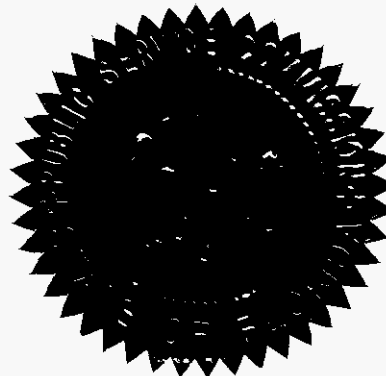


BEFORE THE
FLORIDA PUBLIC SERVICE COMMISSION

DOCKET NO. 100104-WU

In the Matter of:

APPLICATION FOR INCREASE IN WATER
RATES IN FRANKLIN COUNTY BY WATER
MANAGEMENT SERVICES, INC.



VOLUME 4

Pages 387 through 654

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PROCEEDINGS:	HEARING
COMMISSIONERS PARTICIPATING:	COMMISSIONER LISA POLAK EDGAR COMMISSIONER NATHAN A. SKOP COMMISSIONER ART GRAHAM
DATE:	Wednesday, October 6, 2010
TIME:	Commenced at 11:58 a.m. Concluded at 5:23 p.m.
PLACE	St. George Island Volunteer Fire Department 324 East Pine Avenue St. George Island, Florida
REPORTED BY:	JANE FAUROT, RPR Official FPSC Reporter (850) 413-6732
APPEARANCES:	(As heretofore noted.)

DOCUMENT NO. 100104-WU
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4	84	(Late-filed) Supplemental Response to Staff		
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P R O C E E D I N G S

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

4 **COMMISSIONER SKOP:** At this point, we'll go
5 back on the record. And I believe where we left off is,
6 Mr. McGlothlin, you're recognized for redirect.

7 **MR. MCGLOTHLIN:** Yes, thank you.

REDIRECT EXAMINATION

8
9 **BY MR. MCGLOTHLIN:**

10 **Q.** Ms. Ramas, Commissioner Skop asked you several
11 questions about the exhibit that reflects the balance of
12 investment in associated companies. Do you remember
13 that series of questions and answers?

14 **A.** Yes.

15 **Q.** I want to make sure the record is clear as to
16 what is in that account, which I think is 123, is it
17 not?

18 **A.** Yes, it's Account 123.

19 **Q.** What is the current balance?

20 **A.** The balance as of June 30th, 2010, was
21 slightly over 1.2 million. The current balance, though,
22 based on Mr. Brown's testimony, that has come down some.
23 It is still over a million dollars, but it is not quite
24 the full 1.2 million anymore.

25 **Q.** With respect to what is in that balance, does

1 that amount have anything to do with compensation paid
2 to Mr. Brown?

3 A. No, it does not.

4 Q. Does it include or exclude any loans or notes
5 payable to the utility from associated companies?

6 A. Yes, it does. It excludes -- it doesn't
7 include any notes payable. Those are recorded in a
8 different account on the utility's books.

9 Q. And what return does WMSI receive on its
10 investment of 1.1 or \$2 million in the associated
11 companies?

12 A. There's nothing at all recorded for return on
13 that on the company's general ledger. And, actually,
14 I'd like to correct my response to you on if that
15 included any compensation to Mr. Brown. It doesn't
16 include any salary being paid to Mr. Brown from the
17 utility. It does include cash that has gone up to Mr.
18 Brown, but not utility-related compensation.

19 Q. On the subject of engineering services, your
20 treatment of the \$27,500 cost of the PBS&J project was
21 one of many adjustments you made to the test year
22 expenses, is that correct?

23 A. Yes, it is.

24 Q. What is the purpose of a test year?

25 A. The reason you would use a test year in

1 setting rates is you want to use a consistent 12-month
2 period in setting rates. And as part of evaluating that
3 test year, you'll make, say, normalization adjustments,
4 remove nonrecurring, or to try to reflect a normalized
5 cost level and a normalized revenue level going forward
6 in adjusting that test year.

7 Q. And your adjustment was to amortize that
8 amount over five years?

9 A. Yes, it was.

10 Q. So what amount have you reflected in test year
11 expenses to reflect engineering services?

12 A. I have allowed the amortization expense of
13 those engineering costs of \$5,500 per year.

14 Q. Now, one of the questions put to you earlier
15 was have you agreed that in the last rate case the
16 Commission included \$4,000 for annual engineering
17 expense, correct?

18 A. Yes.

19 Q. So does your treatment --

20 A. Or, I'm sorry, that was -- that was the amount
21 that the attorney presented to me, and I said I had no
22 reason to dispute that that was the amount.

23 Q. Well, accepting that for purposes of my
24 question, would your treatment be more or less than was
25 included in the last rate case?

1 **A.** It would be about 1,500 per year more.

2 **Q.** Now, if the Commission were to include 5,500
3 of annual engineering expenses for ratemaking purposes
4 and the company incurred engineering costs that were
5 capital related, does the inclusion of the 5,500
6 penalize the company in any way for incurring those
7 different kinds of costs?

8 **A.** No, it doesn't.

9 **Q.** Would you explain why that's the case?

10 **A.** Well, any costs that are capital in nature
11 would be capitalized by the company as part of the
12 investment that those engineering costs go towards, so
13 then at the time the company comes in for its next rate
14 case, it would include its plant-in-service balance at
15 that time, which would include those engineering costs.

16 **Q.** Now, in response to one question you said that
17 applying the 3.85 percent return that you used to the
18 rate base may mean that the utility would not recover
19 all of its debt service requirements, is that correct?

20 **A.** Correct.

21 **Q.** And why is that the case?

22 **A.** Because the management of this company has
23 allowed the amount of debt on the books to grow to such
24 a large degree that it exceeds the amount on the
25 company's books that it has as original investment by

1 the utility in the assets.

2 Q. Can you describe how such a situation could
3 happen?

4 A. How it could happen? Largely it happens by
5 the company not paying down the debt. A specific
6 example would be that when the company built the
7 pipeline -- when the pipeline went to the island on the
8 new bridge, the company took out a DEP loan associated
9 with the funding of that. And that debt, you know, the
10 remaining balance is still on the company's books.

11 In 2008, the company received a large
12 settlement associated with a lawsuit involving that
13 pipeline. The company had different choices of what it
14 could have done with those funds. One of the options it
15 could have had would be to pay down some of that debt on
16 its books.

17 It did use some of that amount that came in
18 towards a debt payment, but not all of it went there,
19 some of it went to the associated companies. So that
20 debt has grown so large over many years and largely
21 because of decisions made by the management of the
22 company as far as what to do with its debt.

23 Q. With respect to that particular example, in
24 that instance, did the company reduce the amount of
25 plant-in-service to reflect the settlement?

1 **A.** Yes, it did do that in this case.

2 **Q.** Did it make a corresponding reduction in the
3 debt obligations at the same time?

4 **A.** No, it did not.

5 **Q.** Counsel for the utility asked you to agree
6 that if the utility is required to obtain additional
7 documentation, such as bids to support the pro forma
8 adjustments to rate base, it would incur costs in doing
9 so. Do you remember that question and answer?

10 **A.** Yes, I do.

11 **Q.** Would the utility have to incur those costs in
12 either scenario in any event as regards to whether that
13 took place in this case or in future phases?

14 **A.** Yes, it would, and it would incur those costs
15 if it were in for a rate case or not if it is doing that
16 type of investment. It's a cost that's associated with
17 the investment.

18 **Q.** Counsel for the utility asked you how the
19 utility would pay for those costs in light of the fact
20 that it has no capital on hand. And referring you again
21 to Account 123, can you describe how the utility could
22 afford to incur those costs prior to the next rate case
23 proceeding?

24 **A.** Well, one option, presumably the company would
25 have -- well, there's a few options. One is to obtain

1 back some of that investment that went into associated
2 companies and bring those funds back into the utility
3 operations. Another option that they may have, the
4 other investor-owned utilities would do is they would
5 insert some equity into the company. You could use
6 equity to fund some of that, also.

7 Q. You were asked several questions about the
8 deferred compensation program that the utility has
9 proposed to put in place. And in response to one
10 question you said you would not object to having
11 customers pay for reasonable benefits, but that you
12 would object to this particular program, correct?

13 A. Correct.

14 Q. Now, how many employees are included currently
15 in the proposed compensation program, the deferred
16 compensation program?

17 A. Currently, the amount of costs that the
18 company has in the test year for that program is for two
19 employees. I believe Mr. Brown's rebuttal testimony,
20 though, said that other employees, once they obtain so
21 many years of service, would become eligible for that
22 program also. But at present during the test year,
23 there were two employees that received this new form of
24 compensation.

25 Q. And who are they by title?

1 **A.** The president and chief executive officer of
2 company and the vice-president of the company.

3 **Q.** And how much deferred compensation is
4 associated with each of those employees?

5 **A.** In the test year there's 40,000 for each of
6 those employees, so 80,000 combined.

7 **Q.** Now, with respect to the vice-president, can
8 you tell me what her existing level of compensation is
9 in salary and what the proposal is?

10 **A.** Yes, if you give me a moment. During 2009,
11 that particular individual, which is the vice-president
12 and secretary of the company, received a significant
13 wage increase in 2009, which I did take issue with and
14 adjust. But the amount of salary in the test year for
15 her is 70,000, and if you add her bonus in that period,
16 I believe it was about \$70,700.

17 **Q.** And what was it prior to the increase to which
18 you have taken exception?

19 **A.** Duration 2008 her salary was \$59,000.

20 **Q.** Now, using the proposed salary of \$70,000 for
21 purposes of my question, does the deferred compensation
22 amount of \$40,000 mean that the vice-president would
23 draw only 30,000 and defer 40,000?

24 **A.** No, the result is that she would still receive
25 the 70,000 annual salary, and then there is an

1 additional effective annual compensation to her of
2 40,000, which she signed a form saying that she would
3 elect to defer that under the deferred compensation
4 plan. So the result would be her salary going from
5 about 59,000 in 2008 up to 70,000 in 2009, plus that
6 additional 40,000, so \$110,000.

7 Q. And can you provide similar figures for the
8 president's situation?

9 A. He had some changes in compensation during the
10 test year, and this is based off my recollection, it was
11 approximately 140,000, but then he did take a reduction
12 in his wages. So in the adjusted test year in the
13 company's filing there is \$111,100 for him in the
14 adjusted test year, and then that \$40,000 would be in
15 addition to that. So that would make that amount
16 effectively 151,500 that's incorporated in the MFRs for
17 his salary and executive compensation, you know,
18 deferred compensation plan.

19 Q. Do you regard a change in compensation of
20 59,000 to \$110,000 to be reasonable?

21 A. No, I do not, and that's one of the many
22 reasons I recommended that that executive deferred
23 compensation expense that was recorded for the first
24 time in 2009 be disallowed.

25 Q. With respect to the utility's request to

1 recover the cost of its wastewater service application,
2 counsel for the utility asked you to agree that the
3 presence of a wastewater treatment system would improve
4 the ecology for the benefit of the island. Would you
5 agree that such a benefit would be realized regardless
6 of who provided the service, Water Management Services
7 or anyone else?

8 **A.** I guess, first, I'd like to characterize it
9 that she asked it as more of a general nature; I'm not
10 sure she made it specific to the island. But, yes, the
11 benefits would result from an environmental perspective,
12 those environmental advantages would occur regardless of
13 who put that wastewater system in.

14 **Q.** If you know, was there more than one applicant
15 for the opportunity to provide that service?

16 **A.** Yes. Based on Mr. Brown's rebuttal testimony,
17 my recollection is that there were three firms that
18 submitted applications. And, again, that's just based
19 on my reading of Mr. Brown's testimony.

20 **Q.** You said that the utility is receiving no
21 return from the \$1.2 million invested in associated
22 companies. If there were to be -- if the utility was
23 receiving some interest or dividend return on that, what
24 would that -- what implication would that have for its
25 revenue requirements?

1 **A.** If that's recorded above-the-line, then it
2 would be a reduction to the overall revenue requirement.

3 **MR. McGLOTHLIN:** Those are all my questions on
4 redirect.

5 **COMMISSIONER SKOP:** Thank you, Mr. McGlothlin.
6 I believe exhibits have already been entered
7 for the witness, so, Ms. Ramas, you may step down.

8 **THE WITNESS:** Thank you.

9 **MR. McGLOTHLIN:** Those Exhibits are 10 through
10 24?

11 **COMMISSIONER SKOP:** Yes.

12 All right, at this point I will look to staff
13 on the staff witnesses, which I believe have been
14 stipulated, but I will look to staff for affirmation to
15 enter the prefiled testimony if it has not already been
16 done so.

17 **MR. JAEGER:** Yes, Chairman. The three staff
18 witnesses have been stipulated, and staff would move
19 that their testimony be inserted into the record as
20 though read. The first witness would be Cliff McKeown,
21 the next witness would be Angela Chelette, and the last
22 witness would be Debra M. Dobiac in that order.

23 **COMMISSIONER SKOP:** The prefiled testimony of
24 Witness McKeown will be entered in the record as though
25 read, and I believe his exhibits have already been

1 entered into the record. Is that correct?

2 **MR. JAEGER:** That is correct.

3 **COMMISSIONER SKOP:** Okay. And also the
4 prefiled testimony of staff Witness Chelette will be
5 entered in the record as though read, and I believe she
6 has no exhibits.

7 And the prefiled testimony of Witness Dobiac
8 will be entered into the record as though read, and I
9 believe that the exhibits and deposition exhibits have
10 already been entered into the record, is that correct?

11 **MR. JAEGER:** That is correct.

12 **COMMISSIONER SKOP:** All right. Very well.
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1 DIRECT TESTIMONY OF CLIFF MCKEOWN

2 Q. Please state your name and business address.

3 A. My name is Cliff McKeown. My business address is: Department of Environmental
4 Protection, 630-3 Capital Circle NE, Tallahassee, Fl. 32308.

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

6 A. I am employed by the Florida Department of Environmental Protection (DEP),
7 Northwest District. I am the primary inspector of all Public Water Systems subject to the
8 Florida Safe Drinking Water Act, located East of the Apalachicola River and West of the
9 center of Jefferson County.

10 Q. How long have you worked in that position?

11 A. I have been employed by DEP for 36 years. In that time, I have worked in Florida's
12 wild-flowing Artesian well control program, in the domestic and industrial waste water
13 programs, as well as the storm water program. My primary responsibilities for the last 31
14 years have been in the drinking water program.

15 Q. What are your duties in that position?

16 A. I inspect all public water supplies in my geographic area of responsibility and take
17 enforcement actions as required to ensure compliance with the safe drinking water act.

18 Q. Please summarize your educational background and professional experience.

19 A. I graduated high school in 1970 and thereafter attended community college for two
20 years. Also, as stated above, I have 36 years experience working in DEP.

21 Q. Have you ever filed or presented expert testimony before this Commission or any other
22 regulatory agency?

23 A. I testified in an earlier rate case for this utility in 1994 (see Docket No. 940109-WU),
24 and others including various DEP actions between 1975 and the present. Some of the other
25 DEP actions involved this very utility.

1 Q. What is the purpose of your testimony in this proceeding?

2 A. The purpose of my testimony is to present the DEP's position on the following five
3 points:

4 1. The utility's compliance with DEP regulations for drinking water.

5 2. The DEP's position on the customers of Water Management Services installing
6 private, shallow wells and the installation of backflow prevention devices at those
7 connections.

8 3. Test results for total trihalomethanes for this utility.

9 4. The condition of the utility's water storage tanks.

10 5. Recalibration of the utility's flow meters at its wells.

11 Each position is addressed below:

12 1. Utility's Compliance with DEP Regulations

13 The utility is currently in compliance with the applicable requirements of the Safe
14 Drinking Water Act, based on the last inspection of March 5, 2010, as shown in a cover letter
15 dated March 15, 2010, with an attached Compliance Inspection Form. The cover letter and
16 Compliance Inspection Form are attached as Exhibit CM-1.

17 2. DEP's Position on Installation of Shallow Wells and Back-flow Preventers

18 Through Rule 62-555, Florida Administrative Code (F.A.C.), DEP requires all
19 community type water systems to establish and implement a routine cross connection control
20 program. The purpose of this program is to detect and protect against cross connections
21 occurring which may endanger that customer or other customers of the system. This may
22 occur through back-pressure or back siphonage, when an unproven source of water (such as a
23 shallow well) is introduced within the system. All cross connection control programs
24 recognize that any source of water that is not known to be potable is therefore non-potable and
25 prohibited from introduction to the system and its customers.

1 Rule 62-555.360(2), F.A.C., requires all community type public water systems to
2 establish and implement routine cross connection control programs and further requires that
3 these programs be established in accordance with the American Water Works Association's
4 Manual of Practice No. 14 (MOP 14). MOP 14 states in section 5.2, page 55, "An approved
5 backflow-prevention assembly shall be installed at the service connection of the water
6 purveyor to any premises where there is an auxiliary water supply or system, even though
7 there is no connection between the auxiliary water supply and the public potable water
8 system."

9 The installation of irrigation or other wells which produce water that is not regularly
10 examined for bacteriological, chemical and radiological quality is considered non-potable.
11 Because the water utility is required to operate this cross connection control program, the
12 installation of non-potable wells increases the utility's work load. The utility's staff must
13 determine the need for a back-flow preventer device, ensure that one is properly installed, and
14 then these devices must be re-certified each year.

15 3. Test Results for Total Trihalomethanes (TTHMs)

16 During the years 2006, 2007, and 2008, the system exceeded the maximum
17 contaminant levels (MCLs) for TTHMs of 80.5 parts per million (ppm). The Department of
18 Health maintains a laboratory certification program. All public water supplies must use a lab
19 certified under this program. The Department of Health determined that improper procedures
20 were used in the handling and preservation of these samples and, as a result, DEP invalidated
21 past results. Therefore, the utility was required to take four additional samples starting on
22 August 17, 2009, and going through June 8, 2010. The levels for TTHMs in ppm for each of
23 the last four tests are 41.6 (August 17, 2009), 23.8 (December 14, 2009), 29.9, March 15,
24 2010) and 40.6 (June 8, 2010). The highest level of MCL recorded during these four tests was
25 41.6, which is approximately 50% of the allowed TTHMs. Therefore, the test results for

1 TTHMs for this utility are now satisfactory. Based on this satisfactory four samples, the
2 utility is now back on the normal sampling period of once every year.

3 4. Condition of Utility's Water Storage Tanks

4 This utility's ground storage reservoir is constructed of concrete and includes two
5 gravity type aerators mounted on its roof. The aerators are there to remove hydrogen sulfide
6 gas, a gas fairly common to Florida's groundwaters. This gas is highly corrosive and
7 aggressive to certain substances such as concrete.

8 As the water pumped from the wells on the mainland flows through the aerators the
9 water is separated into smaller and smaller volumes, thus exposing more of the water's surface
10 to the atmosphere. This process strips the gas from the water allowing much of the gas to be
11 dissipated into the atmosphere. Some of the gas however enters the ground storage reservoir,
12 and, in the presence of moisture, forms a corrosive substance that attacks concrete.

13 It is somewhat common to have corrosion that is so severe that chunks of concrete may
14 be removed by hand from the internal portions of the water tank above the water line.
15 Because damage to water storage tanks is common for many different reasons, DEP requires
16 an inspection of each tank every five years to determine its structural and coating integrity.
17 These inspections must be supervised by a Florida Licensed Professional Engineer. The
18 utility conducted a tank inspection in January 2006 for its ground storage tank and in March
19 2009 for its elevated tank.

20 5. Recalibration of Utility's Flow Meters at its Wells.

21 The 2009 Sanitary Survey reported individual well meter accuracy results ranging
22 from -1.0% to + 4.0%. AWWA sets a accuracy standard of +/- 5%; therefore, recalibration is
23 not required at this time.

24 Q. Does this conclude your testimony?

25 A. Yes, it does.

DIRECT TESTIMONY OF ANGELA CHELETTE

1
2 Q. Please state your name and business address.

3 A. My name is Angela Chelette. My business address is 152 Water Management Drive,
4 Havana, FL 32333-4712.

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

6 A. I am employed by the Northwest Florida Water Management District (NFWFMD or
7 District) as Chief of the Bureau of Ground Water Regulation.

8 Q. How long have you worked in that position?

9 A. Since March 2004.

10 Q. What are your duties in that position?

11 A. My responsibilities include managing a multi-program, regulatory bureau responsible
12 for water well permitting, water well contractor licensing, and permitting of consumptive uses
13 of water. I oversee and direct these programs to provide equally for water use needs, public
14 health and safety, and the protection of natural resources. I formulate and provide
15 programmatic recommendations to the Agency's Division Director, Executive Director and
16 District Governing Board. I coordinate the Bureau's regulatory actions and enforcement
17 issues with state and federal agencies. I direct and participate in the technical, administrative
18 and statutory review, evaluation, and processing of permits in all programs. I evaluate
19 violations and approve enforcement actions. I also execute administrative responsibilities in
20 the processing of permit applications and the adoption of proposed rule revisions into law.

21 Q. Please summarize your educational background and professional experience.

22 A. I have a Bachelor of Science Degree in Geology from Florida State University. I have
23 worked for the Water Management District since 1994, with nine years spent in the
24 Consumptive Uses of Water program, six as the Bureau Chief.

25 Q. Have you ever filed or presented expert testimony before this Commission or any other

1 regulatory agency?

2 Q. No

3 Q. What is the purpose of your testimony in this proceeding?

4 A. The purpose of my testimony is to present the District's position on two issues. The
5 first issue concerns the District's position on the customers of Water Management Services
6 installing shallow wells for irrigation purposes. The second issue concerns the District's
7 position on the appropriate rate structure for Water Management Services.

8 Q. Please summarize the District's position on the installation of shallow irrigation wells
9 on St. George Island.

10 A. The District's policy is to encourage the installation of shallow irrigation wells on St.
11 George Island for non-potable purposes, e.g., irrigation. The objective is to provide for the
12 long-term sustainability of the Floridan aquifer in coastal Franklin County for potable uses.
13 The Floridan aquifer is the only source of potable water for St. George Island and is relatively
14 limited. Use of shallow wells to tap the island's Surficial aquifer (a limited-volume, near-
15 surface, fresh to brackish lens that floats atop denser salt water) for non-potable purposes
16 reduces the amount of water that needs to be withdrawn from the Floridan aquifer on the
17 mainland. The use of the lower quality, Surficial aquifer for irrigation also satisfies part of a
18 larger directive of the State of Florida, set forth in Chapter 373, Florida Statute and Rule 62-
19 40, Florida Administrative Code, mandating utilization of the lowest quality water appropriate
20 for a specified use.

21 Q. What is the source of the fresh water from which these shallow wells draw?

22 A. The primary source of the fresh water is the rainfall that falls on the island.
23 Secondly, the majority of the Floridan aquifer water that is piped from the mainland
24 eventually finds its way onto the ground or into septic tanks on the island and makes a
25 contribution to the Surficial aquifer. This fresh water percolates through the sandy soil.

1 Because fresh water is less dense than salt water, the fresh water lens floats on top of the
2 denser salt water that permeates the deeper portion of the sands. This lens of fresh water is
3 typically found less than 20 feet below ground level and forms the reservoir from which the
4 shallow wells draw.

5 Q. Is this policy on shallow irrigation wells new?

6 A. Yes, for St. George Island, but the policy of encouraging the use of the shallow aquifer
7 for non-potable purposes has been a policy, codified in rule, across the District for several
8 decades. The rule implementing this policy for coastal Franklin County [Subsection 40A-
9 2.051(6), Florida Administrative Code] went into effect in January 2010.

10 Q. Please explain the events that led to the development of this rule.

11 A. The District began its Consumptive Uses of Water program in 1982 with a priority to
12 provide for the long-term sustainability of potable water supplies. In most of the District, as in
13 Franklin County, the primary potable supply comes from the Floridan aquifer. Since the
14 inception of the Consumptive Use program, the demand and competition for the relatively
15 limited potable water resources in coastal Franklin County have increased. As part of review
16 of water use permit applications received in 2008, the District performed analysis of ground
17 water quality data from mainland wells on Cat Point, where both Eastpoint Water & Sewer
18 District and Water Management Services obtain their potable water, and found indications that
19 water quality degradation is occurring in the Floridan aquifer. The District determined that
20 allowing limited, non-potable withdrawals on the island to lessen demands on the potable
21 water resources is in the public interest. Removing the demand for landscape irrigation—
22 which may constitute up to 50 percent of the water use of a single-family residence—from the
23 potable supply system offers significant protection to the potable source with minimal risk of
24 harm to the lower-quality Surficial aquifer or other resources. This strategy has been
25 successfully employed in coastal Escambia, Santa Rosa, Okaloosa, Walton and Bay Counties

1 | since 1986.

2 | Since 1982, property owners on St. George Island have been required to obtain an
3 | Individual Water Use Permit (IWUP) prior to withdrawing water for any use other than
4 | domestic use as defined in Subsection 373.019(6), Florida Statutes. Domestic use is
5 | specifically exempted from water use regulation by Subsection 373.219(1), Florida Statutes.

6 | On March 13, 2008, the District received Individual Water Use Permit Applications
7 | from Mr. Robin Olin, Mr. Dan Katz and Ms. Lynn DeCaterina to use Surficial aquifer water
8 | on St. George Island, within St. George’s Plantation Development of Regional Impact
9 | (hereinafter, “the Plantation”), for landscape irrigation. On August 29, 2008, The District
10 | issued a Notice of Proposed Agency Action for each of the three applications indicating that
11 | they would be presented to the District’s Governing Board on September 25, 2008 and
12 | recommended for approval. Leisure Properties, LTD., and Water Management Services, Inc.
13 | filed a petition for administrative hearing regarding the applications on September 23, 2008.
14 | On September 24, 2008, the Department of Community Affairs (DCA) sent a Notice of
15 | Violation to each of the applicants stating that they were about to violate the Plantation’s
16 | development order by receiving a consumptive use permit.

17 | The District, on October 13, 2008, filed a Petition for Writ of Quo Warranto in the
18 | First District Court of Appeal (Case No. 1D08-4993) asserting that DCA does not have the
19 | authority to regulate water use and that such authority has been granted solely to the District.
20 | On May 11, 2009, the Court granted the District’s petition and DCA subsequently withdrew
21 | the Notices of Violation.

22 | Leisure Properties, LTD., and Water Management Services, Inc. withdrew their
23 | petition for administrative hearing on June 1, 2009 and the IWUPs were issued on June 16,
24 | 2009.

25 | During the evaluation of the above noted IWUP applications, the District allocated

1 staff resources to revise the Consumptive Uses of Water rule to encourage the use of lower
2 quality, Surficial aquifer water for non-potable uses in Gulf and Franklin counties—as it had
3 previously done for other coastal counties. The District initiated the rulemaking on October
4 20, 2008 to expand an existing exemption that allows users to operate under a General Water
5 Use Permit (GWUP) if they withdraw from Surficial Aquifer wells, four-inches or less in
6 diameter and use an annual daily average of 15,000 gallons or less. GWUPs are issued by rule
7 [Paragraph 40A-2.041(3)(a), Florida Administrative Code] and do not require submittal of an
8 application or payment of a fee. There is a requirement for a well construction permit to
9 install, repair or abandon wells. The exemptions in rule at the time [Subsection 40A-2.051(5)
10 and (6), Florida Administrative Code] allowed such uses under a GWUP in Escambia, Santa
11 Rosa, Okaloosa, Walton and Bay counties and the revision expanded that authorization to
12 include Gulf and Franklin counties. The revised rule went into effect in January 2010.

13 Q. Have you read the direct testimony of Mr. Gene Brown that was filed in this case?

14 A. Yes.

15 Q. On pages three through five of Mr. Brown's direct testimony, he describes the events
16 that led up to the development of the District's rule on shallow irrigation wells. Do you agree
17 with his description?

18 A. No, the actual events leading to the development of the District's rule are stated above.
19 Mr. Brown's statement on page 3, line 19 that state law prohibited wells in the Plantation is in
20 error. There has never been a prohibition on water use or well construction on St. George
21 Island in District rules.

22 Mr. Brown's statement on page 4, line 1 that governmental policy has shifted in favor
23 of shallow wells is correct only for non-potable uses. For potable use, the District has not
24 flagged in its recognition of the need for a central system to provide potable water in
25 acceptable quantity and of an acceptable quality for public supply. The District does not

1 consider the Surficial aquifer on St. George Island suitable for potable use but has no authority
2 to restrict individual domestic use.

3 Mr. Brown's statement on page 4, line 13 that the District "refused to act" to enforce
4 the county ordinance and "state development order" implies that the District has the authority
5 to do so, which it does not.

6 Mr. Brown's statement on page 4, line 18 that the District has done away with the
7 requirement for a consumptive use permit is incorrect. Uses that meet the exemption criteria
8 are now authorized by GWUP and remain subject to the requirements of Rule 40A-2, Florida
9 Administrative Code.

10 Mr. Brown's statement on page 4, line 20 that there is no notice to the utility when
11 permits are issued on St. George Island is correct only to the extent that Mr. Brown has never
12 requested notification. The District provides periodic lists of new well construction/GWUP
13 authorizations to several entities and will do the same for Mr. Brown upon request.

14 Q. Are there any potential risks associated with using water from these shallow wells?

15 A. Yes. If these shallow wells are located too closely to septic tank drain fields, there is a
16 potential that the water drawn from the shallow wells could become contaminated. However,
17 the District and the Florida Department of Health enforce set-back requirements between
18 wells and septic tank systems.

19 Q. Turning now to the second purpose of your testimony, please explain the District's
20 position on an appropriate rate structure for Water Management Services.

21 A. The District continues to believe that an inclining block rate structure is appropriate for
22 Water Management Services. Because of the proximity of the utility's wells to the coast line,
23 there is a risk of salt water intrusion into the Floridan aquifer if withdrawals exceed the
24 utility's current withdrawal limits specified in its Consumptive Use Permit. Therefore, the
25 District believes that an inclining block rate structure is appropriate for Water Management

1 Services.

2 Q. Does this conclude your testimony?

3 A. Yes.

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DIRECT TESTIMONY OF DEBRA M. DOBIAC

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

3 **A.** My name is Debra M. Dobiac, and my business address is 2540 Shumard Oak
4 Boulevard, Tallahassee, Florida, 32399.

5

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

7 **A.** I am employed by the Florida Public Service Commission as a Regulatory Analyst
8 II in the Office of Auditing and Performance Analysis.

9

10 **Q. How long have you been employed by the Commission?**

11 **A.** I have been employed by the Commission since January 2008.

12

13 **Q. Briefly review your educational and professional background.**

14 **A.** I graduated with honors from Lakeland College in 1993 and have a Bachelor of
15 Arts degree in accounting. Prior to my work at the Commission, I worked for 6 years in
16 internal auditing at the Kohler Company and First American Title Insurance Company. I
17 also have approximately 12 years of experience as an accounting manager and controller.

18

19 **Q. Please describe your current responsibilities.**

20 **A.** Currently, I am a Regulatory Analyst II with the responsibilities of managing
21 regulated utility financial audits. I am also responsible for creating audit work programs
22 to meet a specific audit purpose.

23

24 **Q. Have you presented testimony before this Commission?**

25 **A.** Yes. I testified in the Aqua Utilities Florida, Inc. Rate Case, Docket No. 080121-*

1 WS.

2

3 **Q. What is the purpose of your testimony today?**

4 A. The purpose of my testimony is to sponsor the staff audit report of Water
5 Management Services, Inc. ("Utility") which addresses the Utility's application for a rate
6 increase. This audit report is filed with my testimony and is identified as Exhibit DMD-1.

7

8 **Q. Was this audit prepared by you or under your direction?**

9 A. Yes, it was prepared under my direction and supervision.

10

11 **Q. Please describe the work you performed in this audit.**

12 A. We performed the following procedures:

13 **Rate Base:**

14 We reconciled the Rate Base balances to the supporting Minimum Filing
15 Requirements (MFR) schedules of Utility Plant in Service (UPIS), Contributions In Aid
16 of Construction (CIAC), Accumulated Depreciation, Accumulated Amortization of
17 CIAC, and Advances for Construction. We traced these balances to the general ledger
18 and prior Commission Orders. We reconciled the Rate Base balances from December 31,
19 1992, the end of the test year in the Utility's last general rate case, to June 30, 2004, the
20 end of test year in the Utility's last limited proceeding. We reviewed the Commission
21 staff audit workpapers that were prepared during the Utility's last limited proceeding, in
22 Docket 000694-WU.

23 We tested plant additions for the period July 1, 2004, through December 31, 2009.
24 We verified that the Utility properly recorded retirements when a capital item was
25 removed or replaced. We sampled construction project additions and the corresponding

1 source documentation.

2 We tested land purchases and sales from July 1, 2004, to December 31, 2009, to
3 determine that land was recorded at original cost and used for utility operations.

4 We sampled CIAC additions for the period July 1, 2004, through December 31,
5 2009, and traced them to contracts to verify compliance with Commission rules and the
6 Utility's tariff.

7 We sampled Advances for Construction additions for the period July 1, 2004,
8 through December 31, 2009, and traced them to contracts to verify compliance with
9 Commission rules.

10 We tested additions and retirements to Accumulated Depreciation from July 1,
11 2004, to December 31, 2009. We verified that the Utility used Commission-authorized
12 rates to depreciate its plant accounts. We verified that the Utility properly recorded
13 retirements to accumulated depreciation when the corresponding plant was removed or
14 replaced.

15 We tested additions to Accumulated Amortization of CIAC from July 1, 2004, to
16 December 31, 2009. We verified that annual accruals are in compliance with
17 Commission rules and prescribed amortization rates.

18 We traced the components of working capital to the general ledger and
19 recalculated the 13-month average working capital balances. We judgmentally sampled
20 and tested the components of working capital for the proper amount, proper time period,
21 and classification.

22 **Net Operating Income:**

23 We reviewed the Utility's Commission approved tariffs, compiled a schedule of
24 the Utility water revenue for the 12-month period ending December 31, 2009, from the
25 Utility's billing register, and traced the balance to the general ledger and to the Minimum

1 Filing Requirements (MFRs). We tested the reasonableness of the Utility revenue by
2 multiplying the average consumption times the number of customers in each class of
3 service and compared it to the amount recorded by the Utility. We selected a judgmental
4 sample of customer bills and recalculated the bills using the authorized rates.

5 We compiled Operation and Maintenance (O&M) expense items from the Utility's
6 general ledger and traced them to the MFRs. We reviewed a judgmental sample of the
7 Utility's invoices for proper amount, proper time period, proper National Association of
8 Utility Commissioners' (NARUC) account, and recurring nature. We reviewed the
9 Utility's methodology for proper allocation of expenses for water operations.

10 We reviewed the Utility's books and records for depreciation and amortization
11 expense. We calculated depreciation on plant and amortization on CIAC for the test year
12 ending December 31, 2009.

13 We compiled Taxes Other Than Income (TOTI) expenses from the Utility's
14 general ledger and traced them to the MFRs. We reviewed the property tax bills and
15 Commission-filed regulatory assessment fee forms for proper amount, proper time period,
16 proper NARUC account, and recurring nature.

17 **Capital Structure:**

18 We reviewed the Utility's Reconciliation of Capital Structure to Requested Rate
19 Base, MFR Schedule D-2, and traced amounts to the general ledger as of December 31,
20 2009. We verified debt to the loan agreements. We determined that the Utility is
21 collecting and accounting for customer deposits as authorized in its Commission-approved
22 tariff and verified that the Utility is calculating and remitting interest on customer deposits
23 per Rule 25-30.311, Florida Administrative Code.

24

25 **Q. Please review the audit findings in this audit report, DMD-1, which address**

1 | **the Water Management Services, Inc. rate case filing.**

2 | A. Our report included six findings which are explained on the following pages.

3 | **Audit Finding 1**

4 | This finding discusses the proceeds from a settlement of a lawsuit received in
5 | 2008. In 2008, the Utility received net proceeds after legal costs of \$719,337 as part of a
6 | settlement agreement pertaining to the performance of pipe coating for a supply main.
7 | The Utility recorded the \$719,337 as a reduction to the Plant in Service (Supply Mains).
8 | The utility paid additional cost of \$13,500 in 2009 related to the final settlement. The
9 | 2009 payments effectively reduced the net proceeds to \$705,837.

10 | Audit staff believes that the proceeds of the settlement should be used to offset the
11 | future costs of a maintenance contract rather than a reduction in the cost of Plant in
12 | Service. The maintenance contract referred to above is described in the pre-filed
13 | testimony of Company witness Brown and will cost \$48,000 annually for ten years.

14 | Account 101 - Plant in Service 13-month average balance should be increased by
15 | \$719,337; Account 108 - Accumulated Depreciation 13-month average balance should be
16 | increased by \$23,855; Account 403 - Depreciation Expense should be increased by
17 | \$23,978, and Operation and Maintenance Expenses should be reduced by \$13,500.
18 | Furthermore, \$36,000 should be removed from the Schedule B-3 adjustments to
19 | normalize the expense detail for the Bridge Maintenance Contract.

20 | The remaining balance of the proceeds of \$705,837 should be reviewed for either
21 | a reduction in working capital or cost free debt in the utility's capital structure.

22 | **Audit Finding 2**

23 | This finding discusses \$3,400 included in the test year land balance, which
24 | pertained to appraisal and surveying costs applicable to land purchased in 2006. The land
25 | was sold in 2007, but the Utility did not remove these costs when recording the sale

1 transaction.

2 These costs should be removed from the Utility's land balance. The Account 101
3 Plant in Service 13-month average balance should be reduced by \$3,400.

4 **Audit Finding 3**

5 This finding discusses the balance of Account 252 - Advances for Construction.
6 In the last rate case, the Commission ordered that this account be decreased (debited) by
7 \$9,257, which was a stipulated amount. The Commission also ordered that the account be
8 increased (credited) by \$65,000 to reflect funds received from a Homeowner's
9 Association. The adjustments ordered by the Commission in the previous rate case for
10 this account were not recorded.

11 In response to an audit document request, the Utility indicated that the \$9,257
12 adjustment should have been made. However, the Utility also indicated that it did not
13 record the \$65,000 as a customer advance to Account 252 because it was not a customer
14 advance. The Utility believes that the \$65,000 is paid-in capital and booked it to Account
15 211 - Other Paid in Capital.

