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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 **CHAIRMAN GRAHAM:** Okay. We just finished with  
5 Mr. Rendell. And so, Mr. Jaeger, unless I'm reading  
6 this incorrectly, we're going to OPC's witness.

7 **THE COURT:** That's correct, Chairman.  
8 Mr. Woodcock is listed as the first one, and he has been  
9 stipulated. He had ten exhibits, also. I think we  
10 could insert Mr. Woodcock's testimony into the record as  
11 though read at this time.

12 **CHAIRMAN GRAHAM:** Let's go ahead and enter Mr.  
13 Woodcock's testimony into the record as though read.  
14  
15  
16  
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21  
22  
23  
24  
25

1 **I. INTRODUCTION/BACKGROUND/SUMMARY**

2 **Q. WHAT IS YOUR NAME AND BUSINESS ADDRESS?**

3 A. My name is Andrew Woodcock. My business address is 201 East Pine St. Suite 1000,  
4 Orlando, Florida, 32801.

5

6 **Q. BY WHOM ARE YOU EMPLOYED AND WHAT IS YOUR POSITION?**

7 A. I am employed by Tetrattech as a Professional Engineer and Senior Project Manager.

8

9 **Q. WHAT IS YOUR EDUCATIONAL BACKGROUND AND EXPERIENCE?**

10 A. I graduated from the University of Central Florida in 1988 with a B.S. degree in  
11 Environmental Engineering and in 1989 with an M.S. degree in Environmental  
12 Engineering. In 2001, I graduated from Rollins College with an MBA degree. In 1990, I  
13 was hired at Dyer, Riddle, Mills and Precourt as an engineer. In May of 1991, I was hired  
14 at Hartman and Associates, which has since become Tetra Tech. My experience has been  
15 in the planning and design of water and wastewater systems with specific emphasis on  
16 utility valuation, capital planning, utility financing, utility mergers and acquisitions and  
17 cost of service rate studies. I have also served as utility rate regulatory staff for St. Johns  
18 and Collier Counties in engineering matters. Before the Florida Public Service  
19 Commission (FPSC), I have provided testimony for Docket No. 070183-WU, regarding  
20 the Used and Useful Rule for Water Treatment Systems, Docket No. 070293-SU, KW  
21 Resort Utilities Rate Case and Docket No. 100104-WU, Water Management Services,  
22 Inc. Rate Case. In addition, with respect to AUF rate cases I provided testimony before  
23 the FPSC in Dockets 060368-WS and 080121-WS. Exhibit ATW-1 provides additional

1 details of my work experience.

2

3 **Q. WHAT ARE YOUR PROFESSIONAL AFFILIATIONS?**

4 A. I am a member of the Florida Stormwater Association, American Water Works  
5 Association and Water Environment Federation.

6

7 **Q. HAVE YOU PREVIOUSLY TESTIFIED BEFORE A RATE REGULATORY  
8 BODY AS AN ENGINEERING WITNESS?**

9 A. Yes, I testified in 2002 for the St. Johns County Regulatory Authority at a special  
10 hearing in an overearnings case against Intercoastal Utilities. In 2008, I testified before  
11 the FPSC on the Used and Useful Rule for Water Treatment Systems on behalf of the  
12 Office of Public Counsel (OPC). Also, in 2008, I testified in Docket 070293-SU  
13 regarding the used and usefulness of utility plant of KW Resort Utilities on behalf of  
14 OPC. I also provided testimony regarding AUF in two previous rate cases, Docket  
15 060368-WS in 2007, which was withdrawn by AUF, and in Docket 080121-WS. In 2010,  
16 I testified before the FPSC in docket 100104-WU regarding used and useful and pro  
17 forma adjustments to rate base for Water Management Services Inc.

18

19 **Q. WHAT IS THE PURPOSE OF YOUR TESTIMONY?**

20 A. The purpose of my testimony is to offer used and useful (U&U) testimony on the  
21 protested systems of Order No. PSC-11-0256-PAA-WS as shown in Exhibit ATW 2. I  
22 will also provide testimony regarding the pro forma adjustments to rate base and AUF's  
23 compliance history with the Florida Department of Environmental Protection.

24

1 **Q. WHAT DOCUMENTS HAVE YOU REVIEWED AND WHAT**  
2 **INVESTIGATIONS AND ANALYSES HAVE YOU MADE IN PREPARATION**  
3 **FOR YOUR TESTIMONY?**

4 A. I have studied the filings of AUF, including the Minimum Filing Requirements  
5 (MFRs) and the direct Testimony of Troy Rendell and John Livarcik. I have reviewed  
6 and studied many of AUF's responses to discovery requests. Also for purposes of service  
7 area determination, I reviewed the property maps of several County Appraisers offices,  
8 aerial photographs via Google Earth and contacted various utilities around the state.

9 In the summer of 2007, as part of a previous rate filing by AUF, I inspected all of  
10 the systems with the exception of Breeze Hill, Peace River and Fairways. In the summer  
11 of 2008, as part of last rate filing by AUF, I re-inspected Arredondo Farms, Rosalie Oaks  
12 and South Seas among others systems that are not protested in this proceeding.

13 In the winter of 2011, I inspected Arredondo Farms, Breeze Hill, Fairways, Peace River,  
14 Rosalie Oaks and South Seas systems among other systems that are not protested in this  
15 proceeding.

16 I also analyzed the system maps of each system as filed in the MFRs and  
17 reviewed Staff's work papers for U&U.

18

19 **II. USED AND USEFUL CALCULATIONS – GENERAL**

20

21 **Q. WHAT METHODOLOGY DID YOU USE TO CALCULATE THE U&U**  
22 **PERCENTAGES?**

23 A. I made my calculations based upon the requirements of the Commission's Rule 25-  
24 30.4325, F.A.C., for water treatment plant. For wastewater treatment plant, I relied upon

1 Rule 25-30.432, F.A.C. I also relied upon Section 367.081, F.S., which sets forth  
2 standards for U&U determinations. Section 367.081(2)(a)1., F.S., provides in part:

3 The commission shall...fix rates which are just, reasonable, compensatory and not  
4 unfairly discriminatory...In every such proceeding the commission shall  
5 consider...operating expenses incurred...in the operation of all property **used and**  
6 **useful in public service**; and a fair return on investment of the utility property  
7 **used and useful in the public service.**  
8

9 Section 367.081(2)(a)2.a., F.S., provides in part:

10 For purposes of such proceedings, the commission shall consider utility  
11 property...to be used and useful in the public service if:  
12 **a. Such property is needed to serve current customers.**  
13

14 In fixing just, reasonable, compensatory and not unfairly discriminatory rates,  
15 Section 367.081, F.S., requires the Commission to provide a fair return on investment in  
16 utility property and recovery of operating expenses incurred in the operation of utility  
17 property which is needed to serve current customers and a statutorily allowed amount of  
18 customer growth, as prescribed by Section 367.081(2)(a) 2.b. and c., F.S. I am of the  
19 opinion that many of the U&U percentages contained in the PAA Order are at odds with  
20 these statutory provisions and result in unnecessarily high rates for the customers.

21 **Q. IN THE COURSE OF PREPARING YOUR TESTIMONY, HAVE YOU**  
22 **CHANGED YOUR OPINION REGARDING THE PROTESTED U&U**  
23 **CALCUATIONS?**

24 A. Yes. Having analyzed the systems in more detail, I have come to an agreement with  
25 the following U&U calculations in the PAA Order that were originally protested by OPC.

