ms. Walker. You may be excused.

1 THE WITNESS: Thank you.

2 CHAIRMAN CARTER: Staff, you're recognized.

3 MR. JAEGER: Thank you, Chairman.

4 CHAIRMAN CARTER: Wait a minute. Hang on a
5 second. How's our court reporter doing? Are you okay?

6 You're recognized.

7 MR. JAEGER: Staff calls Kimberly Dodson.

8 CHAIRMAN CARTER: Kimberly Dodson.

9 Thereupon,

10 KIMBERLY DODSON

11 was called as a witness on behalf of the Florida Public
12 Service Commission Staff and, having been first duly
13 sworn, was examined and testified as follows:

14 DIRECT EXAMINATION

15 BY MR. JAEGER:

16 Q. Could you please state your name and business
17 address for the record?

18 A. Kimberly Dodson, 3319 Maguire Boulevard, Suite
19 232, Orlando, Florida, 32803.

20 Q. By whom are you employed, and in what
21 capacity?

22 A. Florida Department of Environmental
23 Protection, the drinking water program. I'm the program
24 manager for the compliance and enforcement section.

25 Q. And have you prefiled direct testimony in this

1 docket consisting of three pages?

2 A. Yes.

3 Q. Do you have any changes or corrections to your
4 testimony?

5 A. No.

6 Q. If I were to ask you the same questions, would
7 your testimony be the same today?

8 A. Yes.

9 MR. JAEGER: Chairman, may we have
10 Ms. Dodson's testimony inserted into the record as
11 though read?

12 CHAIRMAN CARTER: The prefiled testimony of
13 the witness will be entered into the record as though
14 read.

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DIRECT TESTIMONY OF KIMBERLY DODSON

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2 Q. Please state your name and business address.

3 A. Kimberly Dodson, Florida Department of Environmental Protection (FDEP), 3319 Maguire
4 Blvd., Suite 232, Orlando, Florida 32803.

5 Q. Please provide a brief description of your educational background and experience.

6 A. I received a B.A. in Environmental Studies from Rollins College, Winter Park, Florida in
7 1995. I worked in environmental analytical laboratories from 1991 to 1996. I have worked
8 for the FDEP Potable Water Program since 1996, where my responsibilities have involved
9 inspection of drinking water systems, managing the Consumer Confidence Report (CCR) rule
10 program, and conducting enforcement. I am currently the Program Manager for the Drinking
11 Water compliance and enforcement section.

12 Q. What are your general responsibilities at the FDEP?

13 A. I oversee all activities of the field and compliance monitoring sections. I review enforcement
14 documents, non-compliance letters, and inspection reports generated by compliance and
15 enforcement staff.

16 Q. Are you familiar with Aqua Utilities Florida, Inc. (Aqua) water systems in Brevard
17 (Kingswood and Oakwood), Lake (48 Estates, Carlton Village, East Lake Harris, Fern
18 Terrace, Friendly Center, Grand Terrace, Haines Creek, Hobby Hills, Holiday Haven, Imperial
19 Terrace, Kings Cove, Morningview, Palms MHP, Picciola Island, Piney Woods/Spring Lake,
20 Quail Ridge, Ravenswood, Silver Lake Estates, Skycrest, Stone Mountain, Summit Chase,
21 Valencia Terrace, Venetian Village and Western Shores), Marion (49th Street, Belleair,
22 Belleview Hills Estates, Belleview Hills, Chappell Hills, Fairfax Hills, Hawks Point, Marion
23 Hills, Ocala Oaks, Westview, and Woodberry Forest), Orange (Tangerine), and Seminole
24 (Chuluota and Harmony Homes) Counties?

25 A. Yes. I am familiar with those water systems via review of inspection reports and other

1 Department records.

2 Q: Is the overall operation and maintenance of the water treatment plants and distribution
3 facilities satisfactory?

4 A. Yes. Each of the systems had a sanitary survey inspection during 2007 and were found to be
5 substantially in compliance with all DEP requirements with the exception of the Chuluota
6 water system which is addressed below.

7 Q. Has Aqua been the subject of any FDEP enforcement action within the past three years?

8 A. Yes. A consent order was sent to Aqua regarding the Morningview system in 2006 for
9 monitoring compliance violations; however, the issues were resolved and the case was closed
10 in 2007. In addition, sanitary survey inspections of the Chuluota treatment plants were
11 conducted on August 29, 2006, and the system was found to be out of compliance for failing
12 to use treatment processes previously approved by FDEP as corrective action for total
13 trihalomethane (TTHM) maximum contaminant level (MCL) violations. The utility signed a
14 Consent Order on January 4, 2007 (EX KD-1) and permits to modify the disinfection
15 treatment processes at both water treatment plants were issued by FDEP on March 12, 2007.
16 On February 26, 2008, FDEP issued final clearance for all permitted modifications, and the
17 utility placed these modifications into service on April 7, 2008, changing from free chlorine
18 disinfection to chloramine disinfection. TTHM results for sampling conducted on April 10,
19 2008 were below the MCL; however, TTHM results for sampling conducted on April 22,
20 2008, were above the MCL. On July 3, 2008, the utility temporarily reverted back to free
21 chlorine disinfection due to malfunctioning equipment. New equipment was obtained and the
22 utility returned to chloramine disinfection on September 3, 2008. TTHM compliance
23 sampling for the 3rd quarter 2008 was conducted on September 17, 2008, and those results
24 were below the MCL for TTHM; however, the system still exceeds the MCL on a running
25

1 annual average.

2 Q. Other than the above violations, is Aqua in compliance with all DEP requirements for their
3 water systems in Brevard, Lake, Marion, Orange, and Seminole Counties?

4 A. Paul Morrison's testimony addresses bacteriological MCL violations for total coliforms for
5 Holiday Haven (2005), Hawks Point (2005), Skycrest (2007), and Chuluota (2008).

6 Q. Are you familiar with the independent water testing done after the customer meeting in
7 Oviedo?

8 A. Yes. The Seminole County Health department collected water samples at Walker Elementary
9 School on August 5, 2008, and tested for volatile organic contaminants. All of the sample
10 results, with the exception of disinfection by-products (DBPs), were below the detection limit.
11 For the DBPs, the TTHMs exceeded the MCL. On August 4, 2008, the Florida Rural Water
12 Association conducted sampling from 6 locations in the distribution system. The samples
13 were analyzed for nitrate, nitrite, e. coli, total coliform, and heterotrophic plate count. All
14 results were satisfactory.

15 Q. Do you have anything further to add?

16 A. No. I do not.
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1 BY MR. JAEGER:

2 Q. Ms. Dodson, did you also file Exhibit Number
3 KD-1, the Chuluota consent order?

4 A. Yes.

5 Q. Do you have any changes or corrections to that
6 exhibit?

7 A. No.

8 MR. JAEGER: Chairman, that exhibit has been
9 identified as Exhibit 109.

10 BY MR. JAEGER:

11 Q. Ms. Dodson, you've also indicated you do not
12 wish to summarize this testimony; is that correct?

13 A. That is correct.

14 MR. JAEGER: Commissioners, Ms. Dodson may
15 also be able to help shed some light on DEP's role in
16 the flushing practices of AUF for its Chuluota system,
17 and she's primarily involved with the Chuluota consent
18 order and the Chuluota system.

19 CHAIRMAN CARTER: Before we go to the parties,
20 Commissioner Argenziano.

21 COMMISSIONER ARGENZIANO: Yes.

22 CHAIRMAN CARTER: We have Ms. Dobson from the
23 DEP. Before I go to the parties, I'm going to give you
24 an opportunity to ask your questions.

25 COMMISSIONER ARGENZIANO: Thank you.

1 Ms. Dobson, I had asked -- when we were at Chuluota, I
2 had asked that DEP sample -- do several different
3 things. Are you aware of the things that I asked for?

4 THE WITNESS: I'm somewhat aware of a Q-Tip
5 that was requested to be sampled or analyzed. It was
6 not.

7 COMMISSIONER ARGENZIANO: It was not analyzed?

8 THE WITNESS: No.

9 COMMISSIONER ARGENZIANO: Why?

10 THE WITNESS: I do not have that information.
11 I was not involved in that at that point. I believe it
12 had to do with limited laboratory means and questions
13 about sampling procedures.

14 COMMISSIONER ARGENZIANO: I can understand
15 sampling procedures, but DEP, you're telling me, has
16 limited laboratory available?

17 THE WITNESS: Yes.

18 COMMISSIONER ARGENZIANO: So why are we still
19 functioning if we have no way to tell -- do the testing
20 and lab results. And I'll get -- as a matter of fact,
21 I'll talk to you about that another time or talk to the
22 Legislature about that. I understand funding, and I
23 understand that there has been a lack of funding. But
24 I've asked for water sampling and several other areas
25 that I think the consumers of the state rightfully

1 deserve. Has any of that been done?

2 THE WITNESS: There was sampling conducted by
3 the Seminole County Health Department for volatile
4 organic contaminants. There was sampling done by --
5 basically funded by the Florida Rural Water Association
6 and conducted by them and taken to an independent lab.

7 COMMISSIONER ARGENZIANO: What did they sample
8 for?

9 THE WITNESS: The purpose of that sampling was
10 to look at water quality in the distribution system,
11 disinfectant residuals, total coliform bacteria,
12 heterotrophic plate count, nitrate and nitrite, which
13 might be indicative of nitrification. I believe that
14 was --

15 COMMISSIONER ARGENZIANO: I think I also asked
16 to test if there was hydrogen sulfide in the water in
17 that area, if it was in the Chuluota product that's
18 being given to the consumers.

19 THE WITNESS: There was not independent
20 testing done of hydrogen sulfide.

21 COMMISSIONER ARGENZIANO: So basically
22 everything I asked for that day, DEP did none of it. Is
23 that what you're telling me?

24 THE WITNESS: I'm not aware of specifically
25 what you asked for, so --

1 COMMISSIONER ARGENZIANO: Okay. Excuse me.
2 Mr. Chair, I had talked to my staff a few minutes ago,
3 earlier to give DEP a heads-up so they wouldn't be
4 caught, you know, like a deer in the headlights, as they
5 seem to be now. And with all due respect, I gave them
6 the opportunity. And I believe Larry is sitting in the
7 room and could give them the list of things I asked for.

8 And I really would like to find out -- you
9 know, I would like to have found out a lot sooner that
10 DEP couldn't or did not choose to do what a Public
11 Service Commissioner had asked. And perhaps in the
12 future, what we need to do is ask the Legislature to ask
13 them, or the Governor, because I really find it
14 incredible that we're smack-dab up against the time now.

15 And part of this could have solved a lot of
16 problems, because the consumer there really wanted to
17 know about independent testing, and some of those tests
18 could have come out to say that, "Look, this is just
19 what you're saddled with in this area. This is what it
20 is. This is how it is." And we have no results today.

21 So you're telling me the Rural Water
22 Association took some tests and the local Department of
23 Health took some tests, but each thing that I asked DEP
24 for that day -- and I believe the DEP gentlemen that
25 were there were nodding their heads saying, "No problem,

1 Commissioner," and nothing was done. And I just find
2 that very hard to believe and definitely would like to
3 find out why.

4 CHAIRMAN CARTER: Why don't we do this.
5 Ms. Dodson, do you think you could maybe as a late-filed
6 get that to us, the information, or maybe do some -- if
7 the information hasn't been -- maybe you can do some
8 additional sampling. And we can get you the -- if you
9 don't have the information requested by Commissioner
10 Argenziano, we can get it to you.

11 THE WITNESS: I do need that information.

12 COMMISSIONER ARGENZIANO: Mr. Chair?

13 CHAIRMAN CARTER: Yes, ma'am.

14 COMMISSIONER ARGENZIANO: Mr. Chair, didn't we
15 also have a pipe in front of us that day with some
16 residue that we had asked just to try to figure out, to
17 determine what was going on that may resolve -- you
18 know, it may be nothing. It may be indicative of that
19 area. There has been farming in that area for years.
20 Who knows? It could be just a pocket in the aquifer
21 that, you know, has certain characteristics. But it
22 could have answered a lot of questions one way or the
23 other.

24 CHAIRMAN CARTER: I'll check with staff and
25 see if they still --

1 MR. JAEGER: Chairman, we have one of the
2 Q-Tips, and we had asked -- Mr. Prather said -- he took
3 the other one, and he was going to test it. I thought
4 that was the -- and I just found out on Monday that that
5 had not been tested.

6 Also, I thought that the Florida Rural
7 Waterworks, they did test for quite a few things, and
8 they tested the Walker Elementary School, and they did
9 take six tests from other areas, so they did do a lot of
10 testing. They went out immediately and did the testing,
11 and the hydrogen sulfide I guess did not get in that
12 test.

13 COMMISSIONER ARGENZIANO: Can I ask two
14 things? Why was it just till -- what was it, Monday
15 that we found out -- why couldn't DEP tell us ahead of
16 time that they couldn't do the tests or wouldn't do the
17 tests and wait till this close to when we get to this
18 hearing.

19 And I would like to know the results,
20 especially at the elementary school. And it wasn't DEP
21 who did that. It was the Rural Water Association. And
22 thank God for them, because we wouldn't have had any
23 testing done. But I am very curious now to find out
24 what those results were.

25 I mean, making determinations in this case not

1 just for rates and so on, but for the quality of water,
2 these things are pertinent to our discussion. And I
3 would like to have the benefit -- and I know Larry must
4 have it, and unfortunately I'm not there, but it would
5 have been nice to hear from DEP ahead of time to tell
6 us, "Hey, we made a mistake. We can't do this." We're
7 really not the Environmental Protection Agency who can
8 take these samplings. Maybe the Legislature cut our
9 funds, or whatever the case is, it would have been nice
10 to hear ahead of time. And I'll be asking the secretary
11 why we couldn't get that information ahead of time
12 instead of finding out today. It's really very --

13 CHAIRMAN CARTER: Commissioner, in defense of
14 Larry, he is here. Larry is here in the room with us,
15 and --

16 COMMISSIONER ARGENZIANO: And I'm glad he is.
17 And he probably has a list of the questions or the
18 things that we asked for that day. I believe he
19 researched the transcript to make sure that we were
20 going to get an answer to all of those questions.

21 And I can understand if it can't be done, but
22 tell me why, and don't wait till we get to this point to
23 tell me you didn't do it. I don't know whether they're
24 just thumbing their nose at the Public Service
25 Commission or they just didn't have time, but it would

1 have been nice to know.

2 CHAIRMAN CARTER: Well, we're going to give
3 Ms. Dodson -- we're going to give a placeholder.
4 Commissioners, it will be 205, late-filed exhibit by
5 DEP, and Larry will give Ms. Dobson the list again.
6 Also, staff, the testing that was provided by the REA
7 and other independent entities, we would like to have
8 those results provided as well.

9 (Late-filed Exhibit 205 was identified for the
10 record.)

11 MR. MAY: Mr. Chairman, if I may interject.

12 CHAIRMAN CARTER: Mr. May.

13 MR. MAY: Just to clarify the record --
14 there's just so many documents in this case. The
15 Florida Rural Water Authority test results were provided
16 by Aqua. They were obtained by Aqua from the Florida
17 Rural Water and were provided to a number of customers.
18 They're part of Mr. Chris Franklin's testimony as an
19 exhibit, just for the record. So if anybody wants to
20 take a look at those, those are there.

21 COMMISSIONER ARGENZIANO: And that's great,
22 Mr. Chairman.

23 CHAIRMAN CARTER: Commissioner.

24 COMMISSIONER ARGENZIANO: If you remember the
25 day, in front of all those people, I asked the question

1 and said I would like some type of an independent study
2 that had nothing to do with Aqua or nothing to do with
3 somebody that Aqua hired or whatever. And I'm glad that
4 the study is there from the rural association. I would
5 really like to see that study, and I will.

6 But I asked that question, and DEP
7 acknowledged it, didn't say, "Oh, we can't do it." They
8 didn't even say, "Let me find out about it." They
9 acknowledged they could do it. And now we've got to go
10 back and tell those customers that everything we asked
11 for that day sounded great that day, but none of it
12 happened.

13 So you can understand my being a little bit
14 perturbed, and I'm looking forward to answers from DEP
15 as to why they couldn't do it or couldn't let us know.
16 Or perhaps they can still go ahead and do it, at least
17 some of those things. Testing the water I would think
18 would be the easiest.

19 You know, I guess we could ask the
20 Commissioner of Agriculture. He has labs, as little
21 funded as they are, that maybe can help us to get to
22 where DEP can't. But I can't help but feel somewhat
23 angst and aggravated thinking that, you know, there I
24 was telling these people, "This is what I'm going to ask
25 as a Public Service Commissioner, and perhaps we can get

1 it," and I feel like we've just, you know, been blown
2 off.

3 So that's my concern, Mr. Chairman, and I'm
4 going to be looking forward to talking with DEP further
5 on it.

6 MR. JAEGER: Chairman Carter, I guess
7 Ms. Dodson did testify on page 3, line 8, about the
8 Seminole County Health Department. And about the 60
9 units, that's from Mr. Lihvarcik's testimony. And the
10 hydrogen sulfide was what was left out. And we were
11 reviewing, and we saw that the Q-Tip had been taken by
12 Mr. Prather, and that's when I said, "Well, hasn't this
13 been done," and she said no. So I apologize for the
14 hydrogen sulfide, but we did have the testing done, and
15 it was by the Department of Health and the Florida Rural
16 Waterworks.

17 CHAIRMAN CARTER: Commissioner McMurrian.

18 COMMISSIONER McMURRIAN: Thank you,
19 Mr. Jaeger. I just wanted to ask you a quick question.
20 If there were more questions about the test results of
21 the Seminole County Health Department and what was done
22 by the Rural Water Association, would those questions be
23 directed to Mr. Franklin? Because I think what
24 Commissioner Argenziano was saying, she wanted to know
25 what those results were, and for us to talk about that,

1 we need to get it in the record by a witness.

2 MR. JAEGER: That is in Mr. Lihvarcik's
3 testimony.

4 COMMISSIONER McMURRIAN: Okay.

5 MR. MAY: If I may.

6 CHAIRMAN CARTER: Mr. May.

7 MR. MAY: Mr. Chairman and Commissioner
8 McMurrian, and for Commissioner Argenziano's benefit,
9 the necessary witness, Mr. Preston Luitweiler -- now,
10 Commissioner Argenziano, he is not an independent
11 witness. He is with Aqua. But he can talk about a lot
12 of these issues with respect to testing and talk about
13 the reports that you all are interested in. Again, he's
14 the utility witness. He's not the agency witness. But
15 I do think it would be informative for you all to ask
16 him some questions as well.

17 COMMISSIONER ARGENZIANO: Well, Mr. Chairman,
18 I'm certainly glad somebody can answer those questions,
19 because I really thought they would be forthcoming from
20 DEP.

21 THE WITNESS: Excuse me. I do have
22 information about the test results from the Seminole
23 County Health Department, FRWA, if that's what we're
24 speaking about.

25 CHAIRMAN CARTER: Okay.

1 COMMISSIONER ARGENZIANO: Mr. Chairman?

2 CHAIRMAN CARTER: You're recognized.

3 COMMISSIONER ARGENZIANO: Are those the same
4 results that we had that day from the health department,
5 or are they additional --

6 THE WITNESS: The sampling conducted by the
7 Seminole County Health Department was at Walker
8 Elementary for volatile organic contaminants, all of
9 which were below the detection limit with the exception
10 of TTHMs.

11 COMMISSIONER ARGENZIANO: Mr. Chairman, can I
12 interject?

13 CHAIRMAN CARTER: You're recognized.

14 COMMISSIONER ARGENZIANO: Can you be more
15 specific? How much below? What were the standards?
16 What was considered minimal, maximum? How much below
17 were they, and go into specifics about what the
18 exception was, please.

19 THE WITNESS: None of the other contaminants
20 were detected. TTHMs, the value was 140 micrograms per
21 liter, which does exceed the MCL.

22 COMMISSIONER ARGENZIANO: By how much, or what
23 is the --

24 THE WITNESS: The standard is 80 micrograms
25 per liter, the maximum contaminant level.

1 COMMISSIONER ARGENZIANO: Okay. And you said
2 it was 140?

3 THE WITNESS: Yes.

4 COMMISSIONER ARGENZIANO: Okay. Thank you.

5 CHAIRMAN CARTER: Okay. Ms. Dobson, did you
6 give an overview on both the -- let me see here. Both
7 the tests by the Health Department and the Florida Rural
8 Water Association?

9 THE WITNESS: That was Seminole County Health
10 Department sampling. And just to clarify, on the FRWA
11 sampling, Florida Rural Water Association, that was
12 actually in conjunction with DEP. Through funding that
13 is provided to Florida Rural Water Association from DEP,
14 we requested a special study, asked that FRWA go out and
15 conduct the sampling. So it was in conjunction with
16 DEP.

17 COMMISSIONER ARGENZIANO: That would have been
18 nice to know ten minutes ago. Thank you.

19 CHAIRMAN CARTER: You're right, Commissioner.
20 I was following -- I was trying to follow on that.

21 So I guess, Commissioners, on Ms. Dodson's
22 direct, I guess -- is that page 3 we're looking at,
23 starting at line 8 through 14? Is that correct?

24 THE WITNESS: Yes.

25 CHAIRMAN CARTER: Am I in the right

1 neighborhood?

2 THE WITNESS: Yes.

3 CHAIRMAN CARTER: And this is related to the
4 water samples for Walker Elementary that was done by the
5 Seminole County Health Department and by the Florida
6 Rural Water Association.

7 I'm drawing a blank. I'm missing something.

8 COMMISSIONER ARGENZIANO: Mr. Chair, while
9 you're thinking about that, can I just --

10 CHAIRMAN CARTER: You're recognized.

11 COMMISSIONER ARGENZIANO: -- ask a question?
12 Thank you.

13 To staff, since they do exceed in the one area
14 at the elementary school, those children still not are
15 allowed then to drink the water from the water
16 fountains? Is that correct, or do we know.

17 MR. JAEGER: I think it was only the preschool
18 that they were providing the Culligan water and not --
19 it's not at the Walker Elementary School, is it?

20 COMMISSIONER ARGENZIANO: Okay. Is that
21 correct? But nonetheless, whatever school it is, it's
22 above the maximum standard allowed?

23 MR. JAEGER: I've been advised -- I would have
24 to go back to the transcripts from Monday, but the water
25 fountains have been turned off at a school, but I wasn't

1 sure if it was the elementary school or where. I would
2 have to go back and look at that.

3 COMMISSIONER ARGENZIANO: Thank you.

4 CHAIRMAN CARTER: I believe we can ask the
5 company witness when we get to the company witness on
6 whether or not --

7 COMMISSIONER ARGENZIANO: Mr. Chair, I'm
8 sorry.

9 CHAIRMAN CARTER: You're recognized.

10 COMMISSIONER ARGENZIANO: Since the water
11 association, rural water association did the testing,
12 does it reflect the tests that we asked for, and
13 wouldn't it be beneficial to hear the result of those
14 tests?

15 CHAIRMAN CARTER: Ms. Dodson?

16 COMMISSIONER ARGENZIANO: And if it was done
17 in conjunction with DEP, can DEP read us those tests and
18 tell us what was abnormal, what was not abnormal, and if
19 it did reflect the testing that we had asked for, with
20 the exception of the hydrogen sulfide, which we know
21 they didn't do.

22 CHAIRMAN CARTER: I'm going to go to
23 Ms. Dodson, and then I'll come back. After I come back
24 from Ms. Dodson, Commissioner, could you hold for a
25 second? I'm going to go to Commissioner Edgar.