16 Account 252 - Advances for Construction 13-month average balance should be
17 decreased by \$9,257. As for the \$65,000 adjustment, the audit staff recommends
18 additional research and consideration by the analyst staff.

19 **Audit Finding 4**

20 This finding relates to the Utility's working capital allowance. The Utility
21 included \$112,034 of unamortized debt discount and issuing expense in the working
22 capital calculation. The unamortized debt discount and issuing expense is also included
23 in the Utility's long-term debt cost rate in the capital structure. Therefore, this debt
24 expense should be removed from the working capital allowance.

25 In addition, the Utility included \$52,851 in the calculation of the working capital

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1 allowance for costs related to an application for a wastewater certificate. The application
2 was eventually withdrawn. The current rate case applies to water only, and therefore, this
3 amount should not be included in the working capital allowance.

4 The working capital allowance 13-month average balance should be reduced by
5 \$112,034 of unamortized debt discount and issuing expense and by \$35,662 for the costs
6 related to an application for a wastewater certificate.

7 **Audit Finding 5**

8 This finding relates to the reclassification of certain expenses that the Utility had
9 recorded incorrectly. Except for the reclassification of Insurance – Other expense to
10 Miscellaneous Non-utility expense in the amount of \$12,020, the reclassifications will
11 have no effect on total O&M Expenses.

12 **Audit Finding 6**

13 This finding relates to expenses recorded in the test year that were for activities
14 outside the test year or had insufficient supporting documentation. O&M Expenses should
15 be reduced by \$10,313 \$9,588.

16

17 **Q. Does that conclude your testimony?**

18 **A.** Yes.

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1 **COMMISSIONER SKOP:** Commissioners, I will look
2 to the bench. Do we want to go for lunch or do we want
3 to proceed forward?

4 **COMMISSIONER EDGAR:** I would love lunch.

5 **COMMISSIONER SKOP:** Okay. All right. Why
6 don't we do this -- do we have the time, because my
7 watch is --

8 **COMMISSIONER EDGAR:** I've got 12:20.

9 **COMMISSIONER SKOP:** 12:20. Why don't we come
10 back at 1:30, and we will proceed with the rebuttal
11 portion of the technical hearing at that time. We stand
12 adjourned. Thank you.

13 (Recess.)

14 **COMMISSIONER SKOP:** Okay. At this point we
15 are going to go back on the record. And where we left
16 off is we finished the direct witnesses, and this starts
17 the rebuttal witnesses. And I will look to Ms. Scoles
18 to call your witness.

19 **MS. SCOLES:** Thank you, Chairman. With your
20 permission, Water Management Services calls Rebuttal
21 Witness Frank Seidman.

22 **FRANK SEIDMAN**
23 was called as a rebuttal witness on behalf of Water
24 Management Services, Inc., and having been duly sworn,
25 testified as follows:

DIRECT EXAMINATION

1
2 **BY MS. SCOLES:**

3 Q. Mr. Seidman, you were previously sworn in this
4 proceeding, is that correct?

5 A. Yes, I was.

6 Q. Did you prepare and cause to be filed prefiled
7 rebuttal testimony in this proceeding?

8 A. Yes, I did.

9 Q. And do you have a copy of that rebuttal
10 testimony before you today?

11 A. Yes, I do.

12 Q. Do you have any corrections or revisions to
13 that testimony that you would like to make?

14 A. Yes, I've got a couple of corrections. Let's
15 see, on Page 13, on Line 16, there is a number there
16 that says 26 exceptions. It should say 28. On Page 17,
17 Line 3, delete the last sentence that says WMSI will not
18 dispute this adjustment. Delete that. And then
19 finally, on Page 19, on Line 18, delete the last two
20 words in that sentence. Delete a year, so that the
21 period comes after the number of 180,000.

22 **COMMISSIONER EDGAR:** Excuse me. Could you do
23 the first correction again for me, the first one that
24 you gave?

25 **THE WITNESS:** The first one was Page 13, Line

1 16.

2 **COMMISSIONER EDGAR:** Thank you. I mean, thank
3 you for doing it, and now Page 13, Line 16.

4 **THE WITNESS:** Yes. Change the number 26 to
5 28.

6 **COMMISSIONER EDGAR:** Thank you.

7 **BY MS. SCOLES:**

8 **Q.** Does that conclude the revisions that you
9 have, Mr. Seidman?

10 **A.** Yes, it does.

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

14 **A.** Yes, they would.

15 **MS. SCOLES:** Mr. Chairman, I would ask that
16 the prefiled rebuttal testimony of Mr. Seidman be
17 inserted into the record as though read.

18 **COMMISSIONER SKOP:** Very well. The corrected
19 prefiled rebuttal testimony of Witness Seidman will be
20 entered into the record as though read. You may
21 proceed.

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REBUTTAL TESTIMONY OF FRANK SEIDMAN
BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION
IN DOCKET NO. 100104-WU
IN RE: APPLICATION FOR INCREASE IN
WATER RATES IN FRANKLIN COUNTY BY
WATER MANAGEMENT SERVICES, INC.

Q. Please state your name, profession and address.

A. My name is Frank Seidman. I am President of Management and Regulatory Consultants, Inc., consultants in the utility regulatory field. My address is 18444 Lost Lake Way, Jupiter, FL 33458.

Q. Have previously presented testimony in this proceeding?

A. Yes. I have presented direct testimony on behalf of the Applicant, Water Management Services, Inc. (WMSI).

Q. What is the purpose of your rebuttal testimony?

A. The purpose is to respond to portions of the direct testimony presented by Office of Public Counsel (OPC) witnesses Woodcock and Ramas and Public Service Commission (PSC or Commission) witnesses Dobiac and Chelette.

1 **Q. Would you please address those portions of the corrected direct**
2 **testimony of Mr. Woodcock to which you would like to respond?**

3 A. Yes. At page 4 of his direct testimony, Mr. Woodcock makes a
4 determination of used and useful for the distribution system based on the
5 lot count method. I disagree with the use of that approach for this utility,
6 for several reasons. First, a determination of used and useful for the total
7 transmission and distribution and system was made in Docket No.
8 940109-WU (“the 1992 case”). Final Order No. PSC-94-1383-FOF-WU
9 set the methodology to be used based on the stipulation of all parties,
10 including the Office of Public Counsel. Stipulation No. 20.b stated that
11 “All Transmission and Distribution Plant is considered 100% used and
12 useful except for the distribution mains (less than 8” diameter) in Account
13 331.4 Transmission & Distribution Mains serving certain subdivisions
14 within the area known as the Plantation, which lines were constructed for
15 the benefit of the developer.” The Stipulation went on to set the lot count
16 method as appropriate for determining used and useful only for those
17 specific areas of the Plantation that were listed.

18
19 **Q. What was the basis for using this methodology in the 1992 case?**

20 A. It was made evident in that case that the application of a strict lot count
21 methodology, without consideration of other factors, would be

1 inappropriate and would severely understate the used and usefulness of the
2 transmission and distribution plant on the island. It was pointed out at that
3 time that St. George Island is long (approx. 18 miles), narrow (approx. six
4 blocks, except in the Plantation), and although the service area is the entire
5 island, people tend to favor beach front access rather than the interior. In
6 order to reach development along the beaches, the utility had no choice
7 but to have a core transmission system that runs the length of the island
8 with distribution mains extending toward the beaches. Additionally, some
9 shallow wells had been drilled on some lots the utility's lines pass and it
10 could not force these people to hook up to the central system. A lot count
11 methodology would penalize the utility for not serving the lots of people
12 who have evaded service.

13
14 **Q. Is the methodology specified in the 1992 case the methodology that**
15 **was used by the Applicant in preparing its case?**

16 A. Yes. In preparing this case the lot count for the specified areas of the
17 Plantation was brought up to date for the test year. It resulted in a 60.9%
18 used and useful for the Plantation distribution system, but an overall
19 96.9% used and useful for the entire transmission and distribution system.

20

1 **Q. Is the methodology approved by the Commission in the 1992 case,**
2 **with regard to the Plantation, still appropriate?**

3 A. Actually no. In the last case, the use of wells within the Plantation was
4 very restrictive. It appears that those restrictions have been either removed
5 entirely or severely limited. With the ability of lot owners to obtain
6 permits for shallow water wells and with encouragement by the water
7 management, the utility can no longer depend on those lots, when built on,
8 becoming WMSI customers. Under these circumstances, I believe that the
9 lot count method is no longer appropriate, even in the Plantation. The
10 entire transmission and distribution system should be considered 100%
11 used and useful.

12

13 **Q. Are there any other factors that should be considered in evaluating**
14 **the used and useful for the transmission and distribution system?**

15 A. Yes. Regardless of whether people elect to be customers of the utility or
16 serve themselves with shallow wells, all of them have access to the fire
17 protection provided by the same mains which the lot count approach
18 would eliminate from cost recovery by the utility. In addition, since
19 Docket No. 940109-WU was decided, there have only been two major
20 additions to Account 331, Transmission & Distribution Mains. In 2003,
21 the utility made additions to loop the mains to improve fire protection. The

1 Commission addressed the used and usefulness of this project in Order
2 No. PSC-05-1156-PAA-WU, and found the associated mains to be 100%
3 used and useful. The only other major addition was for the renovation of
4 the mains in the state park which were leaking badly. All of the mains in
5 the state park are 100% used and useful. There is no valid reason that the
6 entire transmission and distribution system should not be considered 100%
7 used and useful.

8

9 **Q. At page 8 of his direct testimony, Mr. Woodcock recommends that the**
10 **pro forma adjustments to rate base not be included at this time.**
11 **Would you please respond to that?**

12 A. Yes. Regarding the proposed pro forma adjustments, Mr. Woodcock, at
13 page 9 of his corrected direct testimony, makes the following statement.
14 “Based on my review of the documentation and my inspection of the
15 utility’s facilities, these projects would replace aging assets, improve the
16 quality of service to the customers, or improve the safety and reliability
17 conditions of the utility system.” His recommendation to not include these
18 additions in rate base “at this time” is based not on their lack of necessity,
19 or their lack of good engineering, but on his allegation that the costs are
20 not sufficiently supported.

1 I would like to make it clear that it is not the intent of WMSI to request
2 that the Commission approve “carte blanche” the estimated costs shown in
3 the minimum filing requirements (MFRs). We fully expect that the
4 Commission will require a true up of actual costs to estimated costs. But
5 we will not know the actual costs until the projects are completed and the
6 projects cannot be completed unless there is sufficient acknowledgment in
7 this record and in the final order that the proposed plant additions are
8 necessary and that the Commission will approve rates based on the
9 legitimate final costs, when they are known. Otherwise, WMSI will not be
10 able to obtain financing and without financing these necessary projects
11 will not be done. Later, in my rebuttal to Ms. Ramas, I will address how
12 this may be accomplished.

13

14 **Q. Would you please turn now to the direct testimony of Ms. Ramas? At**
15 **page 26 of her direct testimony, Ms. Ramas proposes an adjustment to**
16 **Account No. 634 in the amount of \$(1,250). Do you agree with this**
17 **adjustment?**

18 A. Yes. In the MFRs, an adjustment was made to remove the contract service
19 costs for Mr. Garrett. The adjustment inadvertently did not catch the total
20 amount. Ms. Ramas’ adjustment corrects that.

21

1 **Q. Also at page 26 of her direct testimony, Ms. Ramas addresses an**
2 **adjustment for out of period costs. Do you agree with that**
3 **adjustment?**

4 A. No. I do agree that an adjustment is appropriate, but I disagree with the
5 characterization of the entries in question and the resulting proposed
6 adjustment. The purpose of the adjustment is to reflect an annual level of
7 costs for preparation of the annual report to the PSC. I can speak to this
8 personally, since I prepared that report for WMSI. The referenced \$5,000
9 entry in December 2009 was apparently an accrual to reflect the
10 anticipated cost for preparing the 2009 Annual Report, not a retainer.
11 Management & Regulatory Consultants, Inc. does not have a retainer
12 arrangement with WMSI for any purpose. The entry referred to by Ms.
13 Ramas as a “refund” in 2010 was not a refund. There were no refunds. It is
14 apparently a partial payment toward the accrual. I have checked my
15 records and the actual amount billed to WMSI for preparation of the 2008
16 Annual Report was \$4,205. That would be a 2009 expense. The actual
17 amount billed to WMSI for preparation of the 2009 Annual Report was
18 \$3,900. That would be a 2010 expense. I have no problem with adjusting
19 the 2009 test year expense for annual reports from the booked expense of
20 \$6,305 to the actual expense of \$4,205. The adjustment would be \$(2,100)
21 instead of the \$(3,198) proposed by Ms. Ramas.

22

1 **Q. In her direct testimony at page 32 and again at page 46, Ms. Ramas**
2 **makes a recommendation to remove WMSI's proposed pro forma**
3 **plant additions and all adjustments related thereto. Would you please**
4 **respond to that recommendation?**

5 A. Yes. I previously addressed this, in principle, in my response to Mr.
6 Woodcock's recommendation to not include these plant additions in rate
7 base, at this time. The basis for his recommendation is the lack of
8 documents supporting the proposed cost. I indicated that WMSI agrees
9 that the cost of the additions should be included in rate base at their actual
10 cost, but in the interim, a mechanism was needed to provide WMSI with
11 the ability to obtain financing so that the work could be done. Typically,
12 this Commission has allowed recovery of costs for necessary projects prior
13 to their completion, based on estimated costs, but with a true up of
14 estimated costs to actual costs. The Commission took such an approach for
15 this utility in the Supply Main Docket No. 940109-WU. In that docket,
16 the Commission made a finding as to the necessity and used and
17 usefulness of the project, so that there was a basis to obtain financing.
18 That is what WMSI proposes in this case. If that is done, WMSI will be in
19 a position to obtain the financing proposed in its filing because the lender
20 will know that the Commission will eventually approve rates to support
21 the legitimate costs of the projects. It is then that WMSI can move ahead
22 to obtain documents supporting the costs. Recognizing the "chicken and
23 egg" situation the utility is in, WMSI proposes that the situation may best

1 be handled by providing for a phased rate increase provision similar to that
2 authorized in Docket No. 940109-WU. This would allow for a first phase
3 based on the case without the pro forma additions, a second phase based
4 on the documented estimate for completing the projects and a third phase
5 that allows for a true up to the actual costs incurred.

6

7 **Q. At page 32 of her direct testimony, Ms. Ramas recommends an**
8 **adjustment to remove the amortization expense associated with the**
9 **prior rate case. Do you agree with that adjustment?**

10 A. Yes.

11

12 **Q. Beginning at page 33 of her direct testimony, Ms. Ramas recommends**
13 **adjusting the salaries of Ms. Sandra Chase and Ms. Brenda Molsbee**
14 **because they were given significant increases. Do you agree with those**
15 **adjustments?**

16 No. I certainly cannot deny that these two individuals were given
17 significant salary increases in 2009. And if we were to consider only the
18 fact that the increases were significant without considering any other
19 factors, it would also give me pause. Mr. Brown obviously believes that
20 these increases are warranted. He will address those reasons in his rebuttal
21 testimony. What I would like to do here is place the impact of these
22 increases in the proper context, because these increases did not occur in a
23 vacuum. During the test year, many changes were made in the area of

1 personnel for this utility. The results of these changes were to streamline
2 the field work force, increase the availability of competent operations
3 management and do it with a savings in expenses. The utility was able to
4 do away with several part time field employees and bring in another full
5 time field employee at about half the cost. An assistant operations
6 manager with knowledge of this specific utility that had been working on a
7 contract basis was brought in as a full time employee. In conjunction with
8 these changes, Mr. Brown made the decision that this was the right time to
9 bring the salaries of Ms. Chase and Ms. Molsbee up to the level he
10 believed was proper. The cost of all of this to the customer was an annual
11 savings of \$12,609 when compared to 2008. See Exhibit (FS-4)____. This
12 was made possible because, recognizing the current economic conditions,
13 Mr. Brown took a cut in his salary that more than offset the annual
14 increases he awarded. So, taken in the context of the overall impact of
15 changes in personnel costs, even considering the substantial increases
16 addressed by Ms. Ramas, the customers come out ahead. That is the
17 proper basis for evaluating whether the utility's personnel expenses should
18 be allowed. The adjustment proposed by Ms. Ramas is not warranted.

19
20 **Q. At pages 42 and 43 of her direct testimony, Ms. Ramas proposes that**
21 **the wastewater certificate application amortization cost not be**
22 **approved. The reason given is that it had nothing to do with the**
23 **provision of water service and is only an attempt to expand WMSI's**

1 **services. Do you agree that recovery of this amortization cost should**
2 **be denied?**

3 No. The reason is that the certificate application does have something to
4 do with providing water service. There is no central wastewater service
5 on St. George Island. Sewage disposal relies on septic tanks for residences
6 and small commercial customers and package plants for large commercial
7 customers. In recent years, several commercial water customers have
8 approached WMSI about providing central wastewater disposal service
9 because it is becoming increasingly difficult and expensive for them to
10 maintain their own systems and to meet environmental requirements. As a
11 result some businesses may have to consider closing. If or when these
12 customers were to go out of business, WMSI would lose their water
13 service business. Lost water customers means a smaller revenue base and,
14 therefore, higher water rates to remaining customers to recover the same
15 revenue requirement. Preserving the water customer base is difficult
16 enough. WMSI made a legitimate effort to preserve that base and that
17 would have benefitted all water customers. WMSI has proposed to
18 amortize the cost involved over five years, but will accept a longer period
19 to reduce the impact on customer rates.

20

21 **Q. Ms. Ramas, at page 46 of her direct testimony proposes to change the**
22 **rate of return used in calculating the amortization of plant that would**

1 **be retired in association with the addition of pro forma plant. Would**
2 **you please address this?**

3 A. Yes. Plant proposed to be retired will only be retired if the pro forma plant
4 additions are made. Otherwise, there is no reason to retire the plant. The
5 amortization rate is based on the requested rate of return. Should the
6 requested work be approved, and should the Commission authorize a
7 different rate of return than requested, it would be appropriate, at that
8 time, to adjust the amortization calculation.

9

10 **Q. At page 60 of her direct testimony Ms. Ramas recommends**
11 **adjustments to Plant in Service, Accumulated Depreciation and**
12 **Depreciation Expense associated with the \$100,000 forgiveness of debt**
13 **by Scruggs Contracting for work done in the State Park. What is your**
14 **response?**

15 A. After reviewing Ms. Ramas' analysis, WMSI concludes that her
16 recommendation is the appropriate way of handling the transaction.
17 Therefore, WMSI agrees to reduce the balance of Plant in Service Account
18 331.4 by \$100,000, reduce the associated Accumulated Depreciation by
19 \$6,977, and reduce Depreciation Expense by \$2,326. These will be
20 permanent adjustments.

21

22 **Q. Please turn now to the direct testimony of PSC witness Dobiac. First,**
23 **would you please address her testimony in general?**

1 A. Yes. Ms. Dobiac conducted the PSC Staff Audit of WMSI for this rate
2 application. The audit report, which is an exhibit to her testimony,
3 contains six findings, all of which are relatively minor in nature. There
4 were no disclosures. This audit report is the culmination of the standard
5 audit procedure used by the Commission which she explains at length at
6 pages 2 through 4 of her direct testimony.

7
8 **Q. Was WMSI required to provide any detailed information to the**
9 **auditor?**

10 A. Yes. Thirty-one formal Audit/Document Record Requests were made over
11 an approximately two month period, each with a specific due date.

12
13 **Q. You indicated that there were six findings in this audit. How does that**
14 **compare to the audit conducted for the 1992 case, the last full rate**
15 **case in Docket No. 940109-WU?**

16 A. In the 1992 case, there were ²⁸~~26~~ exceptions and 17 disclosures. The report
17 was 74 pages long compared to 16 pages in this audit.

18
19 **Q. Please turn to the findings in the report. Do you have a response to**
20 **Finding No. 1?**

21 A. Yes. Audit Finding No. 1 addresses the booking of the net proceeds of a
22 law suit pertaining to the untimely failure of the pipe coating on the supply
23 main installed on the new bridge from the mainland to St. George Island.

1 The need for and the cost of the supply main was addressed by this
2 Commission in Docket No. 000694-WU. The cost of the supply main, in
3 excess of \$4 million, was booked in 2004. As a part of the contract cost,
4 WMSI paid for a special protective coating to be applied to the main due
5 to the highly corrosive conditions to which the main was subject. The
6 coating did not perform as it should and WMSI sued to recover the related
7 costs. In 2008, the suit was settled and WMSI booked the net amount of
8 \$719,000 received as an offset to the cost that had been booked in 2004,
9 since the net effect of the settlement was to refund costs related to
10 construction services not received.

11
12 Audit Finding No. 1 suggests that rather than reduce Plant in Service by
13 \$719,000, that the proceeds be placed in escrow to offset the future cost of
14 a maintenance contract entered into in 2009. I find this approach bizarre.
15 When a contract is entered into to provide a certain product at a certain
16 price and a lesser product is provided, the difference is a refund that
17 reduces the price. That is what WMSI has done. The maintenance of the
18 main has nothing to do with the construction of the main. The main would
19 have to be maintained regardless of whether a special coating was used.
20 There is no nexus between the proceeds of the settlement and the
21 maintenance contract.

22

1 As a practical matter, requiring funds to be escrowed after the fact would
2 require the utility to borrow funds to be placed in escrow. The \$719,000 is
3 not cash lying around. In addition, I believe it is the intent, under the
4 Uniform System of Accounts (USOA) that such a refund be handled as
5 WMSI has done. USOA Accounting Instruction 19 Utility Plant –
6 Components of Construction Cost, Paragraph (8) Injuries and Damages,
7 covers a similar but not exact situation. It states that insurance recovered
8 on account of property damages incident to construction be credited to the
9 account charged with the cost of damages. In this situation, Account 309,
10 Supply Mains, is where the damage occurred and that is where WMSI
11 credited the refund. WMSI's booking has given full benefit to the
12 customers and should remain unchanged. The treatment suggested in
13 Audit Finding No. 1 will increase both rate base and depreciation expense.

14

15 **Q. Would you please address Finding No. 2?**

16 A. Yes. This finding is to remove \$3,400 in the Land account for survey costs
17 associated with land previously sold. I agree with the finding.

18

19 **Q. Would you please address Finding No. 3?**

20 A. This finding proposes two adjustments to the Customer Advances for
21 Construction account. I agree with the first, which is to reduce the
22 account balance by \$9,257. This was stipulated in the 1992 case and
23 overlooked. The second proposed adjustment is to increase the account

1 balance by \$65,000 for monies received by the utility as an advance from
2 a third party in a lawsuit. Mr. Brown addresses this adjustment in his
3 rebuttal testimony.

4
5 **Q. Now would you address Finding No. 4?**

6 A. This finding proposes two adjustments. The first proposed adjustment is to
7 remove the unamortized debt discount expense included in the working
8 capital calculation because it is already being included in the long term
9 debt cost rate. I agree with that adjustment.

10

11 The second proposed adjustment is to remove the deferred debit pertaining
12 to the withdrawn wastewater certificate application because this is a water
13 only application. I disagree with that adjustment for reasons previously
14 discussed in my rebuttal to the testimony of witness Ramas. See pages 10-
15 11 of my rebuttal testimony.

16

17 **Q. Next, would you please comment on Finding No. 5?**

18 A. Finding No. 5 is a proposed adjustment to reclassify certain expenses. The
19 net effect is to move \$12,020 in expenses from utility expense to non-
20 utility expense. No detail was provided to help identify the specific items
21 to be reclassified, so WMSI is not in a position to agree with or dispute the
22 proposed adjustment.

23

1 **Q. Finally, would you please comment on Finding No. 6?**

2 A. Finding No. 6 proposes to remove some O&M expenses because they are
3 outside the test year or lack sufficient documentation. ~~WMSI will not~~
4 ~~dispute this adjustment.~~

5

6 **Q. Now, please turn to the direct testimony of PSC witness Chelette. Just**
7 **for clarification, is Ms. Chelette an employee of the Public Service**
8 **Commission?**

9 A. No. Although her testimony was sponsored by the PSC staff, she is an
10 employee of the Northwest Florida Water Management District
11 (NFWFMD or District) and is testifying on NFWFMD policy.

12

13 **Q. Would you please summarize her testimony as you understand it?**

14 A. I understand her testimony to be that NFWFMD policy is to encourage
15 the use of shallow wells on St. George Island for purposes of irrigation to
16 conserve water from the Floridan Aquifer for potable purposes and that
17 WMSI should continue with an inclining block rate structure to further
18 encourage the conservation of potable water.

19

20 **Q. Do you intend to rebut her interpretation of policy or its**
21 **implementation?**

22 A. No. Mr. Brown will address those issues in his rebuttal testimony.

23

1 **Q. What, then, do you intend to address in regards to Ms. Chelette's**
2 **testimony?**

3 A. I will address the economic consequences of the implementation of
4 NFWWMD policy.

5
6 **Q. Would you please elaborate?**

7 A. Good, bad or indifferent the policies of the NFWWMD have economic
8 consequences for the utility and its customers. These are consequences not
9 addressed by the District nor are they consequences for which the utility is
10 responsible. Nevertheless, they occur and have a severe impact on the
11 ability of WMSI to operate. They are consequences over which the utility
12 has no control and to which the utility is limited in its ability to respond to
13 in a regulated atmosphere. WMSI is a regulated public utility. It is
14 regulated because it provides a necessary service and because it operates
15 most efficiently as a monopoly. Because of these factors, Florida's
16 regulatory statutes basically set up a contractual arrangement. The utility
17 must provide safe, efficient and sufficient service to anyone in its service
18 area that can be economically served at a price set by the regulator to
19 protect the customer from monopoly practices. In return, the utility enjoys
20 a freedom from competition and an opportunity to earn a fair return on its
21 investment. Intended or not, that freedom from competition is severely
22 impacted when its customers are not only given the opportunity, but
23 encouraged to stop buying its product. That is what is happening in the

1 WMSI service area. WMSI is still obligated to be ready to serve all of the
2 existing and potential customers in its service area. Even in the 1992 case,
3 the Commission found that, under the well policy then in effect, WMSI
4 did not have an exclusive service area. As a result of the combination of
5 the new shallow well policy, the increasing block rate structure policy and
6 poor economic conditions, the situation is exacerbated and WMSI's
7 customer and usage base, whole or in part, is being cut out from under it.
8 From the viewpoint of NFWFMD, that may seem like good water policy,
9 but it is poor economic policy, the consequences of which were not made
10 aware to WMSI's customers.

11

12 **Q. Can these economic consequences be measured?**

13 A. Yes. One only has to look at the effect on the metered sales revenues and
14 gallons sold by WMSI over the last several years. For the past four years,
15 both metered sales revenue and gallons sold have dropped, even though
16 the rates have remained the same. Between 2007 and 2009, the sales of
17 water dropped by almost 45 million gallons annually. During the same
18 period, revenues from metered sales fell by over \$180,000 ~~a year~~^X. That's a
19 loss of over \$4.00 per thousand gallons of sales lost.

20

21 **Q. Is there any other measure of consequences that concerns you?**

22 A. Yes. When the gallons of water sold is reduced, whether due to
23 conservation or otherwise, there is a disproportionate reduction in revenue

1 versus cost. Nearly all of the costs associated with the utility system in
2 place are fixed. Chemical expenses and power expenses are about the
3 only truly variable costs that will decrease when less water is sold. In
4 2009, the total cost of chemical and power expenses combined was only
5 \$0.59 per 1,000 gallons sold. That is what WMSI saves for every 1,000
6 gallons that sales are reduced. However, under the inclining block rate
7 design in effect in 2009, for every 1,000 gallons that sales are reduced,
8 WMSI loses \$4.98 if the sale was at the highest tier rate or \$4.14 if the
9 sale was at the second tier rate. Either way, we are looking at a loss in the
10 range of \$4.50 for every 1,000 gallons in sales lost to the utility. This is
11 borne out by the actual revenues and sales lost between 2007 and 2009,
12 discussed in the previous paragraph.

13

14 **Q. Has WMSI proposed doing away with inclining block rates?**

15 A. No. In spite of this lopsided impact, WMSI has requested that there be two
16 tiers on inclining block rates instead of three. We are seeing more of a
17 drop in consumption in the lower tiers now than in the higher tiers. The
18 rate design proposed by WMSI will reduce the loss per 1,000 gallons from
19 the \$4.50 range to the \$2.50 range. But, more importantly, WMSI is
20 requesting that 75% of its revenue requirement be collected through the
21 Base Facility Charge. This will help stop the bleeding. In addition, it will
22 give a much better price signal to customers of the cost of the current

1 conservation policy. Up until now, they have only been made aware of the
2 benefits.

3

4 **Q. Will WMSI face additional expenses as a result of the shallow well**
5 **policy?**

6 A. Yes. As PSC Witness McKeown pointed out in his direct testimony,
7 WMSI is responsible for establishing and implementing a cross
8 connection control program and the installation of non-potable wells will
9 increase the utility's work load. WMSI has such a program in place, but it
10 will be further burdened by having to locate any new wells and
11 implementing the cross connection program for them. This is not a one-
12 time deal. There are requirements for continual testing, verification and
13 enforcement and that may well require additional staff, the cost of which
14 is not reflected in this filing.

15

16 **Q. Does that conclude your rebuttal testimony?**

17 A. Yes, it does.

1 **BY MS. SCOLES:**

2 Q. Mr. Seidman, did you have any exhibits
3 attached to your prefiled rebuttal testimony?

4 A. Yes, I have one exhibit identified as FS-4.

5 Q. And that is Hearing ID Number 42 in Staff's
6 Comprehensive Exhibit List, is that right?

7 A. Could you say that again?

8 Q. FS-4 is listed as Number 42 in the
9 Comprehensive Exhibit List prepared by staff.

10 A. Okay.

11 Q. Mr. Seidman, have you prepared a summary of
12 your prefiled rebuttal testimony?

13 A. Yes, I have.

14 Q. Would you please provide that summary to the
15 parties and the Commission at this time?

16 A. Yes, thank you. Good afternoon again,
17 Commissioners. My rebuttal testimony addresses portions
18 of the direct testimony of Public Counsel Witnesses
19 Woodcock and Ramas, and Commission staff Witnesses
20 Dobiac and Chelette.

21 In my rebuttal testimony I take issue with Mr.
22 Woodcock's determination of used and useful for the
23 transmission and distribution plant strictly on a lot
24 count basis when that method was soundly rejected by
25 this Commission as inappropriate in its last full rate

1 case, which was a 1992 test year. The characteristics
2 of the service area which led the Commission to the
3 conclusion in 1992 still exists, and one of those
4 characteristics was that we were not serving an
5 exclusive territory. And these characteristics are, in
6 fact, exacerbated by the shallow well policy because the
7 utility cannot depend on lots when built on to become
8 customers. The lot count method, therefore, penalizes
9 the utility for not being able to serve a customer base
10 over which it has no control.

11 In addition, substantial investment has been
12 made in improving the systems mains to provide for fire
13 protection. That was done at the behest of customers
14 and the Public Counsel, and the lot count method denies
15 the ability to recover that full investment. And this
16 is in spite of the fact that in the supply main Docket
17 000694, the Commission made a specific finding that
18 there should be no adjustment for used and useful for
19 these mains. And they did that in response to a Public
20 Counsel request for them to reanalyze it.

21 I also take issue with Mr. Woodcock's
22 recommendation that pro forma plant adjustments not be
23 included in rate base, and Ms. Ramas' implementation of
24 that recommendation in her accounting testimony. Mr.
25 Woodcock's recommendation is to exclude the adjustments

1 at this time, even though he concluded that these
2 projects would replace aging assets, improve the quality
3 of service to customers, and improve safety and
4 reliability of the utility system. If there is an
5 agreement that these pro forma projects serve a useful
6 purpose and benefit the customers, then it should be
7 included in rate case. And a question, I guess, is if
8 not this time when.

9 The utility has requested that they be
10 included in this proceeding and will certainly cooperate
11 with the Commission to facilitate that to everyone's
12 benefit, including any type of phasing or whatever
13 methodology would allow us to move forward with the
14 projects in an economical manner.

15 Both Ms. Ramas and Ms. Dobiac recommended the
16 utility not be allowed to recover the cost of pursuing a
17 wastewater certificate because they indicate it has
18 nothing to do with water customers. We believe that it
19 has much to do with the water customers in that without
20 the benefit of central wastewater system, especially for
21 commercial customers, the utility faces the loss of
22 water customers and results, because of this, in rates
23 that -- higher rates to the existing customers, the
24 remaining customers that has to recovered from a smaller
25 customer base. The utility proposes to amortize the

1 cost over five years.

2 Ms. Ramas also proposes that the salary
3 increases granted by the utility to key employees should
4 be denied because they are too large. My rebuttal
5 testimony shows that even with these increases the
6 utility's salary expense with all the normalization
7 adjustments that we have asked for will be lower going
8 forward than they were in the previous year.

9 My major concern with Ms. Dobiac's testimony
10 is a recommendation regarding treatment of the net
11 proceeds from the lawsuit pertaining to the untimely
12 failure of the pipe coating on the new supply main on
13 the St. George Island Bridge. The utility booked the
14 cost of the main to plant in service in 2004, and then
15 correctly reduced the balance of that plant in service
16 in 2008 when the lawsuit was settled. It reduced the
17 plant in service by \$719,000, which was the net proceeds
18 from the lawsuit. So that reduced rate base and reduces
19 the basis for recovery of return.

20 It also adjusted out accumulated depreciation
21 and depreciation expense that is associated with it.
22 This recognized that as a reduction to construction
23 costs because the utility didn't get what it paid for.
24 Ms. Dobiac now wants to see us reverse this and increase
25 rate base by another \$700,000. And in addition to that,

1 take the money and escrow it, even though that money has
2 long been used to finance the operations of the utility,
3 and use it to pay the annual cost of a bridge
4 maintenance contract. And the bridge maintenance
5 contractors would have to have been done regardless of
6 whether the coating on the supply main had worked.

7 Finally, my rebuttal testimony addresses the
8 economic consequence of the shallow well and inclining
9 block rate policies of the water management district as
10 testified to by Ms. Chelette. The policies have
11 resulted in a continuing loss of revenues over recent
12 years that are disproportionate to any savings in
13 operating costs. The utility loses over \$4 for every
14 1,000 gallons not sold as a result of these policies.
15 The utility has seen its revenues from sales decrease by
16 over \$180,000 between 2007 and 2009. And, in addition,
17 because of the policy, the utility will be facing
18 increased expenses which are not included in this case
19 in order to monitor the increasing number of private
20 wells and administer the cross-connection program that
21 is required. And that concludes my summary.

22 **MS. SCOLES:** Mr. Chairman, Water Management
23 Services would tender Mr. Seidman for cross-examination.

24 **COMMISSIONER SKOP:** Very well. Mr.
25 McGlothlin, you're recognized for cross-examination.

CROSS EXAMINATION

BY MR. McGLOTHLIN:

1
2
3 **Q.** Mr. Seidman, at Page 5 of your rebuttal
4 testimony, if you would turn there, please. Near the
5 bottom of that page you make the point that our witness'
6 recommendation to not include the pro forma addition to
7 rate base is based not on the lack of necessity, but his
8 allegation that the costs were not sufficient to support
9 it, correct?

10 **A.** That is correct, yes.

11 **Q.** And then I'd like to direct you to Page 6 of
12 your testimony.

13 **A.** To Page -- I'm sorry.

14 **Q.** Page 6 of your rebuttal testimony.

15 **A.** Page 6. Okay.

16 **Q.** You say at the outset of Page 6 that it is not
17 the intent of WMSI to request that the Commission
18 approve cart blanche the estimated costs shown in the
19 MFRs, correct?

20 **A.** Yes, I say that.

21 **Q.** Now, with respect to the initial filing, those
22 pro forma adjustments are proposed to be put in rate
23 base, correct?

24 **A.** Yes, they are proposed to be in rate base.

25 **Q.** And the proposed rates are designed to

1 incorporate the costs of those pro forma adjustments as
2 submitted, correct?

3 A. That's correct.

4 Q. Again, at Page 6 you say that the problem is
5 that you won't know -- that WMSI won't know the actual
6 cost until the projects are completed, correct?

7 A. That's correct.

8 Q. And you make the point that unless the
9 Commission will show or acknowledge that the record --
10 excuse me, let me strike that and try again.

11 At Lines 6 through 8, you say unless there's
12 sufficient acknowledgment in this record and the final
13 order that the proposed plant additions are necessary,
14 and the Commission will approve rates based on those
15 costs, the utility will not able to obtain financing?

16 A. That's correct, yes.

17 Q. And then you say that with respect to your
18 rebuttal to Ms. Ramas you will address how that would be
19 accomplished, how that could be accomplished?

20 A. Yes.

21 Q. Now, please turn to Page 8 of your rebuttal,
22 and in the answer that begins on Page 8 and carries over
23 to Page 9, is that where you lay out the description of
24 how that could be accomplished?

25 A. Yes. That's one way, yes.

1 Q. Well, that is your proposal, is it not?

2 A. That's my suggestions to the Commission for
3 their consideration.

4 Q. And is that the position of the company, as
5 well?

6 A. Yes.

7 Q. Okay. If you will turn to Page 9. After
8 describing the phase-in approach that you lay out
9 earlier, you say this would allow for a first phase
10 based on the case without the pro forma additions, a
11 second phase based upon the documented estimate for
12 completing the projects, and a third phase that allows
13 for a true-up to the actual costs incurred, correct?

14 A. Correct.

15 Q. So in implementing that proposal, isn't it
16 true that for purposes of rates to be set in this
17 particular docket, the pro forma adjustments to plant
18 would be removed for the designer rates?

19 A. Would you say that last part again?

20 Q. Yes. And I'm referring specifically to the
21 sentence that says this would allow for a first phase
22 based on the case without the pro forma additions.
23 Those pro forma additions are the proposed plant
24 improvements, are they not?

25 A. Yes.

1 **Q.** So then implementing this proposal for
2 purposes of this docket and anticipating your phase-in
3 approach, those pro forma adjustments would be removed
4 from rate base for purposes of designing rates?

5 **A.** That's correct, yes. We would be willing to
6 do that if the Commission were to make it clear in the
7 order that they believe this work should go ahead. That
8 way when we go to somebody for a lender, they'll know
9 that when these costs appear, whatever those actual
10 costs are, there is going to be revenues to cover them.