26 Water Treatment:

27 Fairways at 100% U&U.

28 Water Distribution:



- 1 Arredondo Farms at 88% U&U,  
2 Fairways at 100% U&U,  
3 Lake Josephine/Sebring Lakes at 55% U&U,  
4 Tomoka at 100% U&U,  
5 Valencia Terrace at 100% U&U,  
6 Zephyr Shores at 100% U&U,  
7 Wastewater Collection:  
8 Fl Central Commerce Park at 100% U&U, and  
9 Zephyr Shores at 100% U&U.

10

11 **Q. CAN YOU SUMMARIZE YOUR GENERAL CONCERNS ABOUT THE PAA**  
12 **ORDER'S TREATMENT OF USED AND USEFUL?**

13 A. My primary concerns have to do with reliance on buildout and prior Commission  
14 orders as a justification for higher than calculated U&U percentages. In Exhibit ATW-3,  
15 I present the calculated U&U for AUF and Staff, as well as my own calculations  
16 alongside the U&U used in the PAA Order for the protested systems.

17 In addition, I include a column that identifies the comments that were included in  
18 the PAA Order Attachments. According to the comments provided in the Attachments,  
19 of the 79 protested U&U calculations, "prior order" is relied upon 38 times to justify a  
20 U&U percentage that is higher than what Staff calculated. Also according to the PAA  
21 Order Attachments, buildout is used to justify a 100% U&U for 26 of the 79 protested  
22 U&U calculations.

23 What I see overall from this treatment is a race to increase U&U, with no real  
24 justification for doing so. The only time the U&U percentage changes in the PAA Order

1 is when it increases. I find this to be an inaccurate means to define what portion of the  
2 facilities are actually serving customers. The customers are bearing the full brunt of the  
3 risk associated with stranded capacity in systems with little or no growth, declining  
4 growth rates, and decreasing usage. The end result is higher rates for the customers who  
5 have no control over these factors.

6

7 **Q. CAN YOU TELL US WHY YOU BELIEVE THE U&U SHOULD BE**  
8 **REEVALUATED FOR THE PROTESTED SYSTEMS?**

9 It is my opinion, in order to provide a complete and thorough review of a utility during a  
10 rate case, U&U should be evaluated every time. Over time there are material changes in  
11 the growth of a service area, how the system is operated and in the usage patterns of the  
12 customer base. There also may be new or different information submitted in the MFRs  
13 that corrects inaccurate information from a prior rate case. It is unlikely that the company  
14 would bring such issues to light if it resulted in a decrease in U&U. Therefore, it is  
15 incumbent upon the other parties of the rate case to provide an independent review of  
16 U&U with every rate case. In this case there have been material changes to many of the  
17 systems since the last rate case that effects the U&U calculations.

18 The first change I want to discuss is the system growth. The growth allowance in  
19 the U&U calculation relies upon some projection of historical five year data (usually of  
20 single family homes or Equivalent Residential Connections ("ERCs")). Since the five  
21 year historical data will change, it is not unreasonable to expect that this growth  
22 allowance will change from rate case to rate case. This will sometimes increase the U&U  
23 and sometimes decrease the U&U; however, the change in system growth should be  
24 evaluated in every rate case and incorporated into the U&U calculation. If not, the

1 customers would be subject to a U&U that is not based upon the most accurate and  
2 definitive information.

3 The U&U established for many systems in Order PSC-09-0385-FOF-WS, which  
4 was the last rate case for most of the protested systems, included an adjustment for  
5 projected growth. Since that time, the Florida and US economy, particularly the housing  
6 market, has undergone a recession. Thus, it is reasonable to assume that these growth  
7 factors are no longer accurate for many of the protested systems. In Exhibit ATW-4, I  
8 present the protested systems and their available U&U growth factors from the 2008  
9 Order and the 2010 staff work papers. Unfortunately, growth factors for 23 of the 79  
10 protested calculations were not available. However, out of the remaining 56 calculations,  
11 where growth factors were available, a total of 23 have experienced a decline in the  
12 growth factor since the last rate case. I believe this change in growth rate to be a  
13 significant part of the U&U calculation and is sufficient justification to reevaluate the  
14 overall U&U of all systems.

15

16 **Q. WHAT OTHER REASONS DO YOU HAVE FOR REEVALUATING THE**  
17 **U&U FOR THE PROTESTED SYSTEMS?**

18 A. I also believe that the fact that the system demand has declined in many cases is also  
19 an important factor for reevaluating the U&U of a system. Rule 25-30.4325 (2), F.A.C.,  
20 which provides guidance on the U&U calculation for water treatment and storage states,  
21 in part:

22 The Commission's used and useful evaluation of water treatment system and  
23 storage facilities will consider...whether flows have decreased due to  
24 conservation or to a reduction in the number of customers.  
25

26 Similarly, for wastewater systems, Rule 25-30.432, F.A.C., which provides guidance on

1 the U&U calculation for wastewater treatment, states in part:

2 In determining the used and useful amount, the Commission will also consider  
3 other factors such as...whether the flows have decreased due to conservation or a  
4 reduction in the number of customers.  
5

6 These rules require that U&U be reevaluated for systems where the flows have decreased.  
7 Historically, Staff has relied upon these rules as a means not to adjust flows down to  
8 generate a U&U that was lower than a previous order. In other words, the U&U  
9 consideration for a decline in flows is zero. I am of the opinion that the consideration for  
10 such reduction in flows should be 100%. Ignoring a decline in system flow does not  
11 effectively capture the portion of the system that is actually serving customers. Capacity  
12 that is not used as a result of a decline in customer usage is not providing service to the  
13 customers and should not be considered in the U&U calculation. Ignoring a decrease in  
14 flows due to customer loss inappropriately shifts the costs of non-U&U facilities onto  
15 customers and leads to unnecessarily higher rates.

16

17 **Q. WHAT ARE YOUR THOUGHTS ON BUILDOUT AND USING 100% U&U?**

18 A. Rule 25-30.4325 (4), F.A.C., provides:

19 A water treatment system is considered 100 percent used and useful if the service  
20 territory the system is designed to serve is built out and there is no apparent  
21 potential for expansion of the service territory...  
22

23 I believe Staff has stretched the interpretation of this rule beyond its reasonable limits  
24 resulting in determinations of 100% U&U when systems are not actually built out.

25 The rule specifically states that a water treatment system would be 100% if the service  
26 territory the system is designed to serve is built out. Historically, it appears Staff has  
27 assumed that the certificated service area is equivalent to the design service area. This

1 assumption is not supported, however, by any review of the original design criteria of the  
2 treatment facilities. I recognize that given the age of most of the systems in this rate case  
3 obtaining original design calculations would be costly, if they are even available at all.  
4 However, before such a broad assumption of 100% U&U is made for these facilities,  
5 some level of reasonableness against the actual U&U calculations should be considered.  
6 Another portion of Rule 25-30.4325, F.A.C., has to do with the "...and no apparent  
7 potential for expansion of the service territory...". It is important to note that this is a  
8 two part test, both the design service area must be built out AND there must be no  
9 potential for expansion. Before any U&U treatment determination of buildout is made,  
10 the area surrounding the certificated service area must be considered for potential  
11 expansion.

12 If there is undeveloped property contiguous to or in close proximity to the current service  
13 territory that can be served in the future by the stranded capacity, a potential for growth  
14 exists. Under these circumstances, Rule 25-30.4325 (4), F.A.C., precludes such a system  
15 from being considered 100% U&U.