1 COMMISSIONER ARGENZIANO: Sure.

2 CHAIRMAN CARTER: Ms. Dodson.

3 THE WITNESS: I cannot answer the question
4 about whether it is what was asked for. I have not seen
5 that list yet. The sampling that was conducted by FRWA
6 had the do with the water quality in the distribution
7 system. It was for nitrate, nitrite, E. coli, total
8 coliform, and heterotrophic plate count. All of the
9 results came back satisfactory. That would be --
10 nitrate and nitrite were below the MCLs. There was no
11 total coliform bacteria, there was no E. coli bacteria,
12 and there were no detects on the heterotrophic plate
13 counts.

14 CHAIRMAN CARTER: Okay. And again, we'll have
15 the Late-filed 205, and Larry will give you the
16 information that we had requested earlier so you can get
17 that back to us.

18 Commissioner Edgar.

19 COMMISSIONER EDGAR: Thank you, Mr. Chairman.
20 I'm getting a little confused, so I'm going to just back
21 up for a moment, if I may.

22 CHAIRMAN CARTER: I hope I didn't add to that.

23 COMMISSIONER EDGAR: No. It's just been a
24 long day.

25 You described the testing results at Walker

1 Elementary and said that there was the one water quality
2 aspect that exceeded standards. Which one was that
3 again?

4 THE WITNESS: Total trihalomethanes.

5 COMMISSIONER EDGAR: Which is T --

6 THE WITNESS: TTHMs.

7 COMMISSIONER EDGAR: TTHMs. Thank you. What
8 is -- in an instance like this where the TTHMs exceed
9 the standard, what is the enforcement action, and what
10 is standard for those who may have access to that water?

11 THE WITNESS: The results for TTHMs were
12 consistent with what we were finding with compliance
13 monitoring, that they exceeded the MCL, which is why
14 Chuluota is under the consent order and has added new
15 treatment, which is the chloramines, to lower the
16 disinfection by-products.

17 COMMISSIONER EDGAR: So under that consent
18 order and compliance monitoring, then is it normal
19 practice for both DEP and/or, to your knowledge, any
20 public health unit otherwise for use of the water to be
21 recommended to be limited?

22 THE WITNESS: No. We do not have anything
23 saying that anybody needs to issue a do not drink
24 notice.

25 COMMISSIONER EDGAR: Thank you.

1 THE WITNESS: Can I make one point?

2 CHAIRMAN CARTER: Yes, ma'am.

3 THE WITNESS: And I apologize that I missed
4 that. The fact that Chuluota is currently under a
5 consent order to take corrective action for TTHMs, yet
6 we're still seeing the results that were above the MCL,
7 at that time, Chuluota was on a free chlorine burn at
8 the time because of problems with the analyzer, so we
9 would have expected, based on the free chlorine use at
10 that point, that it was above the MCL.

11 CHAIRMAN CARTER: Do you guys plan on doing
12 further testing now that the period is over for that?

13 THE WITNESS: We do not have any plans for
14 that.

15 COMMISSIONER ARGENZIANO: Mr. Chair.

16 CHAIRMAN CARTER: Commissioner Argenziano.

17 COMMISSIONER ARGENZIANO: I guess a question
18 to the response given to Commissioner Edgar. Why, if
19 the trihalomethanes are higher than the maximum allowed,
20 does DEP not issue a do not drink? I know that's some
21 of the questions that were asked by the consumers at the
22 time.

23 THE WITNESS: That is not in our rules. It is
24 not in DOH, Department of Health guidance. There are
25 public notification requirements that they must supply

1 to the public, and that is the extent of it.

2 COMMISSIONER ARGENZIANO: Okay. Then let me
3 ask, why is there a maximum if it doesn't matter if you
4 drink it?

5 THE WITNESS: They base that on the standard,
6 and I can't pull it off the top of my head, but drinking
7 two liters every day for 70 years. So they assume that
8 it is not an acute risk. It is a chronic risk.

9 COMMISSIONER ARGENZIANO: Okay. And in that
10 chronic risk, doesn't it affect different people
11 differently? People with their autoimmune systems
12 deficient, can that be a problem?

13 THE WITNESS: Yes, and there is language
14 included in the public notice for those people to seek
15 additional advice from their medical doctor if
16 necessary.

17 COMMISSIONER ARGENZIANO: Okay. Well, since
18 one of my jobs is to look at quality of water and not
19 figure out why DEP would or would not say do not drink,
20 I know it goes above and beyond all that.

21 Let me ask one other question. In regards to
22 them lowering the disinfection by-product process, why
23 was it so high to begin with? Was there several other
24 times where E. coli was found, or one other time? Why
25 was the disinfection process so high to begin with?

1 THE WITNESS: Are we talking about
2 disinfection by-products or E. coli?

3 COMMISSIONER ARGENZIANO: The dis -- you had
4 indicated before that the results of TTHMs was due to --
5 or the change in the process was because the
6 disinfection by-products were very high. Now, if they
7 were using so much of a disinfection by-product, why
8 were they using it so high? Were there other problems
9 such as E. coli or other indicators to have that
10 disinfection so high?

11 THE WITNESS: Are we talking about the time
12 when Seminole County Health Department sampled?

13 COMMISSIONER ARGENZIANO: I guess. Let me
14 replace this. Why was the utility's disinfection
15 process so high? What do you think? What caused it?
16 Was that a result of them trying to correct, taking a
17 corrective measure? I don't know the time frame.

18 THE WITNESS: Are you asking why the
19 disinfection by-products were so high or the
20 disinfection tech process?

21 COMMISSIONER ARGENZIANO: The process, and the
22 by-products. I guess that's two questions.

23 THE WITNESS: I don't have any indication that
24 the disinfection process was so high. And that
25 terminology doesn't really make sense to me. The

1 disinfection by --

2 COMMISSIONER ARGENZIANO: Okay. Well, let me
3 put it to you this way. Let me put it to you this way.
4 You said before that it was a result -- and I tried to
5 write it down -- that the lower -- let's see. The
6 disinfection by-products were a result of a -- no, you
7 didn't say they were a result of a problem. You had
8 indicated that there was a disinfection by-product
9 problem, and they changed the process, and as a result
10 of that process, you would have expected to see the
11 TTHMs higher. Is that what you said?

12 THE WITNESS: I said that during the Seminole
13 County Health Department, they were on a free chlorine
14 burn, they were not using the chloramines, and that we
15 would expect increased disinfection by-product formation
16 when they are using free chlorine.

17 COMMISSIONER ARGENZIANO: Okay. That makes a
18 difference. So they were not using a higher
19 disinfection product --

20 THE WITNESS: No.

21 COMMISSIONER ARGENZIANO: -- to take care of a
22 particular problem they had noticed?

23 THE WITNESS: No.

24 COMMISSIONER ARGENZIANO: Okay. Thank you.

25 CHAIRMAN CARTER: Commissioners, I've just

1 plumb forgot my question. Probably about the only thing
2 I would do is add further confusion to this.

3 Mr. Reilly. Ms. Bradley.

4 MR. REILLY: I do have cross-examination.

5 CHAIRMAN CARTER: Sure. You're recognized,
6 sir.

7 Commissioners, if you have questions you think
8 of during the time, Mr. Reilly will yield to you.

9 Mr. Reilly, you're recognized.

10 MR. REILLY: Absolutely.

11 CROSS-EXAMINATION

12 BY MR. REILLY:

13 Q. Good afternoon.

14 A. Good afternoon.

15 Q. Steve Reilly with the Office of Public
16 Counsel. A quick question or two for you.

17 On your testimony, page 2, lines 13 through
18 14, you state Aqua signed a consent order on January 4,
19 2007; is that correct?

20 A. That is correct.

21 Q. And you go on further to state that on
22 March 12, 2007, FDEP actually issued the permits for
23 both water plants to modify their disinfection treatment
24 processes; correct?

25 A. Correct.

1 Q. And further, the FDEP permits authorized the
2 construction of facilities to change the plants from
3 free chlorine disinfection to chloramine disinfection;
4 correct?

5 A. Correct.

6 Q. Now, further, on page 2, line 16, you state
7 that FDEP issued final clearance for all permitted
8 modifications, and that occurred as late as February 26,
9 2008.

10 And I guess my first question is, what
11 happened in that considerable time between issuing the
12 permits and getting this final clearance, which is
13 almost 11 months?

14 A. Correct.

15 Q. Why did it take so long?

16 A. The utility -- and I did not bring all of that
17 documentation with me, but the utility had a delay in
18 the construction of the project based on the contractor
19 needing the full 180 days to construct, as I recall. My
20 understanding also was that they only had one contractor
21 that bid, so they were working with one person.

22 Q. Now, on page 2, line 17 of your testimony, you
23 say they went ahead and placed the modifications into
24 service on April 7, 2008.

25 A. Correct.

1 Q. So beginning on April 7, 2008, the two water
2 plants began chloramine disinfection instead of the
3 chlorine disinfection?

4 A. Correct.

5 Q. Now, beginning on April 7, 2008, was Aqua's
6 chloramination disinfection process successful? Did it
7 correct both the TTHM problem while also controlling the
8 black water problem?

9 A. It appears to have taken care of the TTH end
10 product problem based on the results of April 10. I am
11 not aware of any black water complaints at Chuluota
12 during that time.

13 Q. However, although the sample was okay on April
14 10th, didn't they have an above maximum contaminant
15 level a few days later on April 22nd?

16 A. Yes.

17 Q. And what was the cause of that?

18 A. My understating of it is that they were having
19 problems with the analyzers properly dosing the chlorine
20 and ammonia, which is why they went to the free chlorine
21 burn while they took the ammonia feed offline and the
22 analyzers offline.

23 Q. So at least temporarily, their effort was
24 unsuccessful?

25 A. Yes.

1 Q. If I could have you refer to your Exhibit
2 KD-1, which is our Comprehensive Exhibit Number 109.
3 That is a copy of the consent order; is that not
4 correct?

5 A. Yes.

6 Q. I guess I would direct your attention first to
7 paragraph 5.a. Does this paragraph require Aqua to
8 submit its application to construct the needed
9 improvements within 30 days of signing the consent
10 order, or February 4, 2007?

11 A. Yes.

12 Q. Now, the next paragraph, paragraph 5.b, does
13 that require Aqua to furnish FDEP all information
14 necessary to complete the application within 45 days, or
15 March 10th, 2007?

16 A. Yes.

17 Q. Now, apparently this deadline to complete the
18 application was materially met, because FDEP does issue
19 permits to construct the necessary facilities for both
20 plants on March 12, 2007.

21 A. Correct.

22 Q. So we're okay up to that point?

23 A. Yes.

24 Q. Would you please read paragraph 5.c in the
25 consent order for us?

1 A. "Within 60 days of issuance of any required
2 permits, respondent shall complete the modifications
3 approved pursuant to the permits issued in accordance
4 with paragraphs 5.a and 5.b above, and submit to the
5 Department the engineer's certification of completion of
6 construction along with all required supporting
7 documentation. Respondent shall receive written
8 department clearance prior to placing the system
9 modification into service."

10 Q. And so this deadline, of course, was quite
11 seriously not met?

12 A. That is correct.

13 Q. To the tune of about -- well, eight months
14 difference?

15 A. Correct.

16 Q. And again, the reason you said previously was
17 contract problems?

18 A. Correct.

19 Q. Or single provider.

20 Would you please read paragraph 5.f briefly?

21 A. "Within five months of the effective date of
22 this consent order, respondent shall complete all
23 corrective actions needed to resolve the MCL exceedances
24 and submit written certification of completion to the
25 Department for all modifications."

1 Q. Could you help describe what this paragraph
2 means? Does this mean that they've not only completed
3 construction and they've solved the problem and -- is
4 this a complete solution to the problem? That's what
5 5.f is?

6 A. It's completing all corrective actions. This
7 is a model consent order that is now being tweaked
8 because of the strange wording. It has been accepted to
9 mean that the construction is complete and that they
10 would be able to begin treatment, and we would see the
11 results fall below the MCL. It does not necessarily
12 mean that they've got four quarters below the running
13 annual average --

14 Q. Because that would take a year?

15 A. That we would expect for a return to
16 compliance.

17 Q. But otherwise, they're fully up and
18 operational, and it appears that it's working?

19 A. Yes.

20 Q. And in my reading of this, that would have
21 been the deadline -- if you follow this consent order,
22 it would have been June 4, '07, instead of -- well,
23 depending on how you interpret it, we might be here
24 today, let's say, in November of 2008, because at least
25 there have been some favorable reports. They are up and

1 running. And other than the free burn, is it your
2 judgment that our current status today, with at least a
3 couple of quarterly positive reports, that they have
4 satisfied 5.f, or when do they satisfy 5.f?

5 A. The previous understanding and when this
6 consent order was drafted, which was a model, was that
7 the construction was completed and they began to feed
8 the necessary treatment. It is unclear as to whether or
9 not it actually involves follow-up sampling at this
10 point. They are currently rewording the --

11 Q. But best case scenario, even without having
12 complete resolution of the problem, we're talking
13 September '08 anyway, and that's when they worked
14 through the kinks of the equipment and were back up and
15 running, and we're now starting to address the TTHM
16 problem?

17 A. We saw the first set of satisfactory results
18 in April, April 10th, actually, which is what we
19 expected to see, until they started having problems with
20 the analyzer. They sampled again, and the results were
21 high.

22 Q. So you can't count that as even an immediate
23 success? It ran into problems almost from the
24 beginning.

25 A. From a compliance standpoint, the average of

1 the samples were actually below the MCL.

2 Q. Okay. Real quickly, I'll have you go ahead
3 and read paragraph 8 of the consent order.

4 A. "Respondent agrees to pay the Department
5 stipulated penalties in the amount of \$100 per day for
6 each and every day respondent fails to timely comply
7 with any of the requirements of paragraph 5 of this
8 consent order. A separate stipulated penalty shall be
9 assessed for each violation of this consent order.
10 Within 30 days of written demand from the Department,
11 respondent shall make payment of the appropriate
12 stipulated penalties to the Department of Environmental
13 Protection."

14 Q. That's fine. You can stop there.

15 A. Thank you.

16 Q. But the idea is that this was -- I guess my
17 question to you is, in light of all these many, many
18 months that went by, did the Department ever notify --

19 A. Yes.

20 Q. Explain what --

21 A. Aqua paid stipulated penalties accruing from
22 the date of June 24, 2007. And I only have the final
23 dollar amount in my notes. I didn't write out the
24 number of days, but I believe it was around -- let's see
25 here. 28,000 --

1 CHAIRMAN CARTER: One second.

2 THE WITNESS: \$28,900.

3 BY MR. REILLY:

4 Q. And that's subsequent to signing the consent
5 order?

6 A. Yes.

7 CHAIRMAN CARTER: Mr. Reilly, let me interrupt
8 you. Don't lose your train of thought. You may want to
9 ask that question again.

10 For those of you that are not staffers here at
11 the Public Service Commission, the doors have automatic
12 electronic locks on them, and they lock at 5:30, so just
13 out of an abundance of caution, let's try to use the
14 buddy system, maybe have someone to stand by there to
15 let you back in, because once you get out, you can't get
16 back in.

17 I was looking for an appropriate break,
18 Mr. Reilly, and I apologize to you for that. You're
19 recognized, sir.

20 MR. REILLY: I'm really coming pretty close to
21 the end here.

22 BY MR. REILLY:

23 Q. The last paragraph I would have you direct
24 your attention to is paragraph 18. It's a fairly short
25 paragraph. Could you read that?

1 A. Paragraph 18?

2 Q. Yes, ma'am.

3 A. "Respondent is fully aware that a violation of
4 the terms of this consent order may subject respondent
5 to judicial imposition of damages, civil penalties up to
6 \$5,000 per day per violation, and criminal penalties,
7 except as limited by the provisions of this consent
8 order."

9 Q. And I guess that's just an additional stick
10 that can be employed when the Department deems it's
11 necessary.

12 A. Yes.

13 Q. Now, that was not utilized in this case?

14 A. No.

15 Q. And so your additional penalties were based on
16 the \$100 per day?

17 A. Yes.

18 Q. Okay. Thank you very much. The last --

19 CHAIRMAN CARTER: Mr. Reilly, may I interject?
20 Because I interrupted you before, I did not hear. You
21 said you had the total amount of the penalty, but you
22 didn't have the daily.

23 THE WITNESS: \$28,900.

24 CHAIRMAN CARTER: \$28,900?

25 THE WITNESS: Right, so 289 days.

1 MR. REILLY: And that was computed on \$100 a
2 day.

3 CHAIRMAN CARTER: Thank you, Mr. Reilly.
4 You're recognized.

5 BY MR. REILLY:

6 Q. Last question. On page 3, line 4 through 5,
7 you state that Chuluota had bacterial maximum
8 contaminant level violations in -- well, you stated that
9 another witness reported that.

10 A. Yes.

11 Q. And again, I'm just asking you, what do you
12 know about this bacterial maximum contaminant problem in
13 2008? Apparently it was total coliforms in April of
14 '08, and the same thing, total coliform exceedance in
15 June of '08, as I understand. What can you share
16 additionally with us on that testimony?

17 A. The total coliform positive result in June was
18 not a maximum contaminant level violation. It was a
19 single sample in the distribution system, so that was
20 not a violation.

21 Q. All right.

22 A. For the April one, they sampled on April 24th
23 and April 26th. I believe eight of nine samples in the
24 distribution system were positive, which generated the
25 maximum contaminant level violation. They were required

1 to do follow-up sampling and issue a public notice.

2 Q. Do you have any -- is there any way for you to
3 speculate as to why this occurred?

4 A. I cannot.

5 Q. It could be for sundry reasons?

6 A. They pop up with systems all the time. I
7 cannot.

8 MR. REILLY: That concludes our questions.

9 CHAIRMAN CARTER: Thank you, Mr. Reilly.

10 Ms. Bradley.

11 MS. BRADLEY: Thank you.

12 CROSS-EXAMINATION

13 BY MS. BRADLEY:

14 Q. Ms. Dodson, I have to deal with this
15 frequently, so can I get you to confirm for the
16 Commission that even though it's referred to as the
17 Seminole County Health Department and may get some
18 funding from the county, that the Seminole County Health
19 Department is actually a subdivision of the Department
20 of Environmental Protection, and its employees are
21 employees of the Department?

22 A. I don't think that's correct. Of the
23 Department of Environmental Protection?

24 Q. Uh-huh.

25 A. Seminole County Health Department?

1 Q. Uh-huh.

2 A. No.

3 Q. I'm sorry. I apologize. They would be a
4 subdivision of the State Department of Health rather
5 than DEP.

6 A. Yes.

7 Q. Okay. Thank you.

8 A. I thought I was about to learn something new.

9 Q. I get my agencies -- no, that's okay.

10 CHAIRMAN CARTER: It's late.

11 MS. BRADLEY: It's very late, and later for
12 some of us.

13 BY MS. BRADLEY:

14 Q. Do you all do any testing -- were you aware
15 that they were doing some flushing to get rid of the
16 TTHMs that kind of, I guess, clogs up in the loops of
17 the system?

18 A. I don't think they're necessarily flushing to
19 get rid of the TTHMs. They use chloramines to control
20 the disinfection by-product formation. They flush to
21 maintain residual in the distribution system and
22 potentially to avoid nitrification in the distribution
23 system. We are aware of their flushing activities.

24 Q. Do you all have any involvement in that as far
25 as testing to see what level of stuff is coming out of

1 that?

2 A. No. We would expect it's treated drinking
3 water that's being served to the homes. We wouldn't
4 expect that it's anything different than treated
5 drinking water.

6 Q. Okay. You mentioned some testing that was
7 done by the County Health Department at Walker
8 Elementary School. Can you tell me when that was done?

9 A. That was done -- well, let me look at my
10 testimony. That might be an easier way to tell.
11 August 5, 2008.

12 Q. If you have testing that's being done in the
13 system that shows that it has dropped below the maximum
14 TTHM level, but you have testing that's done at a
15 location like the school that's above it, how do you
16 handle that?

17 A. I don't know, and that's not the situation
18 here.

19 Q. Okay. Excuse me. Was the TTHM level elevated
20 throughout the system at that time?

21 A. Yes. Likely, yes.

22 Q. All right. Have you all done any subsequent
23 testing, or do you know if the health department has
24 done any subsequent testing to see if that's still high?

25 A. No. We are relying on compliance monitoring.

1 Q. Do you have any indication from the compliance
2 monitoring that would show whether or not Walker
3 Elementary has dropped below?

4 A. Walker Elementary, no. Levels in the
5 distribution system where they are required to sample,
6 which is the maximum residence time point, are below the
7 MCL.

8 Q. You said maximum --

9 A. Maximum residence time, the point in the
10 distribution system piping where water would stand the
11 longest and you would expect more formation of
12 disinfection by-products.

13 Q. And you know from the system where exactly
14 that would be so that you can go to that place each
15 time, or is that something that changes?

16 A. It should not change. It would probably
17 change if there's changes to the distribution system and
18 the piping, but at this point, we would expect that it
19 remains the same.

20 Q. Can you clarify -- one of the witness or
21 someone testified that DEP can't testify inside of
22 lines. And I think this may have come up in conjunction
23 with -- at one of the hearings, they talked about --
24 somebody brought in a piece of pipe that had some gunk
25 on the inside. And I don't know whether it was in

1 relation to that, but one of the witnesses said
2 something about that you all didn't test inside lines.

3 A. Well, speaking for the drinking water program,
4 we rely on self-monitoring. The utilities do -- they
5 have people collect the samples and take them to the
6 laboratory. So the drinking water program does not have
7 provisions for conducting sampling.

8 Q. Do you know if anybody else would have
9 authority to test something like that if the folks are
10 complaining about gunk in their lines?

11 A. I do not. We typically deal with drinking
12 water samples, water.

13 Q. Okay. Mr. Reilly was asking you about the
14 consent order and the penalty and all of that, and you
15 said it was 28,900, I believe.

16 A. Yes.

17 Q. Is that a usual penalty for water companies,
18 or how does that relate to other companies that you have
19 been involved with?

20 A. I don't have any information about that. This
21 was actually my first MCL -- I was a field person, so it
22 was my first MCL violation dealing with a consent order.
23 So I don't have that information readily --

24 Q. So you don't have any information from the
25 people you were working with whether was this was

1 average, or extremely high, or anything along those
2 lines.

3 A. The initial penalty was average, was typical.
4 The stipulated penalties is not something that we've had
5 to use a lot as far as I know.

6 Q. Okay. Has there been more than one consent
7 order?

8 A. For?

9 Q. Aqua. Let me be with direct with it. There
10 was some testimony or something from someone that
11 indicated that there was another consent order recently
12 that was entered into. Is that true or not?

13 A. You may be referring to Morningview for
14 monitoring violations. Does that --

15 COMMISSIONER ARGENZIANO: Mr. Chair?

16 CHAIRMAN CARTER: Commissioner, you're
17 recognized.

18 COMMISSIONER ARGENZIANO: I'm sorry. If
19 Ms. Bradley would speak into the mike. I think she's
20 turning away. I'm getting every other word.