11 **Q.** Now, is it true that the company incurred some
12 costs in preparing a rate case submission that included
13 those pro forma adjustments?

14 **A.** Yes.

15 **MR. McGLOTHLIN:** Those are all the questions I
16 have on redirect.

17 **COMMISSIONER SKOP:** Thank you, Mr. McGlothlin.
18 Staff.

19 **MR. JAEGER:** Yes, Chairman.

20 **CROSS EXAMINATION**

21 **BY MR. JAEGER:**

22 **Q.** Mr. Seidman, Ralph Jaeger over here.

23 **A.** I was just listening. That was his completion
24 of redirect, but that was cross, I guess.

25 **MR. McGLOTHLIN:** Boy, am I embarrassed.

1 (Laughter.) I thank the witness for correcting me.

2 **BY MR. JAEGER:**

3 Q. In your summary, you say something about the
4 lot count methodology was soundly rejected. Was that
5 for the Plantations that it was soundly rejected or just
6 for the rest of the transmission and distribution
7 system?

8 A. For everything except Plantation.

9 Q. Okay. I just wanted to make sure. And in
10 your direct testimony in Schedule 7 you used the lot
11 count methodology to arrive at a 60.9 percent used and
12 useful for the lines in the Plantation, is that correct?

13 A. Yes, that's right.

14 Q. And was that consistent with the settlement
15 reached in the prior case, that's what you are saying?

16 A. Yes, it was.

17 Q. However, if your rebuttal you state those
18 lines should now be considered 100 percent used and
19 useful and the lot count methodology is no longer
20 appropriate?

21 A. Well, after -- yes, I do say that. And that
22 resulted from -- after reading Mr. Woodcock's testimony,
23 I started thinking about this, and saying, you know,
24 we're are starting to look at this a different way now,
25 and let me take another look at it myself. And I

1 started thinking about the impact of the shallow well
2 policy, and it really puts us even in a worse position
3 than we were back in 1992. You know, because in 1992
4 there were restrictions on wells within Plantation.
5 Those restrictions are gone now, so we don't even have
6 any assurance of new lots in Plantation coming on to be
7 our customers.

8 Q. So your main reason is the proliferation of
9 shallow wells?

10 A. The possibility of it, yes. What is actually
11 going on, and the possibility in the future.

12 Q. And were there any other reasons for changing
13 your used and useful?

14 A. No. Not really, no.

15 Q. You state on Page 3, Line 8 through 10, of
16 your rebuttal testimony, that some shallow wells have
17 been drilled on some lots that the utility lines pass
18 and the utility cannot force these people to connect to
19 the central system. I'm sorry, I should let you get to
20 your testimony.

21 A. Yes.

22 Q. Do you know the time frame of the drilling of
23 those shallow wells?

24 A. No, I don't.

25 Q. So you don't know if it is an old house, or a

1 new house, or new construction; you are not familiar
2 with what kind of houses are either not connecting or
3 are disconnecting?

4 A. No, I don't. Mr. Brown, I think, has a better
5 handle on that, on the activity with regard to those
6 wells.

7 MR. JAEGER: Staff has no further questions.

8 COMMISSIONER SKOP: Thank you. From the
9 bench?

10 All right, Ms. Scoles, you're recognized for
11 redirect.

12 MR. McGLOTHLIN: I have already covered that.

13 (Laughter.)

14 MS. SCOLES: I appreciate Public Counsel
15 helping me out there. Chairman, I do not have any
16 questions on redirect, but I would move that Exhibit 71,
17 which we had entitled Updated Schedule B-10 be entered
18 into the record at this time.

19 COMMISSIONER SKOP: Okay. Any objection?

20 MR. McGLOTHLIN: None.

21 COMMISSIONER SKOP: Very well. Show Exhibit
22 71 entered into the record.

23 (Exhibit Number 71 admitted into the record.)

24 COMMISSIONER SKOP: And, Mr. Seidman, you may
25 step down.

1 **THE WITNESS:** Thank you.

2 **COMMISSIONER SKOP:** And, Ms. Scoles, I believe
3 the next witness is Mr. Scibelli.

4 **MS. SCOLES:** Yes, Chairman.

5 **COMMISSIONER SKOP:** And has he been previously
6 sworn?

7 **MS. SCOLES:** No, he has not.

8 **COMMISSIONER SKOP:** And is Witness Withers
9 here, also?

10 **MS. SCOLES:** She is.

11 (Witness sworn.)

12 **MICHAEL SCIBELLI**

13 was called as a rebuttal witness on behalf of Water
14 Management Services, Inc., and having been duly sworn,
15 testified as follows:

16 **DIRECT EXAMINATION**

17 **BY MS. SCOLES:**

18 **Q.** Good afternoon, Mr. Scibelli.

19 **A.** Good afternoon.

20 **Q.** We know that you have just been sworn in by
21 the Chairman. Would you state your name and business
22 address for the record, please?

23 **A.** Michael A. Scibelli, PBS&J, Tallahassee,
24 Florida.

25 **Q.** What is the mailing address there at the PBS&J

1 location?

2 A. I don't know.

3 Q. Sorry, I guess you don't send yourself that
4 much correspondence.

5 A. I don't know. It's on Monroe Street in
6 Tallahassee. 2639, I believe. I would have to look at
7 a card.

8 Q. What is your position with PBS&J?

9 A. I'm an Associate Vice-President and Project
10 Director in the Engineering Services Division.

11 Q. Did you prepare and cause to be filed prefiled
12 rebuttal testimony in this proceeding?

13 A. I did.

14 Q. And do you have a copy of that testimony
15 before you today?

16 A. I do.

17 Q. Do you have any corrections or revisions to
18 that testimony?

19 A. I do not.

20 Q. If I were to ask you the questions that are
21 contained in your prefiled rebuttal testimony here
22 today, would your answers be the same?

23 A. They would.

24 MS. SCOLES: Mr. Chairman, I would ask that
25 the prefiled rebuttal testimony of Mr. Scibelli be

1 inserted into the record as though read.

2 **COMMISSIONER SKOP:** The prefiled rebuttal
3 testimony of Mr. Scibelli will be entered into the
4 record as though read. You may proceed.

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REBUTTAL TESTIMONY OF MICHAEL SCIBELLI
BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION
IN DOCKET NO. 100104-WU
IN RE: APPLICATION FOR INCREASE IN
WATER RATES IN FRANKLIN COUNTY BY
WATER MANAGEMENT SERVICES, INC.

Q. Please state your name, profession and address.

A. My name is Mike Scibelli. I am a Project Director and Associate Vice President with Post, Buckley, Schuh and Jernigan, Inc. (PBS&J). My business address is 2639 North Monroe Street, Building C, Tallahassee, Florida 32303.

Q. Please summarize your educational background and professional experience.

A. I am a graduate of Vanderbilt University with a Bachelor of Engineering degree in Environmental and Water Resource Engineering and Mathematics (1983). I have also earned a Master of Science in Planning from The Florida State University with an emphasis in Growth Management (1991). I have practiced civil and environmental engineering in Florida since 1983 and became a Professional Engineer in the State of Florida in 1988. In that time, I have worked on municipal and industrial facilities related to water and wastewater treatment. I have performed and

1 managed the planning, design, permitting, and construction administration
2 of water wells, storage tanks, water treatment facilities, wastewater
3 treatment facilities, booster pumping stations, sanitary lift stations, odor
4 controls systems, potable transmission and distribution systems,
5 wastewater collection systems, grease treatment facilities, septage
6 treatment facilities, and sludge treatment facilities. Clients include the
7 City of Tallahassee, Leon County, City of Webster, City of Umatilla, City
8 of Vernon, City of Fort White, Hillsborough County, City of Tampa, City
9 of St. Petersburg Beach, Wakulla County, City of Sopchoppy, City of
10 Mascotte, Town of Branford, Sarasota County, Pinellas County, Hernando
11 County, City of Tarpon Springs, U.S. Department of Energy, City of
12 Coleman, City of Umatilla, City of Pinellas Park, City of Carrabelle,
13 Horseshoe Beach Water Authority, City of Trenton, City of Hampton,
14 Town of Greenwood, Town of Lake Placid, The St. Joe Company, Lykes
15 Brothers, Winn Dixie, Klondike, Hunter Jersey Farms, SuperBrand Dairy,
16 Corrections Corporation of America, Florida State University, N-Viro, and
17 Pasco County. A summary of my experience and education is attached
18 hereto as Exhibit (MS-1) ____.

19

20 **Q. Are you a registered engineer in the State of Florida?**

21 A. Yes. Florida P.E. No. 40238.

22

1 **Q. Are you a member of any professional or technical societies and**
2 **associations?**

3 A. Yes, I am a member of several, including Water Environment Federation,
4 Florida Water Environment Association, and Project Management
5 Institute.

6

7 **Q. On whose behalf are you presenting testimony?**

8 A. I am presenting testimony and appearing on behalf of the applicant, Water
9 Management Services, Inc. (WMSI).

10

11 **Q. Have you testified previously in this docket?**

12 A. No.

13

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

15 A. The purpose of my testimony is to sponsor the PBS&J evaluation as an
16 exhibit and to respond to portions of the direct testimony presented by
17 Office of Public Counsel (OPC) witnesses Andrew Woodcock and Donna
18 Ramas. The PBS&J evaluation was provided to OPC in response to a
19 discovery request and is referred to in the direct testimony of OPC witness
20 Woodcock.

21

22

23

1 **Q. Are you sponsoring any exhibits?**

2 A. Yes, I am sponsoring three exhibits. Exhibit (MS-1) ___ is a summary of
3 my education and experience. Exhibit (MS-2) ___ is PBS&J's evaluation
4 of WMSI's water system, dated April 2010. Exhibit (MS-3) ___ is an
5 addendum to our evaluation.

6

7 **Q. Can you elaborate on the PBS&J evaluation of WMSI's water**
8 **system?**

9 A. Yes. The evaluation included a review of operation to assess the overall
10 condition of the system, and identify needed capital improvements to
11 ensure long-term viability and reliability of the system to provide water to
12 the residents of St. George Island. The evaluation of the water system
13 included a detailed review and assessment of the following major system
14 components: (i) Raw Water Transmission Main; (ii) Capacity Assessment
15 to identify the limiting capacity component in the system; (iii) Source
16 Water Supply evaluation to assess adequacy vulnerability and weakness;
17 (iv) Assessment of Water Plant Process, overall condition and review of
18 current operation; (v) Structural observations of the water plant with
19 determination of a need to perform repairs/remediation or replacement;
20 (vi) Review electrical systems and controls at the water facility and each
21 individual well to determine adequacy and general condition; and (vii)
22 Water Distribution Operation, maintenance and review water quality
23 parameters.

1 **Q. Did PBS&J have recommendations for WMSI based on the**
2 **evaluation of WMSI's water system?**

3 A. Yes. PBS&J's detailed recommendations are contained in Exhibits (MS-
4 2) ___ and (MS-3) ___.

5

6 **Q. Are you aware of the increasing trend of WMSI's customers drilling**
7 **shallow wells on St. George Island?**

8 A. Yes.

9

10 **Q. Do you have any concerns with this trend? If so, explain why.**

11 A. Yes. The use of shallow wells increases the potential for cross
12 contamination of the public water supply within the distribution system.
13 This potential would occur if a homeowner were to connect the plumbing
14 from a shallow well to the plumbing associated with the central water
15 system. This connection happens either on purpose or by accident. This
16 is a health concern, as the water from shallow wells would not meet
17 disinfection criteria for a public water system. The water may also not
18 meet other water quality criteria. In addition, most of the structures on the
19 island utilize septic tanks and drain fields for sewage disposal. There is a
20 potential that shallow wells could draw partially treated sewage from the
21 ground water and contaminate the public supply with pathogens resulting
22 in water customers becoming sick. To my knowledge, there is no
23 mechanism for mapping or tracking the existing locations of septic tanks,

1 drain fields, or existing shallow wells so it is likely that the minimum
2 separation between a well and a septic system could be violated
3 unknowingly. The current cross contamination plan would likely need to
4 be modified to include the requirement for all connections to the public
5 system to include a pressure reducing backflow device as approved by the
6 Florida Department of Environmental Protection (FDEP). Currently,
7 FDEP only allows one type of device which is above ground and includes
8 two check valves and a relief valve. These backflow preventers are
9 expensive, easily damaged by vehicles and mowers, and require regular
10 certification and maintenance. FDEP rules are currently under review and
11 are expected to change in the future regarding backflow preventers and
12 other types of backflow preventers may be allowed but additional cross
13 contamination prevention controls will likely be required by the FDEP in
14 the future.

15

16 **Q. Do you have additional concerns with the increasing trend to utilize**
17 **shallow wells?**

18 A. Yes, there are two. First, there will be increasing cost pressures on WMSI
19 to continually monitor for potential cross connects. Second, the
20 displacement of gallons previously sold by WMSI will likely result in
21 inadequate revenues to cover costs.

22

1 **Q. Have you read the corrected direct testimony of Office of Public**
2 **Counsel witness Andrew T. Woodcock in this docket?**

3 A. Yes.

4
5 **Q. At page 9 of his direct testimony, Mr. Woodcock states that the capital**
6 **improvements recommended by PBS&J would “replace aging assets,**
7 **improve the quality of service to the customers, or improve the safety**
8 **and reliability conditions of the utility system.” What is your**
9 **response to this statement?**

10 A. I agree with Mr. Woodcock’s assessment.

11
12 **Q. At pages 9 through 11 of his direct testimony, Mr. Woodcock**
13 **compares Alternatives 2 and 3 regarding the construction of a new**
14 **ground storage tank (GST) and on page 11 states that “customers**
15 **would be equally served by installing a new tank on the existing GST**
16 **site with a cost savings of \$191,492.” What is your response to Mr.**
17 **Woodcock’s statement on page 11 and his comparison of the two**
18 **alternatives for the GST?**

19 A. In general, I agree with Mr. Woodcock that, all things being equal, the
20 customers would be equally served by having a new tank built on either a
21 new site or on the existing GST site; however, after reviewing our
22 comparison of Alternatives 2 and 3, it is apparent that these alternatives
23 are not an “apples to apples” comparison. We have revised our alternative

1 analysis for Alternatives 2 and 3 to provide a more accurate comparison
2 between the two alternatives and have included that as an addendum to our
3 report as Exhibit (MS-3) ____.

4
5 The main problem with utilizing the existing tank location for the new
6 tank is risk, which is often hard to reflect in terms of estimated cost. In
7 order to use the existing location, the old tank would need to be taken out
8 of service during the demolition and construction of the new tank. This
9 would require the use of temporary piping and pumping facilities. Use of
10 such facilities are problematic from a constructability standpoint for
11 several reasons including: (i) lack of available space to locate temporary
12 tanks and pumps, an increase in the complexity of the system which
13 inherently reduces the overall system reliability; (ii) lack of redundancy in
14 the system which could lead to extended outages of supply of water; and
15 (iii) discovery of unforeseen circumstances during construction which
16 could lead to extending the time required for temporary facilities thereby
17 increasing the associated costs. It is my opinion that given the reduction
18 in land costs experienced over the past year and given the uncertainty with
19 the actual cost of using temporary facilities and the related risks, the actual
20 cost difference between Alternatives 2 and 3 is insignificant and therefore
21 I still recommend building the tank on a vacant adjacent site.

22

1 Please refer to our report addendum (Exhibit (MS-3) ___) for a revised,
2 detailed listing of costs for Alternatives 2 and 3.

3

4 **Q. Does PBS&J provide on-going engineering services to WMSI? If so,**
5 **what is the scope of those services?**

6 A. Yes. In addition to preparing the Water System Evaluation and
7 providing services related to this rate request, PBS&J has been providing
8 consulting services on an as needed basis to both the general manager and
9 operations staff. Some recent examples include providing advice on meter
10 sizes for various users and on painting specifications. WMSI has
11 requested that PBS&J assist in other types of non capital services,
12 including review of proposed FDEP rules associated with cross
13 contamination management plans; the new Franklin County ordinance
14 associated with construction on St. George Island; an analysis of fire flows
15 and pressures in the plantation area and also towards the State Park,
16 assistance with a Northwest Florida Water Management District
17 (NFWWMD) permit renewal; analysis of the control system for the raw
18 water wells; assistance with a permit condition associated with rotation of
19 well pumping; a review of chlorine residuals throughout the system and
20 recommendations for improvement; assistance with leak detection;
21 analysis of the integrity of the distribution system; assistance with general
22 compliance of all federal, state, and local rules and regulations; raw water
23 supply analysis; oversight of current raw water transmission main painting

1 and maintenance; oversight of elevated tank maintenance; assistance with
2 Franklin County ordinances and related interpretations and
3 implementations; planning and evaluation of system expansion
4 alternatives; development of standards related to meter sizes and other
5 relevant standards for normal operations; implementation of a geographic
6 information system (GIS); advice on operations procedures and standards;
7 advice on system security; advice and evaluation of use of smart meters;
8 regular system inspections; availability to assist with interface with public
9 agencies; and other services which require professional engineering
10 assistance.

11

12 To date, funding has been limited and we have been providing
13 consultation on a very limited basis and we have not been able to engage
14 in many of the above services due to a lack of available funds.

15

16 **Q. PBS&J just completed an extensive evaluation of WMSI's water**
17 **system. In light of that, why does WMSI need on-going engineering**
18 **services?**

19 A. It is our experience that WMSI would benefit from having a multi-
20 discipline professional engineering firm with expertise in potable water on
21 retainer to provide expertise and assistance that is needed above that of
22 what a licensed operator could normally be expected to provide. It is not
23 unusual for utility companies to have an engineering staff to assist with

1 normal operations. Given the size of WMSI, a full time staff person
2 would not be required, but having a firm such as PBS&J or another similar
3 firm would be a benefit to the end users in terms of reliability and quality.
4

5 **Q. Have you read the direct testimony of Office of Public Counsel**
6 **witness Donna Ramas in this docket?**

7 A. Yes.
8

9 **Q. At pages 21, 22 and 23, Ms. Ramas proposes that the annual retainer**
10 **of \$48,000 to PBS&J be disallowed because such engineering services**
11 **costs are not historically consistent and because “future engineering**
12 **services would likely be of a capital nature and something that would**
13 **be recorded as an expense on the Company’s books.” Do you agree**
14 **with her assessment? If not, why?**

15 A. No, I do not agree with the assessment of Ms. Ramas. I believe that
16 having a consultant under contract or on retainer is both prudent and
17 necessary. There are valid reasons why most public utilities have either an
18 engineering staff or an engineering consultant or both as it is necessary in
19 order to provide safe and reliable service to their customers.
20

21 We were asked by WMSI to provide an estimate of the lowest retainer that
22 would allow PBS&J to be able to provide on call services and that is how
23 we came up with the \$48,000. This number is based on \$4,000 per month

1 which roughly equates to 32 hours of consultation per month. While we
2 expect that some months may be higher and some may be lower, this is a
3 minimum estimate to provide an adequate level of engineering support to
4 WMSI based on what we know about the system and their operations.

5
6 We disagree with Ms. Ramas' suggestion that \$5,500 per year is an
7 adequate budget. This roughly equates to less than four hours per month,
8 on average, of engineering support. We would not be able to provide
9 support for this budget. We have reviewed the memo sent to me from
10 Gene Brown dated August 24, 2010, regarding engineering services and
11 we generally agree that these services are needed by WMSI. Quite
12 frankly, we would need to prioritize those items and come up with a plan
13 to accomplish the most important items in descending order for the
14 proposed budget of \$4,000 per month or \$48,000 per year. We would
15 need to cut those services substantially or terminate our services to WMSI
16 if the proposed budget was not available.

17

18 **Q. At pages 42 and 43 of her direct testimony, Ms. Ramas proposes that**
19 **the wastewater certificate application amortization cost not be**
20 **approved because it had nothing to do with the provision of water**
21 **service and is only an attempt to expand WMSI's services. Do you**
22 **agree that recovery of this amortization cost should be denied?**

1 No, I do not agree. At the time we did the work associated with a central
2 wastewater system, the commercial district of St. George Island was
3 experiencing numerous septic tank failures from commercial facilities and
4 restaurants. The County Health Department was issuing violations and
5 actually restricting the capacity of the establishments. On a site visit, my
6 staff went to lunch and visually witnessed an overflowing septic tank at a
7 local restaurant resulting in sewage running over ground. There was also
8 an increase in the number of water quality notices in the gulf and in the
9 bay on St. George Island which were resulting in warnings regarding
10 swimming in the salt water. As St. George Island is primarily a vacation
11 and tourist destination, the requirement to post swimming warnings in
12 rental properties had the potential to adversely affect property values.
13 Franklin County was discussing the issue at County Commission meetings
14 and contemplating action. I personally made a presentation to the Franklin
15 County Commission at one of these meetings to present the findings of the
16 feasibility study in question. The residents and business owners of the
17 island and the customers of the water system are essentially the same
18 population. They were at risk from untreated sewage exposure due to
19 overflowing tanks, from partially treated sewage exposure through use of
20 shallow wells, and potentially subject to additional regulation and expense
21 from possible action by the County Commission. Given this specific
22 scenario and the possibility of change, it makes logical sense that the
23 existing water service provider would investigate the feasibility and costs

1 associated with providing a central sewer system to the center core
2 (commercial district) of the island and to the entire island to their existing
3 customers as there would be inherent efficiencies with the same utility
4 provider supplying both potable water and sanitary sewer service. I
5 believe that WMSI would be able to provide the least expensive sewer
6 rates for a central sanitary system because of inherent efficiencies. These
7 efficiencies include common billing, common administration and potential
8 for cross trained operators and maintenance personnel reducing the total
9 number of employees for both utilities. The analysis provided by WMSI
10 was utilized by the local citizens, the local business owners and the
11 County Commission. While all parties did not agree on the outcome to
12 date, the information was useful to all parties involved. It is my opinion
13 that the water ratepayers benefited from the analysis.

14

15 **Q. Was the pursuit of a wastewater certificate application designed to**
16 **benefit water customers in any other way?**

17 A. Yes. In addition to the environmental and efficiency benefits, the
18 wastewater certificate would have allowed existing commercial customers
19 to stay on the water system and to potentially expand. It would also have
20 enabled new commercial customers to be added to the existing water
21 system. This would benefit existing water customers by maintaining and
22 even expanding the base upon which fixed costs are recovered. This

1 would have a direct economic benefit for WMSI's existing water
2 customers.

3

4 **Q. Does that conclude your rebuttal testimony?**

5 A. Yes, it does.

1 **BY MS. SCOLES:**

2 **Q.** Mr. Scibelli, did you have any exhibits with
3 your prefiled testimony?

4 **A.** I have three exhibits. I have my corporate
5 resume, I have my evaluation done for the utility, and I
6 have an addendum to that exhibit.

7 **Q.** I would note that those are all contained in
8 staff's composite exhibit. Mr. Scibelli, have you
9 prepared a summary of your prefiled rebuttal testimony?

10 **A.** Yes, I have.

11 **Q.** Will you please provide that to the parties
12 and the Commission at this time?

13 **A.** Would you like me to read it?

14 **Q.** Yes, please.

15 **A.** My name is Michael Scibelli. I'm a project
16 director and Associate Vice-President with PBS&J in
17 Tallahassee, Florida. I graduated from Vanderbilt
18 University with a Bachelor of Engineering Degree in
19 1983, and from the Florida State University with a
20 Master of Science and Planning Degree in 1991. I have
21 practiced civil and environmental engineering in Florida
22 since 1983, and became a professional engineer in
23 Florida in 1988. I have worked on numerous municipal
24 and industrial water and wastewater treatment facilities
25 over the past 27 years.

1 I was the project manager for an evaluation of
2 WMSI's water system dated April 2010, Exhibit MS-2, and
3 of the addendum of our evaluation dated September 2010,
4 Exhibit MS-3. Our evaluation included a review of the
5 operations to assess the overall condition of the system
6 and to identify any needed capital improvements to the
7 system. The evaluation included a detailed review and
8 assessment of the raw water treatment main, a capacity
9 assessment, a source water supply evaluation, an
10 assessment of the water plant processes, structural
11 observations, and a review of the electrical systems and
12 comments relating to operation, maintenance, and water
13 quality of the system.

14 I'm concerned with the trend towards use of
15 shallow wells on St. George Island by residents as this
16 may increase the potential for cross-connections and may
17 also create the potential to draw partially treated
18 wastewater from the shallow groundwater into the
19 irrigation systems. Both of these concerns are directly
20 related to public health concerns. This may also
21 require a more aggressive cross control prevention
22 program to be implemented by WMSI, with the associated
23 increase in operational costs.

24 I believe that the existing ground storage
25 tank should be replaced with a new ground storage tank

1 and that the new tank should be constructed on an
2 adjacent parcel to allow for a smooth transition from
3 one tank to another during construction. The existing
4 tank has structural issues and it is difficult to
5 determine how long the down time would be if the new
6 tank was to be constructed in the same location as the
7 existing tank. There are also space constraints with
8 respect to temporary storage and pumping that would be
9 problematic from a constructability standpoint, and also
10 in terms of risk.

11 PBS&J currently has a contract to WMSI to
12 provide engineering services, to WMSI on an as-needed
13 basis for noncapital type services, such as system
14 analysis, permit renewals and compliance, assistance
15 with cross-contamination plans, interpretation of local,
16 state, and federal rules, analysis for fire flows,
17 assistance with trouble shooting of system controls,
18 recommendations for leak detection, oversight of
19 on-going maintenance programs for raw water line and
20 elevated tank, planning for system expansion
21 alternatives, information on relative standards for
22 normal system operation, evaluation of a GIS system,
23 advice on the use of smart meters, advice on system
24 security, and other services which require professional
25 assistance. The current cost of this service is \$4,000

1 per month.

2 I believe that the work done for the
3 wastewater certificate application benefited the current
4 water system ratepayers as the island was experiencing
5 numerous septic tank failures and the health department
6 was issuing violations to establishments which was
7 restricting their ability to do business on the island.
8 In addition, there was an increase in the number of
9 water quality notices being issued regarding swimming in
10 the Gulf at the same time.

11 Franklin County was contemplating action which
12 included evaluation of a centralized sewer for St.
13 George. I personally gave a presentation to the
14 Franklin County Commission during this time period.
15 Given the specific scenario, it makes sense that the
16 most efficient provider for a new central sewer system
17 would be the existing provider for potable water on the
18 island, as there would be inherent efficiencies with
19 respect to administrative operations and billing.

20 Q. Does that conclude your summary, Mr. Scibelli?

21 A. It does.

22 MS. SCOLES: Mr. Chairman, the utility would
23 tender Mr. Scibelli for cross-examination.

24 COMMISSIONER SKOP: All right. Mr.
25 McGlothlin, you're recognized for cross-examination.

CROSS EXAMINATION

1
2 **BY MR. McGLOTHLIN:**

3 Q. Good afternoon, sir.

4 A. Good afternoon.

5 Q. Please turn to Page 12 of your rebuttal
6 testimony.

7 A. Okay.

8 Q. At Lines 9 and 10 you refer to a memo that you
9 received from Gene Brown with respect to the types of
10 engineering services that --

11 A. Yes, sir.

12 Q. -- would be requested. I'm going to take a
13 moment and pass that document out.

14 **COMMISSIONER SKOP:** Mr. McGlothlin, do you
15 need a number for that?

16 **MR. McGLOTHLIN:** Yes. I believe this was
17 provided in discovery. I don't think it is in the
18 record yet.

19 **COMMISSIONER SKOP:** The exhibit number for
20 identification would be 84. And a short title?

21 **MR. SAYLER:** Mr. Chairman, I believe that
22 might be Exhibit GB-4 attached to Gene Brown's testimony
23 if it's the memorandum that --

24 **COMMISSIONER SKOP:** All right. Mr.
25 McGlothlin, can you comment?

1 **MR. McGLOTHLIN:** Yes. My colleague was
2 correcting me at the same time. It's already in the
3 record.

4 **COMMISSIONER SKOP:** I stand corrected. So you
5 may proceed.

6 **BY MR. McGLOTHLIN:**

7 **Q.** Mr. Scibelli, we have provided to you a copy
8 of the memo with the Water Management Services, Inc.
9 letterhead to you from Gene Brown dated August 24th,
10 2010. Is this the document to which you refer in your
11 rebuttal testimony?

12 **A.** Yes, sir, it is.

13 **Q.** As I said, the date is August 24th, 2010.
14 Would you accept, subject to collect, that that was one
15 day after OPC filed its rebuttal testimony including the
16 testimony of Mr. Woodcock?

17 **A.** I don't know.

18 **Q.** And with respect to your testimony regarding
19 that memo, do I understand correctly that you were
20 testifying that your firm would not be able to perform
21 the scope of services described in this memo for \$48,000
22 a year?

23 **A.** My testimony in general is that we would be
24 hard pressed to do this entire scope for \$48,000, yes,
25 sir. We would have to -- I think what I said,

1 paraphrasing said, is that we would have to prioritize
2 the most important things in this memo with regard to
3 public health and with regard to regulatory constraints,
4 and we would do as many as we could. But, yes, my
5 testimony is they would have to be prioritized.

6 Q. Would you agree with me that certain types of
7 engineering services such as those provided by your firm
8 do not have to be performed annually?

9 A. Some services does not require regular
10 attention; some do.

11 Q. Would you agree with me, also, that certain
12 engineering services with respect to the accounting
13 treatment of those services become part of the
14 capitalized cost of construction as opposed to being
15 expensed?

16 A. No. My understanding is that these type of
17 services are not tied to specific capital expenditures,
18 that this is related to on-going services in the normal
19 routine of a water utility.

20 Q. Well, let's look at several of the individual
21 items. The first item in the memorandum refers to a
22 hydraulic water model of the system?

23 A. Yes, sir.

24 Q. Would you agree with me that a new water model
25 is not required annually?

1 **A.** I would suggest that it's time to have a
2 hydraulic analysis done of the system. It is past time.
3 And it may not have to be done annually, but it should
4 be looked at and probably updated on a regular basis
5 depending on the trends associated with development.

6 **Q.** If I understand your answer correctly, would
7 you agree that this is not -- the performance of an
8 entire water model would not be an annual task?

9 **A.** You would not have to create a new water model
10 every year, that's correct.

11 **Q.** Item Number 3 with respect to rerouting of the
12 piping of the water treatment plant, those services
13 would not be required annually, would they?

14 **A.** No, sir.

15 **Q.** And focusing on this Item Number 3 having to
16 do with rerouting of the piping, would you agree that
17 that is a particular construction project?

18 **A.** I would agree with that, yes, sir.

19 **Q.** So that would be a capital as opposed to an
20 operating expense?

21 **A.** I believe that specific case would be, yes,
22 sir.

23 **Q.** Item Number 5 addresses the development of a
24 leak detection program. Once that program is designed,
25 that would not be done every year, would it?

1 **A.** I believe oversight would be required, but
2 it's long overdue to address the leaking issue on the
3 system. They are losing more water than they should be
4 losing right now. And it is like everything else, once
5 you get a handle on it, then it's a matter of just
6 oversight and maintenance.

7 **Q.** So distinguishing between the designing and
8 preparation of a program on the one hand and oversight
9 thereafter, you would not have to design and implement a
10 program annually, would you?

11 **A.** No, we wouldn't have to design one from
12 scratch. Absolutely not.

13 **Q.** Item Number 6 addresses the development of a
14 flushing program. Is that something that would have to
15 be done annually?

16 **A.** Flushing should be done on a regular basis.
17 Implementing the program would be probably a one-time
18 thing and then oversight, again, to make sure it's being
19 done properly. We would certainly want to review things
20 like pressures, like chlorine residuals on a regular
21 basis to ensure that age of water, quality of water
22 those type standards were in line with the permit
23 requirements on a regular basis.

24 **Q.** Okay. Item Number 8 addresses work related to
25 a fifth well. Do you see that?

1 **A.** Yes, sir.

2 **Q.** What is your understanding of the pattern of
3 usage for this utility recently?

4 **A.** Well, my understanding is that they are
5 probably not in compliance with their water management
6 district permit, and that it requires their wells to be
7 rotated and a certain amount of water to be drawn out of
8 certain wells. And due to the manner in which the
9 condition of their control system, it's probably not --
10 it's probably not occurring properly and needs
11 attention.

12 **Q.** In terms of the overall usage by customers, is
13 that increasing or decreasing, in your opinion?

14 **A.** Our analysis shows that water usage is
15 decreasing recently over the last several years.

16 **Q.** With respect to work related to the
17 development of the fifth well, would that be a capital
18 item or an expense item?

19 **A.** Well, the development of a fifth well would be
20 capital in nature, yes, sir.

21 **Q.** Item Numbers 11 and 13, preparation of plans
22 and specifications for utility work to meet new Franklin
23 County regulations, do you see that?

24 **A.** Yes, sir.

25 **Q.** Is that an operational expense or a capital

1 item?

2 A. I think that's an operational expense.

3 Q. And if you will look at Item Numbers 14, 16,
4 and 17, aren't those really subparts of the water
5 modeling effort that was described in Item Number 1?

6 A. I think they are symptoms of the conditions
7 that are necessary regarding hydraulic modeling. It's
8 just more -- these are specific symptoms that outline
9 the need for a hydraulic analysis to be done.

10 Q. Which is Item Number 1?

11 A. Yes, sir.

12 MR. McGLOTHLIN: No further questions.

13 COMMISSIONER SKOP: Thank you, Mr. McGlothlin.
14 Staff, you're recognized.

15 MR. JAEGER: Thank you, Chairman.

16 CROSS EXAMINATION

17 BY MR. JAEGER:

18 Q. Could you turn to Page 6 of your rebuttal
19 testimony?

20 A. Yes, sir.

21 Q. On Line 9 you state that the backflow
22 preventers require regular certification and
23 maintenance. Could you describe in more detail the
24 certification and maintenance required?

25 A. My understanding is that it's required by DEP

1 to have a backflow preventer when the customer has a
2 shallow groundwater well. My understanding is that
3 currently there is only one type of mechanism that's
4 allowed by DEP, and that mechanism requires it to be
5 inspected by a licensed inspector for that specific
6 purpose annually.

7 Q. Thank you. Again, on Page 6, beginning on
8 Line 18, you talk about the increased cost pressures on
9 WMSI to continually monitor for potential
10 cross-connections. Aren't all water systems required by
11 DEP to monitor for potential cross-connections?

12 A. They are. The rules are undergoing change
13 right now, according to Mr. John Pope of DEP. We are
14 not sure what those rules are going to look like. The
15 uniqueness of the situation here is that there is no
16 record that one can go to. Water Management does not
17 keep a record, apparently, or does not have good records
18 of where all these wells are. Franklin County does not.
19 They don't exist. So it requires a staff -- that does
20 not relieve the water utility of their requirement to
21 protect the quality of the water and public health.

22 So, in my opinion, it's going to require a lot
23 more leg work by their staff to try to figure out where
24 these wells are, especially that you are starting from
25 below neutral. You don't know where the existing ones

1 are, plus new ones apparently are going in, but that was
2 what I meant by that.

3 Q. Did you read Angela Chelette's testimony?

4 A. Yes, sir, I did.

5 Q. Didn't she say that that information could be
6 provided?

7 A. She did say that, yes, sir. It's my
8 understanding that the amount of records they have at
9 Water Management do not accurately reflect the number of
10 wells on the Island. I say that due to anecdotal
11 knowledge. I have not researched it myself. I have not
12 research the water management district's records and
13 done a personal survey of the island, but in
14 conversations with Water Management and utility staff,
15 my understanding is that there is a significant
16 disconnect between the records and what's actually on
17 the ground.

18 Q. Okay. Moving on to another area. In Exhibit
19 MS-3, you discuss the revised estimated costs of
20 constructing the ground storage tank on the adjacent
21 site.

22 A. Yes, sir.

23 Q. Are there any additional costs associated with
24 the additional site such as property taxes, insurance,
25 or grounds maintenance or upkeep?

1 A. I would guess there would be; yes, sir.

2 Q. And were those taken into account?

3 A. No.

4 Q. Would the inclusion of these or other costs
5 affect your recommendation outlined in Exhibit MS-3?

6 A. No, sir.

7 Q. Turn to Page 9, please, and beginning on Line
8 7, you state that PBS&J has been providing various
9 consulting services for the company. Do you know who
10 was performing these services prior to the contract
11 between you and WMSI?

12 A. Gene Brown has indicated that a gentleman by
13 the name of Les Thomas was doing that.

14 Q. And do you know who Les Thomas is?

15 A. I might have met him once, I don't remember.

16 Q. Do you know if they did any of it in-house?

17 A. My understanding of Les Thomas was that for a
18 long time he was what I would refer to as a one-man shop
19 for a long time. I also believe he worked for PBS&J
20 recently, but he is no longer with PBS&J. But he was in
21 a different state was my understanding.

22 **MR. JAEGER:** I am going to have Mr. Walden do
23 a handout listed as Number 1, and it is Exhibit Number
24 36, so we don't need to identify it or anything. But if
25 you will hand that out to everybody.

1 **BY MR. JAEGER:**

2 Q. I'm going to ask you some questions about the
3 retainer agreement and the addendum that was added to
4 that retainer agreement.

5 A. Sure.

6 Q. I think it was on August 7th, 2009, that you
7 signed the -- that WMSI signed the agreement with PBS&J,
8 and that was to conduct the water system evaluation?

9 A. Yes, sir, that sounds about right.

10 Q. And that was completed in 2010?

11 A. Yes, sir.

12 Q. And that is what is attached as MS-4?

13 A. MS-2, I believe is the work done under that --

14 Q. MS-2?

15 A. MS-2, yes, sir.

16 Q. And then while that water system evaluation
17 was in progress, or basically an addendum was signed in
18 August 2009, an addendum to the August 2009 contract?

19 A. I believe it was in December of 2009.

20 Q. December 30th of 2009?

21 A. Yes, sir.

22 Q. And that was for something to start
23 August 7th?

24 A. Well, yes, sir. This is not exactly standard.
25 We allowed the water utility to enter into a payment

1 schedule for this work, which we normally don't do, but
2 we felt okay about it since they were a water utility
3 and hopefully not going anywhere. And so we allowed
4 them to make monthly payments knowing that we would
5 finish the work in advance of them paying us as long as
6 they paid us \$5,000 a month.