16 **Q. WHAT OTHER CONCERNS DO YOU HAVE WITH DETERMINATIONS OF**  
17 **100% USED AND USEFUL?**

18 A. Occasionally, the Staff has considered older systems with little to no growth over the  
19 previous five years as 100% U&U, or for systems that are 95% U&U, simply rounded  
20 them up to 100%. I have never agreed with this methodology. While Staff has used this  
21 methodology in the past, it is not supported in any U&U rule. Given the recent recession  
22 and down turn in the housing market, many more systems will be experiencing little or no  
23 growth simply as a consequence of factors in the overall state and national economy.  
24 Continuing with this unsupported policy will only result in more systems being

1 considered 100% U&U when, in fact, a portion of the facilities are not providing service  
2 to the customers. This results in higher rate bases and ultimately higher rates for the  
3 customers.

4

### 5 **III. WATER TREATMENT USED AND USEFUL**

6

#### 7 **Q. WHAT ARE YOUR FINDINGS WITH RESPECT TO WATER TREATMENT** 8 **USED AND USEFUL FOR THE PROTESTED SYSTEMS?**

9 In ATW-5, I present my U&U analysis of the protested water treatment systems. I  
10 followed the requirements of Rule 25-30.4325, F.A.C. In most cases, I agreed with the  
11 information presented in the MFRs. However, there were a few instances where the  
12 flows as reported in the monthly operating reports (MORs) submitted to FDEP did not  
13 match what was reported in the MFRs. In these cases, I tended to rely upon the MORs,  
14 unless it seemed like the MOR data was an anomaly. In a few other cases, subsequent  
15 discovery changed some of the data I used. Despite my U&U calculations being similar  
16 to AUF's and Staff's, in many cases the U&U that was ultimately included in the PAA  
17 Order was higher.

18

#### 19 **Q. CAN YOU DISCUSS YOUR OPINIONS ON THE U&U OF THE** 20 **TREATMENT SYSTEMS THAT ARE CONSIDERED BY THE COMMISSION** 21 **TO BE 100% U&U DUE TO BUILDOUT?**

22 A. Yes, I will start with Arredondo Estates. From Exhibit ATW 3, my calculations agree  
23 with Staff's at setting the U&U for the treatment system at about 80%. However, the  
24 U&U in the PAA Order is set at 100% due to buildout. In order to confirm the buildout, I

1 went to the U&U calculation for the Arredondo Estates distribution system and found  
2 that Staff had calculated the U&U at 46.84%, while I had calculated the U&U at 89.53%.  
3 Now, regardless of the differences in our actual percentages, it is apparent by both sets of  
4 calculations that the Arredondo Estates service area is not built out. In other words, the  
5 requirements of Rule 25-30.4325 (4), F.A.C., have not been met and the system should  
6 not be considered 100% U&U.

7

8 **Q. THE PAA ORDER STATES THAT THE ARREDONDO ESTATES WATER**  
9 **DISTRIBUTION SYSTEM IS 100% U&U AND DOES NOT USE THE STAFF**  
10 **CALCULATION. PLEASE EXPLAIN WHY?**

11 A. The PAA Order assigns a 100% U&U to the water distribution system due to reliance  
12 on a prior order on U&U. I researched the prior order and found that both the water  
13 treatment U&U and the water distribution U&U for Arredondo Estates were considered  
14 100% because the system is old and there was minimal growth over the previous five  
15 years. As I have already testified, this conclusion is not supported by the current U&U  
16 rules and only serves to arbitrarily increase the U&U of utility systems as the impact of  
17 the recession continues to impact growth. Moreover, Staff's own calculations showed  
18 that over 50% of the lots are available for new customers. Therefore, the reliance on the  
19 prior order 100% U&U, which is not supported by the U&U rules, should not be allowed  
20 to support a finding of buildout condition and a 100% U&U for treatment.

21

22 **Q. SO WHAT IS YOUR OPINION OF THE U&U FOR THE ARREDONDO**  
23 **ESTATES TREATMENT?**

24 A. My opinion is that the Arredondo Estates water treatment facilities are 80% which is

1 in agreement with Staff's calculation.

2

3 **Q. WHAT IS YOUR NEXT CONCERN WITH THE WATER TREATMENT**  
4 **U&U?**

5 A. My next concern is with Arredondo Farms. As with Arredondo Estates, my U&U  
6 calculations are in line with Staff's calculations at about 61%. However, the PAA has  
7 100% U&U based on buildout. A review of the water distribution system U&U in the  
8 PAA shows that the U&U for Arredondo Farms is 88%. Despite 12% of the water  
9 distribution system being available for new connections according to the PAA Order,  
10 somehow water treatment U&U of the system was considered built out and therefore  
11 considered 100% U&U. I find this to be completely incongruous and unreasonable. I  
12 recommend that the U&U of the water treatment facilities should be found to be 61%  
13 U&U.

14

15 **Q. WHAT IS YOUR NEXT CONCERN WITH THE WATER TREATMENT**  
16 **U&U?**

17 A. Since we are discussing water treatment facilities that are considered by the PAA to be  
18 100% U&U due to buildout, the next example to consider is East Lake Harris/Friendly  
19 Center. Like the two systems above, Staff's U&U calculations match my own at about  
20 41% U&U, yet the PAA Order sets the U&U at 100% based on buildout. What sets this  
21 system apart from the Arredondo systems is that I agree with staff that the service area is  
22 built out. Nevertheless, referring back to Rule 25-30.4325 (4), F.A.C., both the design  
23 service area must be built out and there must be no potential for service area expansions.  
24 While there is some question as to whether the certificated service area is the design



1 service area, I checked to determine if the existing service area could be expanded.  
2 Exhibit ATW 6 presents an aerial photograph of the service area and the surrounding  
3 properties obtained from Google Earth. Based on this Exhibit, it is apparent that there is  
4 significant developable property adjacent to the service area available for potential  
5 expansion. There also does not appear to be any other utilities in the area that could easily  
6 provide service to this property. Based on my analysis, the second part of the 100%  
7 buildout test has not been met since there is the ability for the utility to expand its service  
8 area. As a result, I am of the opinion that the East Lake Harris/Friendly Center water  
9 treatment facilities should be considered 41% U&U.

10

11 **Q. WHAT IS THE NEXT SYSTEM YOU WISH TO ADDRESS?**

12 A. I found that the following systems appear to meet the requirements of Rule 25-  
13 30.4325 (4), F.A.C., in that they are 100% built out and there is no apparent room for  
14 expansion inside or outside the service territory:

15 Fairways - Treatment U&U 78%;

16 Tomoka - Treatment U&U 43%; and

17 Zephyr Shores- Treatment U&U 25.93%.

18 While I am unable to determine the exact nature of the original design service areas, it  
19 does appear that these facilities are serving an almost completely developed service area.  
20 In addition, I have determined that these systems either have no adjacent developable  
21 land (Fairways) or are adjacent to other utility systems (Ormond Beach for Tomoka and  
22 Pasco County for Zephyr Shores). Further, it is likely that these other systems would  
23 provide service to the adjacent undeveloped properties.

24

1 **Q. SO YOUR RECOMMENDATION FOR THESE FACILITIES IS THAT THEY**  
2 **SHOULD BE CONSIDERED 100% U&U PER RULE 25-30.4325 (4), F.A.C.?**

3 A. For the Fairways system, I would agree that 100% U&U may be appropriate. While it  
4 is not 100% U&U, it is more than 75% U&U. In my opinion, that is the low end of  
5 variability between capacity and demand that I would expect in a buildout condition.