21 CHAIRMAN CARTER: She's doing it on purpose.

22 MS. BRADLEY: Thank you, Mr. Chairman.

23 CHAIRMAN CARTER: Just kidding, Ms. Bradley.

24 MS. BRADLEY: I really needed that.

25 CHAIRMAN CARTER: She's getting some papers,

1 Commissioner.

2 BY MS. BRADLEY:

3 Q. It may have been Imperial.

4 MR. JAEGER: (Microphone off.) No, it was --
5 (inaudible).

6 BY MS. BRADLEY:

7 Q. Never mind. I apologize.

8 A. Okay.

9 Q. I got my testimony confused again.

10 A. Okay.

11 MS. BRADLEY: I don't think I have any further
12 questions, but I thank you.

13 CHAIRMAN CARTER: Thank you. Commissioner
14 Argenziano.

15 COMMISSIONER ARGENZIANO: Mr. Chair.

16 CHAIRMAN CARTER: You're recognized.

17 COMMISSIONER ARGENZIANO: I think I've asked
18 the questions I needed to ask and would just ask that we
19 get those results. I wish they would have been on
20 record today, because I think it's important and
21 pertinent to our discussion when it comes to water
22 quality. But, I think if there's any other questions
23 that I have, I think we've already asked them, and
24 hopefully we'll get the answers to those sometime soon.

25 CHAIRMAN CARTER: Thank you, Commissioner.

1 Mr. May.

2 CROSS-EXAMINATION

3 BY MR. MAY:

4 Q. Ms. Dodson, I just have one -- well, two
5 questions, very briefly, and appreciate your patience.

6 Does Aqua report quarterly on TTHM compliance?

7 A. Yes.

8 Q. And has the past three quarter results been in
9 compliance for TTHMs?

10 A. As far as I know, as of yesterday, we had two
11 quarters of samples that were below the MCL.

12 Q. You haven't got your most recent third
13 quarter?

14 A. Correct.

15 MR. MAY: Thank you. No further questions.

16 CHAIRMAN CARTER: Thank you. Staff.

17 COMMISSIONER ARGENZIANO: I'm sorry.

18 CHAIRMAN CARTER: You're recognized,
19 Commissioner.

20 COMMISSIONER ARGENZIANO: I did remember one
21 other question, a follow-up question to what Ms. Bradley
22 had asked before about the water being tested. And I
23 think your answer was where the water resides most of
24 the time, where it sits the longest. Would that be
25 holding tanks of some type, and is that where you

1 actually do the testing from?

2 THE WITNESS: No, it's in the distribution
3 system.

4 COMMISSIONER ARGENZIANO: Okay. What part of
5 the distribution system would the water reside the
6 longest?

7 THE WITNESS: For Chuluota?

8 COMMISSIONER ARGENZIANO: Uh-huh.

9 THE WITNESS: I don't have that information in
10 front of me.

11 COMMISSIONER ARGENZIANO: So then you couldn't
12 answer where the testing is done then either?

13 THE WITNESS: You know what? I have test
14 results. It appears 390 Lake Lenelle and 803 Mazurka
15 are the two maximum residence time sampling points for
16 Chuluota.

17 COMMISSIONER ARGENZIANO: Okay. And if you
18 could follow up with them and get answers to what those
19 are in the distribution system. Are they holding tanks?
20 Are they -- is it water moving more or less --
21 obviously, it's got to be less in some capacity if it's
22 residing there the longest, and just let me know if
23 that's where the actual testing occurs.

24 THE WITNESS: Okay.

25 COMMISSIONER ARGENZIANO: Thank you.

1 MR. JAEGER: Chairman, would that be another
2 late-filed exhibit then for where the testing points
3 are?

4 CHAIRMAN CARTER: It's related to the last
5 one. Ms. Dodson, do you think you could just make it a
6 composite and add it to 205? Would that be okay for
7 you?

8 THE WITNESS: That will work for me.

9 CHAIRMAN CARTER: Because it's really related
10 to testing, and I think we'll just kind of -- since
11 we're on that subject, we'll just make it a composite
12 exhibit on Late-filed 205.

13 MR. JAEGER: Chairman Carter, I have just one
14 or two questions in relationship to where Bruce started.

15 CROSS-EXAMINATION

16 BY MR. JAEGER:

17 Q. This quarterly testing, until they get a four
18 months -- I'm sorry, fourth quarters running average
19 below the maximum contaminant level, they have to keep
20 testing; is that correct?

21 A. They will remain on quarterly testing until
22 the running annual average is below the MCL.

23 MR. JAEGER: Thank you.

24 THE WITNESS: You're welcome.

25 CHAIRMAN CARTER: Anything further from staff?

1 MR. JAEGER: I would move Exhibit 109.

2 CHAIRMAN CARTER: Any objections?

3 MR. MAY: No objections.

4 CHAIRMAN CARTER: Without objection, show it
5 done, 109.

6 (Exhibit 109 was admitted into the record.)

7 CHAIRMAN CARTER: Also, just FYI,
8 Commissioners, I think for Ms. Dobson, we've got Exhibit
9 205, which will be a late-filed, testing of the water
10 per Commissioner Argenziano's list. Also on that has
11 been added the testing locations in terms of --
12 Ms. Dodson, you understand in terms of the locations and
13 where is it at those locations they're actually testing?

14 THE WITNESS: Yes.

15 CHAIRMAN CARTER: Okay. Does that reflect
16 what you were asking, Commissioner Argenziano?

17 COMMISSIONER ARGENZIANO: It does if you just
18 add it this way. What I'm looking for is where it was
19 indicated that the water resides the longest, because
20 that would be the place, as she had explained, that
21 would have a residual of any problems. It would be
22 there in higher concentrations, so I would like to know
23 that the tests are done in those places where the water
24 resides the longest.

25 CHAIRMAN CARTER: You said it much better than

1 I did. Thank you. Ms. Dodson will do that.

2 (Late-filed Exhibit 205 was admitted into the
3 record.)

4 CHAIRMAN CARTER: Commissioners, staff,
5 parties, anything further for this witness?

6 MR. JAEGER: May Ms. Dodson be excused?

7 CHAIRMAN CARTER: You just made it too,
8 Ms. Dodson, before the doors locked. You may be
9 excused. Thank you for your time.

10 THE WITNESS: Thank you.

11 CHAIRMAN CARTER: Okay. Commissioners and
12 staff, we are now about to move into rebuttal, and that
13 would be -- Mr. May, you're recognized.

14 MR. MAY: Aqua would call its rebuttal
15 witness, Mr. Preston Luitweiler.

16 CHAIRMAN CARTER: Mr. Luitweiler.

17 MR. MAY: Chairman Carter, Mr. Luitweiler has
18 arrived today, so I don't think he has been sworn yet.

19 CHAIRMAN CARTER: Okay. Would you please
20 remain standing, Mr. Luitweiler, and raise your right
21 hand.

22 (Witness sworn.)

23 CHAIRMAN CARTER: Thank you. You may be
24 seated.

25 Thereupon,

1 PRESTON LUITWEILER

2 was called as a rebuttal witness on behalf of Aqua
3 Utilities Florida, Inc. and, having been first duly
4 sworn, was examined and testified as follows:

5 DIRECT EXAMINATION

6 BY MR. MAY:

7 Q. Good afternoon, Mr. Luitweiler.

8 A. Good afternoon.

9 Q. Would you please state your name and business
10 address for the record?

11 A. My name is Preston Luitweiler. My business
12 address is 762 Lancaster Avenue, Bryn Mawr,
13 Pennsylvania.

14 Q. Mr. Luitweiler, did you prepare and cause to
15 be filed in this proceeding 12 --

16 CHAIRMAN CARTER: Excuse me, Mr. May. I
17 apologize to you. Just give me -- everybody just kind
18 of hold for one second. We're off the record.

19 (Off the record briefly.)

20 CHAIRMAN CARTER: Let me just apologize to the
21 Commissioners and to the parties here. I was on a roll,
22 and I forgot to give the court reporter a break. We're
23 going to go for -- remember, I said don't make any early
24 dinner plans. So let's do this, Commissioners. Let's
25 give the court reporter at least 20 minutes so she can

1 get her fingers a little limber. Twenty be okay? Ten?
2 Okay. Do I hear five? We're on recess for ten minutes.

3 (Short recess.)

4 CHAIRMAN CARTER: We are back on the record.
5 And when we left, we had completed with Ms. Dodson.
6 Staff, are there any other preliminary matters before we
7 move further?

8 MR. JAEGER: I know of no other preliminary
9 matters, Chairman.

10 CHAIRMAN CARTER: No? Then we recognize
11 Mr. May, who had called Mr. Luitweiler. Did I get it
12 Right.

13 MR. MAY: Yes, Mr. Chairman, you did.

14 CHAIRMAN CARTER: You're recognized.

15 BY MR. MAY:

16 Q. Mr. Luitweiler, you've been sworn, have you
17 not?

18 A. Yes.

19 Q. Did you prepare and cause to be filed 12 pages
20 of rebuttal testimony in this proceeding?

21 A. Yes.

22 Q. Do you have that rebuttal testimony before you
23 today?

24 A. Yes.

25 Q. Do you have any corrections or revisions to

1 that testimony?

2 A. One correction on page 7, line 11, the word
3 "two" should be replaced by "three."

4 Q. Thank you.

5 MR. REILLY: Excuse me. What was the location
6 again?

7 THE WITNESS: Page 7, line 11.

8 MR. REILLY: And two should be?

9 THE WITNESS: Three.

10 BY MR. MAY:

11 Q. With those corrections noted, if I were to ask
12 you the questions that are contained in your rebuttal
13 testimony, would your answers be the same?

14 A. Yes.

15 Q. Mr. Luitweiler, have you attached Exhibit 1,
16 which is designated as PL-1, to your rebuttal testimony?

17 A. Yes.

18 Q. Do you have any corrections to that exhibit?

19 A. No.

20 Q. Have you prepared a summary of your rebuttal
21 testimony?

22 A. Yes, I have.

23 Q. Could you please provide that --

24 CHAIRMAN CARTER: The prefiled? You want to
25 insert the prefiled before he does his summary?

1 MR. MAY: The exhibit?

2 CHAIRMAN CARTER: The prefiled testimony.

3 MR. MAY: I'm sorry. I'm sorry, Mr. Chairman.
4 I apologize. I was trying to -- I was getting ahead of
5 myself. Mr. chairman, we would ask that the rebuttal
6 testimony of Mr. Luitweiler be inserted into the record
7 as though read.

8 CHAIRMAN CARTER: Mr. Luitweiler, first of
9 all, let me apologize to you for your name, Luitweiler.
10 I said -- however I said it, I'm glad I've forgotten it.

11 The prefiled testimony of the witness will be
12 entered into the record as though read.

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BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION**AQUA UTILITIES FLORIDA, INC.****REBUTTAL TESTIMONY OF PRESTON LUITWEILER****DOCKET NO. 08121-WS**

1 **Q. What is your name and business address:**

2 A. My name is Preston Luitweiler. My business address is 762 W. Lancaster
3 Avenue, Bryn Mawr, Pennsylvania 19010.

4 **Q. Have you previously submitted testimony in this proceeding?**

5 A. No.

6 **Q. By whom are you employed and in what capacity?**

7 A. I am Vice President and Chief Environmental Officer of Aqua Services, Inc.

8 **Q. Please describe your education and business experience.**

9 A. I have a B.S. degree in Civil Engineering from Drexel University and an M. S.
10 in Environmental Engineering from Drexel University. I am a licensed
11 Professional Engineer in Pennsylvania. I have worked for Aqua (and its
12 predecessor, Philadelphia Suburban Water Company) for 24 years in various
13 capacities, including Design Engineer, Research Engineer, Manager of
14 Research, Vice President, Water Resources, and presently Vice President and
15 Chief Environmental Officer.

16 **Q. What are your duties as Vice President and Chief Environmental Officer?**

17 A. I am responsible for water quality and environmental compliance for Aqua
18 facilities in 13 states, including Florida. I supervise Aqua's corporate
19 environmental compliance staff and central laboratory in Bryn Mawr, and
20 provide indirect supervision to state and regional environmental compliance
21 personnel who report to state and regional presidents.

1 **Q. What is the purpose of your rebuttal testimony?**

2 A. The purpose of my rebuttal testimony is to address and respond to water
3 quality issues raised by Kimberly H. Dismukes who prefiled testimony in this
4 case on behalf of the Office of Public Counsel.

5 **Q. Are you sponsoring an exhibit to your rebuttal testimony?**

6 A. Yes, I'm sponsoring Exhibit PL-1.

7 **Q. Ms. Dismukes addressed water quality issues in Chuluota. Can you**
8 **generally comment on the water quality issues that she raises?**

9 A. Yes. Ms. Dismukes overlooks the fact that the raw water from the four wells in
10 the Chuluota system is difficult to treat, and has presented treatment challenges
11 for decades, long before AUF acquired the system in July 2004. The fact that
12 AUF inherited these water quality issues when it acquired the Chuluota system
13 was recognized by residents and State Officials in their testimony at the public
14 input hearings.

15 **Q. Before you address details of Ms. Dismukes' testimony regarding water**
16 **quality, can you generally describe disinfectants and disinfection**
17 **byproducts?**

18 A. Disinfectants are an essential element of drinking water treatment because of
19 the barrier they provide against waterborne disease-causing microorganisms.
20 The most commonly used disinfectant for primary disinfection of drinking
21 water is chlorine applied as gaseous chlorine or as liquid chlorine bleach.
22 Either form of chlorine produces free chlorine in water. Another common
23 disinfectant is a form of chlorine called combined chlorine, or chloramine.
24 Both chlorine and chloramines are commonly used as residual disinfectants to
25 maintain disinfection in a water utility's distribution system.

1 Disinfection byproducts (DBPs) form when disinfectants used to treat
2 drinking water react with naturally occurring organic carbon in the water.
3 Total trihalomethanes (TTHMs) are a type of disinfection byproduct formed
4 during disinfection with chlorine and chloramine. As a general rule, free
5 chlorine generally forms more of these DBPs than are formed with
6 chloramines.

7 **Q. Can you explain what chloramination is?**

8 A. Chloramination is the use of chloramines as a disinfectant, usually to maintain
9 a disinfectant residual in public water supply distribution systems. Ammonia
10 and chlorine are added to water at carefully controlled levels to form
11 chloramines, also referred to as combined chlorine residual. Chloramines are
12 weaker than free chlorine as a primary disinfectant, but they are effective for
13 maintaining a disinfectant residual in a distribution system and they do not
14 continue to form DBPs in the distribution system.

15 **Q. Has AUF implemented chloramination at Chuluota?**

16 A. Yes. The FDEP issued a consent order in December 2006 requiring AUF to
17 implement chloramination. As I've stated, chloramination typically reduces
18 levels of certain by-products of chlorination.

19 **Q. Can you briefly describe the challenges in treating the raw water in
20 Chuluota?**

21 A. Yes. The water in Chuluota contains high levels of hydrogen sulfide. This must
22 be removed by air stripping or oxidized by chlorination to control "rotten egg"
23 taste and odor in the distribution system. The tray aerators at both of the water
24 treatment plants in Chuluota remove about 20% of the hydrogen sulfide at the
25 prevailing operating conditions and pH of the water from the Chuluota wells.

1 The remaining hydrogen sulfide requires high doses of free chlorine to
2 treat. This high dose of chlorine also reacts with moderate levels of natural
3 organic carbon in the water and produces TTHMs. The TTHMs continue to be
4 formed in the distribution system unless the disinfectant is changed to
5 chloramines after primary disinfection. This is what Florida Water Service tried
6 to do in the treatment process prior to Aqua's acquisition of the system.
7 Unfortunately, in Florida's climate, and with residual elemental sulfur in the
8 treated water, the distribution system became very vulnerable to nitrification – a
9 condition where all chlorine residual is lost and where metal sulfides can be
10 formed and released in the system creating "black water." These were the
11 prevailing conditions in the Chuluota system in July 2004 when Aqua acquired
12 the system. At that time, the primary water quality issues were a loss of
13 residual disinfectant, discolored water, and taste and odor. Aqua quickly
14 addressed these conditions with reversion to free chlorine. However, free
15 chlorine also caused higher levels of a chlorine disinfection by-products in the
16 system. As you can see, it is somewhat of a balancing act.

17 **Q. Are there other challenges in treating the raw water quality in Chuluota**
18 **that Ms. Dismukes overlooks?**

19 A. Yes. One very important system management tool to control nitrification, and
20 to respond to "black water" conditions, is aggressive and extensive flushing of
21 the distribution system. AUF is limited in the amount of water it has access to.
22 The Consumptive Use Permit (CUP) from the St. Johns River Water
23 Management District restricts the amount of water that can be withdrawn from
24 the Chuluota wells, limiting the frequency, duration and volume of flushing
25 that can be done to manage and maintain the distribution system.

1 **Q. Does Ms. Dismukes take those treatment challenges into account in her**
2 **prefiled testimony?**

3 A. No.

4 **Q. Please explain what method the Company is currently using to disinfect the**
5 **Chuluota raw water.**

6 A. The Company is utilizing free chlorine in the ground storage tanks for primary
7 disinfection, and combined chlorine, or chlormination, in the distribution
8 system to minimize the formation of TTHMs in the distribution system.
9 Sufficient chlorine, in the form of bleach (sodium hypochlorite) must be fed
10 into the ground storage tanks after the tray aerators so that a minimum free
11 chlorine residual can be measured at the outlet of the tank. This residual value is
12 the value FDEP requires utilities to use to monitor and calculate primary
13 disinfection effectiveness. If the chlorine residual is lost in the tank, there is also
14 a risk of nitrification occurring in the tanks.

15 After the ground storage tank, the chlorine residual is boosted and then
16 immediately “quenched” with ammonia to form chloramines. This process must
17 be carefully controlled to prevent overfeeding of chlorine or ammonia. In the
18 system Aqua had designed and installed in 2007, this is done automatically with
19 residual analyzers that continuously measure free chlorine and total chlorine
20 levels, and chemical dosing pumps that are adjusted continuously to meet flow
21 and chemical demand.

22 **Q. Can you briefly explain how a water system becomes out of compliance for**
23 **TTHMs?**

24 A. Yes. All water systems are required to test their water initially at least once a
25 year for TTHMs at locations in the distribution system that have been selected

1 to represent potential worst case conditions for the formation of TTHMs.
2 Results are compared with the U.S. Environmental Protection Agency drinking
3 water standard, or Maximum Contaminant Level (MCL) of 80 micrograms per
4 liter (or parts per billion). If initial annual testing shows elevated levels of
5 TTHMs, then samples are collected and tested quarterly. When the Running
6 Annual Average (RAA) of all quarterly test results exceeds the MCL, the
7 system is in violation of the standard. In Chuluota's case, when AUF converted
8 the system to free chlorine, a sample for TTHMs tested above the MCL, and in
9 subsequent quarterly sampling, the RAA exceeded the MCL.

10 **Q. What is the current status of the water quality in Chuluota?**

11 A. TTHM results in the distribution system have been below the MCL for ^{three}~~two~~
12 successive quarters. The RAA is still slightly above the MCL.

13 **Q. How does a system come back into compliance?**

14 A. To return to compliance, the RAA must fall below the MCL. In Chuluota's
15 case, TTHM results in the distribution system have been below the MCL for
16 two successive quarters, but the RAA remains slightly above the MCL.

17 **Q. What other tests have been taken since the public input hearings?**

18 A. On August 4, 2008, Florida DEP and Florida Rural Water Association took
19 samples at six sites throughout the Chuluota distribution system monitoring for
20 nitrate, nitrite, *E. coli*, total coliform, and Heterotrophic Plate Count. All
21 samples were negative for all parameters tested. The purpose of this sampling
22 was to ensure that disinfection was being maintained in the distribution system
23 and nitrification was being controlled while the system was being prepared to
24 return to chloramination.

25 On August 5, 2008, the Florida Department of Health collected samples

1 of raw water at the four Chuluota production wells. The purpose of that testing
2 was to determine whether or not there was any contaminant heretofore untested
3 present in the raw water. All samples came back negative for a wide array of
4 analytes for which testing was done.

5 **Q. Has AUF conducted tests at Chuluota subsequent to the public input**
6 **hearings?**

7 A. Yes. On July 25, 2008, AUF collected similar raw water samples from the wells
8 and sent them to Aqua's central laboratory in Bryn Mawr. Sensitive broad-
9 range screening tests were done for a wide array of potential possible
10 contaminants, and nothing was found to suggest any kind of contamination of
11 the wells except for naturally occurring sulfides.

12 I would also note that AUF has retained Dr. James Taylor, a renowned
13 scientist and researcher in water treatment chemistry, processes and technology.
14 AUF has engaged Dr. Taylor to assist in evaluating the challenges of water
15 treatment at Chuluota.

16 On September 5 and September 10, 2008, students from the University
17 of Central Florida (UCF) under Dr. Taylor's supervision conducted raw water
18 and process control tests at the Chuluota wells and water plants. The testing
19 provided a baseline for levels of naturally occurring hydrogen sulfide in the raw
20 well water, and performance of the tray aerators.

21 In September, Dr. James Taylor recommended an extensive protocol for
22 testing distribution samples to monitor for early signs of nitrification. Since
23 September 25, sampling and testing has been conducted weekly at seven
24 locations in the distribution system by Aqua personnel.

25 **Q. Can you report on any updated progress for the Chuluota water system**

1 **since filing Mr. Franklin's supplemental direct testimony?**

2 A. Yes. As mentioned in Mr. Franklin's supplemental direct testimony, AUF
3 purchased new analyzers for the chloramination system. The analyzers are
4 testing instruments that provide continuous feedback on the levels of
5 disinfectant at critical points in the treatment process. The analyzers provide a
6 signal that is used by the process control computer to adjust the chemical doses
7 to achieve optimum levels for maintaining disinfection and controlling TTHM
8 formation. Because of the challenging raw water quality at Chuluota, the
9 treatment processes are a delicate balancing act, and must be adjusted
10 frequently to react to changes in raw water quality, water temperature, and
11 system demand that all affect the levels of disinfectant residual at various points
12 in the process. Too much chlorine, or excessive detention time in the presence
13 of free chlorine can result in elevated TTHMs. Too little chlorine in the ground
14 storage tank, too little chloramine or too much ammonia at the point of entry
15 can lead to nitrification in the distribution system and episodes of "black water."

16 **Q. Has AUF taken other proactive steps to address the quality of water in and**
17 **around Chuluota?**

18 A. As I previously stated, AUF has engaged Dr. James Taylor to assist in
19 addressing the challenges of water treatment at Chuluota. Dr. Taylor reviewed
20 the work that had been done by AUF's staff, our consulting engineer, Boyd
21 Environmental, and other consultants. He recommended special sampling, and
22 arranged for graduate students at UCF to conduct thorough baseline sampling at
23 both Chuluota water plants. He prepared a report summarizing his findings
24 (ASR1), a copy of which is attached to this testimony as Exhibit PL-1. That
25 report was reviewed with FDEP on October 31, 2008. Dr. Taylor has also

1 evaluated data when the system was returned to chloramination in September,
2 and made recommendation on process changes such as the target chlorine to
3 ammonia ratio at the treatment plants.

4 Dr. Taylor continues to advise AUF and has established an extensive
5 distribution system sampling protocol to evaluate the treatment process and
6 distribution system operation, guide distribution system flushing, and provide
7 early warning of nitrification conditions.

8 Dr. Taylor is also collaborating with Boyd Environmental in evaluating
9 additional treatment process alternatives to improve removal of sulfides in the
10 raw water and reduce chlorine demand and disinfection by-product formation.

11 I also note that since July 2004, AUF has added 14 automatic flushing
12 valves in the distribution system. These automatic valves flush predetermined
13 amounts of water from the dead ends during hours of low use to keep the water
14 from stagnating in the mains. These are critical for maintaining water quality at
15 dead ends and extremities of the distribution system where nitrification would
16 otherwise first occur.

17 AUF has also designed, bid, and awarded a contract to provide new
18 water mains to loop some of the dead ends of the distribution system to avoid
19 stagnation of water in the system and improve flows.