7 We found ourselves doing a whole lot of free
8 work, and so I informed Mr. Brown that we would need
9 some kind of arrangement to be paid for the additional
10 consulting we were doing for him while we were preparing
11 this evaluation, and that's how the retainer agreement
12 got developed. You know, he agreed, yes, we probably
13 need to pay you for stuff other than the evaluation that
14 you're doing for us.

15 Now, he was saying he didn't have a lot of
16 money, and his company was losing money, and was there
17 any way that we could start the payment after these
18 payments would end, and that's how that date got
19 established when he would start paying \$4,000 a month.
20 It roughly coincides with when the payments would be
21 over for paying for the evaluation.

22 Q. And is it in the agreement that PBS&J will
23 continue to provide the engineering services so long as
24 WMSI was current in its monthly payment schedule set
25 forth?

1 A. That is what it says.

2 Q. And are they still current?

3 A. No, sir.

4 Q. And how far in arrears are they?

5 A. Well, I think they owe about \$18,000 against
6 the 61,000, and they made the first \$4,000 payment, and
7 they owe another 4,000. So we didn't do much consulting
8 work for them because he was behind in work. So on this
9 request that he gave for us to do all this stuff, we
10 haven't done anything. The only thing we have really
11 done for them other than provide this evaluation is to
12 provide the information needed for this case, because he
13 was behind on his payments. So, you know, we're in
14 business, so I can't go too far in the hole with all of
15 this.

16 Q. Was there a set term of years established
17 between PBS&J and WMSI?

18 A. You know I'm not sure. I'd have to reread the
19 agreement. I sent it to our attorneys, and they
20 actually approved it without changing anything, which
21 was amazing, so --

22 Q. Subject to check, would you agree that there
23 is not a set term?

24 A. There may not be.

25 Q. And can the addendum to the contract be

1 terminated by PBS&J if WMSI falls behind in payments?

2 **A.** I believe we can, yes, sir.

3 **Q.** And can WMSI also terminate the agreement at
4 any time?

5 **A.** I believe they can, yes, sir.

6 **MR. JAEGER:** Thank you, sir. That's all the
7 questions I have.

8 **COMMISSIONER SKOP:** So that concludes staff's
9 cross-examination?

10 **MR. JAEGER:** That's correct, Chairman.

11 **COMMISSIONER SKOP:** All right. Any questions
12 from the bench? All right.

13 Ms. Scoles, you're recognized for redirect.

14 **MS. SCOLES:** Thank you, Chairman.

15 **REDIRECT EXAMINATION**

16 **BY MS. SCOLES:**

17 **Q.** Mr. Scibelli, the Office of Public Counsel
18 attorney asked you some questions about Mr. Brown's
19 August 2010 letter to you, do you remember that
20 exchange?

21 **A.** Yes.

22 **COMMISSIONER SKOP:** Actually, Ms. Scoles, can
23 I ask one question real quick, I'm sorry, before you get
24 into redirect?

25 **MS. SCOLES:** Sure. I'm sorry.

1 **COMMISSIONER SKOP:** I apologize.

2 Mr. Scibelli, on Page 5 of your rebuttal
3 testimony, you talk about the potential for
4 cross-contamination if the homeowner were to connect to
5 the plumbing from a shallow well to the plumbing
6 associated with a central water system. Can you
7 elaborate on that a little bit in terms of what that
8 means? I mean, obviously if you were to connect you
9 would want the backflow preventer, but do you envision
10 connecting to the utility's lines or do you envision
11 connecting to a point on the residential side of the
12 meter?

13 **THE WITNESS:** Sure. That's a good question.
14 Typically, the only folks that are required to have a
15 backflow preventer are the folks with a shallow well.
16 And it is up to WMSI to identify who has got one, unless
17 people come forward and volunteer the fact. Okay. So
18 if somebody puts a shallow well or has a shallow well
19 and they go unnoticed, they are not required to put a
20 backflow preventer in.

21 Now, let's say either by accident or on
22 purpose they hook the plumbing associated with that well
23 up to their house plumbing. There's nothing keeping
24 that water from getting into -- especially if the
25 pressure should drop. You know, this is kind of a funny

1 place in that it is a resort area, so the peaks and the
2 lulls are much different than they would be in town.
3 And so you could have a pressure drop on the Fourth of
4 July weekend and you could easily have that shallow
5 augmenting the public supply unchecked without proper
6 disinfection. To make it worse, that person may have a
7 failing septic tank. Now all of a sudden we have got
8 some nasty stuff coming into a public main. That's my
9 concern.

10 **COMMISSIONER SKOP:** All right. So without the
11 backflow preventer or a check valve there, if the
12 pressure were to drop and the shallow well pump was
13 running continuously which would result in a large
14 electric bill, then you would be feeding the --

15 **THE WITNESS:** It becomes a supply well.

16 **COMMISSIONER SKOP:** -- the utility supply
17 well. All right. And then on Page 5 at Lines 13
18 through 14, the same question. Would a homeowner be
19 required to permit such a well before it was drilled or
20 can they just go sink a well?

21 **THE WITNESS:** My understanding is that the
22 water management rules require a licensed well driller
23 to drill the well, and all that licensed well driller is
24 required to do is file a log. And, again, anecdotally
25 I'm being told that this isn't happening in all cases.

1 **COMMISSIONER SKOP:** Okay. And so Franklin
2 County, to your professional knowledge, has no
3 requirement to permit a well on the island?

4 **THE WITNESS:** My understanding is that there
5 is no requirement.

6 **COMMISSIONER SKOP:** All right. And then when
7 you -- on Page 5, Lines 17 and 18, where you indicate
8 that the water may not also meet water quality criteria,
9 is it envisioned that the shallow wells are being used
10 just for nonpotable purposes in the residence or for
11 actually drinking purposes?

12 **THE WITNESS:** There's nothing that would stop
13 someone from using it for potable purposes on a
14 regulatory sense.

15 **COMMISSIONER SKOP:** Okay. And then on Line 23
16 on Page 5, where you talk about to your knowledge there
17 is no mechanism for mapping or tracking the existing
18 locations of septic tanks, to your knowledge is there
19 any requirement of Franklin County that would require a
20 septic tank to be permitted and at least with the permit
21 you would have to show approximate location?

22 **THE WITNESS:** There is a requirement to permit
23 septic tanks, and there's a health department
24 requirement, a state law that would require a nonpotable
25 well to be at least 50 feet away from any septic

1 facility. In my opinion, that's almost impossible. In
2 the downtown area there is 584 platted in an
3 18-square-block area. You can't do the math. How did
4 that happen?

5 **COMMISSIONER SKOP:** Very well. Thank you.

6 Ms. Scoles, you're recognized. And thank you
7 for yielding.

8 **MS. SCOLES:** Thank you, Chairman.

9 **BY MS. SCOLES:**

10 Q. Mr. Scibelli, looking back at the August 2010
11 letter from Mr. Brown to you talking about some of the
12 engineering services that the company needed, you talked
13 about that some of the items mentioned wouldn't
14 necessarily be recurring on an annual basis, but might
15 need some periodic review or oversight. Do you recall
16 saying that?

17 A. Yes.

18 Q. In those instances when some sort of a review
19 or updating is needed, is that service going to be
20 cheaper if it's being obtained under a retainer
21 agreement than if the company has to go out and hire a
22 firm with, perhaps, no knowledge of the original
23 project?

24 A. I would think it would be more efficient to
25 have somebody up to speed on the system.

1 Q. Would it be similarly true on a capital
2 project that the work related to that could be -- could
3 be less costly, more efficient if done by a firm that is
4 under a retainer agreement with the utility?

5 A. I believe so, yes.

6 Q. Speaking again about those items where you are
7 not necessarily recreating the project every year, but
8 some sort of updating or periodic review is needed, on
9 those projects is it fair to say that something is going
10 to be -- if you put in this project, no, you are not
11 going to be recreating it every year, but some sort of
12 review update will be needed on an annual basis?

13 A. I believe so, especially if we get into
14 another boom cycle. Right now, you know, people aren't
15 building that much stuff, but they will again, and so
16 the more things change the more update is required.

17 Q. Let's look specifically at a few of the
18 paragraphs of the letter. I think Office of Public
19 Counsel looked at some of these earlier. It's numbered
20 Paragraph 5, which is on Page 2 of that letter. This is
21 the project related to fixing some of the leak problems.

22 A. Yes.

23 Q. If that project was completed and those leaks
24 were fixed, would that result in a long-run savings to
25 the utility?

1 **A.** I believe it would, yes.

2 **Q.** If you would turn with me to Page 5 of that
3 letter, the numbered Paragraph 18. What you are calling
4 GIS, or geographic information system, is that a project
5 that would result in long-term savings for the utility?

6 **A.** I believe it would be savings in the form of
7 efficiency, yes.

8 **Q.** And just below that, the numbered Paragraph
9 19, talking about a modernized supervisory control and
10 data acquisition system, is that a project that would
11 result in long-run savings for the utility?

12 **A.** I believe it would, yes.

13 **Q.** Regarding the ground storage tank, and staff
14 had asked you a question about if you had -- if a new
15 site had to be purchased, would there be property taxes
16 and so forth associated with that, and you had indicated
17 yes. If the utility built the ground storage tank on
18 its existing property, but then had to purchase an
19 additional site for a storage facility, would that
20 additional land purchase also have property taxes,
21 insurance and maintenance fees associated with it?

22 **A.** Sure.

23 **Q.** Mr. Scibelli, if you know, does Water
24 Management Services have an engineer on staff?

25 **A.** Not that I'm aware of.

1 **Q.** If they are unable to get on-going engineering
2 services from you, or a firm like yours under a retainer
3 agreement, or otherwise, how will they get the
4 engineering services that they need to move forward?

5 **A.** I don't know. I mean, to me it's obvious
6 looking at the condition of their facilities that they
7 would have been in better shape and their operations
8 would be better if they would have had some kind of
9 on-going agreement with someone. I mean, the operators
10 do a great job, don't get me wrong, but sometimes you
11 need somebody from the outside with a different
12 perspective, from an engineering perspective
13 non-operations perspective to look at things.

14 **MS. SCOLES:** I have nothing further, Chairman.

15 **COMMISSIONER SKOP:** Very well. I believe, Mr.
16 Scibelli, you can step down.

17 **THE WITNESS:** Thank you.

18 **COMMISSIONER SKOP:** And, Ms. Scoles, if I
19 could call your next witness.

20 **MS. SCOLES:** Okay. Thank you, Chairman.
21 Water Management Services calls Barbara
22 Withers.

23 **COMMISSIONER SKOP:** Very well.

24 **BARBARA S. WITHERS, CPA**
25 was called as a rebuttal witness on behalf of Water

1 Management Services, Inc., and having been duly sworn,
2 testified as follows:

3 **DIRECT EXAMINATION**

4 **BY MS. SCOLES:**

5 Q. Good afternoon, Ms. Withers.

6 A. Good afternoon.

7 Q. How are you today?

8 A. I'm okay. Thank you.

9 Q. The Chairman has previously sworn you in on
10 this proceeding, so I would ask you to please state your
11 name and business address for the record.

12 A. My name is Barbara S. Withers, and my business
13 address is 411 Live Oak Plantation Road, Tallahassee,
14 Florida 32312.

15 Q. Is there a particular company that you work
16 for, Ms. Withers?

17 A. It is just a sole proprietorship, Barbara
18 Sheehan Withers, Certified Public Accountant.

19 Q. And what is your official position with that
20 company?

21 A. I am the owner, sole proprietor.

22 Q. Ms. Withers, did you prepare and cause to be
23 filed Prefiled Rebuttal Testimony in this proceeding?

24 A. Yes, I did.

25 Q. And do you have a copy of that testimony

1 before you today?

2 **A.** Yes, ma'am.

3 **Q.** Do you have any corrections or revisions that
4 you need to make to that testimony?

5 **A.** No, ma'am.

6 **Q.** If I were to ask you the questions contained
7 in your Prefiled Rebuttal Testimony today, would your
8 answers be the same as contained in your prefiled
9 testimony?

10 **A.** Yes, they would.

11 **MS. SCOLES:** Mr. Chairman, I would ask that
12 the Prefiled Rebuttal Testimony of Barbara S. Withers be
13 entered into the record as if read.

14 **COMMISSIONER SKOP:** All right. The Prefiled
15 Rebuttal Testimony of Barbara S. Withers will be entered
16 into the record as though read. You may proceed.

17
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25

1 REBUTTAL TESTIMONY OF BARBARA S. WITHERS
2 BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION
3 IN DOCKET NO. 100104-WU
4 IN RE: APPLICATION FOR INCREASE IN
5 WATER RATES IN FRANKLIN COUNTY
6 BY WATER MANAGEMENT SERVICES, INC.
7

8 **Q. Please state your name, profession and address.**

9 A. My name is Barbara S. Withers. I am a Certified Public Accountant
10 (CPA) with the Barbara Sheehan Withers CPA firm. My business address
11 is 411 Live Oak Plantation Rd, Tallahassee, Florida 32312.
12

13 **Q. Please summarize your educational background and professional
14 experience.**

15 A. I am a graduate of Florida State University with a Bachelor of Science in
16 Business Administration, with a major in Accounting. I worked for Water
17 Management Services, Inc. (WMSI) for 10 years, from 1975 to 1985.
18 During my tenure at the utility, I prepared the initial franchise application
19 to the Public Service Commission (PSC) for the St. George Island water
20 system and the initial tariff. I also set up the initial accounting procedures
21 both on St. George Island and in the Tallahassee office. In 1987, I
22 established my own firm. I have approximately 35 years of experience in
23 providing accounting services for a water utility. I have been involved

1 with the preparation of the income tax returns for the St. George Island
2 water utility system since its inception and am extremely familiar with the
3 utility plant from its initial construction through the reconstruction for the
4 new bridge, as well as its continued operations. I previously prepared the
5 annual reports to the PSC for the Company during the first 20 years and
6 have reviewed them in the past 15 years. My experience and education
7 are detailed in my resume, attached as Exhibit (BSW-1) ____.

8

9 **Q. Are you Certified Public Accountant?**

10 A. Yes.

11

12 **Q. Are you a member of any professional societies and associations?**

13 A. Yes. I belong to several professional societies and associations, including
14 the following: American Institute of CPAs, Florida Institute of CPAs
15 (FICPA), and American Women's Society of CPAs. I also serve on two
16 committees of the FICPA: the FSU Accounting Conference Committee
17 and the Florida Institute on Federal Taxation.

18

19 **Q. On whose behalf are you presenting testimony?**

20 A. I am presenting testimony and appearing on behalf of the applicant,
21 WMSI.

22

23

1 **Q. Have you testified previously in this docket?**

2 A. No.

3

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

5 A. The purpose of my testimony is to respond to portions of the direct
6 testimony presented by Office of Public Counsel (OPC) witness Donna
7 Ramas.

8

9 **Q. Are you sponsoring any exhibits?**

10 A. Yes, I am sponsoring four exhibits. Exhibit (BSW-1) ___ is a summary of
11 my education and experience. Exhibit (BSW-2) ___ is an analysis of
12 amounts advanced to WMSI by Gene Brown. Exhibit (BSW-3) ___ is a
13 copy of the Accounting Policies & Procedures Manual I prepared for
14 WMSI. Finally, Exhibit (BSW-4) ___ is a detailed composite exhibit that
15 contains a computation of the hours spent by each person at my firm,
16 including myself, and accountants Scott Hutter and Susan Brooks Shearer,
17 and their résumés, together with a statement showing the amounts billed
18 WMSI and the amounts paid in 2010.

19

20 **Q. Are you currently providing accounting services for WMSI?**

21 A. Yes, I am currently providing accounting services for WMSI and have
22 done so for many years.

23

1 **Q. What is the scope of the accounting services that you are providing for**
2 **WMSI?**

3 A. I prepare WMSI's tax returns and perform various accounting and
4 bookkeeping assistance for WMSI. Under an accounting services contract
5 with WMSI, I am also working with the company to update WMSI's
6 policy and procedures manual and monitor compliance. I am also working
7 with WMSI personnel to ensure compliance with Uniform System of
8 Accounts for Class A Water Utilities, to assist with any necessary journal
9 entries, and to provide other services required regarding review of utility
10 plant additions, disposals, and depreciation, including maintaining the
11 fixed asset matrix and other matters. Other areas of involvement include
12 amortization of deferred debits and contributions in aid of construction
13 (CIAC) and the preparation of other accounting schedules as needed. As
14 WMSI establishes a budget system, I will assist with that project as well.

15
16 **Q. Does the scope of work you are currently providing for WMSI differ**
17 **from the services you have provided to WMSI in the past?**

18 A. Somewhat, yes. I will be providing all the services that I previously
19 provided, such as tax return preparation and filing, as well as additional
20 services relating to monitoring and compliance, as discussed above. I
21 have been providing some of these services without charge over the past
22 10 years due to the extremely difficult cash position of WMSI and have
23 only billed a modest amount for preparation of the income tax returns.

1 **Q. Why does WMSI need these additional accounting services?**

2 A. WMSI needs these additional accounting services because, due to the
3 complex nature of the accounting for this entity, it is necessary to have a
4 CPA, with the experience and skills possessed by myself and members of
5 my firm, to assist in order to improve the accounting records and insure
6 that all transactions are recorded in a timely manner and properly. We are
7 also monitoring depreciation schedules for WMSI and recommend making
8 adjustments if needed to plant and accumulated depreciation accounts.
9 We are also assisting in the development and monitoring of a budget for
10 the company's operations, as well as assisting with the cash management
11 and other areas of critical importance from an accounting standpoint.

12

13 **Q. What is the monthly charge for the accounting services you are**
14 **currently providing to WMSI?**

15 A. The accounting services expense is \$1,500 per month for an average of 10
16 hours per month. Any unused hours are credited to months during which
17 more than 10 hours are needed, so that the utility does not pay for hours
18 not worked.

19

20 **Q. Is this \$1,500 monthly retainer charge reasonable?**

21 A. I think it is very reasonable. Most CPAs with my background and
22 experience would be charging \$250 per hour for their time. I have always
23 given WMSI a discount for my services, for both tax preparation and

1 accounting work. Also, I charge only \$75 and \$50 per hour for my
2 accounting staff, who have also performed services for WMSI under my
3 contract.

4
5 **Q. Have you read the direct testimony of OPC witness Donna Ramas in**
6 **this docket?**

7 A. Yes.

8
9 **Q. At pages 19 and 20 of her direct testimony, Ms. Ramas proposes that**
10 **the accounting expenses be reduced from the \$18,000 amount of your**
11 **annual retainer to \$3,667, which she says is a five year average cost.**
12 **Do you agree with her assessment? If not, why?**

13 A. No, I do not agree. WMSI has historically incurred in the neighborhood
14 of \$3,700, in part, because it did not receive accounting services beyond
15 the minimum required for tax return preparation and filing and also
16 because, in extremely challenging years for WMSI, I have provided my
17 services at discounted rates or many years at no charge. However, I
18 cannot continue to do so indefinitely. In addition, WMSI recognizes that
19 it needs to establish better controls, which will require more oversight and
20 monitoring and necessitate more accounting services. The system set up
21 some years ago for WMSI for depreciation of fixed assets has reached its
22 capacity, and we have now set up new depreciation schedules for the
23 company beginning in 2010. We also are going to be involved in the

1 budget process, both in setting up the budget and monitoring compliance.
2 Also, the company needs the services of a licensed CPA to properly
3 maintain the books and records of the company due to the complex
4 accounting matters involved. Most companies of this size and complexity
5 have several CPAs on staff and I believe it will result in a more efficient
6 accounting of WMSI's transactions. At such time as the company is able
7 to afford hiring a full time in-house CPA, which I strongly recommend,
8 my retainer could possibly be reduced. The salary for a CPA in today's
9 market would be no less than \$75,000, and I understand the average
10 starting salary for accountants with just a degree, who have not yet passed
11 the CPA exam, is approximately \$48,000 per year. A CPA is needed in
12 addition to the accounting staff presently on hand at WMSI.

13
14 **Q. Can you please explain the other exhibits that you are sponsoring?**

15 A. Yes. I am sponsoring Exhibit (BSW-2) ____, which is an analysis of
16 amounts advanced to WMSI by Gene Brown. It appears Ms. Ramas has
17 erroneously included Mr. Brown's salary in the amount of \$123,950 for
18 2008 and \$115,600 for 2009 and rent paid to Brown Management Group
19 of \$15,000 for 2008 and \$18,000 for 2009 in her analysis of cash
20 exchanges (Exhibits DR-2 and DR-3). If you remove these improper
21 amounts, the 2008 total would be reduced from \$261,495.95 to
22 \$122,545.95 and the 2009 total would be reduced from \$131,037.67 to a
23 negative amount of (\$2,562.33) more paid into WMSI than taken out.

1 Combining these corrected figures with the 2010 net cash inflows from
2 Mr. Brown et al, the net flow of cash into WMSI is \$34,296.38

3

4 I am also sponsoring Exhibit (BSW-3) ____, which is a copy of the
5 Accounting Policies and Procedures Manual which I prepared for WMSI.

6 I am working with WMSI to prioritize their accounting needs. We have
7 been working on the plant matrix and depreciation schedules and the
8 requirement that the company keep its accounting records up to date and
9 close out on a monthly basis, all of which exceeds the capacity of the
10 present in-house accounting help. WMSI needs more accounting staff at
11 the CPA level in order to accomplish the necessary tasks, to comply with
12 the procedures outlined in the manual. If WMSI had the resources of an
13 in-house CPA, I believe the various items outlined in Ms. Ramas'
14 testimony with respect to the confusion about the two trailers and other
15 entries regarding the Scruggs and SMC Investment Properties transactions
16 would have been better reflected in WMSI's accounting records.

17

18 I am also sponsoring Exhibit (BSW-4) ____, which is a composite exhibit
19 containing the hours spent by my firm during 2010 as well as the invoices
20 and statements sent to WMSI. I have also included résumés of my two
21 staff accountants who have assisted with this engagement together with
22 their time records. In my experience, it will take every bit of the \$18,000
23 annual retainer to assist WMSI to comply with the manuals and to avoid

1 confusion and errors as experienced in the past and as outlined in Ms.
2 Ramas' testimony. We have been helping the utility this year and as of
3 now have expended a total of 125.5 hours as reflected in Exhibit (BSW-4)
4 ___. The company needs the services of a CPA to assist with the more
5 complex accounting matters, the plant matrix, the monthly close-out, the
6 timely retirement of assets, including personal property and plant items,
7 and had they had these resources during the past few years, the confusion
8 over these items could have been avoided.

9

10 **Q. Does that conclude your rebuttal testimony?**

11 A. Yes, it does.

1 **BY MS. SCOLES:**

2 Q. Ms. Withers, did you have any exhibits to your
3 prefiled testimony?

4 A. Yes, I had four exhibits.

5 Q. What were those, please?

6 A. The first one was my resume of experience and
7 education. The second was an analysis of the cash
8 exchanges of Water Management Services. The third was a
9 copy of a policy and procedures manual that I prepared
10 for Water Management. And the fourth was a recap of all
11 the hours of each person in my firm that we have spent
12 in 2010 for Water Management Services. Also, copies of
13 the resumes of two of my staff, and copies of all of the
14 billings that we have presented and the payments we have
15 received.

16 Q. And those are part of Staff's Composite
17 Exhibit List 46, 47, 48, and 49.

18 Ms. Withers, have you prepared a summary of
19 your prefiled rebuttal testimony?

20 A. Yes, I have.

21 Q. Would you please provide that to the
22 Commission and parties?

23 A. Yes, ma'am.

24 I'm a certified public accountant with over 50
25 years of accounting experience, which gives you my age,

1 which includes both industry and public accounting. I
2 worked on St. George Island for the water company from
3 1975 to 1985, and am very familiar with the company's
4 accounting and tax matters from inception to the
5 present.

6 The purpose of my rebuttal testimony is to
7 address portions of the Direct Testimony of Public
8 Counsel Witness Ramas. I have included an exhibit which
9 shows contrary to Ms. Ramas' assertions, that Gene D.
10 Brown and associated companies have put over 34,000 more
11 into Water Management Services from January 1, 2008,
12 through August of 2010.

13 Ms. Ramas erroneously included Mr. Brown's
14 hard earned salary of \$123,950 in 2008, and \$115,600 in
15 2009, as well as advances to him, as well as 15,000 in
16 2008, and 18,000 in 2009 of rent of the office space
17 paid to Brown Management Group as advances to Mr. Brown,
18 when this \$272,550 represented ordinary and necessary
19 business expenses of the water management company and
20 not associated company advances.

21 Removing these erroneous items from her
22 calculations results in \$2,562 more put into the utility
23 company than taken out in the 2009 test year. And bring
24 this forward to August 31, 2010, Mr. Brown advanced a
25 net of \$34,296 to the company. It appears Ms. Ramas

1 does not feel that my services are even needed or worth
2 the \$1,500 per month agreed to by Water Management and
3 my firm.

4 As exhibits to my testimony, I have included
5 detailed invoices and time records which prove beyond a
6 reasonable doubt that the accounting services of my firm
7 are not only rendered, but necessary. Due to the
8 complexity and sophistication of the accounting system
9 and the requirements of the NARUC Uniform System of
10 Accounts for Class A Water Utilities, I believe it is
11 imperative that the services of a CPA be provided for in
12 the utility company's rate base.

13 Performing our services on a monthly basis
14 highly improves the accuracy of the company's records
15 and should eliminate the errors Ms. Ramas referred to in
16 her testimony. However, we must be compensated for
17 those services, and I believe the amounts charged are
18 very reasonable.

19 I have prepared an accounting policy and
20 procedures manual, a copy of which is an exhibit to my
21 rebuttal testimony. We have been reviewing the monthly
22 financial information, and the underlying schedules, and
23 subsidiary records to ensure compliance with this manual
24 and to raise the level of accuracy with the utility's
25 accounting. We are confident the fixed asset records

1 and depreciation schedules are improved as well as the
2 overall accounting records. And this concludes my
3 testimony -- my summary.

4 **MS. SCOLES:** Mr. Chairman, we would tender Ms.
5 Withers for cross-examination.

6 **COMMISSIONER SKOP:** Thank you, Ms. Scoles.
7 Mr. McGlothlin, you are recognized for
8 cross-examination.

9 **CROSS EXAMINATION**

10 **BY MR. MCGLOTHLIN:**

11 **Q.** Good afternoon, ma'am.

12 **A.** Good afternoon.

13 **Q.** I have only a few questions for you.

14 With respect to the flow of money out of the
15 utility and back into the utility between WMSI and Brown
16 Management, or Mr. Brown, if you know, was a portion of
17 the monies that you have described as coming back into
18 the utility be in the form of repayments of loans made
19 by the utility to Brown Management Group?

20 **A.** Some of them could be, yes, sir.

21 **Q.** Now, in addition to describing recent
22 transactions, Ms. Ramas testified that based upon recent
23 balances, over time the trend of investments by the
24 utility into associated companies has built up to a
25 current balance of about \$1.1 million. Now, you do not

1 take issue with that statement, do you?

2 A. No, sir.

3 Q. And, finally, on Page 5, near the top of the
4 page -- I'm sorry, it's Page 7. At Line 4, you say most
5 companies of this size and complexity have several CPAs
6 on staff. When you are talking about companies of this
7 size and complexity, are you referring to WMSI?

8 A. Yes, sir.

9 Q. Can you identify a company of that size and
10 complexity that has several CPAs on staff full-time?

11 A. I'm sure I could, yes. I'm not prepared to
12 right now, but I could get you the names of them.

13 Q. My question is if you are able to do that
14 sitting here now, can you identify anybody?

15 A. Well, Water Management used to have CPAs on
16 staff. Certainly that would be one. They had Jackie
17 Watson (phonetic) as a full-time employee back in the
18 mid-'90s, so I could come up -- I'm a CPA, and I have a
19 lot of clients, and under client confidentiality I'm not
20 sure I can disclose their names without their
21 permission. So I would have to -- I can provide that to
22 you, but I would have to get permission from my clients.

23 Q. I'm not asking you to do that, but in light of
24 what you just answered, when you say most companies of
25 this size and complexity, you were not limiting your

1 answer to regulated utilities then?

2 A. No, sir.

3 MR. MCGLOTHLIN: Those are all the questions I
4 have.

5 COMMISSIONER SKOP: Thank you, Mr. McGlothlin.
6 Staff.

7 MR. JAEGER: Staff has no questions.

8 COMMISSIONER SKOP: All right. Ms. Scoles.
9 Excuse me, from the bench?

10 All right. Ms. Scoles, you are recognized for
11 redirect.

12 MS. SCOLES: I have nothing, Chairman.

13 COMMISSIONER SKOP: All right. Very well.
14 And I believe any exhibits have already been entered.
15 So, Ms. Withers, you are free to step down and be
16 dismissed.

17 And, Ms. Scoles, if you would call your final
18 witness.

19 MS. SCOLES: Mr. Chairman, Water Management
20 Services calls Gene D. Brown.

21 GENE D. BROWN
22 was called as a rebuttal witness on behalf of Water
23 Management Service, Inc., and having been duly sworn,
24 testified as follows:

25 DIRECT EXAMINATION

1 **BY MS. SCOLES:**

2 Q. Good afternoon, Mr. Brown.

3 A. Good afternoon, Lisa.

4 Q. You were previously sworn in this proceeding,
5 is that right?

6 A. I was.

7 Q. Did you prepare and cause to be filed prefiled
8 rebuttal testimony in this proceeding?

9 A. Yes, I did.

10 Q. And I see your copy right here. Okay. Now do
11 you a have a copy of that prefiled?

12 A. I do right here in front of me.

13 Q. Okay. Do you have any corrections or
14 revisions to your rebuttal testimony?

15 A. Yes, actually I do. I just noticed these. On
16 Page 9, Line 11.

17 Q. Just give everybody a moment to get there.

18 A. Okay. It starts out by saying, "Essentially,
19 equity investments." That's really a misstatement. It
20 should read, "Essentially, advances to Brown Management
21 have been used."

22 Q. So you are replacing equity investments with
23 advances?

24 A. The words "equity investments" should be
25 replaced by "advances to."

1 Q. Okay.

2 A. And then on Page 19, Line 20, that is a typo.
3 It says, "254,000 extra put into the water company," it
4 should be "\$154,280."

5 Q. Will you restate that figure, please, Mr.
6 Brown?

7 A. The Line 20 has a number of 254,200, the
8 actual number should be 154,280.

9 Q. Are those all the corrections that you have,
10 Mr. Brown?

11 A. That's all I have noticed.

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

15 A. Yes, they would.

16 MS. SCOLES: Mr. Chairman, I would ask that
17 the corrected prefiled rebuttal testimony of Mr. Brown
18 be inserted into the record as though read.

19 COMMISSIONER SKOP: The corrected prefiled
20 rebuttal testimony of Mr. Brown will be entered into the
21 record as though read. You may proceed.

22

23

24

25

1 REBUTTAL TESTIMONY OF GENE D. BROWN
2 BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION
3 IN DOCKET NO. 100104-WU
4 IN RE: APPLICATION FOR INCREASE IN
5 WATER RATES IN FRANKLIN COUNTY BY
6 WATER MANAGEMENT SERVICES, INC.
7

8 **Q. Please state your name, profession and address.**

9 A. My name is Gene Brown. I am President of Water Management Services,
10 Inc. (WMSI). My business address is 250 John Knox Road, Unit 4,
11 Tallahassee, FL 32303.
12

13 **Q. Have you previously presented testimony in this proceeding?**

14 A. Yes, I presented testimony on behalf of the Applicant, WMSI.
15

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

17 A. The purpose is to respond to portions of the testimony presented by the
18 Office of Public Counsel (OPC) witnesses Ramas and Woodcock and
19 Florida Public Service Commission (PSC or Commission) staff witnesses
20 Dobias and Chelette.
21

22 **Q. Would you please address those portions of the direct testimony of**
23 **Ms. Ramas to which you would like to respond.**

1 A. I would like to respond to all parts of her testimony, more or less in the
2 order set forth in her table of contents.

3

4 **Q. On page 6, she expresses concern with the way the utility is currently**
5 **being managed. Can you respond to that?**

6 A. Yes. I have managed the company for 35 years through good times and
7 bad. The utility did fine for eight or ten years after our last rate case in the
8 early 90's. But in late 2000, the federal government and the state of
9 Florida decided to tear down the bridge to St. George Island, along with
10 our water supply main. The new bridge was built with government
11 funding, but WMSI was required to build a new supply main at a cost of
12 approximately \$7,000,000, all with no public or governmental assistance.
13 In an order entered in March of 2006, this Commission allowed WMSI to
14 recover most of those costs over an extended period of time. The utility
15 did okay the following year, 2007. But, in 2008, the company's water
16 sales and revenue began dropping with revenue ending up approximately
17 \$125,000 less than in 2007. This decrease was primarily due to two
18 factors, both of which were beyond the control of WMSI. First, we began
19 to see a large increase in the number of shallow wells, which had a
20 disproportionate impact on WMSI because of the new block rates imposed
21 in the 2006 order. Second, we began to lose commercial sales because of
22 restrictions imposed by the Department of Health.

23

1 **Q. Why didn't you file a rate case in early 2009?**

2 A. I was starting to put the financial information together for a water rate case
3 when the Franklin County Commission asked WMSI and several other
4 utilities to prepare formal and detailed proposals to submit to the county
5 for sewer on the island. At that time, I was convinced that someone had to
6 furnish sewer to our customers on the island, at least in the concentrated
7 center commercial area. I thought it was in the best interests of our
8 customers and our shareholders that sewer should be provided by WMSI.
9 In my mind, this would create a huge increase in commercial water sales
10 so we would not have to shift the loss to residential customers. My plan
11 was to survive 2009, which I thought could not be any worse than 2008,
12 while we processed a PSC sewer case. My plan was to impose overall
13 water and sewer rates which would establish a revenue requirement with
14 no increase in the rates charged to our customers for water service. My
15 engineers and I thought it would save money for our remaining customers.
16 Even the engineer for our primary competitor in the sewer presentations
17 made to Franklin County acknowledged that the rule of thumb among
18 engineers is that there is a 50% savings for the customer when the same
19 company provides water and sewer. For example, if a water bill would be
20 \$50 from one company and another \$50 for sewer from another company,
21 a combined water and sewer company could offer the same service for
22 \$75. We were also attempting to regain the commercial sales from those
23 commercial customers whose water use had been drastically reduced by

1 administrative order from the health department, and from those whose
2 accounts had been closed for lack of sewer service, some by order of the
3 Franklin County Circuit Court. This was a prudent decision based upon
4 the facts known to me at the time. We already had two highly qualified
5 sewer operators working for us, and I thought it would be more efficient
6 and economical for all our customers for us to furnish sewer rather than
7 having it furnished by a separate company with no current presence on the
8 island. I was trying to avoid a rate increase for our other water customers,
9 which did not work and which brings us to this current proceeding.

10

11 **Q. Why was the wastewater project discontinued?**

12 A. After spending a great deal of time and money, and after four of the five
13 county commissioners told me that they were in favor of sewer in the
14 dense commercial area, the county commission voted unanimously in late
15 2009 to ask WMSI to withdraw its application for sewer on the island. I
16 knew there was no chance of installing sewer service on the island with
17 the county fighting the project, so I withdrew by PSC application.

18

19 **Q. What has been the trend since that time?**

20 A. Water sales and revenue have continued to drop. The year 2009 was
21 worse than 2008, and 2010 will be even worse than 2009.

1 **Q. In her testimony, Ms. Ramas says that a lot of the company's cash**
2 **flow problems are due to excessive cash transfers to you and your**
3 **affiliates. Is this a legitimate concern?**

4 A. No, it is not. This company's problems are not due to money I have taken.
5 They are due to the fact that water sales have been dropping about
6 \$100,000 per year for the past three years, while expenses and demands on
7 the system have been increasing.

8
9 **Q. Please refer to Ms. Ramas' Exhibits DR2 and DR3. She states on**
10 **page 9 of her testimony that during the test year of 2009, you and**
11 **Brown Management took out \$131,038 more than you put into the**
12 **company. Is that true?**

13 A. No, that is false and misleading. In order to hit those numbers, Ms. Ramas
14 had to include all of my salary as set forth in the payroll account, and all
15 of the rent paid to Brown Management Group as set forth in the rental
16 account. When you take those amounts out of Ms. Ramas' numbers, I
17 actually put more into the company during the 2009 test year than I took
18 out.

19
20 **Q. How about this year, 2010?**

21 A. If you give me credit for my salary, which was reduced by \$30,000, and if
22 you give Brown Management credit for rent on its building, the two of us

1 have put \$154,280 more into the company than we have taken out during
2 the first 8 months of this year. That is \$19,285 per month.

3

4 **Q. Will you ever get this back?**

5 A. No, I guess they call this “regulatory lag,” but to me it is real money that
6 can never be recovered.

7

8 **Q. Do the interim rates help?**

9 A. These interim rates have not gone into effect yet. When they do, they only
10 amount to around \$9,000 per month, which WMSI cannot touch. The
11 final rates, even assuming they will be more than the interim rates, will not
12 be billed and collected until next spring, probably around March. In the
13 meantime, WMSI continues to lose large sums of money which can never
14 be recovered and which makes it more difficult to maintain the high level
15 of service we have been providing to our customers.

16

17 **Q. Back to the schedules prepared by Ms. Ramas as Exhibits DR2 and**
18 **DR3, have you looked at the overall transfer of funds since January**
19 **1, 2008?**

20 A. Yes. After you take the salary and rent out of Ms. Ramas’ numbers, and
21 bring the schedule forward through August 31, 2010, the “net difference
22 cash out vs. cash in” shows \$34,296 more going in than coming out for the
23 last two years and eight months.

1 **Q. How did you arrive at that number?**

2 A. After I read Ms. Ramas' testimony, I asked my controller and my CPA to
3 get together and prepare a summary schedule showing the net affect if you
4 take the salary and rent out of Exhibit DR2 and DR3 and bring these
5 exhibits up to date. Attached as Exhibit (GB-1)____ is a schedule showing
6 a yearly breakdown and summary of those numbers.