6

7 **Q. PLEASE EXPLAIN?**

8 A. I recognize that there are differences that can occur between initial design conditions  
9 and final buildout of a service area. I am of the opinion that a swing of 25% is an  
10 appropriate figure to use to account for incremental sizing of facilities, and differences  
11 between design estimates and actual usages without putting an undue burden on the  
12 customers for capacity that will not be used. So in a case where the service area appears  
13 to be truly built out and there is no apparent opportunity to expand the service, I would  
14 recommend permitting the application of 100% U&U for treatment facilities, provided  
15 that the calculated U&U is greater than 75%.

16

17 **Q. WHAT ABOUT THE TREATMENT FACILITIES WITH A CALCULATED**  
18 **U&U LESS THAN 75%?**

19 A. I find that such a difference goes beyond the expected variability of planning and  
20 design. There could be a number of reasons for this variability. It is possible that the  
21 facilities were originally designed to serve a larger service area than what is certificated,  
22 or the land use within the service area changed from the original concept, or the facilities  
23 could have been over-designed, or the customer base could be requiring far less service  
24 than originally contemplated. In most cases, given the age of these systems it would be

1 difficult to find the specific reason for such a discrepancy. However, the fact remains  
2 that there are large amounts of stranded capacity in these systems that will never be used  
3 by the customers. It is my opinion that this should be addressed in the U&U analysis.  
4 For example, with Zephyr Shores, 74% of the facilities do not provide service to the  
5 customers even though the service area is built out and there is no room for service area  
6 expansion.

7 Therefore, in my opinion, in the Tomoka and Zephyr Shores systems where there  
8 is excessive capacity beyond a reasonably expected variability level, the calculated U&U  
9 percentages should be used.

10

11 **Q. WHAT OTHER COMMENTS DO YOU HAVE ABOUT WATER**  
12 **TREATMENT U&U?**

13 A. Interlachen/Park Manor is similar to Arredondo Farms in that the water distribution  
14 system that the treatment facilities serve is not considered 100% U&U by the PAA Order.  
15 In my opinion, the U&U for this system should be 76%, as calculated by Staff.

16 Hobby Hills is similar to East Lake Harris/Friendly Estates. Although the Hobby  
17 Hills service area is built out, there appears to be developable property adjacent to the  
18 service area that could be served and there are no other utilities nearby that may be able  
19 to provide service (see Exhibit ATW 7). Therefore, it is my opinion that the U&U for the  
20 water treatment facilities for Hobby Hills should remain as calculated by Staff at 41%.

21

22 **Q. WHAT IS YOUR OPINION OF U&U FOR THOSE WATER SYSTEMS THAT**  
23 **RELY UPON A PRIOR ORDER DETERMINATION IN THE PAA ORDER?**

24 A. As I mentioned previously, many systems have experienced changes in either growth

1 rate or system flows from the 2008 rate case that affected the U&U calculation. While  
2 Staff and AUF have adjusted for these changes where the U&U would be adjusted up,  
3 they made no such corrections where the U&U would be adjusted down. I found five  
4 systems in the PAA in which the U&U percentages rely upon the prior order where the  
5 growth rate has dropped. They are as follows:

6 Carlton Village whose U&U growth factor dropped from 1.25 in the 2008 rate case to  
7 1.19;

8 Hobby Hills whose U&U growth factor dropped from 1.04 in the 2008 rate case to 1.00;

9 Lake Josephine/Sebring whose U&U growth factor dropped from 1.06 and 1.25 for the  
10 separate systems in the 2008 rate case to 1.00;

11 Silver Lake Estates whose U&U growth factor dropped from 1.06 in the 2008 rate case to  
12 1.00; and

13 Venetian Village whose U&U growth factor dropped from 1.14 in the 2008 rate case to  
14 1.08.

15 These changes in growth affect the U&U calculation. It is my opinion that the new  
16 calculations for U&U should be used for these systems. For Carlton Village and  
17 Venetian Village, I agree with Staff's calculation of U&U at 91% and 62% respectively. I  
18 have discussed the Hobby Hills system previously in my testimony. For Silver Lake  
19 Estates, my U&U calculation differs from Staff's due to fire flow which I will discuss  
20 later in my testimony. Finally, I address the water treatment U&U for Lake  
21 Josephine/Sebring Lakes later in my testimony.

22 In two systems, Picciola Island and Welaka, the growth rate actually increased  
23 since the last rate case; however, customer usage declined to the extent that the calculated  
24 U&U for this proceeding is less than what was contained in the 2008 rate case. As I have

1 mentioned previously, I am of the opinion that changes in customer flows should be  
2 given full and equal consideration by increasing or decreasing the U&U calculation.  
3 Thus, in my opinion, based on the U&U rule, the U&U for water treatment for these two  
4 systems should be revised to the U&U percentages that both Staff and myself calculated  
5 at 56% U&U for Picciola Island and 74% U&U for Welaka.

6

7 **Q. WHAT IS YOUR RECOMMENDATION FOR THE U&U OF THE**  
8 **REMAINING SYSTEM THAT RELIES UPON A PRIOR ORDER, LAKE**  
9 **JOSEPHINE/SEBRING?**

10 A. The Lake Josephine/Sebring system was handled differently by Staff in this  
11 proceeding than in 2008. In the last rate case, Staff and AUF treated them as separate  
12 systems. In this proceeding, Staff and AUF both treated the systems as interconnected,  
13 which is similar to my methodology in the 2008 rate case. Such a modification  
14 represents a major change in how the system is operated and drastically affects the U&U  
15 calculation. As an interconnected system, there are significant changes to the firm  
16 reliable capacity of the water treatment system which has a direct impact on the  
17 denominator of the U&U calculation. Staff's attempt to try to present a composite U&U  
18 percentage based on the prior order ignores this fundamental change and completely  
19 overstates the U&U of the treatment facilities. Staff's actual calculation of U&U for the  
20 combined system is 32% U&U, as compared to the 85% U&U provided in the PAA  
21 Order.

22

23 **Q. WHAT IS YOUR OPINION OF THE WATER TREATMENT U&U FOR THE**  
24 **LAKE JOSEPHINE/SEBRING SYSTEM?**

1 A. My methodology is similar to Staff's; however, we have a slightly different firm  
2 reliable capacity number. Staff includes the full impact of fire flow in the system  
3 whereas I do not. My opinion of the water treatment U&U for the Lake  
4 Josephine/Sebring system is 25%.

5

6 **Q. YOU HAVE TWICE MENTIONED FIRE FLOW AS HAVING AN IMPACT**  
7 **ON YOUR CALCULATIONS AS COMPARED TO STAFF'S. WILL YOU**  
8 **EXPLAIN?**

9 A. Rule 25-30.4325, F.A.C., allows for fire flow to be included in the U&U calculation  
10 for water treatment, if it is provided. Historically, it has been Staff's position that fire  
11 flow should be included in the U&U calculation if hydrants are included in the service  
12 area regardless of the number of hydrants or ability of the lines to actually provide fire  
13 service to the entire service area. Staff maintains the same position in this proceeding.  
14 Conversely, in my testimony in previous cases, I have argued against including fire flow  
15 in the water treatment U&U calculation if there are not sufficient hydrants in the system  
16 to provide complete coverage or the lines are undersized to provide fire flow. My  
17 reasoning is that, if all customers do not benefit from the provision of fire flow, the  
18 capacity cannot be said to be used and useful for all customers. This issue affects the  
19 water treatment U&U for two systems, Silver Lake Oaks and Lake Josephine/Sebring  
20 Lakes, and is the primary difference between my and Staff's calculations. As a result, my  
21 opinion of U&U for the water treatment facilities for Silver Lake Oaks is 74% versus  
22 Staff's 77%, and my opinion for the Lake Josephine/Sebring system is 25% versus Staff's  
23 32%.