20 AUF has also applied and received Florida DEP approval for a carbon
21 dioxide (CO₂) system at the Chuluota water plant #2. Because of the unique
22 water quality in Chuluota, everything we can do to improve the raw water
23 quality ahead of the disinfection processes gives us greater flexibility in the
24 chemical balancing act required to meet the multiple competing goals of water
25 treatment in this system. As stated previously, the raw water in Chuluota

1 contains high levels of hydrogen sulfide. Adding CO2 ahead of the tray aerators
2 at water plant #2 will lower the pH of the water in the aerators and in this way
3 greatly improve the removal of hydrogen sulfide in the aerators. With less
4 hydrogen sulfide in the raw water, less chlorine will have to be added to react
5 with the sulfides that remain. Lowering the chlorine dose will lower the TTHM
6 formation.

7 **Q. Can you comment on Ms. Dismukes' reference to coliform bacteria in**
8 **Chuluota?**

9 A. Yes. As is standard procedure for any water utility company, AUF tests for
10 coliform bacteria. There was one instance where we received a positive sample
11 for coliform bacteria. I agree with Mr. Prather's testimony that it is not
12 uncommon for samples to test positive for bacteria [Oviedo Service Hearing
13 Transcript Page 134]. I also agree with Mr. Prather that further tests were done
14 and the samples came back negative. We have not had any further problems
15 with this issue.

16 **Q. Can you please provide an update on AUF's negotiations with the City of**
17 **Oviedo?**

18 A. I have not been directly involved in the negotiations with the City, but I
19 understand that Mr. Franklin will be providing an update in his rebuttal
20 testimony.

21 **Q. Finally, can you please give a brief update on the MCL violation in The**
22 **Woods?**

23 A. The Woods is a small system with one well that a previous owner had equipped
24 with an unconventional iron removal filtration system constructed of precast
25 concrete tanks. The configuration of the system resulted in highly variable

1 detention times and operational challenges for controlling chemical doses and
2 disinfection. These factors along with raw water quality, variability of system
3 demand, and the configuration of the distribution system, resulted in occasional
4 high levels of DBPs in water samples from the distribution system. In the first
5 quarter of 2006, the Running Annual Average of test results for TTHMs
6 exceeded the MCL.

7 In 2007, Aqua designed a new, more conventional pressure greensand
8 filter treatment system. Construction of the new system was completed in June
9 2008. Samples collected in September 2008 tested below the MCL for TTHMs
10 at 39.4 ppb.

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

12 A. Yes.

1 CHAIRMAN CARTER: Mr. May.

2 MR. MAY: Just wait until you see

3 Mr. Szczygiel tomorrow.

4 CHAIRMAN CARTER: I've got a few hours before
5 that one. You may proceed.

6 BY MR. MAY:

7 Q. Mr. Luitweiler, would you please provide a
8 summary of your rebuttal testimony at this time?

9 A. Yes. Good afternoon, Mr. Chairman and
10 Commissioners. As vice president and chief
11 environmental officer of Aqua Services, Inc., I'm
12 responsible for water quality and environmental
13 compliance for Aqua's water and wastewater systems.

14 My rebuttal testimony addresses the water
15 quality issues in Chuluota raised in testimony by
16 Kimberly H. Dismukes for the Office of Public Counsel
17 and addresses some of the longstanding issues involving
18 the water in Chuluota. It further contains an update on
19 the measures we have taken in Chuluota to address these
20 water quality issues.

21 As discussed in my testimony, the water from
22 the Chuluota wells contains high levels of natural
23 hydrogen sulfide that must be removed or oxidized to
24 control odors at customers' taps. The tray aerators at
25 the Chuluota water plants currently remove about

1 20 percent of the hydrogen sulfide. The rest is
2 oxidized with free chlorine. Free chlorine is also used
3 as a primary disinfectant. Chlorine reacts with
4 moderate levels of natural organic carbon in the water
5 to produce disinfection by-products.

6 Total trihalomethanes are one category of
7 distinct by-products. As described in my rebuttal
8 testimony, it is a difficult balancing act to address
9 the natural hydrogen sulfide and at the same time, keep
10 within the total trihalomethane limits, and it requires
11 daily monitoring.

12 However, Aqua Utilities Florida has been
13 aggressively addressing the issue, and to date, total
14 trihalomethane results in the distribution system have
15 been below the maximum contaminant level of 80 parts per
16 billion for three successive quarters. And I would just
17 like to point out that although Kim Dodson just
18 testified that there were two quarters in compliance,
19 the last quarterly results should have been reported by
20 the laboratory by today, and we have received those
21 results prior to this. So that's the reason for the
22 apparent discrepancy.

23 In September, new analyzers were installed at
24 the new water treatment plants, and since then, as I
25 previously mentioned, total trihalomethane results in

1 the distribution system have been below the MCL.

2 Aqua Utilities Florida has also retained
3 Dr. James Taylor, a renowned scientist and researcher in
4 water treatment chemistry, processes, and technology.
5 Under Dr. Taylor's supervision, his team has conducted
6 raw water and process control tests at the Chuluota
7 wells and water plants. Dr. Taylor has also reviewed
8 the work that has been done by Aqua Utilities Florida's
9 staff and consultants. He prepared a report summarizing
10 his findings that was reviewed with Florida DEP on
11 October 31, 2008, and that report is attached to my
12 rebuttal testimony. In addition, Dr. Taylor is
13 collaborating with Boyd Environmental to evaluate
14 additional treatment process alternatives.

15 Also described in my rebuttal testimony is the
16 project that Aqua Utilities Florida has contracted out
17 to provide new water mains to loop some of the dead ends
18 in the distribution system to improve water quality at
19 these locations.

20 Thank you.

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

23 CHAIRMAN CARTER: Thank you. Mr. Reilly,
24 you're recognized, sir.

25 MR. REILLY: Thank you very much.

CROSS-EXAMINATION

1
2 BY MR. REILLY:

3 Q. Good evening, Mr. Luitweiler.

4 A. Good evening.

5 Q. There were questions posed to Mr. Lihvarcik
6 that were referred to you. One of those questions was
7 -- I had asked what was the principal water quality
8 problem with the Chuluota system in 2004 immediately
9 after Aqua purchased it, and I think he wanted you to
10 answer that question.

11 A. In July of 2004, the principal water quality
12 problem in the Chuluota distribution system was a black
13 water condition that was caused by, we believe, an
14 episode of nitrification in the distribution system.

15 Q. Okay. Thank you. I had a number of
16 cross-examination questions to Mr. Lihvarcik concerning
17 the decision by Aqua to immediately begin construction
18 of a new Chuluota wastewater treatment plant after
19 purchasing the system. I would like to ask you a few
20 questions about that area.

21 Mr. Lihvarcik stated that the capacity of the
22 old Florida Water wastewater treatment was 100,000
23 gallons per day in 2004. Is that -- was that the case?

24 A. I believe it was in that area, yes.

25 Q. Nevertheless, he stated that -- I believe he

1 stated that there was a need to expand the capacity and
2 that Florida Water was already proceeding with the
3 project, and that basically Aqua sort of inherited the
4 project from Florida Water.

5 A. That is correct. At the time that we
6 purchased the system, Aqua -- Florida Water Service had
7 already done preliminary design work for a replacement
8 and expanded plant there. The plant was both old and in
9 poor condition, and there was a capacity issue.

10 Q. What was the capacity of the disposal
11 facilities at the time that Aqua purchased the Chuluota
12 wastewater system?

13 A. About 100,000 gallons per day.

14 Q. Okay. And what type of disposal facilities
15 serve that plant?

16 A. It's a spray irrigation field.

17 Q. So it would be your testimony today that the
18 old wastewater treatment plant was properly matched with
19 its disposal facilities in the range of approximately
20 100,000 gallons per day?

21 A. Yes.

22 Q. What is the treatment capacity of the new Aqua
23 expanded wastewater treatment plan?

24 A. The design capacity is 400,000 gallons per
25 day. Again, that was the capacity of the plant that had

1 been preliminarily designed by Florida Water Service.
2 There was a lot of thinking and projections by Florida
3 Water Service and representations by Florida Water
4 Service as to why they had selected that capacity.

5 We did some both value engineering in looking
6 at their preliminary design and also looking at their
7 projections, and I actually did some alternatives
8 analysis to look at what could have been done to build a
9 smaller plant. And because of the duplication of some
10 of the key processes that were required, there would
11 have been minimal savings in building a smaller plant
12 there, because some of the processes had to be
13 duplicated, some of the key -- it was a ring type
14 standard activated sludge plant with clarifiers. You
15 have to have two of those units, because if anything
16 goes wrong with one or it has to be taken down for
17 painting or coating, you have to have some redundancy.

18 Q. Nevertheless, since the new wastewater
19 treatment plant has been constructed with this increased
20 capacity, would it be fair to say there's a serious
21 mismatch between at least the treatment capacity and the
22 disposal capacity to support that treatment?

23 A. We currently have more treatment capacity than
24 we have disposal capacity. There had --

25 Q. A factor of -- excuse me. Go ahead.

1 A. There had been plans by Florida Service to
2 acquire additional disposal area. We are currently in
3 negotiations with Utilities, Inc. to actually acquire
4 some of the treated wastewater, and that was actually in
5 the back of our minds when we built the upgraded plant.
6 In the process of upgrading the plant, we put in
7 processes, including a disk filter to provide a very
8 good quality effluent so that this could be used for
9 public access reuse water.

10 Q. Although some plans were on the table,
11 obviously, Aqua made a corporate decision to go forward
12 with a major expansion of the wastewater treatment
13 plant, and at the same time, made the decision to not
14 expand the disposal facilities; is that true?

15 A. That's true.

16 Q. And yet Mr. Lihvarcik's testimony was that we
17 were immediately embarking on this major wastewater
18 treatment expansion because of the demands that were
19 being placed on that system required an expansion. And
20 yet isn't it counter -- it's not consistent to then --
21 since this entire wastewater treatment plant was started
22 in 2004 and finished in 2006, there has been no attempt
23 to really increase by one gallon per day the permitted
24 capacity to treat wastewater.

25 A. Well, I'll take exception with the

1 representation in the question. We have been working
2 for at least two years on alternatives for additional
3 disposal at the Chuluota facility, including the
4 negotiation with Utilities, Inc.

5 Q. If there truly was an immediate growing demand
6 for wastewater services, Aqua would have had to expand
7 its disposal facilities. So obviously, there was no
8 immediate demand in 2004, because here we are in 2008,
9 and there is no expansion of the disposal.

10 A. As I explained previously, there were two
11 drivers for this project. The first driver was the
12 condition of the existing plant. The second driver was
13 the fact that the plant was at capacity or very close to
14 being at capacity, and certainly projected to be over
15 capacity very soon. Those were the conditions that we
16 inherited from Florida Water Service, and those were the
17 conditions that we believed prevailed at the time.

18 I can almost assure you that had we made the
19 decision to not rebuild this plant and not expand the
20 plant, we would be sitting here today, and I would be
21 answering questions about the condition of the
22 wastewater facilities in Chuluota as well as questions
23 about the drinking water facility.

24 The reconstruction, the rebuilding of that
25 plant is one of the things that I am proud of and I

1 think Aqua can be proud of.

2 Q. Nevertheless, what was the pressing problem
3 that everybody was concerned about at the time Aqua
4 purchased Chuluota. Was it not the black water problem?
5 And had the company committed more of its resources to
6 address that problem during these four years of TTHMs
7 and all the things that we've lived through all these
8 four years, might that water problem have played out
9 differently than it has for the last four years?

10 MR. MAY: Mr. Chairman, I think there's about
11 three or four questions intertwined into one. So,
12 Mr. Reilly, could --

13 BY MR. REILLY:

14 Q. Restating it, had the company committed
15 itself, as Mr. Lihvarcik testified at the New Port
16 Richey hearing, that given our finite resources, we were
17 going to address environmental compliance and water
18 quality problems, had the company done that in Chuluota,
19 would we have had a different history of the water
20 quality program in Chuluota for the last four years?

21 A. 20/20 hindsight is nice to have, and Monday
22 morning quarterbacking is easy to do. At the time that
23 we acquired the system from Florida Water Service, the
24 water system from Florida Water Service, with the
25 problems that were going on with the black water and the

1 nitrification problems, it was our belief that those
2 conditions could be addressed by going to a free
3 chlorine burn-out, which is what was being recommended
4 by Florida Water Service and also recommended and
5 approved by DEP, and then eventually returning to
6 chloramination if an issue with disinfection by-products
7 arose. That in fact is the substance of the letter from
8 Tetra Tech, which I believe you sponsored as an exhibit.

9 Q. That's correct. Speaking of the change from
10 chloramination to -- or rather, from free chlorine to
11 chloramination, which is what we've been involved in the
12 last few years, when I asked Mr. Lihvarcik a question
13 which suggested that Aqua had quickly switched from
14 chloramination disinfection to free chlorine
15 disinfection after purchasing the system in 2004,
16 counsel for Aqua objected to the reference to quickly
17 switching. And since I was told that was your
18 terminology, I would ask you to tell us what you meant
19 by quickly switching.

20 A. Well, I can say it was as quickly as possible
21 under the direction and encouragement of Florida DEP put
22 in place, actually set in place by Florida Water
23 Service. The first call that I recall on this issue was
24 about June 25th of 2004 from Craig Anderson from Florida
25 Water Service. This was just days before our closing,

1 when he called to tell me that they were having a few
2 discolored water complaints and odor complaints in
3 Chuluota, and they felt that they needed to go to free
4 chlorine.

5 And after digging and asking for explanations,
6 and he was quite insistent that this what needed to be
7 done and that Florida DEP was insisting on this also, I
8 spent the 4th of July weekend and the 4th of July on the
9 phone with Kim Dodson and Vivian Garfein working out
10 language for a boil water notice that they insisted be
11 distributed within the community and working on actions
12 that would be taken to try to address this immediate
13 water quality concern.

14 Q. Referring to the consent order on page 4, line
15 16 through 18 of your testimony, if you could take a
16 look at that.

17 A. Yes.

18 Q. Let me find it myself here.

19 Okay. Here you say, "The FDEP issued a
20 consent order in December 2006 requiring AUF to
21 implement chloramination." And my question to you is,
22 is that really true? Is there any requirement in the
23 consent order requiring Aqua to implement
24 chloramination?

25 A. I'm not sure. I believe certainly the consent

1 order required the THM issue to be addressed. And we
2 had already engaged an engineer to start working on a
3 design for a system to return to chloramination after we
4 had had several successive quarters of THM results above
5 the maximum contaminant level. That is one of the
6 reasons that we were able to submit a design and
7 application package in December almost immediately after
8 receiving the draft of the consent order from Florida
9 DEP.

10 And as you'll note in Ms. Dodson's testimony,
11 Mrs. Dodson's testimony, that consent order was actually
12 signed in January. So we had actually submitted the
13 application in December, and our engineers had had
14 consultations with Florida DEP leading up to that
15 consent order being issued. So it was clearly our
16 understanding that it was their expectation that the
17 only thing that we could do within the time frame that
18 they were proposing in their consent order was a return
19 to chloramination, and it was our expectation that
20 that's what they wanted us to do.

21 Q. I was just going by the terms of the consent
22 order that was signed by DEP and Aqua, where it required
23 the company to hire a professional engineer and submit a
24 plan to deal with the ongoing TTHM problem. And my
25 question was going to be, well, what other options did

1 the company consider, and why were they rejected and so
2 forth. And you're saying you didn't consider any other
3 options, and --

4 A. I'm saying we were already on the way to
5 making that decision. And again, I'll refer back to the
6 Tetra Tech exhibit which you sponsored as an exhibit --

7 Q. Certainly.

8 A. -- which had recommended that we might have to
9 go back to chloramination as a -- in the event that we
10 were not able to get the TTHMs into compliance. We had
11 already hired one engineering firm that gave us that
12 recommendation in 2004.

13 Q. And speaking of the 2004 time period, when
14 Aqua did its due diligence, I assume it was aware of the
15 black water problem at the time that it purchased the
16 system.

17 A. Well, we were aware of it as of June 25th,
18 2004.

19 Q. And again referring to the Tetra Tech/Hartman
20 & Associates report that clearly identified the dead-end
21 lines as an issue and the need to loop the lines, I
22 guess the follow-up question to you would be, why after
23 all these years only now has the company begun a program
24 to loop those lines?

25 A. Well, I think it's incorrect to characterize

1 that there has been nothing done up to date, up to the
2 time of the project described by Mr. Lihvarcik yesterday
3 to loop and eliminate dead-end lines. In fact, Aqua has
4 done pipeline improvement projects in the distribution
5 system in Chuluota prior to this particular project.
6 Mr. Lihvarcik testified that there were limitations on
7 opening roads to replace pipe, and we were trying to
8 coordinate pipeline replacement with the municipalities.
9 We also installed auto flushers, which was one of the
10 recommendations in the Tetra Tech report, to address the
11 dead-end lines that we were not able to loop.

12 Q. In my question, I wasn't inferring that Aqua
13 had done nothing to try to address water quality
14 problems from 2004. But with the specific
15 recommendation on the looping of the lines, my question
16 was, why did not that specific action -- why did it take
17 four years to take that action? I guess that was the
18 question.

19 A. Well, I think I answered that.

20 Q. That you did other things besides looping the
21 lines? Was that your answer?

22 A. There were many dead ends in the Chuluota
23 system. Even the project that is being done as we
24 speak, there will still be unlooped dead-end lines in
25 the Chuluota system. There are portions of the system

1 that are designed with cul-de-sacs, which will probably
2 always be dead ends. We have installed auto flushers on
3 those lines.

4 MR. REILLY: No further questions.

5 CHAIRMAN CARTER: Thank you, Mr. Reilly.

6 Ms. Bradley.

7 CROSS-EXAMINATION

8 BY MS. BRADLEY:

9 Q. Mr. Luitweiler, are you aware that some of the
10 physicians or pediatricians in the Chuluota area have
11 advised parents that they should not let their children
12 drink or even bathe in the water?

13 A. No, I'm not.

14 Q. Have you not reviewed any of the testimony at
15 the hearings?

16 A. I have reviewed some of the testimony at the
17 hearings, not all of it. I have no independent
18 knowledge that a pediatrician has made that
19 recommendation to any of our customers. I have seen
20 testimony from others, secondhand knowledge, secondhand
21 testimony, that that kind of recommendation has been
22 made.

23 Q. So you haven't reviewed the Chuluota
24 testimony?

25 A. The entire testimony, no, I have not.

1 Q. Do you understand how the parents that
2 testified at that hearing are concerned about the water
3 quality when their pediatricians and their veterinarians
4 are telling them not to wash their kids or their animals
5 in this?

6 MR. MAY: I object to that. There was no
7 pediatrician that testified at the Chuluota hearing.

8 MS. BRADLEY: As I said, several parents
9 testified that their pediatricians had told them.

10 MR. MAY: For the record, that's hearsay.

11 CHAIRMAN CARTER: You may proceed.

12 MS. BRADLEY: Thank you, sir.

13 BY MS. BRADLEY:

14 Q. Do you remember the question?

15 A. I am aware and certainly sympathetic to the
16 fact that there are many people in Chuluota who have
17 been unhappy with their water quality for a very long
18 time, including the period of time of black water, when
19 they had a boil water notice delivered to their door in
20 July of 2004, and every quarter that we have delivered
21 notices of total trihalomethane MCL exceedances. I
22 consider that to be a serious challenge for our company
23 and something that we are committed to resolve and that
24 we have worked very hard in the past year and a half to
25 resolve.

1 Q. Are you aware of the testimony at the hearings
2 when people talked about the number of pipes they had
3 had to replace or faucets they had had to replace
4 because they had essentially been eaten out?

5 A. I have seen some of that testimony.

6 Q. Do you understand the concern that people have
7 about their own health if they're drinking something
8 that has eaten out the pipes?

9 A. Well, I can see where people may make that
10 connection. On the other hand, this is not to me a
11 mystery in terms of what may be happening with the
12 pipes. Similar to the black gunk that I have heard
13 testimony about here, this is an outgrowth and a result
14 of the hydrogen sulfide, the natural hydrogen sulfide
15 that is in the raw water. In my rebuttal testimony and
16 in my summary that I just read, I tried to very quickly
17 address that issue about what happens to the sulfide.

18 I would just like to refer you to page 3 of 6
19 of my exhibit to the paragraph at the bottom. This is a
20 report by Dr. Taylor. Dr. Taylor is a retired Ph.D.
21 from the University of Central Florida and a very well
22 respected expert in water treatment in Florida. And if
23 you'll bear with me, I'll read this paragraph.

24 "Another treatment challenge at Chuluota is
25 the presence of sulfides in the raw water. The tray

1 aerators at both water treatment plants intended to
2 remove hydrogen sulfide have only a limited effect on
3 the sulfides at Chuluota. Addition of free chlorine
4 after aeration forms sulfur from the remaining sulfides.
5 Colloidal elemental sulfur contributes to turbidity in
6 the treated water and can form iron and copper sulfide
7 when exposed to either metal in distribution systems.
8 This process has been described in the literature, Lyn
9 and Taylor, Journal AWWA, 1993. The resulting sulfide
10 films are not hard and provide an opportunity for
11 biofilm growth. These deposits can be released into the
12 bulk water, resulting in occurrence of black water in
13 distribution systems."

14 Q. Are you aware that the people are still
15 complaining about the water quality and the gunk and the
16 ooze and the black stuff floating in their water?

17 A. I am not aware of recent complaints from
18 residents of Chuluota about those particular conditions.
19 I am aware this has been a longstanding problem, and it
20 would not surprise me if people are still seeing
21 evidence of those deposits that are in the distribution
22 system and in the plumbing.

23 Q. And do you understand how people don't feel
24 comfortable drinking something with stuff floating in
25 it?

1 A. Yes, I can understand that.

2 Q. You talked about the automatic flushers that
3 you put in. Can you tell me when that was done?

4 A. It was done over a number of years. I can't
5 tell you -- there are 13 or 14 automatic flushers that
6 have been installed in the system from 2004 until today.
7 I can't tell you when each one of them went in.

8 Q. You don't have that information?

9 A. No. I can get that if it's important.

10 Q. When did you hire Dr. Taylor?

11 A. In July or August of this year. I believe it
12 was August.

13 Q. And you said you hired him before you got the
14 consent order requiring you to hire someone?

15 MR. MAY: Ms. Bradley, could you please
16 rephrase that question?

17 BY MS. BRADLEY:

18 Q. The consent order that you got from DEP
19 indicated that you could pay a fine, or in the
20 alternative, I think it said -- actually, I think it
21 said it ordered you to hire an engineer. Was Dr. Taylor
22 the engineer that you hired?

23 A. No.

24 Q. Okay. Have you hired an engineer?

25 A. Yes.

1 Q. And who is that?

2 A. Boyd Environmental.

3 Q. Excuse me?

4 A. Boyd Environmental.

5 Q. And where are they located?

6 A. James Boyd. Outside of Orlando.

7 Q. I keep getting people that don't know or seem
8 to avoid it, but if there's TTHMs, during the time that
9 there has been TTHMs in the water, if you were doing
10 flushing, would that not return the TTHMs to the
11 aquifer?

12 A. Very unlikely, for two --

13 Q. Do they disappear in -- go ahead.

14 A. Total trihalomethanes are volatile, and they
15 generally do not survive long in the environment. They
16 volatilize. So discharging treated drinking water to
17 the ground will not introduce trihalomethanes into the
18 groundwater.

19 Q. You're aware, are you not, that this is an
20 area -- the Chuluota area is an area that -- actually,
21 that whole territory has had a water shortage recently;
22 correct?