7

8 **Q. What do the numbers show if you start at the beginning of the test**
9 **year, 2009, and come forward?**

10 A. If you start with the beginning of the test year, 2009, and come forward
11 through the end of August, 2010, the numbers show that Brown
12 Management and I have put \$156,842 more into WMSI than we have
13 taken out during the past 18 months. That is almost \$9,000 a month. That
14 is money I can never recover, even if we are successful in this pending
15 rate case.

16

17 **Q. Are there any problems caused by being a small, privately owned**
18 **utility?**

19 A. Running a small, privately owned utility is not like running a large
20 company with access to the equity markets or even a small public utility
21 with taxing authority and access to government grants and loan programs.
22 Several years ago, about the time our revenues started dropping, our major
23 lender terminated our \$3,000,000 line of credit because of capitalization

1 problems the bank was having due to the falling real estate market in
2 Franklin County. This left WMSI with all its assets encumbered and with
3 no ability to borrow for emergencies and cover cash flow deficits such as
4 we were experiencing. This inability to borrow has been a general
5 problem for small businesses nationwide during the last few years, but it is
6 a special problem for a company like WMSI with a negative balance sheet
7 and an income statement showing consistent losses in the hundreds of
8 thousands of dollars. WMSI has also been severely impacted by a series
9 of government decisions. When the Department of Transportation (DOT)
10 decided to tear down a privately owned five mile long water supply main,
11 it had economic consequences. When the Northwest Florida Water
12 Management District (NFWMD or the District) decided to legalize and
13 encourage shallow wells throughout St. George Island, after insisting on
14 block rates for WMSI, it had and continues to have economic
15 consequences. When the Franklin County Commission decided to oppose
16 sewer on St. George Island after encouraging WMSI to get involved and
17 present plans to the county for sewer, it had economic consequences. Fire
18 protection is another example of a problem that should be a public
19 responsibility, but which falls to WMSI to solve. Franklin County collects
20 an assessment against every property on St. George Island for fire
21 protection, but does not give one dollar to WMSI. Nevertheless, we are
22 expected to install and maintain almost 200 fire hydrants with consistent
23 high pressure throughout a distribution system that has been determined to

1 be only partially “used and useful.” We are providing fire protection for at
2 least 35 houses that do not use any of our water, as well as thousands of
3 vacant properties which contribute nothing to the utility. A small private
4 utility remains almost invisible until a rate increase is requested.

5

6 **Q. But why would you ever need to take more than just your salary and**
7 **rent from the company?**

8 A. Almost all of the funds transferred from the company to either me
9 personally or to Brown Management Group have been used to pay the
10 debt service on loans that were used to pay debts of the utility.
11 Essentially, ^{advances to} ~~equity investments in~~ Brown Management Group have been
12 used to pay the debt service on debts incurred by Brown Management
13 Group and me personally to obtain funds to make up the cash flow deficit
14 of the utility company during the past 10 years or so. That is the only way
15 the company has survived while losing over \$1,000,000 since this
16 commission last set our rates in February 2006. As shown by our federal
17 tax returns, WMSI lost \$124,782 in 2006, \$103,664 in 2007, \$292,506 in
18 2008 and \$354,156 in 2009, as shown by (GB-2) ___. We have also lost
19 \$266,302 through the first eight months of 2010, as shown by Exhibit
20 (GB-3) ___. That is a total of \$1,141,410 in less than five years.

21

22 **Q. Do you have any examples of these types of loans to Brown**
23 **Management Group or to you personally?**

1 A. Yes, and every Brown Management Group loan has to be guaranteed by
2 me personally. I especially remember a \$150,000 second mortgage loan
3 on my house because I had to talk my wife into signing as co-owner. She
4 signed only because I was able to show her that the funds were being used
5 to support the utility company, a portion of which she also co-owned.

6

7 **Q. Any other examples?**

8 A. Yes, there have been many other such loans over the 35 years that I have
9 been the manager and co-owner of the company. Most of these have been
10 repaid, but there is still over \$750,000 in unpaid personal and BMG loans
11 that have been used to fund the cash-flow deficit of the utility. All of
12 these required my personal guarantee, and all but two required me to
13 pledge assets owned by me personally or by Brown Management Group.
14 One is a \$360,000 loan which was used exclusively to pay the debt on the
15 Department of Environmental Protection (DEP) loan, which required
16 payments of \$417,000 per year, using assets owned by Brown
17 Management Group as collateral. The same assets had been pledged
18 earlier to obtain funds for an earlier DEP payment. Another is a \$150,000
19 mortgage loan using real estate owned by Brown Management Group as
20 collateral. There are also two personal, unsecured lines of credit requiring
21 my personal endorsement. Earlier this year, I personally borrowed an
22 additional \$25,000 to make the Regulatory Assessment Fee payment to the

1 PSC. There is nothing in our rates to help repay these loans, which I will
2 have to do personally.

3

4 **Q. What is the current monthly debt service on these loans?**

5 A. It is over \$12,000 per month, including \$3,300 per month for \$3,000,000
6 of life insurance. All or part of this insurance was required to obtain the
7 \$3,000,000 line of credit which I mentioned earlier. The pledge of this
8 entire \$3,000,000 in life insurance will be required by Citizens State Bank
9 as security for the \$5,000,000 loan which will pay off the existing
10 \$3,000,000 line of credit and fund the improvements recommended by
11 PBS&J. Citizens State Bank may require more than \$3,000,000 in life
12 insurance coverage for a \$5,000,000 loan. Accordingly, a \$3,300 monthly
13 life insurance expense and the expense for any additional life insurance
14 required by Citizens will need to be included in the "true-up" phase of this
15 case as an additional cost of debt.

16

17 **Q. Throughout her testimony, Ms. Ramas expresses "concern" with your
18 management expertise. Do you have any response to that?**

19 A. Yes, as I mentioned earlier, I have managed this company for 35 years,
20 through good times and bad. The last three or four years have been one of
21 the bad times. But I am actually quite proud of the way our management
22 team has been able to continue providing a high level of service with great
23 water to all our customers despite the serious revenue shortfalls. We

1 provide great service, 24 hours a day, 7 days a week, 365 days a year.
2 Because our service territory is a rental, resort area, many of our service
3 calls are made at night and on weekends. The Florida Department of
4 Environmental Protection is our primary regulator and they do
5 comprehensive inspections (sanitary surveys) of our system almost every
6 year. The last two have been basically perfect, with no deficiencies. We
7 are also in full compliance with the statutes, rules and regulations
8 administered by all our other regulators, such as the NFWFMD, the
9 Federal Environmental Protection Agency (EPA), Franklin County and,
10 the PSC. We have no service complaints, and we have had only a couple
11 of billing complaints. The billing complaints involved customers who did
12 not like paying a deposit, as required by our tariff and the PSC rules. Our
13 bookkeeping is not perfect, but it is in substantial compliance with the
14 National Association of Regulatory Utility Commissioners (NARUC).
15 Our journal entries are complete with great detail, even if there are a few
16 mistakes. They track every dollar and every transaction with complete
17 descriptions so that necessary corrections can be made in proceedings such
18 as this. The staff audit report in this case has six findings with no
19 disclosures or exceptions. The PSC audit report from the last rate case in
20 1992 contained 17 disclosures and 26 exceptions, covering 74 pages as
21 compared with 16 pages in the current report. We have a dedicated
22 professional staff, and our management team and operators have worked
23 for the utility for an average of 22 years each. We have redundancy, or

1 "back-up," in our water delivery system. We have the same type of back-
2 up with our personnel. We have two highly qualified, licensed operators,
3 so that at least one of them is always on site or nearby. We won an award
4 from the Florida Rural Water Association for having the second best water
5 in Florida. Our employees are cross-trained, so that we have more than
6 one person qualified to manage and operate our cross-connection control
7 program, our billing system and many other essential functions in running
8 a water utility company. You do not achieve this level of success with
9 poor management.

10
11 **Q. On page 10 of her testimony, Ms. Ramas refers to an \$85,000**
12 **transaction with SMC Investment Properties, Inc. Could you explain**
13 **that?**

14 A. Yes. SMC Investment Properties is a sub-s corporation which held two or
15 three passive real estate investments for Sandra Chase, who owns 100% of
16 the stock. During 2008 and part of 2009, SMC and Brown Management
17 Group were co-owners of two single family rental properties. Brown
18 Management Group advanced part of the cash for these properties, and
19 when they were both sold in 2009, Brown Management received a 100%
20 interest in the purchase money mortgages and notes representing most of
21 the sales price. When the \$85,000 was advanced to SMC, the offsetting
22 entry was a charge to Brown Management Group, not a loan receivable.
23 The substance of the transaction was that the funds were charged against

1 Brown Management Group's account and advanced to Brown
2 Management Group which then advanced the funds to its joint venture
3 partner, SMC. If this had been a loan from WMSI to SMC, the WMSI
4 books would have reflected a loan receivable from SMC, not an increase
5 in the amount of money advanced to BMG. WMSI was reimbursed in full
6 with a check for \$144,500, which was deposited in WMSI's account on
7 June 19, 2009. So far as I know, SMC does not own any property at this
8 time, and Brown Management Group has the two mortgages on the two
9 joint venture properties together with a few other passive assets which will
10 be discussed later in my testimony.

11

12 **Q. How was this treated on Ms. Ramas' Exhibit DR-3?**

13 A. She classified this as a loan to SMC, not as an advance to BMG. To
14 maintain an "apples-to-apples" comparison, Exhibit (GB-1) ___ for 2008
15 uses the DR-3 numbers. But our financial statements clearly show there
16 was no loan from WMSI to SMC.

17

18 **Q. Also on page 10, Ms. Ramas makes a reference to a \$100,000 note**
19 **receivable from an associated company. Could you tell us about that?**

20 A. Yes, when WMSI remodeled its plant and office building on St. George
21 Island as part of the limited proceeding which resulted in the final order in
22 February 2006, I added a vacant second story because I thought it could be
23 used for storage or future expansion. However, the PSC disallowed the

1 entire cost of the second story and Brown Management Group bought that
2 floor at a profit to WMSI. The \$100,000 note receivable was a part of the
3 purchase price of the second story, and that note has been paid in full, with
4 interest at 7%.

5

6 **Q. Please respond to the recommended adjustments to operating income,**
7 **starting with the allocation of employee costs to affiliate operations on**
8 **page 13.**

9 A. In the last rate case based upon a 1992 test year, I had an active law
10 practice and development company, and I was involved in other legal and
11 business matters. Based on that, the PSC found that a 10% allocation to
12 affiliates was appropriate. Now I have one sub-s corporation, which holds
13 a limited number of passive assets, including the following: three
14 note/mortgage receivables; three rental properties; and one note
15 receivable. There is a grand total of seven checks per month from these
16 assets. The WMSI employees do not spend any time outside the office
17 working on any of these passive investments. In my direct testimony, I
18 estimated that Bob Mitchell, Sandra Chase and I spend two hours per
19 week on my affiliates. Since that time, I have dissolved several of the
20 other affiliates that were discussed in my direct testimony upon which part
21 of the two hour per week estimate for Sandra Chase and me was based.
22 She does not spend any significant time on my one remaining affiliate,
23 BMG. I believe it is unreasonable to allocate two hours per week of my

1 time or her time to this one affiliate in light of the fact that I have to
2 manage the utility company seven days per week, 24 hours per day, 365
3 days per year. There are many times that I handle water company
4 business from my home at night and during weekends. Accordingly, upon
5 reflection, I agree with the allocation of two hours per week of Bob
6 Mitchell's time, but I do not believe that any of my time or Sandra
7 Chase's time should be allocated. Sandra Chase and I do not work "9 to
8 5." There have been many times that one or both of us have had to handle
9 WMSI business after "normal" hours. We also both work more than the
10 40 hour work week used in Ms. Ramas' calculation. Water service has to
11 be provided every hour of every day.

12

13 **Q. What do you believe is a fair allocation of rent?**

14 A. I do not believe there should be any allocation of rent. There is no
15 additional expense to the utility for personal business or affiliate business
16 that I take care of at the utility company office. On the other hand, I do
17 not charge the utility for duties performed from my home after hours at
18 night and on weekends. Managing a utility company cannot be
19 accomplished according to a set schedule. Emergencies and spontaneous
20 management situations arise daily. Accordingly, it is more beneficial for
21 me to be at the utility office full-time than away from the office a couple
22 of hours each week to perform personal business. In consideration for
23 being available 24 hours a day, seven days a week, 365 days a year, it is

1 reasonable to allow me as the utility manager to spend a couple of hours
2 each week on personal business. I continue to work more than 40 hours
3 per week for WMSI. Managing this utility company is not a 40-hour per
4 week job with a set schedule. It is and always will be my top priority.

5

6 **Q. On page 19, Ms. Ramas recommends that the accounting allowance**
7 **for WMSI's adjusted test year be reduced by \$14,333 to \$3,667 per**
8 **year. Do you agree with that?**

9 A. No, it would be impossible to comply with all the PSC, NARUC and
10 Internal Revenue Service (IRS) reporting and disclosure requirements for
11 \$3,667 per year. At \$150 per hour for CPA level services, that would be
12 about two hours per month. The PSC has made it clear that utilities
13 should close out their books on a monthly basis and that they should
14 maintain a detailed plant matrix while complying with all the other
15 NARUC standards as referenced in the WMSI accounting manual attached
16 to the retainer agreement with the Withers CPA firm. There is no way we
17 can do everything required by that manual for \$3,667 per year. We have a
18 hardworking controller, but this company needs the expertise of a CPA. If
19 we had been able to afford that in the past, some of the confusion raised in
20 this case, such as the journal entries regarding the trailers, could have been
21 avoided. My CPA, Barbara Withers, will further explain in her rebuttal
22 testimony the need for this high level of service.

1 **Q. On page 23, Ms. Ramas recommends that WMSI's adjusted test year**
2 **expenses for engineering be reduced by \$42,500. Do you agree with**
3 **that?**

4 A. No, I do not. When I hired PBS&J, they spent two days on the island
5 working with our personnel and examining our operations. I then met
6 with them in Tallahassee to discuss our continuing need for their services.
7 I asked for their estimate to provide engineering support for the utility to
8 maintain its operations at a reasonable level of safe, reliable service to our
9 customers. The result of that was the \$48,000 per year retainer agreement
10 reflected in the Minimum Filing Requirements (MFRs). When our
11 monthly payments to PBS&J recently dropped from \$5,000 per month to
12 \$4,000 per month under our agreement, I wrote a letter to PBS&J
13 outlining specific needs so that we could set some priorities. Attached as
14 Exhibit (GB-4) _____ is a copy of that letter. The St. George Island
15 Volunteer Fire Department is now pressing WMSI for high pressure
16 pumps within the distribution system to enhance fire flow. This is the
17 same distribution system that OPC argues is not 100% "used and useful."
18 Without the hydraulic water modeling referenced in my letter to PBS&J,
19 we cannot determine where such pumps should be installed. This is an
20 example of the engineering issues we encounter on a regular basis.

21

1 **Q. On pages 23 through 25, Ms. Ramas argues that \$2,500 should be**
2 **removed from consulting costs in connection with the DEP loan. Do**
3 **you agree?**

4 A. No, I do not. We saved the rate payers a substantial amount of money
5 when we obtained a \$6,000,000 loan at 2.99% compared with the market
6 rate, which was around 9% at the time. Keeping that loan in good
7 standing was essential to WMSI and its customers. It was also important
8 to extend the amortization from 20 years to 30 years to better match the
9 PSC depreciation schedule on the plant constructed with the loan
10 proceeds. Sigma Project Solutions was paid \$2,500 to help us accomplish
11 both of those goals and possibly prevent WMSI from filing bankruptcy.
12 Consulting services of this type will continue to be necessary as long as
13 WMSI has loans to be renewed, extended or modified, so this \$2,500
14 should be allowed as a recurring expense. With Sigma's help, WMSI
15 reduced its debt service by \$121,000 per year.

16 Ms. Ramas argues that this savings is not relevant because BMG
17 and I took out \$131,000 more than we put into WMSI during the test year.
18 That statement is just false. As shown by my earlier testimony and by
19 Exhibit (GB-1) ___, BMG and I actually put more into the company than
20 we took out during the test year. And we put another ^{154,280}~~254,200~~ extra into
21 the company during the first eight months of 2010. Again, WMSI's
22 problem is lack of water revenue.

1 **Q. On pages 25 and 26, Ms. Ramas states that additional adjustments**
2 **should be made to contract labor. Do you agree?**

3 A. Yes, I agree that all of the contract labor costs for Charlie Painter and
4 Hank Garrett during the 2009 test year should be removed.

5

6 **Q. On pages 26 through 28, Ms. Ramas recommends an adjustment of**
7 **\$3,198 relating to the Frank Seidman expense. Do you have an**
8 **opinion on that?**

9 A. My opinion is that Frank Seidman is worth every dollar he has charged the
10 utility. I will leave it up to his rebuttal testimony to deal with the exact
11 numbers.

12

13 **Q. On pages 28 through 30, Ms. Ramas recommends the removal of all**
14 **costs related to the Rose Law Firm, and to Robert Nixon, CPA. Do**
15 **you agree?**

16 A. No, I do not. The lawyers at the Rose Law Firm provided me with
17 valuable legal advice and strategy regarding the PSC and rate structure.
18 They also put me in touch with an out-of-state investment banker that I
19 worked with for a period of time. Bob Nixon and one of his accountants
20 met with me for several hours at his office in St. Petersburg. They
21 provided assistance and accounting advice to my controller and me in
22 calculating our rate base according to the prior orders of the PSC. I know
23 this was helpful to me and, in my opinion, it also helped to reduce the

1 ultimate charges that will be made by our present consultants. Bob Nixon
2 also talked with two bankers at Mercantile Bank in St. Petersburg about
3 our financial needs and referred me to them. I met with those bankers in
4 St. Petersburg and worked with them about financing the improvements
5 referenced in the PBS&J report. Although a loan did not materialize, this
6 type of consulting is necessary and reasonable for a company seeking
7 financing and refinancing to provide cash flow and funding for necessary
8 improvements. These costs to Sigma Solutions, Rose Law Firm and Bob
9 Nixon for financial consulting in connection with possible loans are
10 ordinary, reasonable and necessary. Such costs were incurred solely on
11 behalf of the customers of WMSI, which is dependent on debt financing
12 and refinancing. Financing for a small private business is complicated and
13 problematic. Expenses in pursuit of financing should not be disallowed
14 simply because every attempt is not successful. Perhaps some of the Rose
15 Law Firm expense should be reclassified as general legal, and maybe
16 some of the Nixon expense should be reclassified as general accounting,
17 but both expenses should be allowed.

18

19 **Q. On page 32, Ms. Ramas states that the company's rate case expenses**
20 **should be reduced if they result from lack of supporting engineering**
21 **documentation. Do you agree?**

22 A. From the outset, WMSI has made it clear that the utility is not asking for
23 permanent rates based on the capital improvements until and unless there

1 is a "true up" phase to assure that the improvements have been completely
2 engineered and bid so the exact cost can be determined. Before that
3 phase, the PSC will be asked to determine which of the PBS&J options
4 should be selected, and enter a finding that those improvements are
5 prudent, as well as used and useful, so that financing can be obtained.
6 WMSI has already spent \$61,000 in laying out specific engineering
7 findings and options. It would be imprudent and foolish to spend another
8 \$100,000 for final plans and bid documents before the PSC approves the
9 overall plan and selects the best options, *e.g.*, do we build the ground
10 storage tank on the same site or a different site?

11

12 **Q. On pages 32 and 33, Ms. Ramas states that the company failed to**
13 **remove the amortization expense associated with the prior rate case.**
14 **Do you agree?**

15 A. Yes. We reduced our rates when the amortization period expired, but
16 apparently no adjustment was made in this filing.

17

18 **Q. On pages 33 through 35, Ms. Ramas recommends that the salaries of**
19 **Ms. Chase and Ms. Molsbee be reduced. Do you agree?**

20 A. No. The decision regarding the level of pay for these two women was not
21 made in a vacuum. One needs to understand the historical background
22 regarding these employees. Ms. Chase was hired in 1980 and began
23 working for the utility in January, 1981, where she has worked

1 continuously for almost 30 years. Ms. Molsbee began working for the
2 utility in 1983. She has not worked continuously since that time, but has
3 been back with WMSI since 2005. When I hired her back, I needed
4 another DEP certified operator. She agreed to work for the utility with the
5 promise of a large raise if and when she became certified. At the time she
6 was rehired, Hank Garrett was the WMSI certified operator. Mr. Garrett
7 was hired in 1982 and worked for WMSI until 1987 when he left to work
8 for the City of Apalachicola for a higher salary and better benefits. When
9 I realized how difficult it was to find a qualified operator to live and work
10 in Franklin County, I hired Mr. Garrett back with a salary and promised
11 benefits that exceeded those at the City of Apalachicola. He was working
12 at WMSI as the manager and sole operator when Ms. Molsbee was
13 rehired. However, after Ms. Molsbee began working on her DEP license,
14 Mr. Garrett was hired by Eastpoint Water & Sewer for a still higher salary
15 and better benefits. Ms. Molsbee then became WMSI's full-time manager
16 and Mr. Garrett became a consultant so he could continue as our licensed
17 operator and part-time employee. Because we needed more operations
18 help than Mr. Garrett could provide, we also hired Charlie Painter, the
19 licensed operator for the City of Carrabelle, on a consulting, part-time
20 basis just like Mr. Garrett. Soon after Ms. Molsbee was rehired, she
21 assumed the responsibility for billing and customer relations. At that time,
22 our customer base had grown to well over 1900. In 2008, Ms. Molsbee
23 obtained her DEP operators license so that she was qualified to run all of

1 our operations on the island without our having to employ any other
2 operators, such as Mr. Garrett and Mr. Painter. To obtain this license, Ms.
3 Molsbee spent about \$3,000 of her own money, as well as a great deal of
4 effort on her own time. So after she obtained her license, I gave her the
5 promised raise. She brought to my attention that Mr. Garrett was being
6 paid \$68,980 annually by Eastpoint Water & Sewer, plus health insurance,
7 a generous state retirement/pension fund and other benefits for a total
8 package in excess of \$70,000 per year. She also reminded me that she was
9 doing all of the billing, most of the collections and management of all
10 customer relations on the island, whereas Eastpoint, like Carrabelle and
11 Apalachicola, had separate departments for each of these functions. Based
12 on this, I increased her salary to \$60,000 per year, effective January 1,
13 2009. Otherwise, WMSI would have been in jeopardy of losing her to
14 another utility company. After giving the raise to Ms. Molsbee, I rehired
15 Mr. Garrett as assistant operator, with the promise of a truck and an
16 executive pension plan, among other things. This allowed the utility to
17 have redundancy and assurance that there is always a qualified operator on
18 site or nearby in the county. This also allowed WMSI to terminate the
19 consulting agreements with both Charlie Painter and Hank Garrett, which
20 saved the company over \$12,000 per year.

21 During this time, Sandra Chase was doing whatever needed to be
22 done for WMSI, including the day-to-day management of both Hank
23 Garrett and Nita Molsbee, as well as all other administrative functions of

1 the utility. Among other things, Ms. Chase got a certified operators
2 license from DEP and she became certified as a cross-connection control
3 administrator by attending a certified program at the University of Florida
4 in Gainesville. From time to time throughout her career with WMSI, she
5 has been solely responsible for the billing and customer relations as well
6 as the cross connection control program. During this 30 year period of
7 employment, Ms. Chase could have assumed the responsibilities of Hank
8 Garrett or Nita Molsbee. She is invaluable to the company, and it would
9 be unreasonable to expect her to earn less than \$70,000 per year when one
10 of her subordinates, who did not have as many years with the company,
11 accepted a job with another utility at \$70,000 per year. This company has
12 doubled in size and complexity since the 1992 rate case and Ms. Chase has
13 more overall responsibility than anyone else in the company, except me.
14 She helps provide redundancy throughout the company because of her
15 knowledge about the operations and administration. She is qualified to
16 assume my duties if I should become incapacitated. This type of
17 redundancy with highly qualified personnel is the reason we do not have
18 water outages or water quality problems. Our top five management
19 personnel have worked an average of 22 years each for the company.
20 Among other advantages, this allows WMSI to pay only \$201 per year in
21 unemployment compensation taxes. This saves almost \$3,000 per year
22 over the taxes WMSI would have to pay otherwise. This has real value to
23 the utility customers, but it is not possible to maintain such qualified,

1 experienced employees unless they are paid as much or more than they
2 could make working for another utility. Hank Garrett demonstrated to all
3 WMSI employees what the market rate is in Franklin County, and I used
4 that as a guide in setting the salaries of both Ms. Molsbee and Ms. Chase.
5 I also rehired Hank Garrett as an assistant operator because he is so
6 valuable to the company as specifically recognized by the PSC in finding
7 of Fact No. 58 on pages 74 and 75 of the final order in the 1992 rate case.
8 I was able to keep all three of these valuable employees, Chase, Garrett
9 and Molsbee, by cutting my own salary by \$30,000 per year. This allowed
10 me to keep the overall payroll \$12,609 less during the test year of 2009
11 than the preceding year, 2008, as shown by Exhibit (GB-5) _____. In other
12 words, we did not increase overall salaries and labor during the test year—
13 we decreased them by over \$12,000. We achieved greater coverage and
14 efficiency while maintaining the same loyal, dedicated employees who
15 understand this business and their obligation to the customers. It would be
16 unfair and unreasonable to cut any of those salaries.

17

18 **Q. Would you please explain your deferred compensation pension plan.**

19 A. Yes, but first I would like to correct another inaccurate statement by Ms.
20 Ramas. On page 41 of her testimony, she states, “it does not appear that
21 the company is promptly funding its 401(k) pension accruals.” That is not
22 true. Our payment to Charles Schwab is due on or before the date we file
23 our federal income tax return, which is always September 15 of the year

1 following the tax year. As I testified earlier, this was paid on schedule for
2 2009 and it will be paid as required for 2010. It was paid on September 14
3 in 2006, on September 13 in 2007, on July 18 in 2008, and on September
4 11, 2009. To the best of my knowledge it has been paid timely every year
5 since the inception of the plan.

6 WMSI's deferred compensation plan is part of the company's
7 employee benefit plan. It applies to all of WMSI management personnel,
8 not just Sandra Chase and me. The terms of eligibility are set forth on
9 page 1 of the plan which requires that the employee must (1) be highly
10 compensated; (2) be part of a select management group; (3) be at least 55
11 years of age; and (4) have worked for the company a total of 25 years or
12 more. Consistent with my philosophy of retaining the same qualified
13 personnel throughout their career, this plan is designed to keep good
14 people as long as possible, including an extra five years after they begin
15 thinking about retirement. The plan has been used as a special incentive to
16 keep Sandra Chase, Nita Molsbee and Hank Garrett. It was specifically
17 referenced as an incentive to persuade Hank Garrett to leave his job and
18 pension at Eastpoint and return to WMSI. It was used last year as one of
19 the incentives in hiring another young employee who recently graduated
20 from Apalachicola High School. He plans to make WMSI a career and get
21 his operators license. WMSI cannot compete with other governmental
22 utilities for good employees when they have such outstanding pension and
23 benefit programs and we do not. It does not seem fair or reasonable that

1 WMSI cannot have fair and reasonable pensions comparable with state
2 employees. The WMSI plan was designed to retain good employees for
3 an additional five years, similar to the state "DROP" program. There was
4 no reason to implement the deferred compensation plan in 1992 when the
5 first part of the Employee Benefit Plan was approved because none of our
6 employees qualified.

7 In 2008, I met in Tampa with two lawyers and a pension expert to
8 explore the options to meet WMSI's requirements for a deferred
9 compensation plan. They requested a fee of \$25,000 to prepare an
10 amendment to our plan, so I made a decision to do it myself. After further
11 research and consultation with our outside plan administrator in New
12 York, I prepared an amendment to our existing plan to be effective July 1,
13 2009. Under the WMSI plan, if a female employee such as Ms. Chase or
14 Ms. Molsbee retires at age 65, she would have a life expectancy of 20
15 years. Assuming that female employee has accrued \$200,000 in her
16 WMSI pension plan account, that employee would receive \$833 per
17 month plus interest at 3% for the rest of her life. For a male, such as me,
18 who retires at age 75 with \$200,000 in their account, the life expectancy
19 would be 10 years with a payment of \$1,667 per month; plus interest at
20 3%. These are not unreasonably large payouts for retired employees who
21 have basically devoted all or most of their professional lives to one utility
22 company and its customers. On page 38 of her testimony, Ms. Ramas
23 states that the cost of these pensions "should not be passed on to the

1 company's customers." Why not? This is a reasonable and necessary
2 expense of operating a perpetual business which strives to keep dedicated
3 employees. The cost of frequent employee turnover as shown by various
4 studies and confirmed by my personal experience is greater than the cost
5 of incentive programs such as the WMSI pension plan. The costs of the
6 pension plans at all the public utilities in the area are passed on to the
7 taxpayers or customers of those utilities all of which compete with WMSI
8 for good employees. It is common knowledge that the state of Florida and
9 all of its agencies have a very generous retirement/pension plan with a
10 "DROP" program to reward and motivate long-term state employees to
11 continue working past an age that they might otherwise retire. All of that
12 is paid by the taxpayers, not the individual employees. It is difficult for
13 WMSI to compete for good employees without a similar program. And it
14 is difficult to explain to WMSI's 25+ year managers why they cannot have
15 a program similar to the other utilities in the county, or similar to the
16 pension plans enjoyed by the state employees who regulate them.

17

18 **Q. Ms. Ramas also argues that the amendment to the WMSI Employee**
19 **Benefit Plan should not be allowed because it is not immediately**
20 **funded. Would you have a problem with the PSC adding a**
21 **requirement that the plan be funded on a year-to-year basis, like they**
22 **did in the 1992 rate case?**

1 A. No, I would readily agree to any such requirement. We have funded the
2 first part of the plan every year since the PSC entered its order in the 1992
3 case, and we can do so again using the same procedure with the same
4 third-party administrator. In fact, I have no problem with any reasonable
5 restrictions, requirements or modifications the PSC may want to make
6 with regard to our plan. But I strongly feel that our top level managers
7 who stay with the company over 25 years deserve a plan at least somewhat
8 comparable to the plans provided to long time managers with the state of
9 Florida and other public utility providers. I have promised this to all three
10 of WMSI's managers who I hired in the early 80's, and they deserve to
11 have that promise fulfilled.

12
13 **Q. Do you agree with Ms. Ramas' recommendation on page 42 of her**
14 **testimony that WMSI's employee training expenses for the 2009 test**
15 **year should be reduced by \$1,752?**

16 A. No. Employee training and continuing education is an important function
17 for WMSI. I have always insisted that our operators attend at least one
18 training session per year. This year, in August, Hank Garrett attended a
19 three-day training session in Jacksonville sponsored by the Florida Rural
20 Water Association. At this meeting, he accepted an award on behalf of
21 WMSI as a 20 year member of the association. The only reason Nita
22 Molsbee did not attend the annual convention and training session in 2007,
23 2008 and 2009 is that she could not leave the system for three days. Now

1 that Mr. Garrett is back as a second operator, either he or Ms. Molsbee
2 will attend this or some other training session every year. In fact, together
3 they are required to have at least 45 hours of training per year to keep their
4 DEP licenses. WMSI has already spent \$2,606 on continuing education in
5 the first eight months of 2010, as shown by the income statement attached
6 as Exhibit (GB-3) _____. This is already very close to the \$2,698 included
7 in the test year for 2009. I asked Ms. Molsbee and Ms. Chase to attend the
8 American Water Works Association (AWWA) training last year in San
9 Francisco, but both were too busy with WMSI responsibilities. Instead, I
10 attended and learned a great deal. Training and continuing education is
11 necessary and beneficial to the customers. We have promised training to
12 our newest employee, who just graduated from Apalachicola High School.
13 WMSI is responsible for this training for all of its operators, and this is a
14 reasonable and necessary expense that should be allowed.

15

16 **Q. In the first part of your testimony, you discussed your pursuit of a**
17 **wastewater certificate in 2009. Could you expand that discussion in**
18 **light of Ms. Ramas' comments on page 43 of her testimony that**
19 **WMSI's customers "should not be burdened with the costs associated**
20 **with Mr. Brown's decision to attempt to expand his operations into a**
21 **new area."**

22 A. First of all, this was not a personal decision by me to expand into any
23 "new area." This was a response by the utility to serve the needs of its

1 existing customers in its existing service area. A large group of our
2 commercial customers were being threatened with either temporary or
3 permanent closure of their businesses. Many commercial customers were
4 severely restricted in their water use. For example, the number of seats
5 allowed in several restaurants was cut back substantially by various orders
6 from the Department of Health. Some were totally closed by court order.
7 This was adversely and substantially reducing our water sales which
8 meant that our fixed costs would have to be passed along
9 disproportionately to our other customers whose rates would eventually
10 have to be increased because of a decrease in commercial water sales. We
11 had numerous requests for sewer service by our water customers. When
12 Franklin County asked WMSI and several other utility companies to make
13 formal presentations to the county commission about providing sewer
14 service to the island, I reasonably thought that sewer had to be provided in
15 the commercial area within a short period of time and that the water rates
16 for WMSI customers could remain the same or actually be lowered by
17 combining them with sewer rates. I was trying to avoid an increase in
18 water rates for all of our existing customers by providing them with sewer
19 service at a cost much less than would have to be charged by a competing
20 company. My thought was that central sewer to allow development and
21 increased water sales would also reduce the cost per gallon for each of our
22 existing customers. This was not a fantasy or pipedream. Four of the five
23 county commissioners personally told me they were in favor of central

1 sewer, at least in the central commercial area. Some of them later asked
2 me to slow things down for political reasons, but they still led me to
3 believe that we were working toward the same goal. I would not have
4 proceeded otherwise. The sewer application did not work out, and I have
5 now had to file this separate application for an increase in water rates.
6 This would not have been necessary if WMSI's plan to provide sewer
7 service had been successful. If WMSI had refused to respond to the
8 requests for sewer service by its commercial water customers, or refused
9 to respond to the formal request from the county government to make a
10 sewer presentation, I believe the company would have been criticized,
11 maybe even by members of the PSC, for failing to respond to the demands
12 of its water customers who also needed wastewater service. This sewer
13 endeavor was undertaken on behalf of WMSI water customers. It was a
14 reasonable and prudent decision designed to prevent an increase in water
15 rates, and it is fair and appropriate for those water customers to reimburse
16 the costs.

17

18 **Q. Would you please comment on the pro forma plant improvements**
19 **discussed at pages 44 to 48 of Ms. Ramas' testimony.**

20 A. WMSI and its lawyers and consultants have made it clear from the outset
21 that there is no attempt to have the PSC set rates based upon pro-forma
22 estimates. There is an attempt to reach a consensus as to what
23 improvements should be made and the conditions under which those

1 improvements should be engineered, bid and financed. To date, WMSI
2 has spent \$61,000 on evaluation and planning. It appears that the
3 improvements are reasonable and necessary, and that the only remaining
4 issue is whether the new ground storage tank should be built on the
5 existing site or a new site. After reviewing the testimony of OPC's
6 engineer, Andrew Woodcock, I asked PBS&J to reevaluate its alternatives
7 2 and 3 from its report. This revision, which is being filed with the
8 rebuttal testimony of Michael Scibelli, shows there is only a \$64,000
9 difference between the cost of a new tank on a new site and the cost of a
10 new tank on the old site. This \$64,000 is not worth the risk of a major
11 water outage on the island, not to mention the problematic issue of
12 whether a sufficient temporary site can be found for the temporary storage
13 and pumping facilities during demolition of the old tank and construction
14 of a new tank on the same site. Also, the storage and shop/work area that
15 WMSI will have when the old tank is converted is worth at least \$64,000
16 to WMSI because it is badly needed. However, WMSI will follow
17 whatever directive the PSC may give regarding these improvements.
18 Basically, the utility and its lender, Citizens State Bank, need a comfort
19 level that the cost of the improvements will be included in rates in a "true-
20 up" proceeding after final construction plans have been prepared and after
21 the bidding process has been completed according to the directions of the
22 PSC.

23

1 **Q. What is your reaction to the six page discussion of two backhoe**
2 **trailers on pages 48 through 53 of Ms. Ramas' testimony?**

3 A. Frankly, my reaction is mild indignation. Ms. Ramas starts in her first
4 sentence on page 48 by stating that some transactions between WMSI and
5 its affiliate, BMG "and even an outside party . . . are highly questionable,"
6 as if to imply that I have done something wrong. There is nothing wrong
7 with selling a used trailer that WMSI bought for \$7,007 to "an outside
8 party" for \$5,000 cash. I don't know who you sell something to if not "an
9 outside party." And, there is nothing wrong with selling another used
10 trailer to BMG for \$10,000 resulting in a \$6,000 gain to WMSI as shown
11 on form 4797 attached to WMSI's 2009 tax return, a copy of which is
12 attached as Exhibit (GB-2) _____. The only thing shown by the lengthy
13 discussion in Ms. Ramas' testimony is that WMSI needs more CPA level
14 accounting help to identify and track assets and to calculate depreciation
15 on those assets. These trailers were on St. George Island with two
16 different backhoes, and mistakes were made in properly identifying the
17 trailers. The record keeping was not perfect, but I will again explain the
18 substance of these trailer transactions. Around 2005, WMSI bought a
19 backhoe trailer for around \$7,000. I personally picked it up in west
20 Florida and took it to the island. I was later told that this trailer would not
21 handle our larger 410 backhoe, so I sold it for \$5,000 cash to "an outside
22 party," which was the only option available to get money for the trailer.
23 WMSI then bought a larger trailer for approximately \$16,000 which was

1 adequate to handle the 410 backhoe. I later determined that the trailer was
2 not being used because the WMSI field technicians preferred driving the
3 410 rather than hauling it by trailer. I brought the trailer to Tallahassee
4 and attempted to sell it. My attempts to sell the trailer were unsuccessful
5 so I took it to a dealer who sells trailers. He agreed to place the trailer on
6 his lot on consignment. After several months on his lot, he became
7 doubtful about being able to sell it. The dealer also sells storage sheds and
8 I thought we could possibly get more use out of a storage shed that could
9 house our files and records. With this in mind, I traded the trailer for a
10 storage shed that retailed for approximately \$7,900. I placed the storage
11 shed on real property owned by BMG, but it was never used for storage,
12 primarily because WMSI personnel did not have the time to move the
13 files. When BMG sold the real property on November 26, 2009, the buyer
14 asked that the shed be left on the property. I then gave WMSI's controller
15 a check for \$10,000 to compensate WMSI for the trailer which I had
16 traded for the shed. Until that time, I was unsure which company would
17 end up with the shed. I considered \$10,000 a fair price under the
18 circumstances. I had no knowledge that the full \$10,000 was booked
19 without proper calculation for the depreciation. Accordingly, I agree that
20 WMSI should not have booked any depreciation expense on the trailer
21 after it was traded for the storage shed inasmuch as the shed was never
22 used by WMSI. I requested that my CPA correct the journal entries and to
23 make sure the \$6,000 gain was included on WMSI's tax return for 2009.