24

1 **Q. WHY ARE SOME OF THE ONE-WELL SYSTEMS PROTESTED WHEN**  
2 **RULE 25-30.4325, F.A.C., STATES THAT SYSTEMS WITH ONE WELL ARE**  
3 **CONSIDERED 100% U&U?**

4 A. Similar to my position in the 2008 rate case, I found that even though some systems  
5 were served by a single well, the calculated U&U numbers are quite low. In these  
6 instances, I am of the opinion that, pursuant to Rule 25-4325 (3), F.A.C., an alternative  
7 approach to U&U is necessary. In defining my criteria for further consideration, I looked  
8 at both the calculated U&U and the size of the supply well. If the well is greater than 150  
9 gallons per minute ("gpm") and the calculated U&U is less than 75%, I believe further  
10 evaluation of the U&U is appropriate.

11

12 **Q. HOW DID YOU DETERMINE THESE CRITERIA?**

13 In deviating from the requirements of the one well rule, I wanted to be sure that I was  
14 only considering systems where a further analysis would have a significant impact. I  
15 generated these criteria to provide a conservative basis for isolating special cases to the  
16 one well rule. For the U&U criterion, I wanted to make sure that I was not including  
17 facilities that would be close to 100% U&U without consideration of the one well rule. I  
18 set 75% U&U as a threshold so that there would be a significant difference for deviating  
19 from the one well rule.

20 With respect to the well pumps, I wanted to conservatively eliminate smaller  
21 capacity pumps where a small change in demand could have a large percentage impact on  
22 U&U. This recognizes the fact that a smaller well pump could easily approach 100%  
23 U&U with only a few additional customers. Whereas, a larger well serving the same  
24 customer base would not see as high of a U&U increase. Based on my review of the

1 systems, I believe that 150 gpm is a conservative threshold to account for this.

2

3 **Q. WHAT SYSTEMS WERE AFFECTED BY THESE CRITERIA?**

4 A. I found four systems with one well that meet the above criteria and should be  
5 evaluated for U&U on a calculated basis. The systems are as follows:

6 the Breeze Hill system which has a single 177 gpm pump and a calculated U&U of  
7 26%;

8 the Fern Terrace system which has a single 180 gpm pump and a calculated U&U of  
9 68%;

10 the Rosalie Oaks system which has a single well of 250 gpm and a calculated U&U of  
11 12%; and

12 the Twin Rivers system which has a single well of 268 gpm and a calculated U&U of  
13 24%.

14

15 **IV. WASTEWATER TREATMENT USED AND USEFUL**

16

17 **Q. DESCRIBE YOUR USED AND USEFUL METHODOLOGY FOR**  
18 **WASTEWATER TREATMENT SYSTEMS?**

19 A. I followed the methodology stated in Rule 25-30.432, F.A.C. My analysis consisted  
20 of a review of the test year Discharge Monitoring Reports (DMRs) that are required to be  
21 filed monthly with FDEP. For some systems, I found that the DMR flows do not match  
22 with what is found in the MFRs. However, in most cases, it did not appear to be a  
23 significant difference. In my calculations, I used the flows that were presented in the  
24 DMRs.



1           The appropriate basis for the calculation was then determined from the system  
2 permits. In instances where the permit delineated two permitted capacities, one for  
3 treatment and one for effluent disposal, two separate used and useful percentages were  
4 produced. For these cases, I used the larger of the two used and useful values. Exhibit  
5 ATW-8 provides my wastewater treatment used and useful calculations.

6

7 **Q. WHAT IS YOUR OPINION OF THE WASTEWATER TREATMENT U&U**  
8 **FOR THE PROTESTED SYSTEMS?**

9 A. I disagree with the reliance upon buildout conditions and prior orders that show a  
10 higher than calculated U&U. I recommend that the actual calculated U&U percentages  
11 be relied on for rate setting. I think it is important to note that in some cases I agree with  
12 both Staff's and AUF's percentages, and in some cases, my U&U is higher.

13

14 **Q. CAN YOU SHOW SOME EXAMPLES WHERE RELIANCE ON BUILDOUT**  
15 **CONDITIONS OVERSTATES THE WASTEWATER TREATMENT U&U?**

16 A. The first system I want to discuss is The Woods. Staff calculates the wastewater  
17 treatment U&U at 75%, but, the PAA Order recommends 100% due to buildout.  
18 However, the wastewater collection system for the Woods is shown in the PAA as only  
19 71% built out. So there are available lots for new growth in the system and it is clearly  
20 not built out; therefore, the wastewater treatment U&U should be as calculated at 61%.

21

22 **Q. WHAT OTHER EXAMPLES DO YOU HAVE?**

23 A. The next examples I would cite are systems where the treatment U&U is considered  
24 100% when the wastewater collection system is deemed to be 100% U&U, even though

1 the actual collection system calculations support a lower U&U percentage.

2 The Peace River system is considered to have a 100% U&U collection system  
3 even though the actual calculations show that it is 80%. Nevertheless, the wastewater  
4 treatment plant is considered 100% U&U due to buildout, when the actual calculations  
5 show that it is only 59% U&U.

6 The Jungle Den wastewater collection system is considered 100% U&U, when the  
7 actual calculations show that it is 87% U&U by my calculations, and 141% by Staff.  
8 Despite our differences in U&U percentage, which is likely the result of how staff  
9 counted connections in the service area, there are available lots for new service in the  
10 service area. The wastewater treatment facilities are considered 100% U&U due to  
11 buildout when the calculated U&U percentage by both myself and Staff is 37%.

12 The Rosalie Oaks wastewater collection system is considered 100% U&U, when  
13 the actual calculations show that it is 93% U&U by my calculations, and 79% by Staff.  
14 The wastewater treatment facilities are then considered 100% due to buildout even  
15 though the U&U calculations show it to be 52% U&U.

16 The Fairways system has a collection system that is considered 100% U&U in the  
17 PAA Order when the U&U calculation shows that it is 99%. This is a close distinction;  
18 however, it is important because considering the system 100% U&U is used as  
19 justification for considering the wastewater treatment plant 100% U&U when the actual  
20 calculations show it as 42%.

21

22 **Q. ARE THERE ANY SYSTEMS WHERE YOU DO AGREE THAT THE**  
23 **WASTEWATER TREATMENT FACILITIES PROVIDE SERVICE TO A**  
24 **SERVICE AREA THAT IS BUILT OUT AND HAS NO POTENTIAL FOR**

1 **EXPANSIONS?**

2 A. Yes, after careful consideration of the service areas, surrounding properties adjacent to  
3 the service areas, and a survey of utility systems in the area of the utilities, I agree that the  
4 following wastewater treatment systems are serving built out service areas and have no  
5 potential for expansion:

6 Arredondo Farms - Treatment U&U 66%;

7 Florida Central Commerce Park - Treatment U&U 41%;

8 Kings Cove - Treatment U&U 46%;

9 Morningview - Treatment U&U 33%;

10 South Seas - Treatment U&U 40%;

11 Summit Chase - Treatment U&U 36%;

12 Valencia Terrace - Treatment U&U 40%; and

13 Venetian Village - Treatment U&U 49%.

14

15 **Q. SO FOR THESE SYSTEMS THE WASTEWATER TREATMENT U&U**  
16 **SHOULD BE 100%?**

17

18 A. No, that is not my opinion. In each of these cases, there is a very low U&U for  
19 wastewater treatment. With the exception of 2 systems, the U&U is less than 50%.  
20 Clearly, there is a large portion of the treatment system that is not providing service to the  
21 customers.