23 A. I'm aware that Hurricane Faye came by in
24 August and that there was rather severe flooding in the
25 entire St. Johns basin. I'm aware that there was a

1 drought in much of Florida about a year or a year and a
2 half ago. So there have been times of abundant water,
3 and there have been times of drought in the last several
4 years.

5 Q. Did you hear the testimony of Ms. Dodson where
6 she advised that everyone needs to be conserving water?

7 A. Yes.

8 Q. In light of that need for conservation, did
9 you all consider alternatives other than flushing that
10 uses so much water?

11 A. As I explained in my testimony and in my brief
12 summary, maintaining compliance with total
13 trihalomethanes, maintaining hydrogen sulfide levels, or
14 preventing hydrogen sulfide levels from forming in the
15 distribution system, controlling hydrogen sulfide, and
16 most importantly, controlling nitrification is a very
17 difficult balancing act. And flushing is a very
18 important element recommended, again -- I'll go back to
19 the Tetra Tech report, recommended in that report and
20 acknowledged by most water professionals.

21 Let me say a few things about flushing,
22 because I've heard a lot of things said about it in the
23 last day and a half, almost two days now. Flushing is
24 not an appropriate long-term substitute for optimized
25 treatment, but it is and always will be an important

1 adjunct to treatment to maintain distribution system
2 water quality, especially in distribution systems that
3 have experienced nitrification.

4 Under the guidance of Dr. Taylor, since
5 September, September 25th, to be exact, Aqua has
6 undertaken an intensive distribution system monitoring
7 program to detect the early signs of nitrification.
8 This program will now allow us to optimize the timing
9 and duration and hopefully reduce flushing.

10 In Chuluota, flushing serves two purposes,
11 one, to reduce the hydraulic residence time, especially
12 in the ground storage tank at Water Plant Number 2, and
13 thereby reduce total trihalomethane formation in that
14 ground storage tank where the water is in contact with
15 free chlorine; and secondly, to control nitrification in
16 the distribution system.

17 In the first instance, I mentioned Hurricane
18 Faye in August. In August, we were struggling to get
19 the chloramination system up and running, and one of the
20 challenges that we had was suddenly, the demand in the
21 system was way down because we had just had a hurricane
22 and many inches of rain, and nobody was using water for
23 irrigation. So we had very long hydraulic retention
24 time in the ground storage tank at Water Plant 2. We
25 needed to do a lot of flushing at a time when there was

1 already a lot of water on the ground.

2 I have heard about pictures that were
3 presented on Monday. I don't know where or when those
4 pictures were taken, but if any of them were taken in
5 August of this year, we had a lot of water to get rid of
6 and move around in order to maintain water quality in
7 the Chuluota system because of a variety of factors that
8 all came together in a perfect storm for us in August of
9 this year.

10 For the control of nitrification, compared to
11 manual flushing, auto flushers allow more effective
12 targeting of flushing in time and location to do the
13 most good to control water quality complaints. And so
14 we have installed 13 or 14 auto flushers in the Chuluota
15 system, and we believe, as Tetra Tech had believed in
16 2004, that was the right thing to do.

17 Q. If we can go back to my question, though, did
18 you consider other options in light of the water
19 shortage?

20 A. Other options being what? Can you --

21 Q. You tell me. I'm asking did you consider
22 other options?

23 A. When you have a system that is subject to
24 nitrification and you have that system on chloramination
25 and you have to maintain water quality at the dead ends

1 of that system, there is no other option to flushing.

2 Q. You indicated that although that's the
3 recommendation of the engineers, that it's not a
4 long-term solution. So what is the long-term solution
5 you're looking at?

6 A. I would like to turn your attention to page 4
7 of 6 and 5 of 6 of my -- of the attachment to my
8 testimony, where Dr. Taylor describes four treatment
9 processes that we are actively considering in the
10 Chuluota system.

11 Q. And have you --

12 A. Carbon dioxide enhancement of tray aeration,
13 Thermax ion exchange, Miex ion exchange, and Adedge.

14 Q. And where are you in that deliberation?

15 A. We have applied for and received a permit from
16 Florida DEP for a full-scale pilot of CO₂ enhanced tray
17 aeration at Water Treatment Plant 2. We have just
18 received from the engineer the estimate for that system.
19 It has morphed from a full-scale pilot into a project
20 that would be a full-scale, virtually permanent
21 installation at a cost that is at least half, if not
22 more, than the cost of one of the other options.

23 Dr. Taylor has strongly recommended, and we
24 have accepted his recommendation, that we start piloting
25 on a much smaller scale at least two of the other

1 alternatives, which we believe would probably give
2 better long-term treatment, and that's the Thermax ion
3 exchange and the Adedge treatment. We have not yet
4 installed those pilots. We need to do piloting on
5 either of those to determine the sizing and the backwash
6 and regeneration water disposition from those systems,
7 but we expect to be doing that piloting probably early
8 -- probably beginning in January of this year.

9 Q. And that is for the Chuluota area?

10 A. Yes.

11 Q. And do you have any idea how long it's going
12 to take before you make a final decision after your
13 piloting? What is a piloting period? Let me just ask
14 that.

15 A. We are in consultation with Dr. Taylor right
16 now on what an appropriate piloting period would be. I
17 think it may depend a little bit on how the initial
18 piloting goes. We may need to run the pilot through
19 warm water rather than just cold weather, so we might
20 have to run it into the spring or early summer. We may
21 be able to make a decision sooner than that.

22 Q. And you said you were using a piloting of two,
23 but there was a third one that was the one that was much
24 less expensive. Are you going to be piloting that one
25 as well, or -- I didn't understand what you said about

1 it.

2 A. Well, the CO₂ process, we know what it's going
3 to cost now, or at least have a reasonably good
4 estimate, since we have a full-scale design that we had
5 to develop for the permitting. It's difficult to do a
6 small-scale pilot of CO₂ because it uses the tray
7 aerators, the existing tray aerators, which are
8 full-scale. So we are probably not going to go ahead
9 with the CO₂ pilot, but I think that's still up in the
10 air.

11 Our concern, Dr. Taylor's concern is that if
12 we go ahead with the full-scale CO₂ pilot, we are
13 virtually committed to moving forward with that
14 particular process, and we're looking at whether that is
15 the most prudent thing to do.

16 You will also notice at the bottom of page 5
17 of 6 that there were quite a few other processes, forced
18 draft packed tower aeration, ozone, UV, RO/NF, membrane
19 filtration, and GAC/Cl₂, which were also evaluated and
20 considered and rejected as inappropriate for Chuluota.

21 Q. Mr. Reilly I believe asked you about the due
22 diligence process when you all purchased this facility.
23 And you were on that team; correct?

24 A. I was on the team. I had not been to the
25 Chuluota facility, actually had not been to any of the

1 facilities, but I had reviewed every CCR for the Florida
2 Water Service systems, and I had reviewed a lot of the
3 documentation, including the due diligence from people
4 on the ground who had visited those systems.

5 Q. You indicated in your testimony that the
6 citizens are aware of the problems that existed when you
7 purchased it, but you were also aware of those problems
8 as well, and in fact, that's why you were able to
9 purchase it at a lower price, is because of those
10 problems; correct?

11 A. I would not characterize that as the situation
12 at all. This was an arm's-length transaction with a
13 seller who was exiting the state, an electric utility
14 who was getting out of the water business. They had
15 already sold every system that they could to a
16 neighboring municipal system. We were picking up what
17 was left. And we were making the best evaluation of the
18 value of those systems that we could, based on what we
19 believed at that time and their representations to us
20 about the quality of those systems.

21 Q. And if you had purchased a plant without those
22 problems, you would have paid a lot more, wouldn't you?

23 A. That's pure speculation. I have no idea.

24 Q. In your business, you haven't had any
25 experience that if there are problems, it usually lowers

1 the price of a facility?

2 MR. MAY: I think he has already been asked
3 that question, and he has answered it.

4 MS. BRADLEY: I asked him in his experience.

5 A. You have a seller and a buyer who have to come
6 to terms. Had we not come to terms, had we agreed to
7 walk away or decided to walk away, you would be dealing
8 with Florida Water Service here today, I suspect,
9 because it's my understanding that the City of Oviedo
10 and Seminole County had both declined to acquire the
11 Chuluota system.

12 Q. Have you been involved in the buying and
13 selling of systems prior to this?

14 A. I have been involved in environmental due
15 diligence prior and subsequent to this, yes.

16 Q. Based upon that, isn't it fair to say that if
17 you purchase a facility without problems, that you're
18 generally going to expect to pay more for it?

19 A. The existence of problems in the system,
20 compliance issues in the system, systems that need
21 capital improvements, are an incentive for a buyer to
22 sell at a lower price and a reason for a purchaser to
23 expect a lower price.

24 MS. BRADLEY: I think you may have gotten that
25 twisted, but I think you answered my question.

1 No further questions, Mr. Chairman.

2 CHAIRMAN CARTER: Thank you.

3 COMMISSIONER ARGENZIANO: Mr. Chair.

4 CHAIRMAN CARTER: Commissioner Argenziano,
5 you're recognized.

6 COMMISSIONER ARGENZIANO: Just a couple of
7 quick questions. I know the hour is very late, and
8 everybody must be tired.

9 To the point that you made before to
10 Ms. Bradley's question about the THMs not making it
11 down to the aquifer, could you just briefly explain to
12 me why not, why it wouldn't?

13 THE WITNESS: THMs are fairly volatile. When
14 you take THMs at the level that they would occur in
15 drinking water and spread them on the ground,
16 particularly in the Florida climate, the THMs will
17 volatilize long before the water evaporates, so that the
18 water that is left to percolate into the ground will
19 have very low levels of THMs. There's also --

20 COMMISSIONER ARGENZIANO: Would that be -- I'm
21 sorry. You weren't finished. Go ahead.

22 THE WITNESS: No, go ahead. Go ahead.

23 COMMISSIONER ARGENZIANO: Would that be the
24 same if the ground was saturated also, saturated prior
25 to the flushing, in other words, a lot of rain, a lot of

1 flooding.

2 THE WITNESS: It would actually probably be
3 more so if the ground was saturated, because the water
4 would actually have a longer period of time to be in
5 contact with the air, the ambient air.

6 COMMISSIONER ARGENZIANO: Okay. Okay. The
7 second and last question I have, in regards to the
8 hydrogen sulfide, I understand that you're correct that
9 the aeration is not working. Would it work -- let me
10 ask you this, because I know that there's this problem
11 throughout the State of Florida. It's just inherent in
12 where we live and the type of spaces in the aquifer. It
13 really doesn't -- it's not that you're putting hydrogen
14 sulfide into the water. It's there, and it's been a
15 problem there for a long time, as I remember. And I
16 know I have the problem up in Citrus County.

17 But would there be a better solution and a
18 cheaper solution -- the CO₂ solution to me sounds like
19 it would cost a fortune, and these people are paying a
20 ton of money now or can't afford any more. Would it be
21 a better solution if each homeowner -- and I don't want
22 anybody to jump up and scream, because I don't want to
23 cost the homeowner any more money. Perhaps the company
24 would give an incentive or a break for a homeowner to
25 put their own aerator system at home, like a, 600, \$700

1 aerator system that would stop the black staining and
2 the smell from the hydrogen sulfide? Could that be a
3 cheaper solution, or could it be a solution to the
4 hydrogen sulfide levels that you are currently are
5 seeing.

6 THE WITNESS: Okay. I'll do my best to answer
7 that question. It's a very good question that
8 unfortunately engenders a fairly complicated answer.

9 The short answer is no, and I'll try to give
10 you an explanation of why. The issue with hydrogen
11 sulfide in the raw water is that it has to be removed by
12 some process before chlorine is added, which chlorine is
13 necessary for disinfection, or what happens is, it
14 reacts very quickly with chlorine. Once the water has
15 been chlorinated, subjected to free chlorine, there is
16 no hydrogen sulfide left. The hydrogen sulfide becomes
17 oxidized to something called colloidal sulfur. That
18 colloidal sulfur gets out in the distribution system,
19 and if conditions of nitrification occur in the
20 distribution system, it gets converted back into
21 hydrogen sulfide. It also gets converted into these
22 metal sulfides which form black water.

23 Putting an aeration system at each individual
24 house would probably be -- and I'm trying to be very
25 respectful here -- would probably be the worst solution

1 that we could try to implement, even if we --

2 COMMISSIONER ARGENZIANO: And that is because
3 of the chlorine process. So in other words, if those
4 people -- if the people had their own wells and had
5 hydrogen sulfide, in that case they could, because
6 there's no chlorination, use an aerator at their home
7 and from their own well, and that would probably solve
8 the problem.

9 THE WITNESS: Well, they could. But if you'll
10 notice in my testimony, if you get a chance to look at
11 my testimony, one of the things that we had rejected,
12 with Dr. Taylor's very sage advise, was forced draft
13 packed tower aeration. This happens to be the treatment
14 that they're using in Chuluota. This would be the kind
15 of thing that you would do on a small scale. Actually,
16 my former boss had a patent for an individual home
17 aeration system that never really got off the ground
18 because of a variety of problems. But the problem is
19 that with this water and with the hydrogen sulfide, in
20 an aeration system, you have conditions ripe for the
21 growth of bacteria, and you can have bacterial slimes
22 growing in those aeration systems, and the average --
23 you definitely will have those conditions if you do not
24 chlorinate the system, the water before. So you almost
25 have to chlorinate before the aeration system, which the

1 average homeowner won't do. And for the average
2 homeowner to try to maintain a small packed tower
3 aeration system in their basement or on the side of
4 their house would be just a recipe for disaster.

5 The other thing that I would mention is that
6 the off-gas of the hydrogen sulfide has a rotten egg
7 odor. Most homeowners wouldn't want that coming out of
8 a little box in their basement or on the side of their
9 house.

10 COMMISSIONER ARGENZIANO: Well, let me just
11 tell you, with all due respect -- and I understand to a
12 certain degree what you're saying is correct. I have
13 one of those aerator systems, and I wouldn't keep it in
14 my basement. In Florida you don't find too many of
15 those anyway, basements, that is. It is on the outside
16 of the house, and almost everybody in the area and in
17 several different counties of the state use those
18 aerators to relieve that smell and the black water. And
19 to my knowledge right now, nobody has had any bacteria
20 problems with the -- what you've said makes me cringe a
21 little bit, to wonder if that could be a problem or a
22 potential problem down the line or how much of a problem
23 it really is.

24 And I guess I'm asking the question because,
25 you know, it seems that that is one of the biggest

1 problems. You know, when you look at your sinks and
2 your toilets and you have these back stains, and then
3 you say to yourself, "Well, I'm paying for this water,"
4 unfortunately, it is found throughout the state in many,
5 many places.

6 I'm trying to figure out, I guess, using my
7 experience with my aerator, and coming from a very large
8 district that I had before I came to the PSC, most of
9 that district has hydrogen sulfide, and most of the time
10 the problem is corrected with an aerator, and it has
11 worked pretty well. So with respect to the cost and the
12 smell, I think the people I've seen in my history with
13 this and my experience with this would rather pay the 6-
14 or \$700 and get water that they could drink and not
15 stain their faucets and their -- I mean, their sinks, and
16 so on and so on.

17 I guess you've answered my question to the
18 best of your ability, and I appreciate that.

19 THE WITNESS: Let me try to add a little bit
20 more. I know it's late, but let me say a few things
21 about hydrogen sulfide and the levels of hydrogen
22 sulfide. The levels in Chuluota are higher than in any
23 other system that Aqua has, on the order of 2-1/2 to
24 5 milligrams per liter of hydrogen sulfide. And that is
25 higher than is recommended to be treated with tray

1 aerators, which is the system that we inherited when we
2 purchased the system. It is higher than is recommended
3 for some forced draft aeration systems.

4 One of the reasons that it took us a while to
5 recognize how high the hydrogen sulfide levels were goes
6 to the heart of the question that you had of DEP as to
7 why hydrogen sulfide wasn't tested in the distribution
8 system samples that were taken in August. Hydrogen
9 sulfide, as I explained before, is oxidized as soon as
10 you have free chlorine. We would not expect to have
11 found or expect DEP to have found hydrogen sulfide in
12 those distribution system samples where there was not a
13 nitrification episode going on.

14 Hydrogen sulfide volatilizes very quickly, and
15 it oxidizes very quickly. If you take a sample and you
16 allow air into the sample, even if you take it head
17 space free, which means there's no air in the container
18 that you ship it to the laboratory in, it will oxidize.
19 So when it gets to the laboratory and they test for
20 hydrogen sulfide or sulfide, they'll get a low number.
21 And we were having samples sent back to our lab of the
22 raw well water, which we suspected had high levels of
23 hydrogen sulfide, and the numbers were all over the
24 place because of how much of the hydrogen sulfide was
25 dissipating in the time that it took the sample to get

1 to the laboratory.

2 It wasn't until Dr. Taylor got involved with a
3 couple of graduate students and set them up with on-site
4 testing kits to test hydrogen sulfide that we finally
5 got good numbers on what the hydrogen sulfide levels
6 were in the raw water in the Chuluota wells.

7 COMMISSIONER ARGENZIANO: Then let me just ask
8 you, you're saying that they're high levels. Are they
9 high enough that people shouldn't be breathing?

10 THE WITNESS: As I explained before, the
11 hydrogen sulfide gets oxidized to elemental sulfur in
12 the ground storage tanks when it gets hit with chlorine.
13 The hydrogen sulfide is gone by the time it leaves the
14 water plant.

15 COMMISSIONER ARGENZIANO: I got you, because I
16 forgot you had mentioned that. That's true. Well,
17 they're still having problems with the metals, because
18 they have stains and the smell. They're still having
19 that problem.

20 But let's go to just a different question, and
21 then I'll end my questioning. If that's the case and
22 the only answer to that is -- because obviously, it's
23 something in that well, in that -- a characteristic of
24 that area where that water is being taken. Of course, I
25 wanted some other testing done, knowing the history of

1 that area for farming and the old pesticides that used
2 to be used, and that's something else I'm looking at.

3 But in regards to the hydrogen sulfide, would
4 it not be cheaper to sink a different well possibly in a
5 different space, a different level, a different zone in
6 the aquifer, if there is such a thing in that area that
7 may, you know, have a different outcome? Would it be
8 cheaper to do that?

9 THE WITNESS: We have four wells in the system
10 at two different -- two in each of two locations at the
11 two water plants. All of the wells have high levels of
12 hydrogen sulfide.

13 We might get less hydrogen sulfide in the very
14 shallow aquifer. We would get a lot more iron, we would
15 get bacteria potentially, and we would be in the
16 situation that Catherine Walker was describing about
17 impacts on the shallow aquifer. I don't think St. Johns
18 would even let us put a production well of the magnitude
19 that we would need for Chuluota into the shallow
20 aquifer.

21 COMMISSIONER ARGENZIANO: So then basically
22 what you're saying is the problem with the hydrogen
23 sulfide is geographic? It is there, and it's one that
24 even if you sunk another well, you're going to come up
25 pretty much with the same result.

1 THE WITNESS: I would virtually guarantee it.

2 COMMISSIONER ARGENZIANO: Is there anything
3 that either USGS or the Water Management District have
4 indicated is specific to that area that make it so much
5 higher? I mean, I know there's high levels in so many
6 parts of the state, but that would indicate that that is
7 just a problem there? I mean, I can't blame the company
8 for hydrogen sulfide. Okay? That's just a natural
9 phenomenon. And I'm trying to find a way, and it looks
10 like the company is trying to find a way to get rid of
11 it, but it's almost to me at this point like you can't,
12 and it's going to cost a lot more to go to the CO₂ or
13 other places, and it seems like the only answer is going
14 to Oviedo.

15 I guess that's just my impression at this
16 point, because what you're saying is that you recognize
17 the problem, you know what it is, but it can't be
18 corrected unless you spend more and more -- a lot more
19 money, and that's not the solution for these people who
20 just can't pay any more.

21 So with that, I appreciate your answering my
22 questions. And thank you, Mr. Chairman.

23 CHAIRMAN CARTER: Thank you, Commissioner.
24 Thank you.

25 Did I come to you already, Mr. May? Okay.

1 Staff, you're recognized.

2 MR. JAEGER: Thank you, Chairman. I have just
3 a very few questions.

4 CROSS-EXAMINATION

5 BY MR. JAEGER:

6 Q. First of all is just your correction from two
7 tests to three quarterly tests that have passed. Can
8 you give me the dates for those passing tests?

9 A. I'm afraid that I can't, because I don't have
10 those documents with me. It was the last round of tests
11 that were taken in November. They were reported from
12 the lab to us in late November. They are due in to DEP
13 by today, December 10th.

14 CHAIRMAN CARTER: Mr. May?

15 MR. MAY: We would be glad to provide a
16 late-filed exhibit that would provide those dates if you
17 would like, Mr. Chairman.

18 CHAIRMAN CARTER: That will be Exhibit 206.
19 And these are -- Staff, give me a title.

20 MR. JAEGER: Testing dates for
21 trihalomethanes, TTHMs.

22 CHAIRMAN CARTER: You died on me. You're
23 getting wimpy on me at the end, now. Give me that title
24 again.

25 MR. JAEGER: Testing dates for TTHMs, the last

1 three. And we could ask for the reports too.

2 (Late-filed Exhibit 206 was identified for the
3 record.)

4 BY MR. JAEGER:

5 Q. Part of my quandary is, you went to a free
6 chlorine burn in -- I think July 3rd, and you didn't go
7 back to chloramines until September 3rd, and it seems
8 like one of those quarterly tests would have been right
9 in the middle of that free chlorine burn, so I'm trying
10 to figure out how in the world -- you know, why did you
11 change if you were meeting all standards? Why did you
12 go to the free chlorine burn?

13 A. I don't believe we were meeting the standards
14 while we were on the free chlorine. I'll have to check
15 that. But I think the multiple quarters that we had had
16 out of compliance in the past had convinced us that we
17 were not going to be able to meet those standards while
18 on free chlorine.

19 I understand your question, and I hope that
20 we'll be able to answer that with the testing dates that
21 we supply and the results.

22 Q. Thank you. On page 5, lines 22 through 25,
23 you discuss that the consumptive use permit limits the
24 frequency, duration, and volume of flushing that can be
25 done to manage and maintain the distribution system.

1 But then on page 10, line 11, you talk about the
2 installation of 14 automatic flushing valves in the
3 distribution system. Can you tell me how those
4 automatic flushing valves work? Are they more efficient
5 than manual flushing?

6 A. Yes. I had previously testified that the
7 automatic flushers are more efficient at maintaining
8 water quality in the distribution system than manual
9 flushing, and that is because they can be programmed for
10 the duration, and they can be sited at locations for
11 optimum effect, which is difficult to do with manual
12 flushing. Generally the optimum time to flush is when
13 the water is stagnant in the pipes. That's usually
14 going to be between like midnight and -- if you have
15 sprinkler systems, they'll go on at, you know, maybe
16 four o'clock in th mornings, but during that period of
17 time. Most people don't want our guys banging around
18 outside their home or on the streets operating flushing
19 valves at those hours of the night, so the automatic
20 flusher does that very efficiently.

21 Q. Well, when you chose a siting location, in
22 addition to being like where it dead ends or where that
23 stuff would accumulate, do you also look to see if
24 there's like a wetland next to it or will the flushing
25 go onto private property? Do you also take that into

1 consideration?

2 A. Yes, we do. And to my knowledge, we are not
3 discharging any of the automatic flushers into any
4 wetlands.

5 Q. What about private property?

6 A. Some of the automatic flushers may discharge
7 onto private property, and if they create problem -- and
8 I know of at least one case where we did have a
9 complaint about ponding water, and we actually
10 eliminated the auto flusher at that location. We're
11 trying to maintain the water quality at that location
12 without having the auto flusher there.