1 There was never any intent to take advantage of WMSI or its rate payers.
2 My opinion is that \$5,000 was a fair, arms-length price for the first trailer,
3 and that \$10,000 was a fair price for the second trailer, even through the
4 transaction as shown by the WMSI 2009 tax return. If not, WMSI will
5 make any adjustments recommended by Ms. Ramas or the PSC.

6

7 **Q. Would you please respond to the issue of company vehicles as**
8 **reflected by pages 53 through 58 of Ms. Ramas' testimony.**

9 A. In my 35 years of managing WMSI, the company has always provided me
10 with a vehicle. The only exception was the early 90's when I was paid
11 through a management company that provided me with a vehicle. For the
12 past 15 years or so, the company has also provided Sandra Chase with a
13 vehicle. That was always done with Ms. Chase using her personal credit
14 to purchase the vehicle and then conveying title to WMSI through a bill of
15 sale. The company then depreciated the vehicles as a business expense.
16 Neither Ms. Chase nor I have ever been required to keep detailed travel
17 logs. The PSC mandated that WMSI keep detailed travel records for field
18 employees, which we have done, but this did not apply to vehicles driven
19 by management. However, Ms. Chase and I have kept records on the total
20 miles driven by each of us during the test year. Those miles are detailed
21 on page 2, form 4562 of the WMSI 2009 tax return attached as Exhibit
22 (GB-2) _____. On the vehicle driven by me, it shows a total of 22,068 miles
23 during 2009, with 50%, or 11,034 miles, for business travel on behalf of

1 WMSI. Round trip from the Tallahassee office to St. George Island is 160
2 miles, and I drive another 40 miles or so while I am there. So, one trip
3 per week accounts for 10,400 of those 11,034 miles, i.e., $52 \times 200 =$
4 10,400. That leaves 634 miles per year for other business use, which is an
5 average of less than two miles per day. I drive much more than two miles
6 per day taking care of WMSI business out of the office. I meet with
7 WMSI's bankers in Perry, Crawfordville and across town in Tallahassee.
8 I meet with contractors, vendors, accountants, lawyers, engineers, and
9 various agency personnel having jurisdiction over WMSI at various
10 locations in and out of Tallahassee. I can recall at least four trips to
11 Jacksonville, five or six trips to Panama City, one trip to Tampa, two trips
12 to St. Petersburg, one trip to Dothan, one trip to Pensacola, and trips to
13 Valdosta and Albany, and two overnight trips to Orlando, all working on
14 WMSI business. The 50% allocation to WMSI is a very favorable estimate
15 to WMSI's customers. Sandra Chase does not make as many trips to the
16 island as I do, but she drives daily on behalf for WMSI business including
17 trips to banks both in Tallahassee and out of town, office of our pension
18 plan administrator, office of our CPA, Ft. Knox storage unit, post office,
19 DEP, PSC, NFWFMD, Federal Express, UPS, office of our engineers,
20 office supply vendors, and various other vendors to pick up parts, supplies
21 and equipment for island. Most companies with the complexity and size
22 of WMSI provide vehicles for their President and Vice President, without
23 a full 50% allocation for personal use. Both Ms. Chase and I are available

1 at any time of the day or night to respond to a water company emergency.
2 There have been several instances when one of us has had to pick up a part
3 and deliver it to St. George Island on an emergency basis to prevent a
4 minor problem from developing into a major problem. It is reasonable for
5 the company to provide vehicles to respond in these situations. Both
6 vehicles have been made available for business use by other WMSI
7 employees. My vehicle has been used several times by other employees
8 for various needs. We will both be responsible for personal income taxes
9 on our 50% portion of the vehicle expense. It would not be fair or
10 reasonable for us to pay personally for 100% of the vehicle expense. Ms.
11 Chase's mileage records are also included on form 4562 of the WMSI tax
12 return. That shows that 50% is also a conservative estimate for her.
13 Certainly, the overall average is much greater than 50%.

14
15 **Q. What about the title to the vehicle driven by Ms. Chase?**

16 A. When WMSI began providing a vehicle for Ms. Chase many years ago, it
17 was on the condition that she purchase the vehicle on behalf of WMSI
18 using her credit, with WMSI making the payments and using the
19 depreciation on the vehicle. This has been the policy and procedure for
20 years, and it has never been challenged by anyone, including the CPAs
21 and others who have reviewed our books and records. In my opinion, a
22 bill of sale does convey title to personal property in Florida, and that is
23 what WMSI did with regard to the vehicle driven by Ms. Chase in the test

1 year. She will bear half of the costs and WMSI will bear half of the costs,
2 as shown by the tax return attached as Exhibit (GB-2) _____. That is fair,
3 reasonable and appropriate given the amount of travel that Sandra Chase
4 does on behalf of WMSI as explained earlier.

5

6 **Q. Do you agree with Ms. Ramas that WMSI's plant in service should be**
7 **reduced by \$100,000 as a result of the Scruggs transaction as**
8 **described on pages 59 through 61 of her testimony?**

9 A. Yes. That is the way it should have been handled originally on the WMSI
10 books.

11

12 **Q. Can you comment on the recommended adjustments to working**
13 **capital set forth at pages 62 through 63 of Ms. Ramas' testimony?**

14 A. A lot of that will depend on the PSC's decisions on related issues, such as
15 the wastewater application costs and the pension issue. I will leave this
16 for others to calculate.

17

18 **Q. Do you agree with her used and useful adjustment?**

19 A. No, but I will comment on that later when I am asked about the Andrew
20 Woodcock testimony.

21

22 **Q. Do you have comments about the cost of debt and rate of return issues**
23 **discussed on pages 64 through 69 of Ms. Ramas' testimony?**

1 A. First, with regard to Envision Credit loan on the 2007 Tahoe, we should
2 look at the substance of the transaction as reflected on the tax returns and
3 accounting records of both Ms. Chase and WMSI. The loan was signed
4 by Ms. Chase, but it was immediately assumed and has been paid 100%
5 by WMSI as agreed between the parties. This is similar to the dump truck
6 loan which was signed by WMSI but assumed by the buyer, Dorman
7 Brown, in Panama City, as discussed in my deposition. The title to that
8 vehicle is still officially in the name of WMSI. But it was removed from
9 WMSI's books for depreciation and other purposes, and the loan and
10 related debt service is not charged to WMSI rate payers. If the Bill of Sale
11 on the dump truck was adequate to transfer ownership away from WMSI,
12 why is the Bill of Sale on the 2007 Tahoe not adequate to transfer
13 ownership to WMSI? I do not believe the debt service on the loan on the
14 vehicle I drove during the test year should be disallowed. That vehicle
15 was not just "for the benefit of the President of WMSI" because I drove it
16 primarily for WMSI business purposes as I described earlier. The Gulf
17 State Bank loan is still in place. However, during the final "true up" phase
18 of this case, new debt costs will need to be calculated that will include
19 retirement of the Gulf State loan because Citizens State Bank will not
20 make a \$5,000,000 loan without a first mortgage and pledge of all of
21 WMSI's water revenue.

22

23

1 **Q. Does that conclude your testimony with regard to Ms. Ramas?**

2 A. Yes.

3

4 **Q. Did you review the corrected direct testimony filed by OPC witness**
5 **Andrew Woodcock?**

6 A. Yes, I did.

7

8 **Q. Do you have any comments on the testimony of Andrew Woodcock?**

9 A. Yes. I agree with most of his testimony, but I disagree with him about
10 used and useful.

11 The PSC has previously found everything to be used and useful
12 except the distribution lines in the plantation. Now, in light of the
13 legalization of wells in the plantation so that we do not have mandatory
14 hookups, and in light of the fact that the fire department and other
15 agencies are constantly pressing WMSI to provide fire flow and pressure
16 throughout the plantation, I do not believe it is fair or reasonable for any
17 of the distribution lines in the plantation to be considered non-used and
18 useful. All of these distribution lines are required to provide fire flow and
19 pressure to approximately 500 existing water customers in the plantation.
20 If WMSI is going to continue the installation of fire hydrants, pumps and
21 other fire protection improvements in the plantation, it is not reasonable to
22 disallow a return on any part of the distribution system, all of which must
23 be available in the event of a fire.

1 **Q. Does that conclude your testimony with regard to Andrew**
2 **Woodcock?**

3 A. Yes, it does.

4

5 **Q. Did you review the testimony of Debra Dobiac?**

6 A. Yes.

7

8 **Q. Do you have a response to the testimony of Debra Dobiac, including**
9 **the auditor's report attached to her testimony?**

10 A. Yes, I agree with most of her testimony, and I have the following
11 comments about the six audit findings:

12

13 Audit Finding No. 1: I disagree. I believe WMSI handled this correctly as
14 a reduction to plant. Maintenance of the supply main would have been
15 required in any event, so that is a proper expense item.

16

17 Audit Finding No. 2: I agree.

18

19 Audit Finding No. 3: I agree with the \$9,257 adjustment, and I agree that
20 the \$65,000 adjustment should be reconsidered. That \$65,000 payment
21 was paid to me and my affiliates (not the utility company) by the
22 homeowners as settlement of a lawsuit that did not involve the utility
23 company. It was then advanced by me to the utility company as an equity

1 transaction. There was never any expectation that I would ever be repaid
2 by the utility company. And there was never any thought or expectation
3 that this \$65,000 was a customer advance to be repaid someday to the
4 homeowners. It certainly was not CIAC, as the PSC previously
5 acknowledged. It does not meet the NARUC definition of a customer
6 advance. The only "advance" was from me as the primary owner, which
7 is an equity advance. That is the way it was handled on our books, on our
8 tax returns, and by the parties themselves, including the homeowners who
9 have never asked for reimbursement as they would if it had been an actual
10 customer advance, which makes reference to repayment. Accordingly,
11 this \$65,000 adjustment should not be made.

12

13 Audit Finding No. 4: I agree with the adjustment for unamortized debt
14 discount expense, but I disagree with the adjustment for the wastewater
15 certificate expense. That wastewater expense should be allowed for the
16 reasons I explained earlier.

17

18 Audit Finding No. 5: I have no opinion on this because I do not have any
19 detail on the \$12,000 in miscellaneous non-utility expenses. As soon as
20 Frank Seidman and I can review a list of these, I can give my opinion or
21 response.

22

1 Audit Finding No. 6: I would need to see the detail regarding the \$9,104
2 in transportation expense before I could state a position. We have
3 documentation for our transportation expense, and I do not know of
4 anything that was outside the test year.

5

6 **Q. Does this conclude your testimony with regard to Debra Dobiac?**

7 A. Yes, it does.

8

9 **Q. Have you reviewed the testimony of Angela Chelette, filed on behalf of**
10 **the NFWWMD?**

11 A. Yes, I have.

12

13 **Q. Did the District have anything to do with setting WMSI's block rates,**
14 **which provide a higher charge per gallon for water use over a certain**
15 **level?**

16 A. Yes, near the end of our limited proceeding before the PSC which was
17 nearing completion in 2005, the NFWWMD insisted that the PSC impose
18 block rates on WMSI and its customers. The PSC agreed over WMSI's
19 objection, and the final order in the limited proceeding in early 2006
20 imposed rates that were 50% higher for over 15,000 gallons per month.
21 Around this same time, our field personnel started reporting a large
22 number of shallow wells in St. George's Plantation, which were illegal
23 both under the state Development of Regional Impact order (DRI)

1 enforced by the Department of Community Affairs (DCA) under Chapter
2 380 of the Florida Statutes, as well as a Franklin County ordinance. Since
3 these wells had neither a consumptive use permit nor a well construction
4 permit, they were also illegal under state law as administered by the
5 NFWFMD which required both types of permits for all the “landscape”
6 wells in the Plantation. This was a serious issue for WMSI, both because
7 of lost revenue under the new block rates and because of the threat raised
8 for other customers who we have to protect under our cross-connection
9 control program. I then asked our engineer, Les Thomas, to look into the
10 matter and we had a couple of email exchanges with Ms. Chelette, copies
11 of which are attached as Exhibit (GB-6) _____. In her email, Ms. Chelette
12 asked if we could “provide an address where you know illegal wells have
13 been installed.” Ms. Chelette later sent an email to Mr. Thomas showing
14 that only about 15 wells on all of St. George Island had permits, and none
15 of those were in the Plantation. See Exhibit (GB-7) _____. Before I directed
16 WMSI personnel to spend more time documenting the illegal wells, I sent
17 an email to Ms. Chelette asking if such wells were going to be allowed so
18 that fact could “be communicated to the FPSC so they can factor that into
19 our rate structure.” That was in August, 2005, before the order setting the
20 block rates was entered in February, 2006. A copy of my email and the
21 response is attached as Exhibit (GB-8) _____. That was very important to
22 WMSI at the time because we were trying to convince the PSC staff not to
23 recommend block rates, and I wanted the staff to know if the District was

1 going to allow unlimited "landscape" wells that would greatly reduce our
2 revenue from the top block rates. During the period between the summer
3 of 2005 and the summer of 2007, WMSI began finding more and more
4 shallow wells. We stopped several well drillers by reporting them to the
5 District.

6 In August, 2007, after the block rates were imposed, WMSI's
7 manager sent a letter to the NFWWMD with a list of 95 illegal wells in the
8 Plantation. That letter is attached as Exhibit (GB-9) ____, together with a
9 letter showing that Franklin County had never issued any well permits in
10 the Plantation as required by law.

11 After the attention and pressure imposed by WMSI, NFWWMD
12 personnel came to the island and documented almost 200 wells, most of
13 which were illegal because they did not have the proper permits. See
14 Exhibit (GB-10) ____, which shows the exact location of the wells and the
15 fact that they were being installed for as little as \$75. WMSI has been told
16 by a local well driller that the going rate now is \$100. That price certainly
17 does not include any permitting, which is hardly ever done.

18 In 2008, after WMSI could not get any relief or enforcement of the
19 law by talking and corresponding with the District, we filed an
20 administrative challenge to two well permit applications in the Plantation.
21 See Exhibit (GB-11) ____. By that time, we had directed so much attention
22 and pressure on the issue that water customers in the Plantation had to

1 seek permits, unlike the 100 or so water customers in the Plantation who
2 had already drilled wells without permits.

3 Rather than go through the administrative hearing and fact finding
4 process which would have exposed the environmental damage to the Bay
5 and the economic damage to WMSI caused by shallow wells, the District
6 filed a special direct action in the First District Court of Appeal which
7 resulted in an order giving the NFWMD sole jurisdiction over wells in
8 the Plantation. The District then issued the two permits in question and
9 began working on a rule change to legalize shallow wells all over St.
10 George Island with no consumptive use permit, as previously required for
11 all “landscape” wells anywhere on the island, all with no notice to WMSI.
12 To get around section 120.54(3)(b)2.a of the Florida Statutes, which
13 requires the District to consider the impact to its rules on “small
14 businesses” such as WMSI, the District certified that because “no negative
15 impact is anticipated, rule adoption will proceed as outlined in the notice.”
16 See Exhibit (GB-12) _____. WMSI had been “screaming” to the District for
17 four years about the impact these shallow wells were having on the utility.
18 How could they certify that the rule would have no impact on WMSI as a
19 small business? The District had just paid a large sum of money for a
20 special engineering report three months earlier which concluded that
21 shallow wells on St. George Island would pump nearly 390,000 gallons of
22 water per day, which would “save” that amount from the Floridian Aquifer
23 from which WMSI would otherwise be pumping. See Exhibit (GB-13)

1 _____. The District knows that every gallon not pumped from the Floridian
2 Aquifer is a gallon that WMSI does not sell. (WMSI Daily Loss =
3 390,000 gallons x \$4.91/per thousand = \$1,914.90 PER DAY). Again,
4 how could they certify no economic impact to WMSI as a “small
5 business” 3 months after reading that report?

6

7 **Q. Does this new rule that took effect in January of 2010 apply only to**
8 **non-potable wells?**

9 A. No, the rule amendment clearly applies to all “non-public” wells on St.
10 George Island, not “non-potable” wells. See Rule 40A-2.051(6), F.A.C.,
11 in Exhibit (GB-14) _____. Accordingly, as of now, anyone can install a well
12 for “domestic water use” or any other use that is not open to the general
13 public so long as the well does not draw more than an average of 15,000
14 gallons per day and is not more than 4 inches in diameter. See Rule 40A-
15 2.051(1), Exhibit (GB-14) _____. There is no way for WMSI to distinguish
16 between “potable” and non-potable” wells on St. George Island without a
17 detailed plumbing investigation inside and outside. Neither requires the
18 homeowner to obtain any type of permit from the NFWWMD nor to
19 notify WMSI. WMSI continues to find shallow wells as part of its cross-
20 connection control, but they are hard to find because customers still try to
21 hide them. As of now, WMSI knows of 324 wells at our service locations
22 as shown by Exhibit (GB-15) _____. In addition, WMSI has identified
23 approximately 35 shallow wells at occupied structures that do not use

1 WMSI water. To overcome the perception that wells are not allowed on
2 St. George Island, and to “encourage” the installation of such wells, the
3 District started issuing press releases resulting in articles such as the one
4 attached as Exhibit (GB-16) _____. The District pointed out that the new
5 rule “will eliminate the hassle of water use permitting” and will mean that
6 “people don’t have to come in and go through that big process.” The press
7 release and the article stated that the new rule “eliminates some of the
8 problems that surfaced during recent inspections by the Florida
9 Department of Health which found irrigation wells were dug too close to
10 septic tanks” and that “homeowners who had failed to secure individual
11 water use permits will now be in compliance with that legal requirement.”
12 In other words, the environmental hazards and the hundreds of violations
13 of the law have now all been solved with one simple rule change. The
14 wells and septic tanks are still too close to each other, and now new wells
15 are being “encouraged” with no notice to anyone and with no control over
16 how close they are placed to over 1800 septic tanks on the island, many of
17 which are on 25 foot lots. Even if the well installer should get a
18 construction permit, which most do not, that is a “notice” type of permit
19 with no check as to how close they may be to a septic tank. As a matter of
20 mathematics and geography, it is simply not possible for all these
21 hundreds of wells and septic tanks in the 25 foot lot commercial area to be
22 at least 75 feet from each other. In fact, WMSI knows of numerous
23 violations of the 75 foot separation rule. This new rule may have solved

1 the big “hassle” of going through “that big process” for the NFWFMD.
2 But it has created tremendous economic and environmental problems for
3 WMSI. In addition to lost revenue, the rule means that WMSI customers
4 no longer have to provide any notice or get any type of permit to drill any
5 type of shallow well on St. George Island. They can get “a guy from
6 Eastpoint” to put in a well for \$75-\$100, as documented by my answers to
7 interrogatories filed earlier in this case. Nevertheless, WMSI is still
8 required to guard the health and safety of its customers by somehow
9 finding all the wells and requiring the installation of a cross-connection
10 control device. Wells are the most serious source of cross-connection
11 hazards and lack of a back-flow preventor can cause serious illness and
12 death. This legalization of existing wells and deregulation of the
13 permitting process will require the expansion of our cross-connection
14 program, including the hiring of one more field technician to police over
15 1800 service locations on a constant basis. That cost has not even been
16 factored into our MFRs in this case. However, the Commission should
17 make an allowance in this case, so that WMSI can expand its cross-
18 connection program.

19

20 **Q. Do you have anything to add before concluding your testimony?**

21 A. Yes, I would like to again emphasize that this case was filed primarily
22 because WMSI is losing revenue every year. Our revenue is simply not
23 adequate to cover our ordinary and reasonable expenses.

1 **Q. Does that conclude your testimony?**

2 A. Yes.

1 **BY MS. SCOLES:**

2 Q. And, Mr. Brown, did you have any exhibits
3 associated with your rebuttal testimony?

4 A. I did. There are about 16 of them attached.

5 **MS. SCOLES:** I would note that those are
6 identified on Staff's Comprehensive Exhibit List as
7 Numbers 50 through 65.

8 **COMMISSIONER SKOP:** And those have been
9 previously marked.

10 **BY MS. SCOLES:**

11 Q. Mr. Brown, have you prepared a summary of your
12 prefiled rebuttal testimony?

13 A. I have.

14 Q. Would you please provide that summary to the
15 parties and the Commissioners at this time?

16 A. Okay. My rebuttal testimony addresses
17 portions of the direct testimony of Public Counsel
18 Witness Ramas and Woodcock as well as Commission staff
19 Witnesses Dobiac and Chelette.

20 I have managed this utility company for over
21 35 years through good times and bad. The utility did
22 fine for many years, but we began facing increasing
23 challenges when it was forced to build a new supply main
24 in late 2000. Beginning in 2006, which was the year our
25 rates were last set by the Public Service Commission,

1 the company's water sales and revenue began dropping
2 steadily every year since that order was entered in, I
3 think, February of 2006, which was about the time we
4 finished the water main project which took from late
5 2000 until basically 2005.

6 These decreases were due in part to an
7 increase in the number of shallow wells, which had a
8 disproportionate impact because of the block rates
9 imposed in the 2006 PSC order, and a loss of commercial
10 sales due to restrictions imposed by the state and local
11 Departments of Health here in Franklin County. Since
12 then, water sales and revenues have continued to drop;
13 2009 was worse than 2008, and 2010 will be much worse
14 than 2009.

15 The Office of Public Counsel witness, Ms.
16 Ramas, expresses concern with my management, stating
17 that I, quote, took out \$131,038 more than I put in the
18 water company during the test year. But a look at the
19 real numbers of the 2009 test year shows that this is
20 simply false and misleading. To hit her numbers, Ms.
21 Ramas had to include all of my salary from the payroll
22 account and all the rent from the rent account. And,
23 again, I consider that to be false and misleading if you
24 are trying to say money taken out.

25 In fact, when you take out those amounts,

1 which have been earned and which are part of the MFRs,
2 their numbers show that I put more into the company
3 during the 2000 test year than I took out. And when you
4 look at just the numbers for the first eight months of
5 this year, they show that I have already contributed
6 more than \$150,000. In fact, now it's October, it's
7 much more than I have withdrawn.

8 And I use the term contributed on purpose,
9 because this along with a lot of other money is money
10 that can never be recovered through rates. This
11 \$150,000 contribution by me is almost as much as the
12 additional losses for the first eight months of '10
13 compared with the first eight months of 2009. In the
14 first eight months of 2009, the company lost \$107,935 as
15 compared with a loss of \$266,302 during the first eight
16 months of this year, an increase in losses to date of
17 \$158,366.

18 And now I want to emphasize, I think, the most
19 important point that I see in sitting here for two days
20 listening to this, and that is that customer rates have
21 not been used for any investment in any associated
22 company, and that's an important point and it's one that
23 seems lost on most people. And just a little personal
24 aside, I'd kind of like to know where I'd go -- if that
25 turns out to be true, even if they convince the three of

1 you and the staff, where would I go to get my reputation
2 back when Public Counsel has sat here and told all our
3 witnesses and met with them earlier in the week and told
4 them this? I mean, the takeaway will be that, well,
5 Gene Brown took out a million two, and that's why we
6 have got an increase in rates. That is going to be the
7 takeaway from this case, no matter what.

8 But be that as it may, let me just continue.
9 Almost all of these funds were used to pay the debt
10 service on loans that were used to pay debts of the
11 utility. In other words, the account examined by Ms.
12 Ramas shows an accounting of funds which were used
13 primarily to pay the debt service on loans incurred by
14 Brown Management Group and me personally to obtain funds
15 to keep the company in operation during the past six or
16 seven years after the state demolished the supply main
17 through no fault of ours. We were just sitting there
18 when they walked in the office and said we're tearing
19 your line down.

20 The demolition of this supply main cost Water
21 Management Services over \$7 million, and only a part of
22 that is being recovered through rates from our
23 customers. And loans obtained by Brown Management Group
24 or me were the only way the utility has survived while
25 losing over a million dollars since the order was

1 entered in 2006.

2 As I think I mentioned before, according to
3 our federal tax returns, which I think are accurate,
4 nobody has contested it, we lost \$1,144,410 during this
5 period of time. And the annual reports on file with the
6 Commission, which we file every year, for the same
7 period show a consistent pattern of underearning which
8 has resulted in substantial cash losses that can never
9 be returned.

10 In other words, the money collected from
11 customers was not even adequate during this period of
12 time to cover the basic O&M expenses and other costs
13 approved by this Commission, such as a return of a set
14 rate on our rate base. It has never been adequate to
15 cover even that, and we can get into that later as to
16 the numbers.

17 So, in other words, there was never any extra
18 cash to take and there was none taken. It was always a
19 deficit, and it just becomes a big circle of debt,
20 actually, and you can't make it up, or I don't know how
21 we can. Ms. Ramas' testimony also implies that I am
22 personally benefiting by improper transactions with the
23 utility, over and over citing a backhoe trailer and
24 other assets that were sold since the last rate case.
25 But I would point out that these transactions all

1 involved bookkeeper and journal entry type problems,
2 primarily due to dealing with depreciation and such, and
3 there has never been any failure on the utility's part
4 to disclose any transaction. Indeed, our general ledger
5 tracks every dollar with full descriptions and great
6 detail -- sometimes more than I have ever seen on a
7 general ledger -- for every transaction that has
8 occurred since our rates were last set.

9 These journal entries only go to show that we
10 need more help at the CPA level to get every entry
11 letter perfect like Accounting 101. They do not show
12 any attempt to take advantage of this utility company or
13 to fail to disclose anything. In fact, everything that
14 has been brought out here has been because my in-house
15 bookkeeper has even put things in that are not even part
16 of Water Management Services.

17 But in light of these challenges of the
18 utility losing money, one might ask why Water Management
19 Services waited until this year to file an application
20 for rate relief. The answer is that Water Management
21 Services started putting together numbers in late 2008
22 and early 2009 for a water rate case. At about the same
23 time we started getting a large number of requests and
24 almost demands from our commercial customers, primarily,
25 for sewer service from these customers who were being

1 threatened with the closure of their businesses. In
2 fact, several restaurants had to drastically cut back
3 their number of seats, and at least one was closed by
4 the order of the Franklin County Circuit Court for lack
5 of proper sewer service.

6 At about this same time, the Franklin County
7 Commission formally asked in writing and in personal
8 contacts -- asked Water Management Services and two
9 other utility companies to make formal presentations of
10 specific plans to furnish sewer to the island. Based on
11 all of this, we decided to delay filing a water rate
12 case, and instead last year we filed an application with
13 this Commission to provide sewer to this dense
14 commercial part of the island, which Mike Scibelli just
15 pointed out is mathematically and geographically
16 impossible to operate under the law with a 75-foot rule
17 without sewer, and so we thought that it was inevitable.

18 This was designed to avoid having to ask for
19 an increase in water rates. We believe that sewer would
20 increase water sales and water revenues substantially
21 and that we could avoid an increase in water rates by
22 having a combined water and sewer rate structure. This
23 effort took almost all of 2009, but our PSC application
24 was withdrawn in December of last year after the
25 Franklin County Commission decided they did not want

1 sewer on St. George Island after all.

2 This utility company has been serving water to
3 St. George Island over 35 years. During that time we
4 have only asked for two rate increases in those 35
5 years, one in 1989 and one in 1994, over 15 years ago.
6 The limited proceeding in 2006 was not of our choosing.
7 It was just a pass-through to cover part -- and I
8 emphasize part of the cost of the new supply main that
9 we had to put in because the state and federal
10 government decided to tear down the bridge and tear our
11 line out. It cost \$7,009,000, and only part of that was
12 recovered. So that action, which was a great shock to
13 us, has put the utility company in a downward spiral
14 since then.

15 We have a dedicated staff of long-term
16 employees who provide a high level of service 24 hours a
17 day, 365 days a year. I don't think there is any issue
18 of that after you have seen the testimony here. But to
19 continue this level, very high level of service, we need
20 a substantial rate increase as shown by the MFRs filed
21 in this case. We need vehicles. We need gas for
22 vehicles. We need to pay competitive salaries with good
23 benefits, including pension benefits for employees who
24 spend their entire careers with this utility company, as
25 many of us have. We also need the capital improvements

1 recommended by our engineers, PBS&J. All of this is
2 explained in some detail in my full testimony and in the
3 testimony of our other witnesses, Frank Seidman, Mike
4 Scibelli, and Barbara Withers.

5 This concludes my testimony, and I encourage
6 any of you to ask any questions you have regarding
7 anything involved in this case.

8 **MS. SCOLES:** Mr. Chairman, Water Management
9 Services tenders Mr. Brown for cross-examination.

10 **COMMISSIONER SKOP:** Thank you, Ms. Scoles.

11 Mr. McGlothlin, you're recognized for
12 cross-examination.

13 **CROSS EXAMINATION**

14 **BY MR. MCGLOTHLIN:**

15 **Q.** Mr. Brown, I have only a few questions for
16 you.

17 **A.** Well, that's good.

18 **Q.** Yes. With respect to the portion of your
19 rebuttal in which you described money moving from the
20 utility to Brown Management and from Brown Management
21 back to the utility, and focusing for a moment on 2009.

22 **A.** Okay.

23 **Q.** First of all, with respect to various loans,
24 is it true that over time Water Management Services,
25 Inc. has loaned money to Brown Management?

1 **A.** Yes.

2 **Q.** And is it true that during 2009, Brown
3 Management Group paid the utility some \$50,000 towards
4 reducing the principal of a loan from the utility to
5 Brown Management?

6 **A.** Paid \$50,000 of what?

7 **Q.** On the principal of the loan.

8 **A.** I have some numbers that I attached as Exhibit
9 1 that shows the in and out during the test year of
10 2009, as well as '08, and to date in '10, and the
11 exhibit shows that Brown Management put more money in,
12 that is we advanced more to Water Management than Water
13 Management advanced to us. So I'm not sure I understand
14 your question. The money goes both ways, that's what
15 this account is.

16 **Q.** I understand that. But for clarification, in
17 terms of the money that was put back into the utility in
18 2009, did that amount include loan repayment?

19 **A.** No, unless you consider -- I mean, the whole
20 thing is a -- we track it, an advance, going both ways,
21 kind of like a big tee (phonetic) account in the sky.

22 **Q.** Was there at one point a note payable issued
23 by the utility in the form of a loan to Brown
24 Management?

25 **A.** Brown Management bought the upstairs of the

1 unit over there for \$200,000, paid \$100,000 and had a
2 \$100,000 note. At the end of '09 there was still part
3 of that note shown on the books, and that has been paid
4 in full now, but there was money still owing at the end
5 of '09.

6 Q. Yes, sir. And that loan from the utility to
7 Brown Management was paid back to the utility in '09 and
8 part of 2010, correct?

9 A. That is my understanding, yes, sir.

10 Q. And those amounts of repayment would be
11 incorporated in the overall amount that you said was put
12 back into the utility, correct?

13 A. No, I don't think so. No, that's not correct.
14 I think that is tracked separately, I believe, and I
15 could be wrong. I think that's a separate accounting,
16 but I could be wrong. I'm not an accountant. I have
17 been to the school of hard knocks in accounting, and I
18 have learned a little bit about it, but I'm not an
19 accountant by nature.

20 MR. McGLOTHLIN: Could I have a moment to
21 confer, sir?

22 COMMISSIONER SKOP: You may. Why don't we
23 take a brief break at this point of five minutes.

24 MR. McGLOTHLIN: I appreciate it.

25 COMMISSIONER SKOP: Thank you.

1 (Recess.)

2 **COMMISSIONER SKOP:** At this point we are going
3 to go back on the record. And, Mr. McGlothlin, you were
4 proceeding with your cross-examination of Witness Brown.
5 You may proceed.

6 **MR. MCGLOTHLIN:** Yes, thank you. As you could
7 probably determine, we were a bit surprised by that last
8 answer, which we think is in error. But we have also
9 satisfied ourselves during the break that the ledger
10 sheets that would either prove or disprove the point are
11 in the record, and rather than pull those out and go
12 through some tedious walk-throughs, we will refer to
13 those and, if warranted, cite them in our brief. And
14 with that, I have concluded my questions.

15 **COMMISSIONER SKOP:** All right. Very well.
16 Thank you.

17 Staff, you're recognized.

18 **MR. SAYLER:** Thank you, Commissioner. We do
19 have some cross, and I will try to make it as
20 expeditious as possible, but we do need to complete the
21 record with regard to some of the items that staff has
22 cross for.

23 **CROSS EXAMINATION**

24 **BY MR. SAYLER:**

25 **Q.** First off, Mr. Brown, do you have a copy of

1 Staff Interrogatory Number -- from the fifth set,
2 Interrogatory Number 86, do you have a copy of it?

3 **A.** I don't personally have it, no, I don't.

4 **Q.** All right. Well, with apologies, I don't have
5 a copy of it to hand out. However, if you may, with the
6 Chairman's permission I'll read it. The question was
7 sale or transfer of utility owned assets, please refer
8 to the utility's response to OPC Interrogatory Number 8.
9 For the assets sold, please supply the net gain
10 calculation for each asset. As part of this response,
11 please include the total proceeds from each sale, the
12 book basis for each item sold, any selling costs
13 associated with the sale of the asset, and any
14 applicable taxes paid by the utility associated with
15 each sale.

16 To skip to the chase, the utility's response
17 was WMSI is working with a certified public accountant
18 to make the requested calculations and prepare a chart
19 to provide this information, which will be produced as
20 soon as it is available. To this date, staff is not
21 aware of whether or not it has been produced, and so as
22 such staff would like to ask for a late-filed exhibit.

23 **A.** Yes, that's agreeable. We will do that.

24 **Q.** Okay. So we will just entitle this
25 Supplemental to Staff Interrogatory Number 86.

1 **COMMISSIONER SKOP:** All right. Hold on, Mr.
2 Sayler. So this is going to be an additional late-filed
3 in addition to the previous one that was discussed on --
4 you brought up one previously. There are two
5 outstanding exhibits that have not been admitted into
6 evidence yet, and that is Exhibit 78, which I believe
7 was an OPC requested late-filed, and Exhibit 80, which
8 was a staff requested disallowed investment in plant
9 late-filed. And am I correct in stating that the
10 late-filed that you now seek to have marked for
11 identification is a new exhibit?

12 **MR. SAYLER:** Yes, sir.

13 **COMMISSIONER SKOP:** Okay. That will be
14 Exhibit Number 84. And a brief description again?

15 **MR. SAYLER:** Supplemental Response to Staff
16 Interrogatory 86.

17 **COMMISSIONER SKOP:** Okay. Thank you.

18 (Late-filed Exhibit Number 84 marked for
19 identification.)

20 **BY MR. SAYLER:**

21 **Q.** Thank you, Mr. Brown.

22 **A.** Thank you.

23 **Q.** In the interest of trying to move through this
24 as expeditiously as possible, would you be able to agree
25 with me to just answer yes, no, I don't know, and if you

1 feel that you need to add an explanation or a
2 clarification just, yes, no, I don't know, and then feel
3 free to add your explanation or clarification?

4 **A.** Thank you.

5 **Q.** The first question, and I have heard anecdotal
6 evidence or discussions about some things, but my
7 question is about Ms. Sandra Chase, your Vice-President.
8 Is she related to you?

9 **A.** No.

10 **Q.** Is she a relative of your wife?

11 **A.** No.

12 **Q.** By marriage or any manner whatsoever, not a
13 cousin or anything of that nature?

14 **A.** Nothing like that.

15 **Q.** Okay. I just wanted to clear that up. I had
16 heard something, and I just wanted to make sure.

17 **A.** Well, we have heard testimony about rumor has
18 it in this proceeding. I would love to get back to the
19 merits and the rate structure.

20 **Q.** Okay. I have just a demonstrative exhibit to
21 hand out. It was actually handed out previously to
22 Witness Scibelli, but I will see if you can be handed
23 this response. It was entitled payment schedule and
24 addendum to the original engineering services contract.

25 **MR. SAYLER:** Commissioners, do you need

1 another copy?

2 **COMMISSIONER SKOP:** No. It has previously
3 been marked or an excerpt from something in evidence?

4 **MR. SAYLER:** Yes, sir.

5 **COMMISSIONER SKOP:** Okay. Very well.

6 **BY MR. SAYLER:**

7 **Q.** Would you take a moment to familiarize
8 yourself with that?

9 **A.** Okay.

10 **Q.** And would you agree that the first page is the
11 payment schedule from the original August 7th contract,
12 is that correct?

13 **A.** It looks like it, yes, sir.

14 **Q.** All right. And the next two pages are the
15 addendum which the utility signed on September 30th,
16 2009, is that correct?

17 **A.** Okay.

18 **Q.** And it was my understanding from testimony
19 earlier today from Mr. Scibelli that this addendum was
20 signed because PBS&J was providing quote, lots of free
21 engineering work to WMSI, or words to that effect, is
22 that correct?

23 **A.** I don't think I have said that PBS&J was
24 providing any -- they haven't done anything free that I
25 know of. I did say that Les Thomas was paid \$722,000 in

1 connection with the bridge pipeline. And when we had
2 some problems with that, he continued working for us
3 doing all nature of engineering through -- actually
4 through early this year for free. Maybe he thought he
5 had been paid enough.

6 Q. Excuse me, was this Les Thomas?

7 A. Les Thomas. And the confusion may be that
8 during all or part of that time he was working for
9 PBS&J, but he continued to work off the clock, or work
10 for us. Nita, Hank, I could call him and he did work.
11 He did our CADD map, he did a lot of stuff for free.

12 Q. While he was in the employ of PBS&J?

13 A. Yeap, and since then. He is not employed
14 there anymore, I found out when I talked to him last
15 week, but he was employed there last year and I think
16 the year before.

17 Q. Okay. So what were the circumstances that
18 gave rise to the signing of this addendum agreement with
19 PBS&J for engineering services?