22

23 **Q. HOW WOULD YOU CHARACTERIZE THE NATURE OF THE**  
24 **DIFFERENCE BETWEEN THE LOW U&U AND THE BUILT OUT SERVICE**

1 **AREA?**

2 A. As I mentioned previously regarding water treatment, there could be a number of  
3 reasons. It is possible that the facilities were originally designed to serve a larger service  
4 area than what is certificated, or the land use within the service area changed from the  
5 original concept, or the facilities could have been over designed, or the customer base  
6 could be requiring far less service than originally contemplated. Given the age of these  
7 systems, it would be difficult to find the specific reason for such a discrepancy.  
8 However, the fact remains, that there is a large amount of stranded capacity in these  
9 systems that will never be used by the customers. It is my opinion that this extra capacity  
10 should be accounted for by the U&U analysis. I am willing to accept a 25% allowance in  
11 U&U to account for reasonable mismatches between design and actual conditions and  
12 incremental capacity issues. Therefore, my opinion is that if the calculated U&U is 75%  
13 or greater, a U&U 100% is appropriate. However, for the systems that the calculated  
14 U&U percentages are less than 75%, then the calculated U&U should be used.

15

16 **Q. WHAT OTHER ISSUES DO YOU HAVE REGARDING WASTEWATER**  
17 **TREATMENT U&U?**

18 A. I have several objections to reliance on the prior order to justify a higher than  
19 calculated U&U. I found five instances where the calculated U&U was less than a prior  
20 order as a result of lower flows or lower growth, and it is my opinion that the calculated  
21 U&U percentages are the most accurate for use in this rate proceeding.

22

23 **V. WATER DISTRIBUTION AND WASTEWATER COLLECTION USED**  
24 **AND USEFUL**

1

2 **Q. DESCRIBE YOUR U&U METHODOLOGY FOR WATER DISTRIBUTION**  
3 **AND WASTEWATER COLLECTION SYSTEMS?**

4 A. For the most part, I used the lot to lot methodology based on counts of customers and  
5 lots adjacent to service lines as counted from the service area maps as provided by AUF  
6 in the MFRs. Exhibit ATW-9 presents my calculations of the water distribution and  
7 wastewater collection U&U.

8

9 **Q. WHAT ARE THE RESULTS OF YOUR U&U ANALYSIS OF THE**  
10 **PROTESTED SYSTEMS?**

11 A. In many cases, my U&U calculations are similar to what was determined by AUF and  
12 Staff. However, as with water treatment, I found that the PAA Order includes higher  
13 than calculated U&U numbers based on buildout conditions and reliance on prior orders.  
14 I have already stated previously in my testimony why such blanket determinations result  
15 in inaccurate U&U determinations.

16

17 **Q. PLEASE EXPLAIN WHY YOU DO NOT AGREE WITH THE SYSTEMS IN**  
18 **THE PAA THAT ARE CONSIDERED 100% U&U DUE TO BUILDOUT?**

19 A. Staff has historically assumed that systems that are 95% built out with little or no  
20 growth to be considered 100% U&U. I find this to be an inappropriate rounding practice  
21 that only serves to overstate the U&U of the distribution system. This is a particularly  
22 sensitive issue because in some cases a 100% U&U water distribution or wastewater  
23 collection system also is used to justify a higher than calculated U&U percentage for  
24 treatment systems, many of which have very low calculated U&U percentages.

1 I am of the opinion that rounding to a single percentage point is an appropriate  
2 level of accuracy that neither favors the customers or AUF. The U&U stands as  
3 calculated which in some cases may be 99%. This methodology avoids overstating, and  
4 in some cases grossly overstating, the U&U percentage of treatment facilities.

5

6 **Q. WHAT IS YOUR OPINION CONCERNING SYSTEMS WHERE THE U&U IS**  
7 **STATED AS 100% IN THE PAA ORDER AS THE RESULT OF A PRIOR**  
8 **ORDER?**

9 A. As I mentioned previously, U&U should always be reevaluated in a new rate case. As  
10 a result of relying on prior orders, many line U&U percentages are overstated. For  
11 example, Rosalie Oaks is considered 100% U&U based on a prior order when all three  
12 parties have calculated the actual U&U to be 80%. My opinion is that the calculated  
13 U&U number should be used.

14

15 **Q. ARE THERE ANY PARTICULAR U&U DIFFERENCES YOU WISH TO**  
16 **COMMENT ON?**

17 A. Yes. For the most part, the systems consist of a residential customer base, and a direct  
18 comparison of lot to lot is an accurate and appropriate means of determining U&U for  
19 water distribution and wastewater collection. There are a few systems, however, where  
20 there is either a large portion of multifamily connections on a single lot or commercial  
21 customers where a direct lot to lot calculation is not accurate. It appears that this  
22 methodology is generally agreed to by all parties. However, I found one case for the  
23 Jungle Den wastewater collection system where my methodology generated a different  
24 U&U percentage than Staff or AUF. From Staff work papers, an actual U&U of 140 is

1 calculated by comparing the number of customers to the number of lots in the service  
2 area. In my approach, I compared the number of customers to the number of potential  
3 customers in the service area based on the service area maps provided with the MFRs.  
4 My U&U calculations indicated a U&U of 87%.

5

6 **VI. PRO FORMA ADJUSTMENTS TO RATE BASE**

7

8 **Q. PLEASE EXPLAIN YOUR POSITION REGARDING THE PRO FORMA**  
9 **PLANT ADDITIONS TO THE LAKE JOSEPHINE/SEBRING LAKES AND**  
10 **LEISURE LAKES SYSTEMS?**

11 A. I am concerned that there is no assurance that the improvements requested by the  
12 Company will be placed into service. The PAA approves a total of \$276,392 in pro  
13 forma adjustments for the Lake Josephine/Sebring Lakes systems that have not been  
14 installed or placed into service for the benefit of the customers. Also for Leisure Lakes,  
15 the PAA Order approves \$93,700 in pro forma adjustments that have not been installed or  
16 placed into service for the benefit of the customers.

17 As part of my initial investigations in this case, I inspected several systems where  
18 there were large adjustments to rate base. Both Lake Josephine/Sebring Lakes and  
19 Leisure Lakes were on my list; however, during the time of my inspections in the winter  
20 of 2011, I was told that the systems were under design and there were no facilities to  
21 inspect. In addition, over the course of discovery, several status updates were sent by  
22 AUF that corroborated what I was told in the field. Recently, the Testimony of Mr.  
23 Luitweiler in this case stated that bids for the construction of the pro forma improvement  
24 to the Lake Josephine/Sebring Lakes system are expected on September 5, 2011, and bids

1 for the construction of the Leisure Lakes pro forma improvements are expected on  
2 November 7, 2011.