13 Q. Going to your exhibit where you talked about
14 the four methods of getting rid of hydrogen sulfide, I
15 was a little confused why you were giving up CO₂ tray
16 aeration.

17 A. There is scant precedent for that type of
18 treatment working at the levels of hydrogen sulfide that
19 we have in the Chuluota wells.

20 The reason that we have even embarked on the
21 CO₂ pilot goes back to the Tetra Tech report. One of
22 the recommendations that they had made was that we lower
23 the pH. And even Dr. Taylor will concede that by
24 lowering the pH with CO₂ -- and he recommends that
25 that's the best way to lower pH -- that lowering the pH

1 with CO₂ could get a threefold, as much as a threefold
2 increase in removal of hydrogen sulfide. So we go from
3 20 percent removal to 60 percent removal, best case.
4 We've still got 40 percent. Forty percent of 4
5 milligrams per liter is still a fair amount of hydrogen
6 sulfide.

7 So we had embarked on this. We knew that it
8 would improve where we were. The idea of the pilot had
9 originally been a fairly inexpensive, short-term pilot.
10 But because it had to be full-scale to test the effect
11 on the existing aerators -- we can't model those
12 aerators with something real tiny and expect those
13 results to automatically scale up to full-scale
14 implementation. We needed a DEP permit. In order to
15 get the DEP permit, we needed an engineer, which ended
16 up being a full-scale design that morphed into other
17 opportunities for improvements at the plant. And now
18 we're, you know, like I say, almost half the cost of a
19 full-scale Thermax or Adedge treatment system. So it
20 has caused us to step back and think a little bit about
21 whether another treatment option might be the best.

22 Q. If you do go to a Thermax ion exchange system,
23 what would be the best case and worst case scenario for
24 having that online?

25 A. Boy. Whatever I say will come back to haunt

1 me. But I would think that probably the best case would
2 be the end of 2009, early 2010. Worst case might be mid
3 to late 2010.

4 Q. Just one last line of questioning. You were
5 talking about the hydrogen sulfide and the difficulty
6 with testing, and DEP I guess has a problem with that.
7 You say Mr. Taylor can do that testing?

8 A. Yes. He actually had a couple of graduate
9 students, and he set them up with the equipment and the
10 methods. He has done a tremendous amount of testing for
11 the AWWA Research Foundation, for Tampa Bay, for many
12 utilities all over Florida and is very familiar with
13 hydrogen sulfide, colloidal sulfur, you know, all of the
14 things that have to do with hydrogen sulfide water in
15 Florida.

16 Q. And finally, metal sulfides, are you talking
17 about iron sulfide and copper sulfide primarily?

18 A. Yes.

19 Q. What color is iron sulfide?

20 A. Generally black.

21 Q. And copper sulfide?

22 A. Generally black.

23 Q. So is there any easy way to tell other than
24 doing a test?

25 A. No. But if you wanted to do a test, you could

1 do a test and figure out how much copper sulfide and how
2 much iron sulfide you had. It would vary probably from
3 sample to sample, depending on whether it was taken out
4 of a copper pipe or out of an iron main.

5 Q. I think you anticipated my next question. But
6 all that would tell you is that it was reacting with
7 either copper or iron; is that correct?

8 A. That's correct.

9 MR. JAEGER: No further questions.

10 CHAIRMAN CARTER: Commissioners, anything
11 further? Exhibits?

12 Oh, I'm sorry. Mr. May, I know you probably
13 wanted to redirect.

14 MR. MAY: Just very briefly. I understand the
15 hour is getting late here.

16 CHAIRMAN CARTER: No, you may proceed.

17 MR. MAY: And to move things along just a
18 couple of points, Ms. Rollini is going to provide
19 Mr. Luitweiler with a copy of Exhibit 192 that
20 Mr. Reilly was questioning him about.

21 REDIRECT EXAMINATION

22 BY MR. MAY:

23 Q. Mr. Luitweiler, do you recall Mr. Reilly
24 questioning you regarding Tetra Tech's recommendations
25 on dead-end issues?

1 A. I remember him questioning me on dead-end
2 issues, and I remember part of my response referring
3 back to his exhibit.

4 Q. Can you turn to page 5 of 7 of that exhibit?

5 A. Yes, I'm there.

6 Q. Toward the bottom, there is a recommendation
7 regarding resolution of dead-end issues.

8 A. Yes, I see it.

9 Q. Is that a long-term recommendation?

10 A. Yes, it is, sir.

11 Q. Okay. You were questioned extensively by
12 Ms. Bradley and also the Commissioners regarding the
13 FDEP and the Florida Rural Water test. Do you recall
14 that?

15 A. Yes.

16 Q. Do you also recall the testing by -- questions
17 regarding testing done by the Department of Health? Do
18 you recall that?

19 A. I remember testimony on those things. I don't
20 remember specifically being asked about them, but, yes.

21 Q. Could you explain your understanding of the
22 Florida Department of Health testing, because I don't
23 think that has been discussed at length today, very
24 briefly?

25 A. I think the Florida Department of Health came

1 out and tested raw water from our wells, and then I also
2 understand that they tested water from the Walker
3 Elementary School. I wasn't aware of that for some
4 time, and I frankly have not seen any test results,
5 actual lab reports from the Department of Health
6 testing.

7 It was my understanding that the purpose of
8 that testing was to try to determine if there was any
9 peculiar chemical that might have been missed in the raw
10 water from the Chuluota wells. Our company had already
11 taken samples and done testing with a different suite of
12 tests, which we actually use for kind of broad scan
13 testing of is there anything weird in water. And we
14 have two tests that we use, which are semi-quantitative.
15 These are not quantitative tests, because we don't have
16 standards for anything that we might want to know about
17 in the water. All we can do is see if something is
18 there, and these methods give us a pretty good handle on
19 at least order of magnitude concentration if there is.

20 Q. What were the results of those tests?

21 A. We found nothing but sulfur in either of those
22 batteries of tests. One looks for a broad range of
23 inorganic chemicals, mostly metals, most of the elements
24 on the periodic table. The other looks for organic
25 compounds, and it searches a library of tens of

1 thousands of chemicals, for fingerprints of anything
2 that shows up on the mass spec.

3 Q. Last question. Ms. Bradley and Mr. Reilly
4 questioned you on several occasions regarding the
5 condition of the Chuluota wastewater plant. Do you
6 recall those questions?

7 A. Yes.

8 Q. And the condition of the plant, what I'm
9 specifically referring to is the condition of the plant
10 at the time of acquisition. Do you recall those
11 questions?

12 A. Yes, uh-huh.

13 Q. At the time of acquisition, at the time that
14 Aqua acquired the Chuluota wastewater plant from Florida
15 water, is it your understanding that the plant was in
16 compliance with FDEP regulations?

17 A. Yes, it is my understanding that it was. And
18 in fact, there was an order from the Public Service
19 Commission in 2005 which had looked at our statement of
20 environmental compliance and had gone beyond that and
21 actually called DEP to say, "Hey, are these systems in
22 compliance?" And the response had been included in that
23 order, and I'll read from page 3 of the order,
24 PSC-05-1242-PAA-WS, if you'll bear with me just a
25 second.

1 "The application contains a statement that the
2 buyer has performed a reasonable investigation of the
3 utility system and found the overall condition of the
4 water and wastewater facilities to be in satisfactory
5 condition and in general compliance with the
6 requirements of the Florida Department of Environmental
7 Protection. Our staff contacted DEP and verified that
8 there are no outstanding notices of violation."

9 Q. Now, the Chuluota wastewater system was part
10 of the Florida Water systems that Aqua acquired; right?

11 A. That's correct.

12 Q. Now, at the time of the acquisition of the
13 Florida Water systems, is it your understanding that
14 those systems, including the Chuluota wastewater plant,
15 were in compliance with DEP standards?

16 A. Yes.

17 MR. MAY: I have no further questions.

18 CHAIRMAN CARTER: Okay. Let's deal with the
19 exhibits. I think based upon our list, it would be
20 Number 148, is that correct?

21 MR. MAY: Yes, Your Honor.

22 CHAIRMAN CARTER: Any objections.

23 MR. REILLY: No objections.

24 CHAIRMAN CARTER: Without objection, show it
25 done.

1 (Exhibit 148 was admitted into the record.)

2 CHAIRMAN CARTER: Also, there's a couple of
3 late-filed, which would be -- actually, there's one
4 late-filed, which is 206, and that's the testing dates
5 for the TTHM for the last three quarters; right?

6 MR. JAEGER: That's correct, Chairman.

7 (Late-filed Exhibit Number 206 was admitted
8 into the record.)

9 CHAIRMAN CARTER: Let me just kind of -- thank
10 you. You may be excused for now.

11 Commissioners, before we go further and to the
12 parties, let me just kind of let everyone know. There
13 is no other time, so we must finish tomorrow. There is
14 no more time on the calendar. We can't give you any
15 more time. So I would caution the attorneys to, you
16 know, wax less philosophical and more on the point.

17 Call your next witness.

18 MR. MAY: I apologize, Your Honor. I just got
19 an e-mail from my wife, and she said I better quit
20 asking so many questions. I'm running out of clean
21 shirts.

22 CHAIRMAN CARTER: God bless her. What a great
23 woman.

24 MR. MAY: Aqua would call Mr. Chris Franklin
25 to the stand as a rebuttal witness.

1 CHAIRMAN CARTER: Okay.

2 Thereupon,

3 CHRISTOPHER H. FRANKLIN

4 was called as a rebuttal witness on behalf of Aqua
5 Utilities Florida, Inc. and, having been first duly
6 sworn, was examined and testified as follows:

7 DIRECT EXAMINATION

8 BY MR. MAY:

9 Q. Mr. Franklin, have you previously been sworn
10 in this proceeding?

11 A. Yes, I have.

12 Q. Would you please state your name and business
13 and address for the record?

14 A. Christopher Franklin, 762 Lancaster Avenue,
15 Bryn Mawr, Pennsylvania.

16 Q. Did you prepare and cause to be filed 29 pages
17 of rebuttal testimony in this proceeding?

18 A. I did.

19 Q. Do you have that rebuttal testimony before you
20 today?

21 A. I do.

22 Q. Do you have any corrections or revisions to
23 that testimony?

24 A. I do not.

25 Q. If I were to ask you the questions that appear

1 in your rebuttal testimony today, would your answers be
2 the same?

3 A. They would.

4 MR. MAY: Mr. Chairman, we would ask that
5 Mr. Franklin's rebuttal testimony be inserted into the
6 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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BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION
AQUA UTILITIES FLORIDA, INC.
REBUTTAL TESTIMONY OF CHRISTOPHER H. FRANKLIN
DOCKET No. 08121-WS

1 **Q. What is your name and business address:**

2 A. My name is Christopher H. Franklin. My business address is 762 W. Lancaster
3 Avenue, Bryn Mawr, Pennsylvania, 19010.

4 **Q. On whose behalf are you submitting rebuttal testimony in this proceeding?**

5 A. I am submitting testimony on behalf of Aqua Utilities Florida (“AUF” or the
6 “Company”).

7 **Q. Have you previously submitted testimony in this proceeding?**

8 A. Yes. I filed direct testimony as part of AUF’s initial filing in this rate case and
9 sponsored Exhibit 1.1. I also filed supplemental direct testimony and sponsored
10 Composite Exhibits CHF-1 through CHF-6.

11 **Q. What is the purpose of your rebuttal testimony?**

12 A. The purpose of my rebuttal testimony is to address issues raised by Kimberly H.
13 Dismukes, who filed testimony on behalf of the Office of Public Counsel
14 (“OPC”). I will also address issues raised by OPC’s witness Earl Poucher. My
15 rebuttal will address Commission complaints, call center and customer service,
16 meter readings and billing, customer service in other Aqua states, quality of
17 service, and some issues relating to return on equity.

18 **Q. Are you sponsoring any exhibits to your rebuttal testimony?**

19 A. Yes, I am sponsoring **CHF-7, CHF-8, and CHF-9.**

COMMISSION SERVICE HEARINGS

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Q. Ms. Dismukes discusses AUF customers that responded to the Company's rate request either by attending hearings or submitting written correspondence to the Commission. Can you comment on the customer response?

A. Yes I can. During the hearings, we heard complaints that originated from conditions that existed before AUF owned the company. We also heard complaints that were current and needed the Company's attention. At the conclusion of each of the hearings, AUF dutifully and thoroughly investigated and reported on each of the issues raised at the hearings. Each of those investigations (and resulting actions) was summarized in a letter to the customers and in a detailed, color-coded exhibit to my supplemental direct testimony.

Q. Can you please comment in general on Mr. Poucher's testimony?

A. Yes. Mr. Poucher disparages the work done by AUF in response to the issues raised by customers at the hearings. I particularly take issue with Mr. Poucher's baseless claims that the Company's correspondence to customers were just "form letters." While many of the letters contained similar information, it was due to the fact multiple customers raised the same question or concern. Each letter, a copy of which is attached to my supplemental direct testimony, was specifically addressed to the concerns raised by the individual customer.

As a result of sending 97 letters, I am aware only of a single customer that called the AUF customer call center, the AUF local management team, or a Commission staff member to voice a concern that their issue was not adequately addressed.

1 Instead of working to facilitate the closure of any remaining issues, Mr.
2 Poucher found it necessary to do something that I have never seen in my 20 years
3 of experience working in the regulatory arena; he mailed letters to each of the
4 customers that testified. Once those letters were received by the OPC, not a
5 single call to the Company was made by the OPC to begin to close any of what
6 OPC believes to be unresolved issues. This was a disingenuous attempt by the
7 OPC to further degrade the relationship between AUF and its customers, and was
8 in no way designed to work constructively to resolve customer issues.

9 **Q. Do you agree with Mr. Poucher's statement that customer issues from the**
10 **PSC hearings remain unresolved?**

11 A. No. I believe Mr. Poucher's statement that, "Aqua Florida customer responses
12 solicited by the Office of Public Counsel indicate that Aqua has failed to
13 adequately respond to the concerns of its customers," is a gross
14 mischaracterization of the facts. Mr. Poucher received responses from only 36 of
15 the 97 customers he mailed letters to (Exhibit EP-2). After careful review of
16 those responses, I could find only 3 customers that possibly needed some level of
17 follow up. I would also note that all the follow up associated with these 3
18 customers was not to address the service issues originally raised, but revolved
19 around newly raised questions, such as fire protection ratings. Most of the
20 responses to Mr. Poucher's letter were related to general opposition to the
21 Company's rate filing and to known water quality issues (i.e., Chuluota), or to
22 aesthetic issues that have been discussed in great detail in previous testimony.

1 **Q. Are there instances where customers testified at the hearings or submitted**
2 **written testimony in which the Company found the customer was either**
3 **misinformed or simply did not understand?**

4 A. Yes. I stated in previous testimony that we identified 194 issues that were raised
5 by 97 customers who testified at the first 8 hearings (hearings 9 and 10 were not
6 included in the supplemental testimony because transcripts were not yet
7 available). Out of the 194 issues, AUF identified 33 or 17% that are believed to
8 be the Company's primary responsibility. However, we also identified many
9 instances where the Company was not at fault. These are a few instances:

10 a. Chuluota - premise 644287 – Ms. Rodriguez claimed her bill doubled after
11 AUF installed her new meter. AUF visited the property twice to inspect
12 the equipment and service line. After field and office investigation, AUF
13 could not identify any problems. After communicating the results to the
14 customer, the customer paid her bill and no dispute was filed.

15 b. Chuluota - premise 636650 – Mr. Diehl contacted Aqua 6 times in 2007.
16 With each conversation, his issues were addressed and no disconnection
17 took place.

18 On July 5, 2007, Mr. Diehl contacted Aqua to establish service.

19 On August 14, 2007, Mrs. Diehl contacted Aqua to correct the spelling of
20 their last name and to make a payment through Speedpay. She was having
21 issues with credit card acceptance and the issue was resolved.

22 On November 11, 2007, Mrs. Diehl called Aqua inquiring about a high
23 bill. The CSR walked the customer through the steps to identify possible

1 high consumption issue within the property and the customer confirmed
2 that she has an irrigation system.

3 On November 27, 2007, Mrs. Diehl called and requested a reread of the
4 meter.

5 On November 30, 2007 Mrs. Diehl called for an update and it was
6 confirmed that the read fell in line with the previous read.

7 c. Mt. Dora – 638964 – Mr. Tomczak disputed his high usage. The usage on
8 this account fluctuated from month to month, in March, April, May, and
9 June of 2007 consumption reached a high of 35,000 gallons. AUF had
10 continuous communication with the customer. AUF exchanged his meter
11 3 times. AUF field service representatives visited the property 4 times,
12 and AUF customer service representatives and compliance representatives
13 all have assisted the 87 year old customer. AUF worked with the
14 customer to take daily reads of the customer's meter for three weeks. This
15 was not a case of added "extra zero," as suspected by the customer. The
16 three weeks of daily reads confirmed that the customer's consumption is
17 in line with his stated usage. Mr. Tomczak's readings increased while the
18 irrigation system is operating and decreased when the irrigation system
19 was off.

20 d. Mt. Dora – 639426 – Mr. Spiker disputed a high read and ensuing bill.
21 The Company investigated his reading and discovered other spikes in his
22 billing history, although billing appears to be consistent year to year
23 outside of an infrequent spike. Mr. Spiker does operate an irrigation

1 system. No evidence of the suspected “added zero” issue. AUF offered to
2 conduct a meter test for Mr. Spiker. He did not respond to the offer.

3 e. Mt. Dora – 628641 – Ms. Iman reported high usage. After a review of her
4 consumption history, it was demonstrated that her usage fluctuates from
5 2,000 to 6,500 gallons per month. A review of this account demonstrates
6 that the usage is consistent with her usage in the previous year.

7 **Q. On page 5 of his testimony, Mr. Poucher contends that there was no**
8 **customer support for the AUF at the hearings he attended. Could you speak**
9 **to this contention?**

10 A. Mr. Poucher contends in his testimony that, “There is an absolute dearth of any
11 significant support for this company from customers that has been placed into the
12 record thus far.” I’m not aware of Mr. Poucher’s experience with rate hearings in
13 Florida or in any other state. I have been attending rate hearings for nearly 20
14 years. In my experience, customers do not come out in support of utility
15 company’s rate increases. I believe Mr. Poucher’s statement about the lack of
16 customer support to be naive and irrelevant.

17 **COMMISSION COMPLAINTS**

18 **Q. Ms. Dismukes’ testimony includes a summary of complaints filed with the**
19 **Commission, contained in Schedule 3. Do you agree with the conclusions Ms.**
20 **Dismukes makes regarding the data in Schedule 3?**

21 A. No, I do not agree with the conclusions made by Ms. Dismukes regarding the
22 customer complaints filed with the Commission. Our review of the complaints
23 filed during the time period of April 1, 2007 through June 2, 2008, indicates 176
24 complaints were filed.

1 Ms. Dismukes notes that 74 involved apparent violations of Commission
2 rules. I would note that these violations were primarily for failure to respond to
3 the Commission within the requisite time. The vast majority of these issues
4 occurred during 2007, which was a time period in which AUF was working with
5 the Commission Staff on transmittal problems relating to receiving complaints.
6 The issue has been resolved, and we now have a process in place to ensure that
7 we are entering all complaints into our database. We also have periodic
8 conference calls with Commission Staff to review the process and compare
9 complaint data.

10 **Q. Do you agree with Ms. Dismukes that it took an average of 60 days for a**
11 **customer's complaint to be resolved?**

12 A. No, I do not. Aqua reviewed the items contained in Ms. Dismukes' Schedule 3,
13 which she discussed briefly in pages 6 and 7 of her prefiled direct testimony. Her
14 testimony that, "on average it took 60 days, or two months, for a complaint to be
15 resolved," is intended to imply that Aqua was unresponsive, or at best slow to
16 respond, to Commission complaints. This is not the case.

17 **Q. Did you determine from your review of the complaints lodged with the**
18 **Commission that it did not take an average of 60 days for a customer's**
19 **complaint to be resolved?**

20 A. The Company's analysis of the same data on which Ms. Dismukes relied shows
21 that after the transmittal issues of 2007 were remedied, Aqua, on average,
22 responded to the Commission within 14 business days. Furthermore, on average
23 it took nearly 36 days from the date Aqua responded to these complaints for the

1 Commission to officially close the complaints listed in Schedule 3. Generally
2 utilities have 15 business days to respond.

3 Ms. Dismukes indicated that of the 179 written complaints, “seventy-four
4 of these involved violation of Commission rules.” However if you eliminate
5 those counted by Ms. Dismukes as apparent violations due to late response time,
6 then there are only nine that involved a potential violation. Aqua admits that it is
7 not perfect, but Aqua is not a poor performer, nor as slow to respond to its
8 customers and the Commission, as Ms. Dismukes’ testimony implies.

9 Aqua also believes that the Commission would agree that our performance
10 with respect to response time has continued to improve throughout 2008.

11 **Q. Ms. Rhonda Hicks of the FPSC also submitted testimony in this proceeding**
12 **regarding Commission complaints. Can you please comment on her**
13 **testimony?**

14 A. Yes, I can. I have reviewed Exhibits RLH-1 and RLH-2 which are a summary of
15 complaints filed in 2007 and 2008 against AUF. AUF’s analysis reveals the same
16 issues discussed above with respect to Ms. Dismukes’ Exhibit 3. After AUF
17 resolved the transmittal issues that occurred in 2007, the number of apparent rule
18 violations cited by the PSC decreased dramatically.

19 **CALL CENTER**

20 **Q. Ms. Dismukes testimony is critical of the metrics used by AUF’s to measure**
21 **its call center performance. Do you agree?**

22 A. I do not agree with Ms. Dismukes’ criticism or her conclusions that we are not
23 tracking the correct information. AUF tracks four primary performance metrics
24 for its call center: the average speed service level, the average speed to answer,

1 the abandoned call rate, and average handle time. These metrics are significant
2 because they measure customers' access to our Company. It is important that
3 calls are answered quickly and handled efficiently. These metrics allow AUF to
4 monitor performance and allocate resources and make adjustments as needed to
5 make sure that customers are able to reach us.

6 While certain call center metrics may have different titles and calculations,
7 they are measuring comparable performance standards. For example, Ms.
8 Dismukes indicates that AUF may not be able to judge accessibility to our call
9 centers because AUF discontinued tracking average longest wait time. Since the
10 switch to the new call centers, AUF now employs the more commonly accepted
11 metric, which is average speed to answer. AUF is still evaluating accessibility to
12 the call centers, and measuring essentially the same thing through a different
13 metric.

14 **Q. Can you please address Ms. Dismukes' assessment of AUF's call center**
15 **performance?**

16 A. Ms. Dismukes does acknowledge that AUF's call center performance has
17 improved since 2004, when AUF took over these systems. We agree that
18 performance has and continues to improve. There are, however, fluctuations in
19 performance during this time period. This is precisely one of the reasons that
20 AUF implemented its strategy to modernize and deploy its upgraded call center
21 management system in 2006. Since implementation, the new system has proven
22 quite reliable, and call center data is analyzed regularly.

23 **Q. Ms. Dismukes claims that AUF rarely meets its targets with respect to its call**
24 **center performance metrics. Do you agree with her claim?**

1 A. No, I do not. As I stated in my direct testimony, the performance metrics in our
2 customer call centers have improved dramatically since the third quarter of 2007,
3 and we are committed to continuing to improve our call center performance. This
4 is why we set targets for these metrics. The call center management teams have
5 specific goals designed to focus the activities of themselves and their CSR teams.
6 These goals are part of their formal performance plans which include goal
7 statements typical of call centers, including goals for abandon call rate, service
8 level, and average handle time. While at times we have been challenged to attain
9 these goals, we believe it is important that we have targets and formal goals. We
10 have plans to get to these performance levels and we are moving in the right
11 direction.