20 A. It became clear that he was living in Idaho
21 and Northern Georgia and driving back to Atlanta, and it
22 just wasn't practical for him to -- plus, he had about
23 run out what he would do. It wasn't in the books for
24 him to do that anymore for free.

25 Q. All right. But earlier today you were in the

1 room when Mr. Scibelli was testifying on behalf of the
2 utility, is that correct?

3 A. Yes, I was.

4 Q. And do you recall hearing him say words to the
5 effect that the purpose of this addendum was because
6 PBS&J was providing free engineering services, they
7 wanted to sign this addendum. Do you recall that?

8 A. I didn't understand it that way. My
9 understanding was that he said he was doing work for us
10 that should be billed separately. I mean, we had a
11 \$61,000 contract to do this overall evaluation, but in
12 dealing with them we kept asking for things we needed.
13 And if he said it was free, I'm not sure that's what he
14 meant. I think they track their time pretty strictly.

15 Q. All right. Well, the record will --

16 A. But he didn't want to provide any free, I
17 think that is what I got out of it, he wanted to have a
18 separate contract so he could track it and bill it.

19 Q. Fair enough. The record will speak for
20 itself.

21 A. Okay.

22 Q. But going forward, would you agree that this
23 addendum was signed so that PBS&J would formally provide
24 professional services, including advice, consultation,
25 assistance in dealing with the day-to-day operation of

1 the utility, is that correct?

2 A. That is absolutely correct.

3 Q. All right. So this agreement, PBS&J was
4 retained by the utility to provide that available
5 engineering consulting on an as-needed basis, is that
6 correct?

7 A. That's correct.

8 Q. And according to the terms of the addendum, if
9 you look at Paragraph 1, the last sentence, starting
10 with the word however. "However, these services will
11 only be provided if WMSI is current on the payment
12 schedule set forth in the August 7th, 2009, agreement,
13 and that the retainer provided in Paragraph 2 below is
14 paid each month as required." Is that correct?

15 A. Yes, sir.

16 Q. All right. And earlier, I believe, Mr.
17 Scibelli testified that at the time that -- or at least
18 maybe not the time this agreement addendum was signed,
19 but as of -- if you look at the payment schedule on the
20 first page, July 7th, that WMSI was behind in its
21 payments, is that correct?

22 A. Yes.

23 Q. And pursuant to the terms of the addendum, it
24 says that these services will only be provided if the
25 utility is current, is that correct?

1 **A.** Where are you reading?

2 **Q.** Right after Paragraph 1, last sentence,
3 however, quote, these services will only be provided if
4 WMSI is current on the payment schedule as set forth in
5 the August 7th agreement to which I have attached as
6 Page 1 of the handout.

7 **A.** Yes, that's correct.

8 **Q.** All right. With this addendum, or in the
9 engineering services contract, was there a set term of
10 years established between PBS&J and the utility for
11 providing engineering services?

12 **A.** No. I think the understanding is we will need
13 these services on an ongoing basis, and they can cancel
14 it, or I can cancel it, but the mutual assumption is
15 that we would need this type of services indefinitely.

16 **Q.** All right. So pursuant to the terms of the
17 agreement that is signed and in the record, PBS&J or the
18 utility could terminate this agreement, is that correct,
19 pursuant to the terms?

20 **A.** Yes, and that's our understanding. I mean, if
21 you can't get along with engineers and they can't get
22 along with you, you can't do business.

23 **Q.** All right. Now, let me ask you this: With
24 regard to that payment schedule, has the utility had any
25 difficulty satisfying the provisions of this payment

1 schedule?

2 **A.** Yes, sir, we have.

3 **Q.** And with regard to the addendum, Paragraph 2
4 where it says there is -- beginning August 7th, 2010,
5 continuing on each month while this agreement is in
6 effect, WMSI will pay PBS&J a \$4,000 retainer. Do you
7 see that?

8 **A.** Yes, sir.

9 **Q.** Is that a monthly retainer?

10 **A.** Yes, sir.

11 **Q.** All right. And would you characterize the
12 retainer agreement, that \$4,000 amount being the floor,
13 the minimum that WMSI would have to pay PBS&J?

14 **A.** No, it's an estimate. It's an estimate
15 subject to year-end billing. It would be a credit
16 either way. I heard Mike Scibelli say that for that
17 4,000 a month we can't accomplish everything in my
18 letter to him, but our assumption is, our belief is that
19 once we get some of these, like the water modeling, the
20 CADD program, and all these other things, once we get
21 that leveled out -- he said you have to make priorities,
22 that is true, but once it is leveled out, I think on an
23 ongoing basis we can do the job with that 4,000 a month.
24 If it runs more, we owe more; if it runs less, we get a
25 credit.

1 **Q.** Okay. Earlier was handed out a copy of GB-4,
2 which is attached to your testimony. Do you have a copy
3 of that or have that available?

4 **A.** That's the letter, the memo to Mike Scibelli?

5 **Q.** Yes, sir.

6 **A.** Yes, sir, I have that.

7 **MR. SAYLER:** Does anybody need copies of that,
8 Commissioner?

9 **COMMISSIONER SKOP:** I think I have it. Thank
10 you.

11 **BY MR. SAYLER:**

12 **Q.** Would you please explain the circumstances
13 which prompted the utility to send Mr. Scibelli this
14 memo?

15 **A.** I wanted to have a clear understanding with
16 him, and we talked about it when we signed this
17 agreement back in '09, that we would get together and
18 talk about the specific services. Also, there was
19 beginning to develop a lot of confusion about whether we
20 needed this type service, and I wanted to get it in my
21 mind and on paper. So I got with Hank and Nita and
22 asked them to send me a list of their needs, and I knew
23 about some things, and I just sat down one day and I
24 dictated that for the benefit of everybody.

25 **Q.** And for the benefit of all -- there was a list

1 of 25 items, is that correct?

2 **A.** I stopped at 25.

3 **Q.** Okay. Would you characterize this memo as a
4 potential change in the arrangement between -- or like a
5 modification of the addendum, an extension to the
6 agreement?

7 **A.** No, it is just -- I don't know if the
8 agreement, the written agreement said that we would have
9 such a schedule, but I do remember specifically
10 discussing it, that we would have to get together and
11 prioritize and talk about the services. I mean, he
12 couldn't just start working under this agreement. He
13 has got to have direction, and we have to have a mutual
14 agreement as to the priorities.

15 **Q.** Understandable. Since mailing of this or
16 since providing this letter or memo to PBS&J, has there
17 been a subsequent modification of the addendum or any
18 formal documents?

19 **A.** No, sir. This is it.

20 **Q.** According to your letter, the first paragraph,
21 you indicate that there would be a sit-down to discuss
22 the priority list. Has a priority list been, in fact,
23 established?

24 **A.** I hand delivered this memo to him along with a
25 letter from the water management district laying out the

1 fact that our consumptive use permit was coming up next
2 year and it had some priority items, some deadlines that
3 had to be met. One of them, I think, was August 31st,
4 and then there were some others later this year and
5 early next year. And I took him that letter. I took
6 him memo. We discussed that. We discussed the water
7 modeling and the fact that the fire department here on
8 the Island was demanding that we put in, or requesting
9 strongly we put in a pumping station. They wanted us to
10 put it down at the airport, and we talked about the need
11 for hydraulic modeling in order to know where it should
12 go. So we met for over an hour about this.

13 Q. All right. But has a formal list of
14 priorities been established?

15 A. No.

16 Q. Okay. Now, with regard to this list of 25
17 services you're requesting PBS&J to provide, were any of
18 these services previously provided by utility personnel,
19 whether it be Mr. Les Thomas, or Hank, or Nita, or any
20 of your fine veteran staff?

21 A. Hank and Nita and I have had to deal with all
22 or most of these items in one way or another. And Les
23 Thomas, who was never an employee of the utility, has
24 helped us for the last ten years or so with these type
25 items.

1 **Q.** Subject to check, would you -- did Mr. Les
2 Thomas ever work for one of your related affiliates or
3 one of your other companies?

4 **A.** I don't remember him ever working for any
5 other -- I hate to say absolutely not. Nothing comes to
6 mind right now.

7 **Q.** Subject to check, in Staff Interrogatory
8 Response Number 24 it mentions Les Thomas having worked
9 for both WMSI and a related company. Was that as a
10 consultant or as an employee?

11 **A.** It definitely was not as an employee, and if
12 we answered it that way, he must have done something for
13 some affiliate at some point, but I can't believe it was
14 very significant. I can't remember what it was right
15 now.

16 **Q.** All right. Would it be fair to say that many
17 of these services that you are requesting help for from
18 PBS&J are things that the utility could provide for
19 itself?

20 **A.** Could provide for itself?

21 **Q.** With its current personnel?

22 **A.** Well, we have been doing the job. Some of it
23 has been trial and error, seat of our pants, do the best
24 we can, but we feel like we need professional help in a
25 lot of these areas. None of us are engineers, none of

1 us have any engineering experience or background.

2 Q. Thank you. Changing to a new line of
3 questioning. If you will turn to the last two pages of
4 the memorandum, Pages 6 and 7. And I'll just try to
5 touch on these quickly, and hopefully yes/no answers or
6 I don't know would be helpful.

7 A. Okay.

8 Q. In the last three paragraphs it appears that
9 you are discussing several things, one of them being
10 asking for engineering help with the rate case, is that
11 correct?

12 A. Yes.

13 Q. And as we know, Mr. Scibelli has provided
14 rebuttal testimony in this rate case?

15 A. Right.

16 Q. On a side note, has the utility had difficulty
17 paying rate case consultants in the past for their
18 services?

19 A. We have had problems paying all consultants
20 from time to time. We don't have enough cash to operate
21 properly.

22 Q. Thank you. Also, on that page, in the second
23 paragraph, you're discussing that -- in the sentence
24 that says, "In addition, WMSI is working on a loan to
25 close within the next several weeks which include

1 \$25,000 to be paid to PBS&J over and above the
2 referenced monthly payments." Do you see that?

3 A. I see that.

4 Q. What loan is that, is that the Citizens State
5 Bank loan, or a different loan?

6 A. I am working with Citizens State Bank on an
7 interim loan. I borrowed \$150,000 personally from
8 Citizens State Bank in June, all of which went into the
9 water company to continue operating. And I am now
10 working on another loan with them to try to get a larger
11 sum of money, kind of a gap loan between now and the \$5
12 million permanent loan for the improvements which will
13 pay off these gap loans.

14 Q. All right. Is that a loan in the name of the
15 utility or a personal loan?

16 A. The \$150,000 loan that I used to put in the
17 utility this summer was a personal loan. The loan I'm
18 working on with the bank now would be a loan to
19 refinance Gulf State Bank and get back where I was with
20 them. I had a \$3 million line of credit with Gulf State
21 Bank which went away when they started having problems
22 because of the bad real estate economy down here. If I
23 had that now I would have the benefit of two or \$300,000
24 to make up some of the problems we are having now. So
25 I'm trying to get Citizens to take out Gulf State Bank.

1 Q. Yes, sir. Let me see if I can clarify and
2 focus.

3 A. And then -- so that I would have a \$3 million
4 line of credit, and then when we do these improvements
5 we set them at 2.2, but as I have told you, we can do
6 them for less than \$2 million, I believe. So my plan is
7 to have a \$3 million line of credit, and then whatever
8 happens with this proceeding, we think we can build all
9 of these improvements for less than 2 million, which we
10 will do, and then we will have a permanent ongoing loan
11 for \$5 million.

12 Q. Yes, sir. But with regard to the loan
13 specifically referenced in this paragraph set to close
14 within the next several weeks, which loan is that?

15 A. Well, that didn't work out. We have not been
16 able to accomplish that yet. I mean, that's the same
17 loan. And I have been, you know, talking with the
18 bankers here and him and meeting with them and trying to
19 convince them to take out Gulf State and have a line of
20 credit to pay back the 150,000 and to be able to drawn
21 down loans or advances like this 25,000.

22 Q. Okay. But the loan in reference on this page
23 was a loan that has not closed?

24 A. That is correct.

25 Q. And it's not in your name and it's not in the

1 utility's name, is that correct?

2 A. Any loan that -- whether it's Water
3 Management, or me, or any of these so-called affiliates,
4 like Brown Management, is personally endorsed by me. No
5 bank is going to loan any of my companies money without
6 my personal endorsement.

7 Q. That may be true, but is the loan in the name
8 of WMSI? It may be endorsed by you, but was this loan
9 supposed to be in the name of WMSI?

10 A. This loan we are talking about here on this
11 memo would be WMSI, yes, sir, definitely.

12 Q. All right. Pursuant to the payment schedule,
13 and it has been touched on earlier by Mr. Scibelli, but
14 it appears that the utility has failed to meet its
15 payment schedule pursuant to the terms of the original
16 contract, is that correct?

17 A. Yes, that is correct.

18 Q. And would you agree that WMSI is in default of
19 its payment terms with that original contract?

20 A. I would agree that we have not paid the entire
21 61,000.

22 Q. And as a result of the addendum, because of
23 not having paid the entire amount pursuant to the
24 payment schedule, that PBS&J is under no obligation to
25 perform any of the engineering services set forth in the

1 addendum, is that correct?

2 A. Well, I paid them \$4,000, and I don't know
3 that they have done any work for that, so I would think
4 that they would have to do \$4,000 worth of work before
5 they quit, and they haven't indicated that they are
6 going to quit.

7 Q. Pursuant to the addendum, is PBS&J under any
8 obligation to perform for WMSI, yes or no?

9 A. Yes.

10 Q. They are obligated to perform even though you
11 haven't paid them?

12 A. I have paid. That's what I just said. I paid
13 \$4,000. That's the first month, and as Mike Scibelli
14 said earlier today, he really hasn't done anything
15 except work on this rate case, which is a separate
16 contract, a separate deal.

17 Q. Mr. Brown, are you a member of the Florida
18 Bar?

19 A. Yes.

20 Q. And you are still current with your
21 membership?

22 A. Oh, yes. Sure.

23 Q. And in your prior legal practice, which you
24 reference in your testimony, did you have plenty of
25 experience with contracts and negotiating contracts?

1 **A.** I have had lots of experience in my 42 years
2 being a lawyer.

3 **Q.** And you understand the concept of breach and
4 this and that and the other thing. It appears on the
5 face that by not paying that, however you want to
6 characterize it, WMSI is not current, and, therefore,
7 they are not under any obligation. Now, whether PBS&J
8 wants to continue performing, that's a different story,
9 but they would have the legal right not to perform under
10 the contract.

11 **A.** I guess that is where we are having a little
12 disagreement. We have a retainer agreement, a contract
13 that says I'll pay 4,000 a month. And as Mike Scibelli
14 said, they just really haven't done anything under that
15 yet. And I have, in fact, paid \$4,000 on that, and our
16 agreement is that that will be a retainer against actual
17 hours worked. And if I paid him \$4,000 and he has not
18 earned it, I think he owes me some engineering services.
19 And maybe he has got a few hours, but he certainly has
20 not worked \$4,000 worth.

21 **Q.** Okay. So your testimony is that you have made
22 a payment under the retainer agreement, but you are
23 still not current on the payment schedule for the
24 original water evaluation services?

25 **A.** No. I think as of the time we signed the

1 retainer agreement, I think I was about \$18,000 short of
2 paying the \$61,000.

3 **Q.** Was that the retainer agreement or is that in
4 your letter on Page 7? On Page 7 it says that you have
5 a balance due of 18,000 under the water system
6 evaluation agreement. Do you see that?

7 **A.** Yes, I see that. We may have paid another
8 five since then, I'm not sure. But as of that time we
9 were about 18,000 short of paying the total.

10 **Q.** And in the addendum it's characterized as a
11 retainer, is that correct?

12 **A.** This \$4,000 a month deal is a retainer
13 agreement. The other contract for \$61,000 was for a
14 complete evaluation, which has now been completed. That
15 has been earned and I owe the money for it, or Water
16 Management does.

17 **Q.** All right. And pursuant to the terms of the
18 retainer agreement, if PBS&J doesn't perform then the
19 utility could cancel the contract, is that right?

20 **A.** We could cancel the contract and ask for them
21 to send us a check for the difference between \$4,000 and
22 whatever work they have done.

23 **Q.** Okay. And similarly, if the utility does not
24 pay its retainer payment, then the utility -- or, excuse
25 me, PBS&J does not have to perform, is that correct?

1 **A.** That is correct; yes, sir.

2 **Q.** Just returning -- I just want to touch on a
3 few of the services which PBS&J -- that you are
4 requesting PBS&J to provide for the utility.

5 **MR. SAYLER:** And, Commissioners, I'm in the
6 home stretch.

7 **BY MR. SAYLER:**

8 **Q.** In Paragraph 1, you are directing PBS&J to
9 conduct a hydraulic modeling of the water system for a
10 cost of \$20,000, is that correct?

11 **A.** I started with that as a priority. That was
12 on my mind that day, yes.

13 **Q.** All right. And you mentioned, essentially,
14 two models, a \$20,000 models and a \$40,000 model, is
15 that correct?

16 **A.** Yes, and the --

17 **Q.** Is that correct.

18 **A.** That is correct, and it is all detailed in
19 part two of the complete water company evaluation, and
20 they go through it and they kind of gave me a choice of
21 a \$20,000 model or a \$40,000 model, and I said, well,
22 20 sounds better.

23 **Q.** Will the less expensive modeling that you have
24 directed PBS&J to perform resolve the fire flow issues
25 and the residential pressure issues that you described

1 in Paragraph 1 of the memo?

2 **A.** It won't resolve the issues. It will, at
3 least, tell us where we should put a high pressure
4 pumping station on the west end of the island. The
5 volunteer fire department wants us to put it at the
6 airport. We don't know where it should go, because if
7 you put it in, you could have pressure problems, you
8 could have low pressure on one side and high pressure on
9 the other. It's a very -- you can't do that. You can't
10 just throw in pressure pumps throughout a distribution
11 system without water modeling, hydraulic analysis.

12 **Q.** All right. And based upon your answer, it
13 appears that PBS&J has informed you that a less
14 expensive hydraulic model may not resolve all the
15 issues, would that be correct?

16 **A.** No, we have never -- they have never said
17 that. All I'm saying is that I would not direct them to
18 go forward with this. I would not spend \$20,000 unless
19 Mike Scibelli assured me that it would, at a minimum,
20 answer the question of where we should put high pressure
21 pumps to provide greater fire flow on the ends of the
22 system.

23 **Q.** All right. Thank you. Turning to Paragraph
24 2, it appears that you are directing PBS&J to provide
25 some information regarding six compliance issues that

1 the water management district sent to you, is that
2 correct?

3 A. Yes. I made it number two. On an ongoing
4 basis, that is probably a number one priority under this
5 agreement, but I had this modeling on my mind when I
6 wrote this.

7 Q. And the water management district sends you
8 these letters, is it on an annual or a quarterly basis?

9 A. We have to have an overall consumptive use
10 permit, which is a very big deal with Water Management,
11 and it comes up for renewal early next year. And that
12 has a list of conditions, and they send us friendly
13 reminders from time to time. Like we got this letter
14 that I took to him this day, and it said you have got
15 something due August 31, and by the way, you have got
16 five others, and they gave us a due date.

17 Q. In the past when the water management district
18 sent you these letters, did the utility personnel take
19 care of those?

20 A. Les Thomas took care of it routinely.

21 Q. All right.

22 A. We are not capable of totally complying with
23 everything that they require.

24 Q. Okay. Turning to Paragraph Number 5, earlier
25 there were some questions regarding the problem of leaks

1 within the supply and distribution system?

2 A. Right.

3 Q. And you were directing PBS&J to help you
4 devise a leak detection program, is that correct?

5 A. Yes.

6 Q. Does the utility currently have a program for
7 detecting leaks?

8 A. Yes. We constantly look for leaks. I think
9 we have a leak detection device. We ask that leaks be
10 reported. We ride around and look for them. But there
11 are more up-to-date sophisticated ways to detect leaks
12 now, I believe, probably that I don't know about, Nita
13 doesn't know about, and Hank may not even know about.

14 Q. Okay. Are you familiar with the Florida Rural
15 Water Association?

16 A. Very much. We just got an award.

17 Q. Second place.

18 A. Well, we did get an award for the second best
19 water in the State of Florida, but Hank went to their
20 convention in Jacksonville about a month ago and they
21 presented him with an award for long-term membership.
22 We are very familiar with them, and they are very
23 helpful.

24 Q. Okay. Has the utility been in contact with
25 this Florida Rural Water Association for its assistance

1 with leak detection?

2 A. Yes. They have come down and put their --
3 many times and we have met with their engineers, and met
4 with Gary Williams, and they are the best resource we
5 have. But they still -- we haven't found all the leaks.
6 It's a real problem on this island, and with a system
7 that is 35 years old.

8 Q. Okay. In Paragraph Number 6 you discuss
9 developing a flushing program. Are you aware that the
10 Florida Rural Water Association can assist you in that,
11 as well?

12 A. They have assisted us. We get free advice
13 from them as much as we can. And we have a flushing
14 program. What we want to look into is some automatic
15 flushing devices that flush just right at the right
16 places at the right time, but not too much.

17 Q. All right. In Paragraph 7 you are directing
18 PBS&J to perform a complete professional review and
19 analysis of DEP, EPA, and other rules and regulations
20 from governmental agencies having jurisdiction over
21 WMSI, is that correct?

22 A. That's correct.

23 Q. And as an attorney, in what capacity do you
24 serve the utility? Do you serve as its general counsel
25 in addition to being the president and CEO?

1 A. I guess so. I don't hire lawyers, unless it's
2 absolutely necessary. I do lots and lots of legal work,
3 and it's of my job.

4 Q. And you do have experience reading statutes
5 and rules and regulations, is that correct?

6 A. Yes, sir.

7 Q. And when it comes to these DEP and EPA and
8 other rules and regulations, are associations like the
9 Florida Rural Water Association, or the American
10 Waterworks Association and things of that nature able to
11 assist your utility?

12 A. Yes, and they do. And that is one reason we
13 always send somebody to their conventions and seminars,
14 because that is one of the main topics is updating on
15 all that. That is why Hank went and why Nita always
16 used to go.

17 Q. And you also in that paragraph directed PBS&J
18 to search the rules and regulations to determine whether
19 there is a way to contest installation of shallow wells
20 on the island, is that correct?

21 A. Well, I suggested -- there is just something
22 counterintuitive about the way it is working out. They
23 have got all of these commercial -- hundreds of them
24 down here that have --

25 Q. Hundreds of?

1 **A.** Hundreds of commercial, we think,
2 establishments with duplexes, triplexes, quadruplexes,
3 big rental houses, and it just doesn't seem right that
4 those houses should be able to put in shallow wells and
5 operate a domestic water system, a potable water system
6 for unknowing customers. It's one thing to do it for
7 yourself, but when you charge two or \$3,000 a week and
8 have people come in and rent these facilities and
9 there's nobody checking to see if you might be drinking
10 sewer water, I just wanted Mike Scibelli and PBS&J to
11 look into that and see if that's legal. And he has done
12 some of that. He called Mike Pope and some other
13 people, and we have about determined that anybody on St.
14 George Island without a permit can put in a domestic
15 well for potable water. They can put in a landscape
16 well, they can do all of that with no notice to us, no
17 notice to anybody and no permit. And they're doing it
18 every day.

19 **Q.** All right. In Paragraph 9, you are discussing
20 the -- or requesting help with the Withers Coastal
21 Marine Construction -- or, excuse me, with the ten-year
22 maintenance agreement for the supply main that you have
23 with Withers Coastal Marine Construction?

24 **A.** Right.

25 **Q.** You state about halfway down, this contract

1 requires repainting and retouching, and going on it
2 says, "We need PBS&J's help in overseeing the contract
3 to make sure that the contractor is in full compliance."

4 Do you see that?

5 **A.** Yes.

6 **Q.** As someone who's an attorney, or your other
7 personnel, how come they aren't able to do that for you?

8 **A.** Painting, especially out in this harsh
9 environment over the bay, is a very technical process,
10 and there is whole association of NACE inspectors that
11 are hired constantly to inspect and make sure that
12 touch-up paint and painting is applied properly. And I
13 learned a lot more than I ever wanted to know about that
14 in litigating when we reached that \$800,000 settlement,
15 but we don't want to make the same mistake twice.

16 **Q.** All right. And skipping over a number of the
17 other paragraphs to try to move things along, some of
18 them are just general help with review of rules and
19 regulations, and is that something that you or your
20 utility personnel have done in the past for the utility?

21 **A.** Anything that has been done in the way of
22 engineering in the last 10 or 12 years has been done by
23 Les Thomas, me, Hank, or Nita primarily. And we have
24 been running this utility company for 35 years and we
25 have been doing okay, I just would like to do better.

1 Q. All right. Referring specifically to Item
2 Number 20, Paragraph Number 20, you directed the utility
3 to recommend security policies or procedures?

4 A. Yes, sir.

5 Q. Have any review or recommendations been made
6 to you at this time regarding security?

7 A. No. This is another -- I don't know where we
8 would put this on the priority, but if a terrorist or
9 anybody wanted to cause a problem, we have got lines
10 that are a few feet under ground. Eight inch lines
11 running through forests that are remote, and there's a
12 lot of things that would concern me. It would be pretty
13 easy for somebody to cause us a problem.

14 Q. Are you aware that the American Waterworks
15 Association has publications and training with regard to
16 water protection?

17 A. Yes, and we have done that. I just went last
18 year to one of their conventions, and I read their
19 magazine every month, and I have noticed that. But
20 somebody would need to come in. It is all site
21 specific. I mean, we have fenced all our wells, we have
22 fenced our plant, we have done what we can. I would
23 just like some more professional advice in this area.

24 Q. All right. And similarly, are you aware or
25 have you contacted the Florida Rural Water Association

1 for advice on security policies and procedures?

2 A. I have not personally called them about
3 security. I know that they have concerns about it.
4 Hank may have. Hank just went to a three-day convention
5 with them, and I haven't talked to Gary Williams or
6 their engineer about this specifically.

7 Q. In Paragraph 21, when you are discussing smart
8 meters, do you mean just meters that as you drive by
9 could be read by, like, radio control or radio
10 frequency?

11 A. Yes. I hired a guy last year, a water sewer
12 operator from Carrabelle, Charlie Painter (phonetic),
13 and he was seeing how we read meters. He just laughed
14 and said, oh, we don't even roll down the window. We
15 were talking about what we have to do. He said they
16 just ride by and click a button. So I would like PBS&J
17 to look into whether that would make sense for us,
18 because we spend a lot of time and a lot of gas getting
19 out and finding these meters, reading them, 1800 of them
20 every month. It takes a week to do it. But the cost of
21 the meter may be more than they are worth.

22 Q. Certainly. What independent investigation
23 have you, or Hank, or Nita done, and maybe contacting
24 one of these meter providers, or consulting with the
25 Florida Water Rural Association about these smart

1 meters? Have you done anything?

2 **A.** Nita has been talking with people and she gave
3 me a price which was out of sight. Somebody tried to
4 come in and sell her some smart meters, I believe, and
5 that has happened once or twice, but I haven't
6 personally tried to pursue that. She and Hank have, I
7 believe.

8 **Q.** Okay. Concerning Item Number 22, you are
9 requesting help with conducting quarterly walk-throughs
10 of the system?

11 **A.** Right.

12 **Q.** Does the utility currently do its own
13 walk-throughs of the system?

14 **A.** We walk through it 24/7, 365 days a year. We
15 go to every well every day. We go to the plant. We
16 look at it and work on it constantly. We don't need to
17 walk through, we're there.

18 **Q.** All right. With regard to Item 24, you're
19 requesting help with reviewing utility tariffs to see if
20 there are any tariffs that should be modified. Do you
21 see that?

22 **A.** I do.

23 **Q.** What experience does the utility have with
24 applying for a tariff modification? I mean, have you
25 done those in the past?

1 **A.** We have modified our tariff from time to time.
2 We probably need to do it some more.

3 **Q.** Okay. And I'm just trying to find out why you
4 need PBS&J's help for a tariff modification?

5 **A.** Well, a lot of these things are engineering
6 related. One big problem we have are the size of
7 meters. We have customers -- like I rode by last night
8 and I noticed several of you stayed at the St. George
9 Inn. Well, we had an issue with the developers of that.
10 They wanted to operate that inn on a 5/8ths meter, which
11 is the smallest meter you can have, because it was
12 cheaper. They read the application, and it had the
13 sizes, and the owner said, "Well, I pick that one, \$17."
14 We said, "No, you need a two-inch meter." So they
15 operated -- I think we even said a three. They operated
16 for years on that 5/8ths, and then they got a new owner,
17 Olivier Monod, who's a friend of mine, and I said,
18 "Olivier, you need a two-inch meter." So now they have
19 got a two-inch meter.

20 But it's an engineering question. Because if
21 you have to put these meters in and they run and spin
22 and we have to replace them at our cost indefinitely, it
23 doesn't seem quite equitable to the other customers if
24 they can elect a meter that's too small. And I want
25 PBS&J to look into that issue, as to whether there is a

1 tipping point at which they don't register all the
2 water. And I know they wear out in a matter of months,
3 and we have to replace them indefinitely, and that's
4 something I want to look into.

5 But that's an engineering issue and a tariff
6 issue. But I think when we come to the staff they are
7 going to say, "Well, you know, where is your engineering
8 data," or what else, you know, want some support.

9 Q. All right. Thank you. In Paragraph 24 you
10 request assistance in helping answer customer complaints
11 and customer questions regarding meter size and water
12 quality, is that correct?

13 A. Yes.

14 Q. And have you had any complaints with the meter
15 or with the -- because in review of the Commission's
16 consumer activity tracking system, and I believe it was
17 your testimony earlier in the proceeding that you really
18 haven't had any customer complaints, is that correct?

19 A. We don't have service complaints, but we have
20 issues when somebody wants to come in -- like we just
21 had a -- in fact, we entered into a settlement agreement
22 with the homeowners association for a big new beach
23 club, and that was a real issue as to how many meters,
24 what size meter, and all that, and we worked out an
25 agreement where we would test the program over a year to

1 reimburse them if we are going to -- but I would like to
2 have somebody like PBS&J to be able to talk to some of
3 these developers to help us have credibility. They
4 think we're just trying to collect more money, and we
5 think we are trying to do the right thing.

6 **MR. SAYLER:** All right. Well, thank you very
7 much for your time and for answering the questions with
8 candor. And that is it for staff. I will note that we
9 do have one request for a late-filed exhibit.

10 **COMMISSIONER SKOP:** Very well. Questions from
11 the bench? Commissioner Graham, you're recognized.

12 **COMMISSIONER GRAHAM:** Thank you.

13 Mr. Brown, earlier you said that you were
14 officially asked by Franklin County Commission to look
15 into providing wastewater?

16 **THE WITNESS:** They wrote us a letter and
17 called us; yes, sir, that is correct.

18 **COMMISSIONER GRAHAM:** Now, was that like a
19 resolution or an ordinance? I mean, was it just
20 somebody like their general counsel who sent you a
21 letter? Who was that letter from?

22 **THE WITNESS:** It was from Allen Pierce
23 (phonetic), who is their Director of Administrative
24 Services. And then I met with every -- I met for over
25 two hours with each of all five commissioners to discuss

1 it. And they wrote us a letter and asked us to make a
2 formal presentation with details at a scheduled date. I
3 think there was one or two PSC staff members there, and
4 we met all day and made presentations, as did two other
5 utility companies.

6 **COMMISSIONER GRAHAM:** Now, did you attempt to
7 bill them the \$53,000 that this cost?

8 **THE WITNESS:** Bill the County?

9 **COMMISSIONER GRAHAM:** Yes.

10 **THE WITNESS:** No, I did not.

11 **COMMISSIONER GRAHAM:** Do you plan on
12 attempting to bill them?

13 **THE WITNESS:** No. I think that would be
14 fruitless. I've got a long experience with Franklin
15 County.

16 **COMMISSIONER GRAHAM:** But they asked you to
17 provide a service.

18 **THE WITNESS:** No, they asked us to make a
19 presentation to show how competitive we could be, and
20 specifically what we would want to do. And the other
21 company, Integra Water out of Georgia, did an AIRVAC
22 plan, \$100,000 they told me they spent for every
23 location. After a meeting with all five commissioners
24 for over two hours each, I determined that -- and four
25 of the five assured me that, yes, they are with me

1 running or walking -- that we had to have sewer for the
2 middle part of the island. So I proceeded to present a
3 plan for the middle part, and hired PBS&J to do it,
4 which they did. And then the politics changed, and the
5 politicians changed their mind, and then they had a
6 secret meeting in December of '09 and decided that they
7 didn't want sewer at all.

8 **COMMISSIONER GRAHAM:** Do you know if this
9 company out of Atlanta was reimbursed for their
10 expenses?

11 **THE WITNESS:** I'm sure they were not. I know
12 the engineer, and I know Joan Young, and Wesley Self,
13 and some of the people. They are not.

14 **COMMISSIONER GRAHAM:** Okay. One other
15 question I had. You said that you have Withers Coastal
16 Marine Construction, do you have them under contract?

17 **THE WITNESS:** I have them under contract for
18 doing the maintenance of the water line.

19 **COMMISSIONER GRAHAM:** Is there any
20 relationship between them and your CPA, Barbara Withers.

21 **THE WITNESS:** Barbara Withers is Ben Withers'
22 mother.

23 **COMMISSIONER GRAHAM:** Okay. That's all I had.

24 **COMMISSIONER SKOP:** Thank you, Commissioner.

25 Commissioner Edgar, you're recognized.

1 **COMMISSIONER EDGAR:** Thank you.

2 **THE WITNESS:** Hi.

3 **COMMISSIONER EDGAR:** Ms. Ramas made in her
4 testimony the statement that the amount of investment in
5 associated companies recorded on WMSI's books has
6 increased by \$337,000 from January of '08 to June of
7 2010, but I believe you said earlier that WMSI had not
8 made any investments in associated companies. Can you
9 help me rationalize those two statements of testimony?

10 **THE WITNESS:** Yes, I can. And there has been
11 a lot of confusion on this issue, but Account 123 is
12 mistitled. It's not necessarily investments in
13 associated companies. If you read it, it is an account
14 that tracks loans and advances as well as investments.
15 And then if you look at Account 146 it says that those
16 loans which don't have -- or advances which don't have a
17 specified due date are those loans which are not to be
18 paid within 12 months -- and I'm quoting from the NARUC
19 rule here -- shall be transferred to Account 123.

20 And then when you look at Account 123, which I
21 also have here, it says investment in associated
22 companies. But it's not an equity investment in
23 associated companies, it's just an accumulation -- I
24 referred to it as a circle of debt, and I can explain
25 that in more detail.

1 But we have had no choice under the PSC rules
2 but to put it in this account which is titled investment
3 in associated companies. And it has been that way for
4 many, many years, and I think the account title would be
5 correct if it is an investment, but in reading it in
6 Subsection B it says investment in securities and
7 advances to. And advances to, or advances loans back
8 and forth, or an advance to it, and then when you couple
9 that with Account 146 which directs us mandatorily that
10 we shall transfer loans without a specific due date or
11 loans that aren't paid within 12 months, it says they
12 shall be transferred to Account 123.

13 So we're following the PSC rules which mandate
14 that we shall follow NARUC, and NARUC calls it advances,
15 or it calls it investments in associated companies, but
16 that's not what it is in our case. And I guess that has
17 caused confusion.

18 **COMMISSIONER EDGAR:** Well, I will say that it
19 is confusing to me.

20 **THE WITNESS:** Well, you know, I get a lot of
21 pressure from a lot of areas, but one of them is to
22 follow these PSC rules.

23 **COMMISSIONER EDGAR:** Please do.

24 **THE WITNESS:** And I really don't think that I
25 have a choice. When we file an annual report and it has

1 got -- and, in fact, in your annual report, I don't
2 remember the number, but you have a whole separate page
3 that says you have got to pull this out because you want
4 to know about it, and it is titled, "Investment in
5 Associated Companies." But in our case it is not.
6 That's really not what it is. It is not an equity
7 investment, it's a tracking of advances back and forth.

8 **COMMISSIONER EDGAR:** You just answered my next
9 question. Thank you.

10 **THE WITNESS:** Okay.

11 **COMMISSIONER SKOP:** Thank you, Commissioner.

12 Mr. Brown, I have a few questions. You spoke
13 on Page 6 of your rebuttal testimony at Line 9 and 10
14 about the Department of Transportation deciding to tear
15 down the privately-owned five mile long water supply
16 main, and you spoke to the economic consequences. Help
17 me understand that. Was the settlement that you
18 subsequently received in relation to the DOT decision to
19 tear down your property, or was that --

20 **THE WITNESS:** No, it had nothing to do with
21 that. We tried to track politically and legally -- for
22 a year or two we tried to prevent it. We fought tearing
23 down the old bridge because tearing down the old one is
24 really what hurt us, not building the new one, because
25 if they hadn't town that out -- and we lost that on a

1 three-to-two vote, after spending time and money.

2 **COMMISSIONER SKOP:** A question to that. With
3 respect to the water main that ran over the old bridge,
4 was WMSI granted an easement, or how was that water
5 supply line attached, under what legal --

6 **THE WITNESS:** There was a DOT standard
7 boilerplate easement.

8 **COMMISSIONER SKOP:** Okay. So when they
9 condemned, or effectively condemned, or decided to --
10 let me see the right word -- tear down the bridge, was
11 there any consideration given to seeking recourse under
12 a taking theory or eminent domain? Did they basically
13 take your private property?

14 **THE WITNESS:** Yes. The man from Chipley, DOT
15 walked in my office in late 2000, and said, "You need to
16 move your line." And I said, "Well, what do you mean,
17 move my line?" And he said, "Well, move it out." And
18 he said, "We're going to build a new bridge." And we
19 said, "Well, you can't do that." And they said, "Yes,
20 that's what your agreement says."

21 So we fought it politically and otherwise. We
22 filed a suit in circuit court. We had a two or three
23 day trial on inverse condemnation and lost.

24 **COMMISSIONER SKOP:** All right. Thank you for
25 that clarification. So the settlement was in relation

1 to maybe the coating on the pipe?