3

4 **Q. WHAT IN YOUR OPINION WOULD CONSTITUTE REASONABLE**  
5 **ASSURANCE THAT THE PRO FORMA IMPROVEMENTS WILL BE PLACED**  
6 **INTO SERVICE FOR THE BENEFIT OF THE CUSTOMERS?**

7 A. I am of the opinion that at a minimum secured bids and construction underway would  
8 be reasonable assurance. My concern is that, even though the equipment for these  
9 improvements has been purchased, they still may not be actually be installed and placed  
10 into operation. Even though the projects may be bid out to a contractor to install, there  
11 may be other reasons that could delay or prevent the project from being completed. I  
12 believe once construction is under way there is a high likelihood that the facilities will be  
13 completed.

14

15 **Q. IN MR. LUITWIELLER'S TESTIMONY, IT APPEARS THAT SEVERAL**  
16 **PRO FORMA PROJECTS WILL BE BID FOR CONTRUCTION AS THIS RATE**  
17 **CASE PROGRESSES. WHAT IS YOUR OPINION OF THE CHANGING**  
18 **NATURE OF THE STATUS OF THESE PROJECTS?**

19 A. I would consider a Notice to Proceed to the contractor and verification that physical  
20 construction has started to be reasonable evidence that the projects should be placed into  
21 rate base and I am willing to change my opinion if this occurs by the end of this rate  
22 proceeding.

23

24 **Q. WHAT ARE YOUR FINDINGS ABOUT THE COMPLIANCE STATUS OF**



1 **THE AUF SYSTEMS WITH ENVIRONMENTAL REGULATIONS?**

2 A. I reviewed information regarding AUF's systems provided by FDEP from their  
3 compliance database and present a summary of that information in ATW-10. This data  
4 base provided information regarding various FDEP compliance issues with AUF systems  
5 from January 2001 through July 2011.

6 The first page of ATW-10 presents a listing by AUF system of water violations.  
7 Since 2007, there have been a total of 26 primary water quality violations, 20 total  
8 coliform violations, 15 secondary violations and 15 violations for late or not reported  
9 parameters (shown as MNR in the Exhibit). Since 2010, there have been total of 3  
10 primary water quality violations, 6 total coliform violations, 2 secondary violations and 1  
11 violation for late or not reported parameters.

12 Exhibit ATW-10 also shows the number of compliance issues regarding the AUF  
13 wastewater systems. Since 2007, the AUF wastewater treatment plants have been found  
14 to have minor out of compliance notices 96 times and significant out of compliance  
15 issues 39 times. Since 2010, these same systems have been found to have minor out of  
16 compliance issues 40 times and significant out of compliance issues 11 times.

17 Finally, Exhibit ATW-10 shows the number of notices sent to AUF water  
18 systems. Since 2007, AUF water systems have had 5 boil water precautionary notices, 11  
19 formal consent orders, 12 formal warning letters and 22 instances where the consumer  
20 confidence reports received were not in compliance. Since 2010, AUF water systems  
21 have had 1 boil water notice, 2 formal consent orders, 2 formal warning letters and 11  
22 instances where consumer confidence reports received were not in compliance.

23 **Q. DOES THIS COMPLETE YOUR TESTIMONY?**

24 A. Yes it does.

1           **MR. JAEGER:** And then he also had ten  
2 exhibits, 71 through 80.

3           **CHAIRMAN GRAHAM:** Didn't we already enter  
4 those?

5           **MR. JAEGER:** And those have been stipulated  
6 and entered.

7           **CHAIRMAN GRAHAM:** Okay.

8           **MR. JAEGER:** And then that would bring us to  
9 the next witness, which is Ms. Vandiver.

10          **CHAIRMAN GRAHAM:** OPC.

11          **MS. CHRISTENSEN:** Chairman, before we start  
12 with Ms. Vandiver, I have Witness Kimberly Dismukes, who  
13 has come in from Baton Rouge, Louisiana. I would ask,  
14 if I might, that tomorrow if we could take her out of  
15 order to try and get her finished, so she would not have  
16 to come back next week on the 7th and 8th, and just put  
17 her in order before Mr. Poucher. And she doesn't have  
18 any rebuttal testimony.

19          **CHAIRMAN GRAHAM:** Would you like to take her  
20 now?

21          **MS. CHRISTENSEN:** I mean, I'm prepared to take  
22 her now. I think Mr. May had an issue with that.

23          **MR. MAY:** Commissioner, we had worked until  
24 the wee hours of the morning preparing for Mr. Poucher's  
25 cross-examination. And we're, quite frankly, not

1 prepared to cross-examine Ms. Dismukes today. We can  
2 work very diligently tonight and be prepared to take her  
3 tomorrow to accommodate her schedule. But any other  
4 time, I would, but it's a document-intensive case and --

5 **CHAIRMAN GRAHAM:** That's okay. We'll take her  
6 up after the -- I believe we have a time-certain person  
7 tomorrow morning.

8 **MR. JAEGER:** Chairman, we have the two DEP  
9 witnesses at 9:30. They should be fairly short. I  
10 think we had the more controversial ones today, and they  
11 only went about an hour. I think Mr. Richards has  
12 something with Mr. Mariano. He is scheduled to go  
13 tomorrow, but I think he is also not considered to be a  
14 long witness. And then we have the other two DEP  
15 witnesses that are showing up at 10:45, and those  
16 shouldn't be very long. So I think we could probably  
17 get those five, the DEP and Mariano in, and it shouldn't  
18 take that long, and that would give us the rest of the  
19 day for Ms. Dismukes, if you wanted to do that.

20 **CHAIRMAN GRAHAM:** Okay. We'll take her up  
21 tomorrow. We have to work around the ones that we have  
22 for a time certain and, hopefully, we can get her done  
23 before about 4:30 or so tomorrow.

24 **MS. CHRISTENSEN:** The Citizens appreciate  
25 that.

1           **MR. MAY:** And, Mr. Chairman, I just wanted to  
2 follow up. As I explained to Ms. Christensen, any other  
3 time I would have been accommodating, but I just do not  
4 have the documents in line where it would be efficient  
5 for me to try to cross-examine her today. And I  
6 apologize to Ms. Dismukes.

7           **CHAIRMAN GRAHAM:** That's all right.

8           Mr. Richards.

9           **MR. RICHARDS:** Yes. You have graciously  
10 agreed to allow Commissioner Mariano to come tomorrow,  
11 and I was just trying to nail down a time if we could.  
12 We have the DEP witnesses in the morning, and if  
13 possible we could say he has to be here at 11:00 or  
14 12:00 o'clock, that would help him greatly. And I doubt  
15 that he will be more than 15 or 20 minutes at the most.  
16 So I can let him know today when he needs to be here, I  
17 would appreciate it.

18           **CHAIRMAN GRAHAM:** We didn't have a time set  
19 for him. We just said that he was going to be here  
20 tomorrow.

21           **MR. RICHARDS:** Right. If we can do him in the  
22 late morning, that would leave the afternoon.

23           **CHAIRMAN GRAHAM:** I would just say let's just  
24 get him early morning, 9:30 or 10:00 o'clock and,  
25 hopefully, we can get all those people out of the way

1 and then get Ms. Dismukes taken care of.

2 **MR. RICHARDS:** Okay. Thank you. All right.  
3 I'll tell him 10:00 o'clock, if that's all right.

4 **CHAIRMAN GRAHAM:** Okay.

5 **DENISE VANDIVER**

6 was called as a witness on behalf of the Citizens of the  
7 State of Florida, and having been duly sworn, testified  
8 as follows:

9 **DIRECT EXAMINATION**

10 **BY MS. CHRISTENSEN:**

11 **Q.** Can you please state your name and business  
12 address for the record?

13 **A.** Yes. My name is Denise Vandiver. My address  
14 is 111 West Madison Street, Room 812, Tallahassee,  
15 Florida.