12 **Q. Ms. Dismukes criticizes the performance of the Company's customer service**
13 **representatives. Do you believe this criticism is fair?**

14 A. No, I believe her criticism to be unfounded. Quality customer service and
15 customer satisfaction are important to AUF, and the Company does regularly
16 evaluate its performance. AUF conducts quarterly transactional surveys of its
17 Florida customers who have had recent contact with the Company. Transactional
18 surveys differ from traditional customer satisfaction surveys in that all customers
19 who are interviewed had some issue with the Company that needed resolution.
20 The results of the transactional survey, when reviewed over time, indicate
21 trending and impact on customers from changes or improvements put into place.
22 AUF submits that the results of its transaction survey presents a fairer picture of
23 AUF's customer service performance than that highlighted by Ms. Dismukes,
24 because it surveys more customers that have had contact with the Company.

1 According to AUF's 2008 survey from last summer, **Exhibit CHF-7**,
2 customer satisfaction has improved steadily since the third quarter of 2007.

3 While the data does confirm that satisfaction declined in the period immediately
4 following the billing system conversion, prior to conversion, overall customer
5 satisfaction for customers with recent contact was at 60%. That percentage
6 climbed to 67% by July 2008. This specifically rebuts Ms. Dismukes' assertion
7 that AUF is not proactively taking measures to provide quality customer service.

8 **Q. What proactive steps has AUF taken to improve the quality of its customer**
9 **service?**

10 A. AUF has been proactive and, according to survey results, successful in providing
11 better quality customer service. In February 2008, AUF increased staffing,
12 initiated a quality assurance program, launched an internal call center
13 communication tool, and started a new CSR training program that we directly
14 attribute to the improving customer survey results. See **Exhibit CHF-8**. Since
15 February 2008, the call quality scores have consistently improved, and AUF
16 customers should continue to see positive benefits.

17 The quality monitoring program allows for review of customer calls
18 randomly selected for each CSR in the call centers. Each CSR participates in a
19 monthly coaching session with their supervisor with specific feedback from the
20 quality assurance team. This feedback is used to identify areas of good
21 performance and areas where improvement is needed. Systemic issues are
22 identified and rolled into the new training program.

1 A new call center communications tool has been introduced on the
2 Company's intranet site to alert CSRs to training tips, procedural changes and
3 emergency information that may impact customers.

4 Training consists of both corporate and local resources. Formal new hire
5 training is conducted by a centralized team that travels quarterly to each call
6 center site. Each of the call centers has a cadre of senior CSRs who sustain the
7 knowledge transfer by providing side-by-side peer training.

8 **Q. Do the call center complaints enumerated by Ms. Dismukes and Mr. Poucher**
9 **fairly represent the typical customer interaction with the Company?**

10 A. No. AUF believes that most customers have a positive experience when they
11 contact the Company, as the customer satisfaction survey results that I referred to
12 above indicate. In fact, some have an exemplary customer experience. The
13 Company routinely receives compliments from our customers. Compliments
14 received during 2007-2008 are shown in **Exhibit CHF-9**. I note the customer-
15 and employee-sensitive information has been redacted for privacy.

16 In describing their experiences, customers have used words like: pleased,
17 helpful, professional, empathetic, resolution, impressed, "above and beyond,"
18 attention to detail, jubilant, amazing, closure, compassion, knowledge, follow-
19 through, empowerment, dedicated, caring, eager, appreciate, fantastic, and
20 delightful. You will notice that compliments are celebrated with the employees,
21 their co-workers, and executives. CSRs appreciate and respond when
22 management recognizes good performance on behalf of our customers.

METER READINGS/BILLING

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Q. Ms. Dismukes indicates in her testimony that there are problems with the accuracy of the meter readings. Does she provide any evidence that the reads are not accurate?

A. No, Ms. Dismukes does not provide any evidence that the reads are not accurate. In 2007, AUF began a meter exchange in various systems. In 2008, Aqua undertook a massive meter change out program that resulted in changing all AUF meters that fall under the jurisdiction of the Commission. The project also included the installation of a radio frequency (RF) device with each meter.

The Company installed Neptune Pro-Read Meters and Itron 60W ERT units, each of which was tested by the manufacturer prior to delivery with a copy of the test results attached to the meter for our records. The manufacturer is well established and a national provider of meters to electric, water and gas utilities. The radio frequency units that are being installed by the Company are a product of Itron Inc., another national company with a well-established product used in gas, water and electric utilities across the country. Together these products have an accuracy rate that is nearly perfect.

I outlined in my previous testimony that, early in the meter change out project, AUF's installation contractor had some difficulties in providing all necessary information (address, RF device number, meter serial number, meter reading on the old meter, meter reading on the new meter) to the Company after the installation was completed. When incorrect information comes back from a contractor, the Company must issue an estimated bill, and then must visit the customer's property to obtain all of the necessary information so that a bill based

1 on an actual meter read can be delivered in the future. Once correct information
2 is input into the billing system, the bills are highly accurate. I have not seen any
3 evidence that proves that the meters or the RF devices are anything but accurate.

4 Current statistical information indicates that AUF is estimating between 1
5 percent and 1.5 percent of its customer bills. AUF expects that estimate rate to
6 continue to drop as it finishes installing all new meters and RF devices by the end
7 of November 2008. I stated in earlier testimony that after noting some of the data
8 issues in the early stages of our meter replacement program, we instituted an
9 internal audit process. The audit is completed once the contractor finishes work
10 in a particular water system. As a result of the Company's audit and improved
11 information exchange with the contractor, we have improved our results which
12 demonstrate fewer errors and faster response when an error does occur.

13 The final component that ensures that our billing estimate rate will
14 continue to fall is our continuous effort to keep a bill from being estimated more
15 than two consecutive months. On a weekly basis, we review all accounts that
16 have been estimated for consecutive months. These accounts are considered high
17 priority and receive the attention of both office and field staff.

18 **Q. Are customer service representatives trained to respond to customer**
19 **questions regarding the installation of new meters and RF devices?**

20 A. Yes. All customer service representatives are trained to know how a meter and
21 RF device operate. Additionally, and in accordance with our standard call center
22 procedure, when the call centers became aware of the calls concerning the Florida
23 meter exchange, a review session was conducted for all CSRs during refresher
24 training sessions.

1 Despite the training and communication processes, it is difficult for a CSR
2 to diagnose a problem via telephone if limited information is given by the
3 customer. At the customer service hearings, some customers who experienced
4 months with usage spikes believed that it was due to either the meter or the billing
5 system. AUF CSRs, in many cases, asked the customer appropriate questions
6 about whether they filled pools, experienced leaks, or operated irrigation systems.
7 Some customers admitted to these activities; others did not. However, in some
8 cases, similar spikes existed in the same months of previous years indicating that
9 the customer was unaware of the amount of water consumed by their activities.
10 All of the activities mentioned above may cause spikes in consumption of water,
11 but are difficult for a CSR to diagnose during a telephone conversation. Much of
12 the research done by AUF has indicated that customers who called the call center
13 often do not fully understand the amount of water they consume, thinking instead
14 the meter or the billing system is the culprit.

15 **Q. In Ms. Dismukes' testimony, on page 23 of her prefiled direct testimony, she**
16 **discusses a customer who possesses limited English language skills who was**
17 **allegedly given misinformation by the AUF call center. Could you discuss**
18 **what AUF knows about this customer and the situation?**

19 **A.** A customer who testified at the Palatka service hearing, Mr. Hoffman, alleged
20 mistreatment of a Vietnamese family, which an AUF customer service
21 representative later determined was regarding a man named Mr. Nguyen. AUF
22 investigated this case and the results are as follows:

23 04-30-08: Mr Nguyen called questioning a high water bill.

1 Customer Service Representative created a service order for a high consumption
2 meter reading to be taken in accordance with AUF procedures.

3 05-07-08: Mr. Nguyen called AUF for results.

4 The meter reading was consistent with the prior read. AUF CSR advised the
5 customer to check within property for possible issues including silent leaks.

6 (AUF frequently asked questions document submitted with original testimony.)

7 AUF did not advise customer to have plumbing redone in their property.

8 05-14-08: Mr. Nguyen sent email about meter reads and adjusted bills.

9 05-19-08: Mr. Nguyen called and reported all plumbing redone on 05-16-08
10 and that he was taking daily reads and the usage was still high on
11 his meter. Mr. Nguyen believed meter to be faulty. AUF
12 scheduled a meter test.

13 05-20-08: Mr. Nguyen called and the meter read process was explained to
14 customer; reviewed meter testing process also.

15 05-29-08: Consultation with Aqua President Jack Lihvarcik and Sue Gildea
16 determined a meter configuration problem. Issue and bills
17 corrected.

18 07-02-08: Nguyen case was raised at Palatka hearing.

19 07-24-08: Aqua Compliance team member T. Bellamy contacted customer
20 advising of updates and corrections completed.

21 07-28-08: T. Bellamy left another message for customer.

22 There has been no additional contact with the customer and we have not received
23 any confirmation that any plumbing work was done. In fact, the customer never
24 attended a hearing or filed a complaint.

1 **Q. In Ms. Dismukes' testimony, on page 26, she indicates that a customer**
 2 **received a shut off notice before her dispute was resolved. Could you provide**
 3 **details on what happened with this customer?**

4 A. Yes.

5 01-10-08: Ms. Burns called Aqua to have her meter reread and check for
 6 leaks due to higher than normal bill.

7 01-15-08: E. Ortiz (tech) visited property and obtained read. Noted "no leaks
 8 shown" in Service Order notes.

9 01-22-08: Ms Burns called AUF to advise that her check payment was placed
 10 in mail.

11 02-05-08: Ms Burns called about shutoff notice received. Customer was
 12 advised to disregard notice.

13 Ms. Burns' January bill was paid after the due date, resulting in the past due
 14 amount. This automatically generated a shut off notice which she received. The
 15 customer was not in dispute when she received the notice and was told to
 16 disregard it.

17 **CUSTOMER SERVICE ISSUES IN OTHER AQUA STATES**

18 **Q. Ms. Dismukes testifies that there have been customer services issues in other**
 19 **states where Aqua operates. Do you agree with Ms. Dismukes' statements?**

20 A. No, I do not.

21 **Q. What evidence does Ms. Dismukes cite for this proposition?**

22 A. Beginning with Pennsylvania, Ms. Dismukes cuts and pastes references from
 23 allegations made by the Pennsylvania Office of Consumer Advocate (OCA), and
 24 not the ultimate findings of the Pennsylvania Public Utility Commission. She

1 claims that the customers of Aqua Pennsylvania (“Aqua PA”) had complained of
2 low water pressure, dirty water, and inadequate service, and that the OCA’s
3 engineer has investigated the complaints and found that: (1) one of AP’s water
4 sources has exceeded one of the Safe Drinking Water Primary Maximum
5 Contaminant Levels (“MCLs”); (2) seventeen of AP’s water sources have
6 exceeded some of the Safe Drinking Water Secondary MCLs; and (3) some of
7 AP’s systems supply extremely hard water that causes customers’ extraordinary
8 expense and inconvenience.

9 **Q. Do you agree with Ms. Dismukes’ allegations?**

10 A. No. Ms. Dismukes’ testimony only includes positions argued by the OCA and
11 does not include the ultimate decision in the case. A review of the entire record
12 shows that Aqua PA rebutted the testimony provided by the OCA. In fact, a
13 review of the entire record shows that the witness for Aqua PA, Dr. Hertz, stated
14 in his rebuttal testimony that over 600 Mineral Reports conducted during the 2006
15 and 2008 period were turned over as part of Aqua PA’s interrogatory responses.
16 Mr. Fought, the OCA witness, found one sample for 2006 that showed high test
17 results for nitrate. Upon further review, Dr. Hertz found that the sample was, in
18 fact, in compliance.

19 **Q. Did the tribunal in the Pennsylvania case opine on the water quality issues
20 brought up by the OCA and its engineer?**

21 A. Yes. In the recommended decision, on page 72, Judges Rainey and Koster stated
22 that Aqua PA provided persuasive testimony that the sample taken showed nitrate
23 levels well below the MCL for nitrates.

1 **Q. Did the tribunal in the Pennsylvania case opine on the assertion that some of**
2 **Aqua PA's water sources exceeded secondary MCLs under the Safe Drinking**
3 **Water Act and that some of Aqua PA's water supply contained hard water?**

4 A. The recommended decision found that Aqua PA was in compliance with the
5 Pennsylvania Public Utility Code in regard to secondary MCLs for TDS and
6 water hardness, and the Pennsylvania Public Utility Commission agreed, finding
7 the recommended decision reasonable and in accordance with the record
8 evidence.

9 **Q. Is it appropriate for Ms. Dismukes to claim in her testimony that she has**
10 **seen evidence in Pennsylvania that Aqua America has had problems**
11 **providing adequate water quality and customer service?**

12 A. No, it is not. I believe that Ms. Dismukes has made statements in her direct
13 testimony regarding water quality and customer service provided by Aqua PA that
14 are simply not supported by any evidence filed in the Pennsylvania case prior to
15 decision, which can be determined by reading the Recommended Decision and
16 Final Order in that case.

17 I would add that during the public input hearings during the Pennsylvania
18 rate case, only 10 customers in the Aqua Pennsylvania service territory (out of
19 420,000 customers in Pennsylvania) raised water quality issues. In fact, the
20 Pennsylvania Public Utility Commission awarded Aqua PA a return on equity of
21 11 percent, which I believe is reflective of the high water quality and customer
22 service provided.

23 **Q. Can you comment on Ms. Dismukes' reference to providing adequate service**
24 **in Ohio?**

1 A. Yes. While I am not in charge of operations in Ohio, I can report that Aqua Ohio
2 filed a rate case in its Lake Division that was approved in May 2008. Aqua Ohio
3 received 82.5 percent of its filed request and the Ohio Commission approved a
4 return on equity of 10.48 percent. I am aware that Aqua Ohio did have a targeted
5 issue with estimated bills. Upon checking, Aqua Ohio now has only 124
6 remaining estimated bills out of 90,000 customers.

7 **Q. Can you comment on Ms. Dismukes' reference to Aqua Missouri's**
8 **operations?**

9 A. Yes. While I am not in charge of operations in Missouri, I can report that Aqua
10 Missouri filed a rate case in December of 2007. The Consumer Advocate,
11 Missouri Staff and Aqua Missouri reached a settlement that was approved by the
12 Missouri Public Service Commission granting an overall increase in rates of
13 approximately 50 percent. As part of the small filing rate case, the Missouri Staff
14 performed a study in which the purpose is to promote and encourage efficient and
15 effective utility management. The Commission Staff made five recommendations
16 which Aqua Missouri implemented or is in the process of implementing. While I
17 am not claiming any of our subsidiaries have reached a level of perfection, and
18 knowing that there is always room for improvement, I do not think that cutting
19 and pasting blurbs of investigative reports from other jurisdictions is credible
20 evidence or substantiates Ms. Dismukes' portrayal of Aqua's customer service.

21 **QUALITY OF SERVICE AND REDUCTION TO ROE**

22 **Q. Do you agree with Ms. Dismukes' recommendation that the Commission**
23 **adjust AUF's return on equity due to poor customer service?**

1 A. No, I do not agree. First, I would like to note that the Commission's interim rate
 2 order contains a substantial error which has penalized Company. The error amounts
 3 to \$588,239 on an annualized basis of revenues which AUF is legally entitled to.
 4 This is explained further in Mr. Szyzgiel's testimony. Second, I believe that the
 5 record shows that AUF is providing quality customer service. There should be no
 6 reduction to the return on equity attributable to AUF's customer service
 7 performance. I am also informed by counsel that that this proposed adjustment is
 8 contrary not only to past Commission precedent, but also to prior court decisions
 9 within Florida.

10 Specifically, in Order No. PSC-96-1320-FOF-WS, issued October 30,
 11 1996, the Commission stated:

12 Pursuant to Section 367.081(2)(a), Florida Statutes, this Commission
 13 must consider the value and quality of the utility's service when fixing
 14 rates. While we have elected not to impose sanctions upon SSU for its
 15 quality of service, we have considered whether SSU's return on equity
 16 should be adjusted.

17 This Commission has the authority to reduce a utility's return on
 18 equity, and in certain situations has done so. We begin by observing
 19 that, pursuant to Section 367.121(1)(g), Florida Statutes, in the
 20 exercise of our jurisdiction, we are empowered to exercise all judicial
 21 powers, issue all writs, and do all things necessary or convenient to the
 22 full and complete exercise of our jurisdiction and the enforcement of
 23 our orders and requirements.

24 In *Gulf Power Co. v. Wilson*, 597 So. 2d 270 (Fla. 1992), we
 25 determined that Gulf Power's fair rate of return was between 11.75
 26 percent and 13.50 percent and set its rate of return at 12.55 percent.
 27 Because of several years of corrupt practices such as theft and misuse
 28 of company property and inappropriate political contributions, we
 29 reduced Gulf Power's rate of return by 50 basis points to 12.05
 30 percent. On appeal, **the Supreme Court held that so long as the**
 31 **final number remains within the authorized range, the**
 32 **Commission could adjust the rate of return for mismanagement.**
 33 The Supreme Court stated that what constitutes a fair rate of return for
 34 a utility depends upon the facts and circumstances of each utility, and
 35 that it has expressly recognized that the Commission must be allowed

1 broad discretion in setting a utility's appropriate rate of return. Id. at
 2 273. The Court held that the adjustment of Gulf Power's rate of return
 3 **within the fair rate of return range falls within those powers**
 4 **expressly granted by statute** or by necessary implication, and that
 5 inherent in the authority to adjust for management efficiency is the
 6 authority to reduce the rate of return for mismanagement, **as long as**
 7 **the resulting rate of return falls within the reasonable range.**

8 In *United Tel. Co. v. Mann*, 403 So. 2d 962, 966 (Fla. 1981), the
 9 Supreme Court ruled that while a utility is entitled to a fair or
 10 reasonable rate of return, once this Commission establishes a rate of
 11 return, further adjustments may be made for areas such as accretion,
 12 attrition, inflation and management efficiency.

13 Again, referencing another order cited in Ms. Dismukes' testimony on
 14 page 43, the Commission has found that, based on further court decisions
 15 in Florida, it is prohibited to go below the allowed return on equity.
 16 Specifically, the Commission stated,

17 To answer the question, we must start with the principle set forth in
 18 *Bluefield Co. v. Public Service Commission*, 262 U.S. 679 (1923). In
 19 that case, the United States Supreme Court held:

20 The just compensation safeguarded to the utility by the
 21 Fourteenth Amendment is a reasonable return on the property
 22 used at the time that it is being used for the public service.
 23 And rates not sufficient to yield that return are confiscatory.

24 *Bluefield* at 692.

25 There are limitations and caveats associated with this principle. We
 26 have on several occasions reduced a utility's return on equity or denied
 27 a rate increase for mismanagement or inefficient service. For instance,
 28 in *Gulf Power v. Wilson*, 597 So. 2d 270 (Fla. 1992), we reduced Gulf
 29 Power's return on equity by 50 basis points from the midpoint of the
 30 approved range because of a finding of utility mismanagement. With
 31 the reduction, the return was still well within the authorized range.
 32 The utility argued that this reduction was an unauthorized penalty and
 33 was in contravention of the holdings in *Florida Tel. Corp. v. Carter*,
 34 70 So. 2d 508 (Fla. 1954), and *Deltona Corp. v. Mayo*, 342 So. 2d 510
 35 (Fla. 1977). The Supreme Court disagreed and found that this
 36 reduction was neither a penalty nor confiscatory, but was merely a
 37 recognition of management inefficiency. The Court noted that in both
 38 *Carter* and *Mayo* the Commission had improperly attempted to deny
 39 rates such that the rate of return was "well below the range found by

1 the Commission as being fair and reasonable,” and that this was not
2 the case in *Gulf Power*. *Gulf Power* at 273. According to the Florida
3 Supreme Court, “it is well established that all a regulated public utility
4 is entitled to is ‘an opportunity to earn a fair or reasonable rate of
5 return on its invested capital.’” *Gulf Power* at 273, citing *United Tel.*
6 *Co. v. Mann*, 403 So. 2d 962, 966 (Fla. 1981).

7 Therefore, I believe it is inappropriate for OPC to now be recommending an
8 unlawful 150 basis point reduction.

9 **Q. Ms. Dismukes also quotes from the above cited order (PSC-96-1320), when**
10 **referencing prior quality of service complaints from customers of Southern**
11 **States Utilities, Inc., do you agree that these problems existed prior to AUF’s**
12 **purchase of the same systems addressed in that order?**

13 A. Yes. As pointed out by Ms. Dismukes on page 113 of her testimony, a majority
14 of these systems were previously owned by Southern States Utilities, Inc. The
15 name of this utility was subsequently changed to Florida Water Services Corp.,
16 and the remaining systems were purchased by AUF. It is evident by Ms.
17 Dismukes’ testimony that many of these customers in these purchased systems
18 brought forth the same complaints in the past. Specifically, on pages 46 and 47,
19 these complaints were identified. It should be pointed out that these same
20 customer groups brought forth these complaints more than 12 years ago at these
21 systems.

22 However, since purchasing these systems, AUF has invested more than
23 \$30 million upgrading these poorly capitalized systems. AUF has consciously
24 made an effort to address its customer complaints. Ms. Dismukes appropriately
25 references Rule 25-30.433(1), F.A.C., on page 5 of her testimony. This Rule
26 specifically states that the Commission will consider “the utility’s **attempt** to

1 address customer satisfaction.” (Emphasis added.) Ms. Dismukes states that the
2 Commission must follow this Rule in determining the quality of service.

3 In the above cited order, the Commission did lower the utility’s return on
4 equity 25 basis points for less than efficient management, and an additional 25
5 basis points for the utility’s marginally satisfactory quality of service. This 50
6 basis point reduction was put in place for a period of 2 years. The rates were then
7 subsequently raised to remove this reduction. Since purchasing these systems,
8 AUF has been aggressive in its efforts to address customer satisfaction, and has
9 been proactive in addressing the quality of service in Florida. Notably, AUF has
10 replaced or will replace all of its water meters with RF meters. AUF has
11 instituted an aggressive program to significantly reduce, if not eliminate,
12 estimated bills. Also, AUF has instituted a program to significantly reduce its
13 delinquent accounts.

14 **Q. On page 6 of her testimony, Ms. Dismukes addresses an exhibit, Schedule 3,**
15 **which is a schedule of complaints received by the Commission since the last**
16 **rate case. Ms. Dismukes indicates that there were 179 written complaints**
17 **filed. Does that number appear unusually high?**

18 No, I do not believe so. In answering this question, I will again refer to an
19 order that Ms. Dismukes cites, Order No. PSC-02-0593-FOF-WS. Concerning
20 the number of complaints received by Aloha Utilities, the Commission states:

21 Staff witness Durbin testified that during the period between January
22 1, 1999, and October 31, 2001, the Commission logged 193
23 complaints against Aloha Utilities. This number of complaints
24 constituted the highest number of complaints per 1,000 customers of
25 any of the similarly sized water and wastewater utility companies
26 reviewed. The similarly sized companies included other Class A and
27 B water and wastewater companies in Pasco County plus other
28 selected Class A companies outside of Pasco County. The review

1 indicated that Aloha had 15.16 complaints per 1,000 customers for the
2 period January 1, 1999, through November 13, 2001. The other
3 companies reviewed ranged from a low of .024 complaints per 1,000
4 customers by Florida Cities Water Company Lee County Division, to a
5 high for the other companies of 13.45 complaints per 1,000 customers
6 by Jasmine Lakes Utility Corporation.