2 **THE WITNESS:** The settlement was in
3 relation -- it's kind of related, but it had nothing to
4 do with that. That was a separate issue. But the
5 coating in places began to fail. So I worked on it
6 myself for awhile, and then I hired a couple of lawyers
7 and we had a trial set, and it went to mediation, and
8 settled it a few weeks before mediation -- before the
9 trial.

10 **COMMISSIONER SKOP:** Okay. And the proceeds
11 from the settlement were not used to address the coating
12 problem?

13 **THE WITNESS:** No. We reduced the plant
14 investment by the amount of the settlement.

15 **COMMISSIONER SKOP:** Okay. None of that
16 settlement funds were used to retire a portion of the
17 debt that was incurred with the Florida Department of
18 Environmental Protection, is that correct, on that loan
19 for the pipe, the new pipe?

20 **THE WITNESS:** No, that's not correct. I mean,
21 we have been -- we have been paying 400,000-something a
22 year, including that year, and that has been our spiral
23 of debt I would call it. So we definitely used part of
24 that money to retire that debt or part of the debt,
25 because there was a -- it has such a low interest that

1 the payments, the six-month payments are -- they started
2 out even more principal than interest. And, of course,
3 in our rate structure we get nothing at all for
4 principal and only part of the interest.

5 **COMMISSIONER SKOP:** Okay. And on Page 9 of
6 your rebuttal testimony, at Line 11, I believe, in your
7 initial comments or errata changes that you changed the
8 word or the phrase equity investments into advances to,
9 is that correct?

10 **THE WITNESS:** I did.

11 **COMMISSIONER SKOP:** Okay. Can you elaborate
12 on what advances to Brown Management Group would be for,
13 please?

14 **THE WITNESS:** Yes. And this may take a
15 moment, but I took -- last night I pulled out the '09
16 annual report and made myself a little --

17 **COMMISSIONER SKOP:** Cheat sheet.

18 **THE WITNESS:** -- cheat sheet, because I can't
19 remember all of these numbers, or these numbers. But I
20 asked one of my staff to go through your annual reports,
21 and I just would like to take you through this.

22 They walked in my office in 2000, and said we
23 are going to tear the bridge down, you have got to build
24 a new line, and you have got 60 days to do the approach
25 work or we are going to hire and bill you, and we will

1 take your water company, and we'll do it ourself.

2 So we had to do a lot or work politically and
3 legally fighting all of this. And six years later we
4 had a final order from the PSC in February of '06, and
5 we ended up with a rate base, a starting rate base of
6 \$5,387,188. And that's over a million dollars -- well
7 over a million dollars short of the \$7,009,000 we spent.

8 And then I asked somebody, and I've verified
9 this, I went through and started tracking the return
10 that we were authorized under your PSC rules year to
11 year. And if you take through '06, '07, '08, and '09,
12 we have underearned \$333,240 just in what we filed with
13 the annual reports, which is basically the money that we
14 are entitled to earn. We were entitled to earn 831,000
15 at the authorized rate of return, PSC rules, O&M,
16 everything that has never been contested, not including
17 any \$80,000 for a pension plan, not including anything.

18 And then if you take and annualize the
19 expenses, like the bridge maintenance and all the other
20 things that are in this rate case, if you take that and
21 move it up to annualize it like the interim rate statute
22 says, that number would grow to \$468,483 that we have
23 lost forever.

24 In other words, this is money that this
25 Commission authorized this utility company to earn, but

1 for these last four years we did not earn even what we
2 were authorized to earn from the customers. So,
3 frankly, it galls me a little bit for Public Counsel to
4 come meet with our customers, and then stand up here
5 yesterday morning and yesterday afternoon and tell them
6 that the problem of this utility company is that Gene
7 Brown took 1.2 million of your money, and that's why he
8 needs a rate case.

9 The fact is I have subsidized them 468,000
10 over the last four years. And I call this a circle of
11 debt, a spiral of debt. It's just a negative ring of
12 fire down. And if you go through this -- another thing
13 I would like to correct, it's connected with this, but
14 Ms. Ramas said that we had less investment in plant than
15 we have debt. Well, I went through the annual report
16 last night, and we have got a million dollars more
17 invested in plant right off the annual report. Schedule
18 F-1A, the plant is \$9 million, documented, and nobody
19 has ever questioned that. The total debt is \$8 million,
20 8.1 million. Net CIAC is \$1,931. Net income minus --
21 this is all the F-3C, net income last year minus
22 332,000.

23 The rate base return that we are entitled to
24 earn on, it keeps dropping even though we have to keep
25 making these debt payments, but it is now \$3,887,000.

1 And if you take our authorized right of return on that,
2 it is \$149,000. And then if you add to that -- and,
3 again, this is right off the annual report -- if you add
4 to that \$175,000 worth of depreciation, that's assuming
5 you use every dollar of depreciation, which is becoming
6 to be real now, and use it for debt reduction, that
7 gives us \$324,000 from the ratepayers to help service
8 our debt.

9 But, in fact, and again, if you take it right
10 off the annual report, our actual debt service is
11 626,000. So right there we are short \$302,384 every
12 year, and have been, and it has been worse because we
13 got -- Gulf State Bank is now 4-1/4 percent. It was as
14 high as 8-1/2, and back then our debt service was over
15 \$700,000 a year, and we were losing 450,000 a year.

16 And because of that, and this is another side
17 of my little flip card, I have referred to this
18 generally in my filed testimony, but I just made a
19 little mental note. And I say in my testimony it took
20 me two days to talk my wife into that, but I made a
21 \$150,000 home equity loan and put it in the water
22 company, a \$360,000 loan to get us a couple of lots and
23 put it in the water company. I have flex lines at
24 Regions Bank of 50,000; a working capital loan at FMB,
25 50,000; \$150,000 on two condo units, as well as

1 \$3 million worth of life insurance that has to be
2 pledged to these lenders. Part of that is pledged to
3 Gulf State Bank, and all of that has got to be pledged
4 to Citizens Bank.

5 And if you total that up, plus I took all of
6 my money out of my 401K, 31,000, plus the other day I
7 borrowed another 42,000 out of it to put in the water
8 company. When I couldn't pay the RAFs, I went over and
9 met with staff, they said, "Well, there's no choice,
10 you've got to pay it. You can't have no extension." I
11 went down to FMB and borrowed 25,000. I have paid that
12 back. So in the last 12 months, I have spent close to
13 \$200,000 just to service the debt on loans that I have
14 had to take out to make up these shortfalls. So Water
15 Management is not subsidizing me and Brown Management,
16 Brown Management and I have been and are still
17 subsidizing the water company.

18 I mean, it is a spiral of debt, a circle of
19 debt. And once you get in this trap, I don't know how
20 to reverse it other than ask for relief. But these are
21 just -- I mean, the Commonwealth loan that I borrowed to
22 make a DEP payment, the monthly payment is 40,000 a
23 year; the home equity is 27,600; the flex line is
24 39,250; 24,000 on the working capital loan; 15,000 -- I
25 mean, it all totals up to about 165,000 just to service

1 the debt. And then if you add this other money I have
2 taken out of -- it's close to 200,000. And if it is 1.2
3 million over six years, and this has been going on
4 pretty much to make up these operating deficits which
5 were triggered by this state's decision to tear out our
6 water line, then if you take the 200,000 times six
7 years, that is 1.2 million.

8 And you have to have advances, and they are
9 not investments, they are advances to Brown Management
10 just to keep this credit good, and these loans in good
11 standing in order to continue to operate. And it is
12 incorrect to say that we have used one dollar of
13 ratepayer money for any advance to my associated
14 companies. I mean, the numbers are here. You just need
15 to look at the annual reports and the real facts.

16 **COMMISSIONER SKOP:** All right. Thank you.

17 And I think that lends itself to some
18 additional questions. I appreciate the response, but I
19 think that in light of the response it prompted a couple
20 of questions based on what you said, so I'm going to go
21 through those.

22 **THE WITNESS:** Sure.

23 **COMMISSIONER SKOP:** You would agree, would you
24 not, that under Commission rules that there is no
25 guarantee that the utility, WMSI, will earn their

1 authorized rate of return, is that correct?

2 **THE WITNESS:** Oh, I agree with that.

3 **COMMISSIONER SKOP:** Okay. And the appropriate
4 remedy is to seek rate relief for underearnings?

5 **THE WITNESS:** Yes, sir.

6 **COMMISSIONER SKOP:** Okay. All right. And
7 Brown Management Group is a separate entity that is
8 made -- can you explain what that entity is? Is it
9 separate and distinct from WMSI?

10 **THE WITNESS:** Brown Management is a Sub S
11 Corporation that is personally owned by me 100 percent,
12 that holds about six or seven passive investments.
13 There are three rental properties and three properties
14 that it owns that we get rent checks. We have got
15 rental management companies that handle it, and we get
16 mortgage checks, and then I have got one other note
17 payable. They are all for the most part passive, but it
18 is separate.

19 **COMMISSIONER SKOP:** Okay. And you indicated
20 that Brown Management Group has, in fact, been
21 subsidizing WMSI, is that correct?

22 **THE WITNESS:** That's the way I see it.

23 **COMMISSIONER SKOP:** Okay. And I believe you
24 stated that was to the amount approximately, subject to
25 check, of \$200,000 over six years, is that correct?

1 **THE WITNESS:** Well, I'm not sure that it's
2 that much every year. All I have done, like I say, last
3 night after I listened to all this twice blasting us for
4 taking all the money, I looked at this, and I looked at
5 what -- in the real world what has happened in the last
6 12 months. And the debt service on the loans that I
7 could think of that were used to fund these deficits,
8 just the debt service to keep those loans in effect came
9 to \$163,850. And then I added the 25,000 I had to
10 borrow to pay the RAFs, and 42,000 I took out of the
11 401(k), which has wiped out it out totally, because I
12 put 33 in their earlier. And, I mean, it's not an exact
13 science.

14 **COMMISSIONER SKOP:** All right. Well, Mr.
15 Brown, I think that's the point I'm unclear on, and
16 perhaps you can help me out. WMSI is the regulated
17 utility, correct?

18 **THE WITNESS:** Right.

19 **COMMISSIONER SKOP:** Okay. And Brown
20 Management Group is a Sub S Corp that has some assets in
21 place?

22 **THE WITNESS:** Right.

23 **COMMISSIONER SKOP:** It has allegedly incurred
24 debt to offset deficits at WMSI, is that correct?

25 **THE WITNESS:** That's correct, which had the

1 effect of keeping the ratepayers' debt down. To say
2 that this company is operating for 3.85 percent cost of
3 debt is really not correct. The real cost of debt would
4 be some of this 7 and 8 percent debt that is funding the
5 money. But, technically, it is 3.85 percent is all we
6 get. And we only get that -- the bridge deal cost us
7 \$7 million and we started out with a rate base of
8 5,300,000, and now it's 3.8, and we only get 3.85 on
9 3.8.

10 **COMMISSIONER SKOP:** All right. And perhaps
11 you can clarify the other point of confusion that I
12 have. If WMSI is unable to meet its financial
13 obligations and it is underearning, then why would Brown
14 Management Group incur debt on behalf of the utility as
15 opposed to the utility incurring its own lines of
16 working capital to meet its financial obligations?

17 **THE WITNESS:** As I said in my testimony, the
18 utility company lost its ability to find financing about
19 three years ago when the economy turned down and the
20 local bank here in Franklin County that has a lien on
21 all the cash flow, all the operating assets, all the
22 real estate, when they called in me their office and
23 said nothing personal, but we can't fund your line of
24 credit anymore. That was about three years ago. And so
25 once you tie up all of your assets, you can't go to a

1 bank and say, well, we have got a balance sheet that is
2 \$3 million negative and you are losing \$200,000 a year,
3 but we'd like to borrow \$50,000.

4 **COMMISSIONER SKOP:** Okay. So if I understand
5 you correctly, I think what you are saying is that WMSI
6 has required a cash infusion for some number of years,
7 is that correct?

8 **THE WITNESS:** Yes.

9 **COMMISSIONER SKOP:** Okay. And the assets of
10 WMSI, as I think you just spoke to, are fully
11 encumbered, so it has no ability to incur additional
12 debt, is that correct?

13 **THE WITNESS:** Well, not without refinancing
14 those assets, which is what I have just mentioned that
15 Eric asked me. That's what we are trying to do right
16 now. You can't just walk into the bank -- like when I
17 needed 25,000 to pay the RAFs this spring, Water
18 Management had no ability to go borrow that money.

19 **COMMISSIONER SKOP:** Okay. Let me get back to
20 my original question, then. You indicated that the loan
21 that WMSI has with the bank and they have -- they have
22 encumbered the assets, or the cash to service that loan,
23 then how on Page 9, Line 10 of your testimony is WMSI
24 able to make advances to Brown Management Group? It
25 seems to me that, you know, you're sending cash to Brown

1 Management as opposed to -- for advances on future debts
2 to be incurred, or future management fees, or whatever
3 the contractual obligation states, but it seems to me,
4 and perhaps you can clarify this, that what should be
5 occurring would be that WMSI would be -- instead of
6 making advances, you would be making a cash call to get
7 those advances back. So that's what I'm not
8 understanding.

9 **THE WITNESS:** Well, WMSI does make cash calls.
10 I mean, it's one side of my brain to the other side
11 maybe. But, for example, we had a payment due, and this
12 is just -- I haven't even mentioned this. I'm glad you
13 brought it up. But, for example, and I know in the
14 late-filed exhibit you want to see the gain on sale.
15 Somebody saw that we -- we bought a piece of property
16 for \$330,000, and Water Management needed \$208,000 to
17 make one of these DEP payments, so I sold that property
18 that Water Management owned and paid 330,000, I sold it
19 to Brown Management for \$480,000, which was the MAI
20 appraised value. And I funded all of that \$250,000 or
21 so. I sold a piece of profit on L.L. Wallace Road and
22 took that cash and paid the difference between the loan
23 and the 480,000, and the 360,000, I personally borrowed,
24 and I used that 200-something thousand to make a DEP
25 payment. And so now some are suggesting that, okay,

1 well, gosh, Water Management made \$200-something, let's
2 take that and amortize it over the next seven years or
3 so, or five years. So if you do that, then pay me
4 twice.

5 **COMMISSIONER SKOP:** Okay. I appreciate that.

6 **THE WITNESS:** Well, I mean, these are just
7 real world examples.

8 **COMMISSIONER SKOP:** And I appreciate the
9 clarification. I think what is difficult is the nature
10 of the affiliate transactions, trying to find out, you
11 know, who is holding debt on behalf of whom, and it is
12 just -- it's complicated at best, and there is not a lot
13 of transparency in the --

14 **THE WITNESS:** Yes. I have been at this about
15 35 years, and 30 years with the PSC, and I have always
16 been told and trained, oh, you have got to think above
17 the line, and you have got this box and you have got
18 rate structure, and NARUC, and all that, and the PSC is
19 not interested in your debt, because I am always telling
20 Frank and everybody, well, these numbers don't work.

21 And once you get trying to do it all as one
22 ball of wax, it gets unbelievably complicated. And I
23 think it is -- frankly, I think it is just a
24 distraction. I heard in law school, you know, if you
25 don't have the facts, argue the law; if you don't have

1 the law, argue the facts; if you don't have either one,
2 attack your opponent. And I think we have shown here
3 the emperor has no clothes. The numbers aren't here.
4 The numbers go the other way.

5 **COMMISSIONER SKOP:** All right. I think I have
6 a few more questions. With respect to the ownership of
7 WMSI, are you the sole owner, or what entity owns WMSI?

8 **THE WITNESS:** WMSI is 85 percent owned by St.
9 George Island Utility Company, Limited, which is a
10 limited partnership set up in 1979. I had some friends
11 of mine and others, some of whom -- Bobby Bowden and a
12 lot of other people who invested in it, and there are a
13 few of them left, and it's a little complicated, but I
14 own most of and all the control of St. George Island
15 Utility Company, Limited, and it owns 85 percent of the
16 stock. Brown Management owns 10 percent. And Tommy
17 Bronson, a friend of mine from Brooksville who loaned me
18 a couple of hundred thousand dollars one time for the
19 water company and said what are you going to give me, I
20 need some interest? So I gave him five percent. So he
21 owns five percent.

22 **COMMISSIONER SKOP:** Okay. And with respect to
23 the ownership, as you mentioned of SGI Utilities,
24 Limited, and you mentioned the controlling interest in
25 that, and you mentioned also that there were some prior

1 limited partners, did you ever buy out the limited
2 partners?

3 **THE WITNESS:** I bought out Bobby Bowden for
4 \$50,000, and I bought out several others. And one
5 doctor was having tax problems, he just gave me his
6 interest, so over the years we have either bought out or
7 they turned in -- he is the only one that gave it free.
8 Yes, I bought them all out.

9 **COMMISSIONER SKOP:** Okay. And did that
10 cause -- in terms of that buy out, or the amounts paid
11 to take out the limited partners, did that incur either
12 SGI Utilities, Limited, or WMSI to assume additional
13 debt?

14 **THE WITNESS:** At the time it probably
15 occurred -- one of my affiliates or me to incur
16 additional debt. I don't think it -- I know it didn't
17 cause Water Management to incur any, because Water
18 Management wasn't even formed until after all of that
19 happened.

20 **COMMISSIONER SKOP:** Okay. All right. Thank
21 you.

22 On Page 10 of your rebuttal testimony, at
23 Lines 11 through -- actually, excuse me, on Page 11 of
24 your rebuttal testimony beginning at Line 4.

25 **THE WITNESS:** Page 11?

1 **COMMISSIONER SKOP:** Yes, sir.

2 **THE WITNESS:** Okay.

3 **COMMISSIONER SKOP:** Beginning at Lines 4
4 through 15, you talk about the requirement to incur the
5 additional \$5,000 (sic) loan with Citizens Bank, and you
6 also state that the \$3,300 per month for the \$3,000 life
7 insurance would be required -- or you would have to
8 pledge the entire policy payout of life insurance to
9 Citizens Bank as security for the \$5 million loan. If I
10 could refer you to what has been provided as DR-14,
11 which is the bank loan commitment letter, and if counsel
12 has a copy of it that they can provide to Mr. Brown.

13 **THE WITNESS:** I've got it right here. I
14 think. Well, no, I don't. I'm sorry. (Pause.)

15 I have a copy.

16 **COMMISSIONER SKOP:** All right. Thank you.

17 If I could ask you on that -- what's dated as
18 a May 14th, 2010, commitment letter from Citizens State
19 Bank, can I ask you to direct me to where the pledge of
20 the life insurance proceeds is required by the terms of
21 the commitment letter?

22 **THE WITNESS:** It is not referenced in there.

23 **COMMISSIONER SKOP:** Okay. But you are
24 asserting that it is a requirement?

25 **THE WITNESS:** They tell me it is. It is at

1 the existing loan. I mean, I had to pledge part of my
2 existing insurance to the Gulf State \$3 million loan,
3 and I'm told we will have to pledge this \$3 million for
4 the \$5 million loan.

5 **COMMISSIONER SKOP:** Okay. But none of the --
6 in terms of the security for the \$5 million loan, none
7 of the, I guess, encumbrances that the bank is requiring
8 as security require you to pledge any of the investment
9 in your affiliate companies, is that correct?

10 **THE WITNESS:** No. We haven't discussed that.

11 **COMMISSIONER SKOP:** Okay. But what is
12 requested is that they subordinate the Florida
13 Department of Environmental Protection's lien on the
14 WMSI supply main, is that correct?

15 **THE WITNESS:** Yes. Those 1, 2, 3 are their
16 main conditions; the rest of it are details like the
17 exact level of security and all that.

18 **COMMISSIONER SKOP:** All right. So Citizens --
19 if that term is granted by the DEP, then Citizens would
20 have first lien priority on the utility's assets over
21 and above the loan that was provided using state money
22 from the Florida Department of Environmental Protection,
23 is that correct?

24 **THE WITNESS:** Right. They would be in a first
25 lien position.

1 **COMMISSIONER SKOP:** All right. Thank you.

2 And just one additional question getting back
3 to staff's line of questions. They had asked you
4 numerous questions regarding the payment schedule for
5 Water Management Services for the water system
6 evaluation, and I believe that Witness Scibelli spoke to
7 that, and you indicated in a response to staff that
8 approximately \$18,500 of that payment schedule was
9 outstanding, is that correct?

10 **THE WITNESS:** That's correct, yes, sir; I
11 think so.

12 **COMMISSIONER SKOP:** So if we take a look at
13 that payment schedule, do you know what months have not
14 yet been paid? Would it be correct that the April
15 payment, the May payment, the June payment, and the July
16 payment totalling \$18,500 would be the payments that are
17 still outstanding?

18 **THE WITNESS:** That sounds right.

19 **COMMISSIONER SKOP:** Okay. All right. If I
20 could direct you to Page 55 of Ms. Ramas' direct
21 testimony, please.

22 **THE WITNESS:** Oh, is this it? Okay.

23 **COMMISSIONER SKOP:** I'll give you a moment or
24 two to get there. And where I would like to draw your
25 attention is Page 55, generally Lines 11 through 25.

1 **THE WITNESS:** Okay.

2 **COMMISSIONER SKOP:** Okay. And on Line 12, it
3 indicated that on March 10th, 2010, the Sierra truck was
4 sold to Brown Management Group, and then beginning on
5 Line 16, the ledger, 2010 general ledger shows that on
6 the same day the GMC Sierra was sold to Brown Management
7 Group, WMSI recorded an entry to purchase a 2008
8 Chevrolet Tahoe for the sum of \$42,579 and change. And
9 on Line 19 through 21, it indicates that that is now
10 being used by you as your primary vehicle.

11 The question I have with that with respect to
12 the entry that was recorded to the general ledger on
13 March 10th, 2010, was that a cash payment made for that
14 vehicle?

15 **THE WITNESS:** It was cash to Champion
16 Chevrolet after I borrowed the money. I mean, it was a
17 loan, but they got cash.

18 **COMMISSIONER SKOP:** Okay. So I guess what I'm
19 trying to discern is that notwithstanding the fact that
20 the payment schedule required payments to be made to the
21 engineering firm, and it appears that the payments
22 stopped in the month of March, with the April, May,
23 June, and July payments remaining outstanding. Am I
24 correct to understand that WMSI incurred almost \$43,000
25 of cash expense to purchase the vehicle that you use?

1 **THE WITNESS:** That is correct; yes, sir.

2 **COMMISSIONER SKOP:** Okay. All right. Thank
3 you. No further questions.

4 Any other additional questions from the bench?
5 Hearing none, Ms. Scoles, you are recognized
6 for redirect.

7 **MS. SCOLES:** Thank you, Chairman, and I think
8 we just have a few, so keep hope alive here.

9 **REDIRECT EXAMINATION**

10 **BY MS. SCOLES:**

11 **Q.** Mr. Brown, you had a conversation with staff
12 about the agreement that you have with PBS&J. Do you
13 remember that conversation?

14 **A.** I do.

15 **Q.** If either the utility or PBS&J canceled that
16 contract that you currently have, would the utility
17 still have a need for ongoing recurring engineering
18 services?

19 **A.** Yes.

20 **Q.** Commissioner Skop asked you about some of the
21 loans, and you responded that you personally as well as
22 Brown Management Group had been taking out loans
23 essentially on behalf of the utility because the utility
24 had no credit to do that on its own, is that correct?

25 **A.** The utility had no ability to borrow the funds

1 needed, because all its assets were and are tied up, and
2 did not have a balance sheet upon which you can make a
3 bank loan, or a balance sheet or an income statement.

4 Q. Both Commissioners Skop and Edgar asked you
5 about the advances, you talked with them about the
6 advances in that Account 123. What specifically are
7 those advances between the utility company and either
8 you personally or Brown Management Group?

9 A. As I see it, it's a big circle of debt, and
10 once you get on this train it's hard to get off. I
11 mean, you can positive leverage and it compounds and
12 works well. The other works badly. But what started
13 all this, as I mentioned earlier, was the state's
14 decision to tear out our water line. And so the
15 ratepayers and I are suffering from having to have built
16 two five-mile supply mains to furnish these customers.
17 Most utility companies don't have to build one supply
18 main five miles out across the Gulf. We have had to
19 build two, and the ratepayers are paying for part of the
20 second one, but once you start -- I've heard, and I've
21 experienced this, you can't borrow your way out of debt,
22 and that is what we are being forced into doing here.

23 Q. I think my question really, Mr. Brown, is why
24 is the utility making advances to either you personally
25 or Brown Management? Are those advances to service the

1 debt that has been incurred by you or Brown Management
2 on behalf of the utility?

3 A. Primarily that's the way I see it. I mean,
4 from my side of the table. Now, I'm not saying if you
5 did a complete audit that there might not be something
6 else. I mean, there probably is a lot of things in
7 there, but in substance, in the big picture, when I did
8 my little look at that last night and see that it is
9 approaching \$200,000 a year, and then I look at Ms.
10 Ramas' testimony that says she has looked at this
11 account and it has grown to 1.2 million, it is about 1.1
12 million now, I think. Well, if I have been doing that
13 for six years and it takes 150 to 200,000 a year just to
14 service that debt, then six times 200 is 1.2 million.
15 And that is just my bottom line, and nobody has analyzed
16 this that I know of.

17 Q. So when Brown Management Group receives what's
18 showing up here as an advance from the utility, what
19 does Brown Management do with that advance?

20 A. Well, the last 12 months, as I just went over
21 on my little cheat sheet here --

22 Q. I'm not looking for figures. Just generally
23 what do you do with that advance? Brown Management has
24 it, but --

25 A. Well, we do different things with it. Money

1 is all fungible. But the bottom line is to service that
2 debt, just to make the monthly payments I documented in
3 my -- you know, it was \$164,000, and then there was 25
4 here, and 42 there that I remember. Not to mention the
5 260,000 or so profit that I created for the water
6 company on the Commonwealth lots. And now I have a loan
7 of \$360,000 on those lots that I bought for 480 from the
8 Water Management Services. The debt service that I have
9 paid just on that loan has been \$110,000 at 7 or
10 8 percent, which, in effect -- and there is probably a
11 smarter way to do this, there is probably a smart legal
12 way to do it, but some of that additional debt service
13 should be incorporated in so that the true cost of debt
14 of this utility company would be something greater than
15 3.85 percent, because I can tell you in the real world
16 that is not what it's costing to operate.

17 Q. Mr. Brown, Account 123 that we have talked
18 about, does that represent equity investments that could
19 be pledged for a loan?

20 A. No. In this situation Account 123, or 123 is
21 not equity at all, even though it is titled that. It
22 can be and maybe it usually is, and maybe that was the
23 intent when NARUC was drafted, but in our situation it
24 is in the nature of debt, not equity. Account 123, and
25 I'm reading, again, I did a copy that out of NARUC,

1 Section B says that this account shall be maintained in
2 a manner such as to show the investment in securities of
3 and advancements to each associated company.

4 And that's the part that we fall under, the
5 advances to, and then you come over here to Account 146,
6 and it refers to loans which do not bear a specified due
7 date, and that is certainly the case in these
8 intercompany advances, or which have not been paid for
9 12 months from their due date, if they had one, and I am
10 quoting again from NARUC, shall be transferred to
11 Account 123. And then you look over here and it says
12 investment or equity, and it's really not in our case.

13 **MS. SCOLES:** Chairman, I think that concludes
14 our cross. Or redirect. There you go, Joe. I messed
15 up, too.

16 **COMMISSIONER SKOP:** All right. With that, can
17 we take up the exhibits?

18 **MR. SAYLER:** Yes, Mr. Chairman. Staff has
19 Exhibit 85 for -- or, excuse me, 84 for Mr. Brown, which
20 is a supplemental response to Interrogatory 86. And
21 also in response to your questions, Mr. Chairman, Mr.
22 Brown has quoted extensively or cited extensively the
23 2009 Annual Report, which to staff's recollection is not
24 part of the official record, so staff would like the
25 indulgence of the parties to see if that could entered

1 into as part of the record. It doesn't need to be a
2 late-filed exhibit since the Commission already has it.

3 **THE WITNESS:** I have a sheet that shows all
4 the summaries from the annual report since '06, if that
5 would be helpful. I've got about 10 or 12 of them.

6 **MR. SAYLER:** Staff has no preference. I don't
7 know if the Office of Public Counsel has had a chance to
8 see that or test that, so I would defer to them.

9 **MR. McGLOTHLIN:** I would prefer to go with the
10 full report for 2009.

11 **COMMISSIONER SKOP:** Has that been marked for
12 an exhibit number?

13 **MR. SAYLER:** No, it hasn't.

14 **COMMISSIONER SKOP:** Okay. Do we need to give
15 it an exhibit number?

16 **MR. SAYLER:** Yes, sir.

17 **COMMISSIONER SKOP:** Okay. All right. Then
18 that will be Exhibit Number 85. And a short title, 2009
19 annual report?

20 (Late-filed Exhibit 85 marked for
21 identification.)

22 **MR. SAYLER:** Excellent.

23 **COMMISSIONER SKOP:** All right. And that will
24 be provided now or it will be late-filed?

25 **MR. SAYLER:** Since everybody already has it,

1 we don't necessarily -- we can get a copy to the court
2 reporter. Whether it's a late-filed exhibit or we
3 provide it to her once we get back to the Commission, we
4 can do that.

5 **COMMISSIONER SKOP:** All right. So it's my
6 understanding that staff is at this point seeking to
7 admit into evidence what has been marked for
8 identification as Exhibit 84, which is a supplemental
9 response to Staff Interrogatory 86, which will be a
10 late-filed exhibit, and also what has been marked for
11 identification as Exhibit 85, which is the 2009 Annual
12 Report, is that correct?

13 **MR. SAYLER:** Yes, sir.

14 **COMMISSIONER SKOP:** All right. Any objection?
15 All right. Hearing none, show Exhibits 84 and 85
16 entered.

17 (Exhibit Numbers 84 and 85 admitted into the
18 record.)

19 **COMMISSIONER SKOP:** And that leaves us with,
20 according to my calculation, Exhibit 78 and 80 that we
21 still need to dispose of.

22 **MS. SCOLES:** Chairman, I do have 78 here I'd
23 like to go ahead and provide. I had promised
24 Commissioner Edgar that we would try to do that before
25 the close of the hearing, so it is here.

1 **COMMISSIONER SKOP:** Okay. It is here. Before
2 we move it into evidence, and I guess that's an OPC
3 requested exhibit, is that correct?

4 **MR. McGLOTHLIN:** (Indicating affirmatively.)

5 **COMMISSIONER SKOP:** All right. Would you like
6 to look at that, Mr. McGlothlin?

7 **MR. McGLOTHLIN:** Yes, I would.

8 **MS. HELTON:** Mr. Chairman.

9 **COMMISSIONER SKOP:** Ms. Helton, you're
10 recognized.

11 **MS. HELTON:** If I could suggest that we have a
12 date by which the late-filed exhibits would be due, and
13 then a date by which if anyone is going to object they
14 can object to that exhibit.

15 **COMMISSIONER SKOP:** All right. Very well.
16 And I was going to get to that, because I know that has
17 been a point of contention in the past. So does staff
18 have a proposed date for the late-filed exhibit on
19 Exhibit 84?

20 **MR. SAYLER:** For Late-filed Exhibit 84, staff
21 would -- if at all possible, can the utility provide
22 that to staff within two weeks?

23 **MR. BROWN:** Which one was that?

24 **MR. SAYLER:** That was the Supplemental
25 Response to Staff's Interrogatory Number 86.

1 **MR. BROWN:** Is that on the gain of sale?

2 **MR. SAYLER:** Yes. Would you be able to do
3 that by October 16th?

4 **MR. BROWN:** Ms. Withers is doing that. She
5 can do that by then, yes.

6 **MS. WITHERS:** I have a big deadline of October
7 15th for taxes.

8 **MR. SAYLER:** Oh, understandable.

9 **MS. WITHERS:** Can I have another few days
10 after that, maybe October 20th?

11 **MR. SAYLER:** Yes, October 20th would suffice
12 for staff.

13 **COMMISSIONER SKOP:** Ms. Helton, you have a
14 sheet in front of you. Is the 20th a work day?

15 **MS. HELTON:** Yes.

16 **COMMISSIONER SKOP:** Okay. All right. So
17 October 20th for Exhibit 84, is that correct?

18 **MR. SAYLER:** Yes, sir.

19 **COMMISSIONER SKOP:** Okay. And what about for
20 Exhibit 80, the same date?

21 **MR. SAYLER:** Yes.

22 **COMMISSIONER SKOP:** Okay. We will get to
23 those two exhibits in a second. And 85 has already been
24 entered, so -- I mean, 84 has already been entered and
25 not subject to objection, so unless there is an

1 objection to a response date of October 20th, that date
2 will control. Any objection?

3 **MR. McGLOTHLIN:** I have been reminded that the
4 brief is due on the 22nd, so in terms of dealing with
5 electronic exhibits that is --

6 **MS. SCOLES:** I believe that is the original
7 date, Joe. Wasn't it pushed back to the 30th?

8 **COMMISSIONER SKOP:** Staff?

9 **MS. SCOLES:** Remember, they figured out the
10 transcript would not be available.

11 **MR. SAYLER:** Commissioner Skop, we did revise
12 the CASR. And as regards critical dates, pursuant to
13 the order establishing procedure as revised, the
14 transcripts will be due on October 15th, and briefs
15 would be due on October 29th, 2010. And then based on
16 receiving the briefs on October 29th, 2010, staff has
17 scheduled its recommendation to be filed on December 2nd
18 for consideration at the December 14th, 2010, agenda
19 conference.

20 **COMMISSIONER SKOP:** All right. Very well.

21 **MR. McGLOTHLIN:** That being the case, we are
22 fine with that.

23 **COMMISSIONER SKOP:** All right. Thank you.

24 So no objection to 84, to the response date
25 for the late-filed exhibit. So that is taken care of.

1 So, staff, that takes us now to -- I will go to Mr.
2 McGlothlin first on Exhibit 78, which has now been
3 provided and you looked at it. Do you wish to enter
4 that exhibit at this time?

5 **MR. MCGLOTHLIN:** Yes.

6 **COMMISSIONER SKOP:** Any objection?

7 **MS. SCOLES:** No, Chairman.

8 **COMMISSIONER SKOP:** All right. Hearing none,
9 show Exhibit 78 entered in the record.

10 (Exhibit Number 78 admitted into the record.)

11 **COMMISSIONER SKOP:** And that leaves us with
12 the last exit, which is Exhibit 80, which has been
13 marked for identification. And the short title was
14 Disallowed Investment in Plant. And staff has proposed
15 a late-filed response date of October 20th on that. So,
16 Staff, do you wish to enter that exhibit at this point?

17 **MR. SAYLER:** Yes, Mr. Chairman.

18 **COMMISSIONER SKOP:** Any objection?

19 **MS. SCOLES:** No, Chairman.

20 **COMMISSIONER SKOP:** All right. Very well.
21 Show Exhibit 80 entered into the record with a
22 late-filed response date of October 20th.

23 (Exhibit Number 80 admitted into the record.)

24 **COMMISSIONER SKOP:** All right. At this point,
25 staff, are there any other matters that we need to

1 address prior to adjourning?

2 **MR. JAEGER:** The only thing I didn't get out
3 is the final order is scheduled to be issued on
4 January 3rd, 2011.

5 **COMMISSIONER SKOP:** Okay. Why don't we just,
6 for an abundance of caution, just go through those
7 critical dates real quick, and I think we will be done
8 at that point.

9 **MR. JAEGER:** The court reporter has asked that
10 the transcripts be due on October 15th, and that was
11 okayed by the order revising the order establishing
12 procedure; briefs will be due on October 29th; and based
13 on that, staff will schedule its recommendation to be
14 filed on December 2nd for the December 14th, 2010,
15 agenda conference, with a final order being scheduled to
16 be issued on January 3rd, 2011.

17 **COMMISSIONER SKOP:** Thank you. And,
18 Commissioner Edgar, you're recognized.

19 **COMMISSIONER EDGAR:** Thank you, Commissioner
20 Skop.

21 Some of the discussion through these two days,
22 but particularly here towards the end of this second day
23 has kind of centered around Issue -- what in my mind is
24 Issue 50A, that is 5-0, A as in apple. And just while
25 we are all here together, I'd like to say on the record

1 that I know I will be looking to our staff to help me go
2 through the testimony on that point. And if, perhaps,
3 the briefs may want to keep that in mind and maybe add
4 some clarity. There seems, in my mind, some confusion
5 as the way the issue is worded with investment and then
6 the positions of the two parties. I'm not sure an
7 investment is -- I'm a little confused as to the use of
8 the term investment when testimony that I'm hearing
9 talks about advances to pay debt. So I just want to put
10 that on the record that that is one of the things that I
11 know I'll be looking at, and perhaps briefs can help add
12 some clarity.

13 Thank you.

14 **COMMISSIONER SKOP:** Thank you, Commissioner
15 Edgar.

16 As a point of clarification to your point,
17 which is well taken, that was discussed, I think,
18 thoroughly at the prehearing conference, and that was
19 what the parties I believe were in agreement to. I
20 think I raised that issue. You can check the
21 transcript, I'm not sure, but there has been a lot of
22 discussion on that issue. And I also share your concern
23 about looking to that specifically in the briefs to gain
24 a commanding understanding as to what the position of
25 the parties are.

1 **COMMISSIONER EDGAR:** And clear use and meaning
2 of the terminology. Thank you.

3 **COMMISSIONER SKOP:** That was my concern when
4 we tried to frame the issue, as we understood what we
5 were talking about. All right.

6 Staff, any additional matters before I look to
7 the bench?

8 **MR. JAEGER:** None, Chairman.

9 **COMMISSIONER SKOP:** Okay. And we are all
10 good, Ms. Helton, nothing I've missed?

11 **MS. HELTON:** Not that I can think of.

12 **COMMISSIONER SKOP:** Okay. I don't want to
13 share the blame for doing something wrong.

14 At this point I will look to the bench for any
15 concluding comments?

16 Hearing none, we stand adjourned from this
17 technical portion of the hearing. Thank you to the
18 parties.

19 **MS. SCOLES:** Thank you, Chairman.

20 (The hearing adjourned at 5:23 p.m.)

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STATE OF FLORIDA)
 :
 : CERTIFICATE OF REPORTER
COUNTY OF LEON)

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

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

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

DATED THIS 15th day of October, 2010.



JANE FAUROT, RPR
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