7 I bring this up to draw a comparison using Staff witness Rhonda Hicks' Exhibit
8 RHL-1, which refers to complaints received by the Commission. If you compare
9 the number of complaints received in 2007—193—to the number of water and
10 wastewater customers in this rate case served by AUF—24,991—this equates to
11 7.72 complaints per 1,000 customers. AUF serviced 24,991 customers during
12 2007. This comparison based on complaints per 1,000 customers is well within
13 the range cited by the Commission in the Aloha order.

14 **Q. Do you agree with Ms. Dismukes' investigation and conclusion concerning**
15 **the 2007 Aqua Annual Report statement that "During certain periods in**
16 **2007, we temporarily discontinued collection efforts in some of our divisions**
17 **in connection with the installation of a new billing system which resulted in**
18 **increased amounts written off and higher bad debt expense," which Ms.**
19 **Dismukes discussed on page 121 of her direct testimony?**

20 A. No. Ms. Dismukes has claimed that this change will lead to higher bad debt
21 expense and should not be included in expenses to set rates. Ms. Dismukes,
22 however, has incorrectly interpreted the statement in the annual report on which
23 her conclusion is based. The annual report comment referred to Aqua activities in
24 states other than Florida, where conversions took place during 2007. The 2007
25 conversions, which did not include Florida, experienced extraordinary
26 complications related to system structure variability and legacy system data
27 quality. Collection activities in states other than Florida were suspended for a

1 longer period of time (4-5 months). These complications were not experienced in
 2 Florida during the 2006 conversions. The Florida conversion took place in
 3 November 2006. Collection activities in Florida were suspended for
 4 approximately three months around the time of system conversion. Collection
 5 activities slowed in the month prior to conversion (October 2006) and for two
 6 month afterwards (November and December 2006). By January 2007, Florida
 7 collections processes were back in place and customer late notices and service
 8 terminations had resumed. The suspension of collection activities for this short
 9 period of time is normal practice during system conversions. The purpose is to
 10 minimize the number of accounts in an active collection mode during the actual
 11 conversion (therefore, the suspension before conversion) and to allow the
 12 accounts to bill and re-age on the new system to trigger appropriate automatic
 13 collections activities. See the following table for service termination counts by
 14 month that demonstrates this point.

15	Year	Month	Service Terminations for Collections	Comment
16	2006	October	Low or zero (old billing system)	Billing system conversion
17		November	0 (new billing system)	Billing system conversion
18		December	1	Billing system conversion
19	2007	January	106	Begin normal collection activity
20		February	123	
21		March	121	
22		April	321	
23		May	298	
24		June	641	
25		July	241	
26		August	260	
27		September	467	
28		October	92	Interim rate refund period
29		November	103	Interim rate refund period
30		December	35	Interim rate refund period
31	2008	January	238	
32		February	137	
33		March	468	
34		April	156	
35		May	256	
36		June	160	
37		July	337	
38		August	380	

1 September 310
2 October456

3 The Florida systems' billing conversion occurred in November 2006. Normal
4 monthly cycle billing on Florida accounts resumed quickly after the billing
5 conversion. Due dates assigned to balances converted were actually in November
6 and early December 2006. The first bills post-conversion were issued with due
7 dates in mid December. AUF delinquency processes resumed based on the first
8 bills issued on the new system which had due dates during December 2006.

9 In January of 2007, we shut off 106 Florida customers for delinquent bills,
10 and throughout 2007, shut offs averaged 234 per month. In the first 6 months of
11 2008, shut offs averaged 236 per month. On a per-customer basis, these
12 termination rates are roughly double the average termination rate in Aqua. This
13 indicates that AUF customers, on average, are more delinquent than Aqua
14 customers as a whole (and perhaps more than other water and sewer systems in
15 Florida experience); that AUF is appropriately scaling the collection activities to
16 address the higher delinquency; and the resultant bad debt is representative of the
17 AUF customer base, and not a lack of effort or abnormalities related to system
18 conversion.

19 Our current delinquency processes, final billing, and collection agency
20 assignment of uncollected accounts has been consistently applied since December
21 2006 to date. Therefore, our bad debt expense realized during these periods are
22 actual, are unaffected by the system conversion, and are representative of the
23 reasonably expected bad debt expense in the future.

CITY OF OVEIDO

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Q. Can you please provide a update on AUF’s negotiations with the City of Oveido?

A. Yes. At the Chuluota public service hearing, Mayor Andrews made it clear that she was willing to help AUF address the water quality issues in Chuluota. She stated that “we want to see what assistance we may be able to provide.” (Tr. Page, 60, Lines 15-16). She went on to state in her sworn testimony that,

The City of Oviedo stands po[i]sed to work with and assist Aqua Utilities, but as I’ve said, our negotiation[s] have never been fruitful. As we will extend our hand again if you need an alternative source, but you need to come to the table and we need to negotiate and we need to talk. But if there’s something that the City can do to be of assistance to Aqua Utilities, please contact us and let’s see what we can work out, because we don’t want our fellow community in Chuluota going through this anymore.

See Oveido Service Hearing, Transcript p. 63, lines 11-18.

Aqua has been working proactively with the City on possible solutions. The City’s engineers – CHP Engineers – will be evaluating a potential interconnection to pipe drinking water to residents in nearby Chuluota. The proposed water connection could potentially replace Chuluota’s community wells which are the current source of drinking water. The evaluation will determine the financial and technical feasibility of a new pipeline. Oviedo staff have agreed to help oversee and coordinate the work that will be done by CPH Engineers.

Q. Does this conclude your direct testimony?

A. Yes, it does.

1 BY MR. MAY:

2 Q. Mr. Franklin, do you have attached to your
3 rebuttal testimony three exhibits?

4 A. I do.

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

7 A. I do not.

8 Q. Have you prepared a very brief summary of your
9 rebuttal testimony?

10 A. Very brief.

11 Q. Would you please provide that very brief
12 summary?

13 A. Chairman and Commissioners, the purpose of my
14 rebuttal testimony is to address issues raised by OPC
15 witness Kimberly Dismukes. I also address issues raised
16 by OPC witness Earl Poucher.

17 My rebuttal testimony will address Commission
18 complaints, call center and customer service, meter
19 readings and billings, customer service in other Aqua
20 states, quality of service, and other issues relating to
21 return on equity.

22 Q. Does that conclude your summary?

23 A. Yes, it does.

24 MR. MAY: Thank you, Mr. Franklin. We tender
25 the witness for cross.

1 CHAIRMAN CARTER: Outstanding summary,
2 Mr. Franklin.

3 THE WITNESS: Thank you, Mr. Chairman.

4 CHAIRMAN CARTER: Mr. Beck, you're recognized.

5 MR. BECK: Thank you, Mr. Chairman.

6 CROSS-EXAMINATION

7 BY MR. BECK:

8 Q. Good evening, Mr. Franklin.

9 A. Good evening.

10 Q. Mr. Franklin, in your supplemental direct
11 testimony, you stated that you would address issues from
12 the Green Acres and the New Port Richey service hearings
13 in your rebuttal testimony, did you not?

14 A. I did, sir.

15 Q. Okay. Did you do that in your rebuttal
16 testimony?

17 A. No, they were not included, and I apologize
18 for that.

19 Q. Why were they not in there?

20 A. The letters -- we felt it was very important
21 to continue to address the, for lack of a better term,
22 the blue form, the incoming issues that were coming in
23 constantly from those customers, so we addressed those
24 first. But we do plan and have begun already to address
25 the issues associated with the other two hearings. As a

1 matter of fact, a lot of the follow-up work has been
2 done. It's just that those letters have not been
3 issued.

4 Q. Okay. So the letters that we saw and we went
5 over in your supplemental direct, the customers have not
6 received any response from the company yet?

7 A. Those letters have not been received, right.

8 Q. Have you reviewed the exhibit or schedule
9 attached to Ms. Dismukes' testimony which contains the
10 customer correspondence file in the case as of October
11 7th?

12 A. I don't recall.

13 Q. Her Schedule 2, which is the letters and the
14 forms that were sent to the Commission and that's shown
15 on the Commission's website?

16 A. I review so many customer issues, Mr. Beck, I
17 just don't recall.

18 Q. Ms. Dismukes has filed two schedules, or
19 Schedule 2, and there's two volumes, 1 and 2, and we're
20 going to have a late-filed that brings that up to date.
21 Did you review that portion of her testimony and the
22 customer complaints that are contained in those
23 schedules?

24 A. I do recall looking through those, yes.

25 Q. And in your review, did you note that many of

1 the customers filled out a form that the Commission had
2 given them that they could send to the Commission in
3 lieu of testifying live to the Commission?

4 A. That's what I referred to as the blue form.
5 That's what I meant by that.

6 Q. Okay. Have you responded to the customers who
7 chose to write the Commission in lieu of testifying
8 live?

9 A. Yes, we have. I believe there was even as of
10 this week another stack of letters that were delivered,
11 even as late as this week on those follow-up forms.
12 They continued to come in some time after the hearings
13 were over.

14 Q. Okay. Have you provided any of those in your
15 rebuttal testimony or shown what your response was to
16 the customers who wrote to the Commission?

17 A. No, I have not done that in my testimony.

18 Q. Could you turn to your Exhibit CHF-9?

19 A. Yes.

20 Q. And this is an exhibit of 58 pages of e-mails?

21 A. Yes, it is.

22 Q. How were the e-mails compiled to prepare this
23 exhibit?

24 A. Every time that a congratulatory message comes
25 into our call center complimenting one of our call

1 takers, those are forwarded on to the company
2 executives, particularly in the states, so that they're
3 aware that there was a compliment received by one of the
4 customers -- from one of the customers, I should say.

5 Q. Now, do you do the same when a customer comes
6 to your call center and complains about the service from
7 a --

8 A. We don't forward every complaint on to all of
9 our executives, because they're handled very
10 specifically by our customer service representatives.
11 And frankly, it would be difficult to know where to draw
12 the line on what's a question and what's a concern.

13 Q. So you forward the congratulatory comments to
14 the officers of the company, but not the negative --

15 A. We summarize our issues that come into the
16 call center so that each state president understands the
17 ten reasons that -- the top ten reasons that customers
18 call that particular month from their state so that they
19 can either work on issues or at least be aware of those
20 issues. So we always look at the top ten issues by
21 state.

22 Q. Okay. But the answer to my question is, you
23 forward the congratulatory ones, but not the negative
24 ones?

25 A. As you can imagine, Mr. Beck, we receive about

1 4,500 calls in our call center a week, so it would be
2 virtually impossible to forward every inquiry.

3 Q. On the first page of your Exhibit CHF-9, the
4 first e-mail is dated May 22, 2007; is that right?

5 A. May 22, 2007, that's right.

6 Q. And then the next one is May 30, 2007?

7 A. Yes.

8 Q. Does that mean a period of eight days elapsed
9 between somebody giving a positive comment to your
10 customer call center?

11 A. Not necessarily. As you know, we make the
12 best attempt, but the first priority for these folks is
13 to address customer issues. They try to do this the
14 best they can between customer calls and between
15 handling issues, so if there's a particularly busy day,
16 they may not get to this particular piece of their work.

17 Q. Okay. In your attachment of 58 pages, how
18 many of those compliments came from your customers in
19 Florida?

20 A. I don't know without really doing the research
21 to find out where they were, where they called from.

22 Q. Do you recall --

23 A. As a matter of fact, you raise a -- the point
24 you raise is a very valid one that I personally
25 addressed, and I've asked that all of these that are

1 forwarded to our company executives come with the state
2 specific information on it so each state president
3 understands what's happening and the compliments that
4 are coming from their own customers.

5 Q. Could you point to me one that comes from
6 Florida?

7 A. I couldn't point to one that comes from any
8 particular state in here. They're not identified.
9 They're e-mails.

10 Q. Could you turn to your Exhibit CHP-7?

11 A. CHF-7. Yes.

12 Q. Let me see if I understand. This is the
13 survey of customers to see how satisfied they are with
14 your service; is that right?

15 A. That's correct.

16 Q. You have -- going from the right to the left,
17 you have the second quarter of 2008, and then the first
18 quarter of 2008, and then the one before that says post
19 third quarter 2007. Do you see that?

20 A. Yes.

21 Q. Why is that labeled post third quarter 2007?

22 A. The post and the pre are indicated there to
23 show when we changed our billing system so that we could
24 -- what we wanted to do was get information prior to our
25 billing system and post implementation of the billing

1 system, because this is a transactional survey. This is
2 not just a general survey. This is a survey of only
3 customers that called our call center.

4 Q. And that's the one that you described in your
5 direct testimony?

6 A. I did, right.

7 Q. So for the post third quarter '07, you've got
8 20 percent of your customers are very satisfied and 23
9 percent somewhat satisfied?

10 A. Of those that called the call center.

11 Q. Which means that over half of the customers
12 during that quarter were dissatisfied with the service
13 they received?

14 A. Of those surveyed.

15 Q. Okay. Now, you filed your supplemental direct
16 testimony on November 19th; is that right? Rebuttal
17 testimony, excuse me.

18 A. My rebuttal testimony on November 19th.

19 Q. Did you have the results from the third
20 quarter of 2008 at the time you filed your testimony?

21 A. No, we did not. I had hoped to have that, but
22 I did not have those yet. It's done by an outside
23 agency. And it's done company-wide, so they break it
24 down, and it takes some time.

25 MR. BECK: Thank you. That's all I have.

1 CHAIRMAN CARTER: Thank you. Ms. Bradley.

2 CROSS-EXAMINATION

3 BY MS. BRADLEY:

4 Q. Mr. Franklin, let me ask you. We had a number
5 of complaints, and you've talked about some of this in
6 your testimony, but what did you do about the consumer
7 service representatives who, when people complained
8 about their bills being excessive just told me, "Well,
9 there's nothing wrong with your bill. You must have a
10 leak in your house"? And a number of these people spent
11 considerable amounts of money having somebody to come in
12 and dig up whatever they needed to, and then were told,
13 "There's nothing wrong with the pipes at your house."
14 It turned out it was a billing error. What did you do
15 with those customer service representatives that had
16 caused such an expense to the consumers?

17 A. Well, first, the customer service
18 representatives are taught to inquire of the customer
19 and take them through a process to better understand and
20 diagnose what the issue is. And as you look at high
21 consumption, a couple of things became apparent.

22 One, customers didn't understand in many cases
23 how much water they used, particular if they had
24 irrigation systems. And I think that has come out
25 multiple times through our discussions in the various

1 hearings.

2 Secondly, customers didn't always know how to
3 diagnose whether or not they had a leak, whether it was
4 a leaky toilet or a leak in the yard. And so typically
5 a customer service rep will go through a series of
6 questions and try and diagnose. And one of those
7 questions is, "Might you have a leak? Might our toilet
8 be leaking? Would you know how to diagnose it? You
9 would put dye in the toilet. If you still believe that
10 you don't have a leak, might you turn off all the
11 water-using appliances in your home and go out to the
12 street and look at your meter. If your meter is still
13 running, there may be a leak. So they typically run
14 through these scenarios and inquire and drill down and
15 make sure that the customer doesn't have a leak so that
16 they can immediately get a plumber and get it repaired.

17 In the case where a diagnosis can't be made by
18 telephone -- and you might imagine that that's very
19 difficult to do in some instances -- then the customer
20 service rep might suggest that they have a plumber look
21 at their internal plumbing. And I think in no instance
22 would we ever -- I know we would never suggest that
23 anybody have their home replumbed.

24 Q. Did you do anything about the customer service
25 representatives who in response to complaints of high

1 bills merely said, "There's nothing wrong with your
2 bill. It's a leak," causing consumers to waste a lot of
3 money trying to check that out?

4 A. I'm aware of one single customer that was
5 described at one of the hearings, a Vietnamese family
6 who had their plumbing redone as a result of a leak that
7 they believed they had. But I could not ever see a
8 customer service representative making a full diagnosis
9 and indicating that a customer needs to spend any
10 dollars of their own to make a repair.

11 Q. Were you aware that a number of people came to
12 the hearings and claimed about errors in bills and bills
13 that were way in excess of what the actual amount used
14 was?

15 A. I am aware that a number of people talked
16 about billing errors, and we discussed at some length
17 the complicated issue that occurs in a transition that
18 occurs from one meter to the next. And I think the
19 company has worked very, very hard to correct those
20 errors and has replaced all the meters throughout the
21 State of Florida under the AUF umbrella in an attempt to
22 make sure that billing and meter reading are pristine
23 moving forward.

24 Q. Did you hear the testimony by numerous people
25 at the hearings about three-minute showers, the not

1 irrigating to the point that their lawns were going
2 brown, or only irrigating one day a week, and this type
3 of testimony? Did you hear that?

4 A. I did.

5 MS. BRADLEY: Thank you. Nothing further,
6 Mr. Chairman.

7 CHAIRMAN CARTER: Thank you, Ms. Bradley.
8 Staff, you're recognized.

9 MR. JAEGER: Thank you, Chairman.

10 CROSS-EXAMINATION

11 BY MR. JAEGER:

12 Q. Mr. Franklin, you're aware that staff has been
13 forwarding complaints to Aqua to investigate for the
14 ones they thought needed a response by the utility; is
15 that correct?

16 A. Yes, I am.

17 Q. And are you also aware that a part of the
18 agreed-upon procedures was that Aqua would have a
19 representative contact the customer within 48 hours of
20 receiving a fax of the customer's complaint?

21 A. Yes.

22 Q. And was it Mr. Lihvarcik or you that was
23 responding to those complaints?

24 A. Neither, I believe. Those complaints are
25 typically handled by our elevated complaint resolution

1 group in our corporate office.

2 Q. Would it surprise you to know that customers
3 are contacting Commission staff indicating that they
4 never received a call from Aqua at all, much less within
5 48 hours?

6 A. Yes, it would surprise me.

7 Q. I think OPC discussed with you the complaints
8 of several customers, one of them Barbara Baretta and
9 another one Dan Diehl. Could you provide the details
10 concerning the investigation of these two customers
11 showing what you did to investigate? And what I'm
12 wanting is all documents and electronic files associated
13 with the investigation for Barbara Baretta and Dan Diehl.

14 A. I would be happy to. I might point you also
15 to my testimony, where I outline Mr. Diehl, the issues
16 with Mr. Diehl. There's a portion in my testimony that
17 takes each call by call and indicates the actions taken
18 on Mr. Diehl. I would be happy to provide the other
19 one, Ms. Baretta, too.

20 MR. JAEGER: Chairman, I would like an exhibit
21 identified as 207, and just any documents and electronic
22 files associated with the investigation of Barbara
23 Baretta and Dan Diehl.

24 CHAIRMAN CARTER: Give me those names again.

25 MR. JAEGER: Barbara Baretta.

1 CHAIRMAN CARTER: Let's just go with the --
2 okay. The investigations for Baretta.

3 MR. JAEGER: And Diehl, all documents.

4 CHAIRMAN CARTER: D-e-i-h-l, or does it --

5 MR. JAEGER: D-i-e-h-l.

6 CHAIRMAN CARTER: I before E except after C.
7 How do you -- help me here.

8 MR. JAEGER: D-i-e-h-l, Mr. Chairman.

9 CHAIRMAN CARTER: Okay. That will be
10 Late-filed Number 207.

11 (Late-filed Exhibit 207 was identified for the
12 record.)

13 BY MR. JAEGER:

14 Q. So are you aware of what the concerns of these
15 customers were?

16 A. Yes, I am, Mr. Jaeger. As a matter of fact,
17 I'm looking at a document here that was a complaint that
18 came through the PSC that we responded to in regard to
19 Ms. Barbara Baretta, and I believe that at this point,
20 that complaint is closed and concluded with. Well, I
21 can submit the -- what we did for the PSC complaint and
22 any other details that may have occurred since that
23 time.

24 Q. Okay. Are you aware that Mr. Lihvarcik signed
25 most of the complaint letters?

1 A. Yes, I am.

2 Q. On page 3, lines 9 through 12 of your
3 testimony, you talk about how AUF dutifully and
4 thoroughly investigated these complaints. Would you or
5 Mr. Lihvarcik, or who would be the one to question on
6 what these investigations entailed?

7 A. The investigations were very thorough, and
8 both Mr. Lihvarcik and I were detailed in every detail.
9 I have to say that I would be a little challenged to
10 operate the billing system as efficiently as many of my
11 colleagues in the billing department, so much of the
12 work, including the field work and the research work,
13 was done by our staff. But ultimately, those letters
14 were personally reviewed. I think I personally reviewed
15 almost every one of them, and I know Mr. Lihvarcik
16 reviewed, I'm assuming, every one of them as they were
17 going out under his signature.

18 Q. And you stand by your testimony that each
19 witness was contacted, or each complainant was
20 contacted?

21 A. Yes, I do.

22 MR. JAEGER: That's all I have, Chairman.

23 CHAIRMAN CARTER: Okay. Anything from the
24 bench?

25 Exhibits.

1 MR. MAY: Mr. Chairman, I just had one
2 follow-up question.

3 CHAIRMAN CARTER: Oh, Mr. May, sorry about
4 that. You should listen to your wife more.

5 MR. MAY: I hope my wife is not listening.

6 CHAIRMAN CARTER: You're recognized.

7 MR. MAY: I'll be eating a bologna sandwich
8 tonight.

9 REDIRECT EXAMINATION

10 BY MR. MAY:

11 Q. Mr. Franklin, you recall being questioned by
12 Mr. Beck regarding follow-up activities on the customer
13 service hearings in Green Acres and New Port Richey?

14 A. Yes, I do.

15 Q. Is it your testimony today that Aqua Utilities
16 Florida will do the follow-up to those customers just as
17 it did the follow-up to the customers at the previous
18 service hearings?

19 A. Yes, sir. In fact, much of the follow-up has
20 been done.

21 Q. When you send your letters to your customers,
22 are you willing and prepared to copy Mr. Poucher on
23 those letters?

24 A. Yes, I am.

25 MR. MAY: Okay. No further questions.

1 CHAIRMAN CARTER: Okay. To the man who
2 wouldn't listen to his wife, exhibits. I think it's
3 137, 138, and 139, Commissioners. Mr. Beck, any
4 objection?

5 MR. BECK: No objection.

6 CHAIRMAN CARTER: Without objection, show it
7 done, 137, 138, and 139. And also, for the record,
8 Late-filed Exhibit Number 207.

9 (Exhibits 137, 138, 139, and Late-filed 207
10 were admitted into the record.)

11 CHAIRMAN CARTER: Let me just kind of -- to
12 the parties and also to staff here, let me just kind of
13 let you know that, you know, I believe in full speed
14 ahead, but sometimes you reach a point of diminishing
15 return. We do want a quality product.

16 Let me just kind of do this. I'm down to one
17 court reporter. And bless your heart. You've been a
18 loyal trooper for us this afternoon. Well, I guess this
19 evening now, isn't it?

20 Let's do this. This seems like a good enough
21 breaking point, but tomorrow, eat your Wheaties. And
22 again, I say to the attorneys, I appreciate your
23 professionalism and all like that, but let's kind of
24 understand that tomorrow is it. That's all the time
25 we've got on the calendar, and we want to proceed

1 further. We want to proceed expeditiously. We also
2 want to proceed judiciously. And as much as possible, I
3 think we can get it done. To my colleagues, I
4 appreciate your patience.

5 With that, we'll kick off tomorrow morning at
6 9:30. We're on recess. That will be 9:30 a.m.

7 (Proceedings recessed at 7:26 p.m.)

8 (Transcript follows in sequence with
9 Volume 9.)

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