16 **Q.** And did you cause to be filed Prefiled Direct  
17 Testimony consisting of 27 pages in this docket?

18 **A.** Yes, I did.

19 **Q.** And do you have any corrections to your  
20 testimony?

21 **A.** No, I don't.

22 **Q.** And if I were to ask you the same questions  
23 today, would your answers be the same?

24 **A.** Yes, they would.

25 **MS. CHRISTENSEN:** I would ask to have

1 Ms. Vandiver's Prefiled Direct Testimony entered into  
2 the record as though read.

3 **CHAIRMAN GRAHAM:** Well, let's enter Ms. --  
4 pronounce your last name again.

5 **THE WITNESS:** Vandiver.

6 **CHAIRMAN GRAHAM:** -- Vandiver's testimony into  
7 the record as if read.

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**DIRECT TESTIMONY**

**Of**

**DENISE N. VANDIVER, CPA**

**On Behalf of the Office of Public Counsel**

**Before the**

**Florida Public Service Commission**

**Docket No. 100330-WS**

**INTRODUCTION**

**Q. PLEASE STATE YOUR NAME AND BUSINESS ADDRESS.**

A. My name is Denise N. Vandiver. My business address is 111 West Madison Street, Room 812, Tallahassee, FL 32399-1400.

**Q. BY WHOM ARE YOU EMPLOYED AND WHAT IS YOUR POSITION?**

A. I am a Certified Public Accountant licensed in the State of Florida and employed as a Legislative Analyst with the Office of Public Counsel (OPC). I began my employment with OPC in May, 2009.

**Q. PLEASE DESCRIBE YOUR EDUCATIONAL BACKGROUND AND PROFESSIONAL EXPERIENCE.**

A. I received a Bachelor of Science degree from Jacksonville University in 1978 with a major in accounting. I received a Master of Accountancy degree from the University of North Florida in 1982. Previous to my work at OPC, I worked at the Florida Public Service Commission (FPSC) from March 1983 until May 2009. I worked six and a

DOCUMENT NUMBER - DATE

1 half years in the Division of Water and Wastewater as a Regulatory Analyst  
2 performing accounting analyses of water and wastewater utilities. I then spent three  
3 years in the Economic Regulatory Standards Control Section and the Division of  
4 Research and Regulatory Review as an Economic Analyst and supervisor performing  
5 various reviews in all industries regulated by the FPSC. I was appointed as Bureau  
6 Chief of Auditing Services in January 1993, with the responsibility of managing all  
7 the financial audits performed by the Commission's four district offices. Prior to my  
8 work at the Commission, I worked at the City of Jacksonville Beach and Memorial  
9 Medical Center in Savannah, Georgia.

10  
11 **Q. HAVE YOU PREVIOUSLY TESTIFIED BEFORE THE FLORIDA**  
12 **PUBLIC SERVICE COMMISSION?**

13 A. Yes. I have testified in two rate cases: the Spring Hill Utilities, a division of Deltona  
14 Utilities, Inc., rate case, Docket No. 830059-WS and the Martin Downs Utilities, Inc.  
15 rate case, Docket No. 840315-WS. I have also testified before the Division of  
16 Administrative Hearings in Case No: 97-002485RU; Aloha Utilities, Inc., and Florida  
17 Waterworks Association, Inc., Petitioners, vs. Florida Public Service Commission,  
18 Respondent, and Citizens of the State of Florida, Office of Public Counsel,  
19 Intervenors.

20  
21 **Q. WHAT IS THE PURPOSE OF YOUR TESTIMONY?**

22 A. The purpose of my testimony is to discuss the Quality of Service provided by Aqua  
23 Utilities Florida, Inc. (AUF or Utility), the adjustment to salary expense made in the  
24 PAA order, and the amount of requested rate case expense.



1

2 **Q. PLEASE PROVIDE A SUMMARY OF YOUR TESTIMONY.**

3 A. I am providing testimony on my observations and analysis regarding the  
4 unsatisfactory quality of service AUF provides to its customers. On March 31, 2011,  
5 OPC filed a Response to Aqua's Summary Report and Current Status of Aqua's  
6 Quality of Service. I was responsible for preparing the Attachments to that Response.  
7 I believe that based on the customers' testimony the quality of the water provided in  
8 many of the systems is unsatisfactory. Customers are unable to drink the water and  
9 find it objectionable to use the water for cleaning and bathing. In other systems, the  
10 quality of the wastewater treatment is unsatisfactory as the odors from the plant are  
11 objectionable and the customers are even concerned that the disposal of the  
12 wastewater is inadequate. While the quality of the product may not be unsatisfactory  
13 in every system, the quality of the customer service is uniformly unsatisfactory.  
14 Customers are treated rudely and are often unable to talk with someone, much less  
15 talk with someone who is responsive to their concerns. Overall, I believe that based  
16 on our analysis shown in DNV-2, the quality of service is unsatisfactory.

17

18 I am also testifying regarding the adjustment made in the PAA Order to Salaries and  
19 Wages. Page 80 of the PAA Order, PSC-11-0256-PAA-WS (PAA Order), includes an  
20 adjustment of \$221,125 to remove AUF's requested increases with a corresponding  
21 reduction to property Taxes of \$16,916. The Utility included this issue in its Cross  
22 Petition. I am testifying to the reasonableness of this adjustment.

23

24 I am also testifying to the unreasonableness of the Utility's request for rate case

1 expense. The Utility requested an estimated \$670,268 in its Minimum Filing  
2 Requirements (MFRs). The Utility has updated this estimate in its response to OPC  
3 POD 132 to a total rate case expense of \$1,248,319. My review of the supporting  
4 documentation shows that this is inflated due to excessive rates, duplication of duties,  
5 and excessive costs passed through to the ratepayers. I believe that rate case expense  
6 should be adjusted to remove these unreasonable expenses.

7  
8 **QUALITY OF SERVICE**

9 **Q. PLEASE DESCRIBE THE QUALITY OF SERVICE REPORT THAT**  
10 **YOU HAVE INCLUDED AS DNV-2.**

11 A. AUF filed for a rate increase in 2008 and was granted a rate increase for all  
12 systems except Chuluota by Order No. PSC-09-0385-FOF-WS, issued May 29,  
13 2009 (Final Order). In the Final Order, the Commission found that AUF's  
14 quality of service was "marginal" for all systems, excluding Chuluota which  
15 was found to be "unsatisfactory." The Commission established a plan to  
16 monitor the areas of concerns (pp. 21-22.) As part of the Phase II Monitoring  
17 Plan in the last rate case, AUF was required to submit a final report on the  
18 result of its reporting requirements, which it filed on February 28, 2011 (Final  
19 Report.) OPC responded to this Final Report on March 31, 2011 (OPC Quality  
20 of Service Report or Report) and this is the report that is attached as DNV-2.

21  
22 **Q. CAN YOU SUMMARIZE THIS REPORT?**

23 A. This Report summarizes the customer testimony at the nine customer meetings,  
24 the customer complaints filed with the FPSC from 2007 through 2010,

1 Customer Correspondence filed on the Correspondence side of the FPSC  
2 docket file, and the documentation provided by AUF in its Final Report. In this  
3 Report the Citizens concluded that, based on the review of the information  
4 described, AUF has not significantly improved its quality of service as  
5 perceived by their customers. Further, contrary to Aqua's contention that it has  
6 good quality of service, analysis of the information shows some concerning  
7 trends regarding maintenance and water quality. Of particular concern are the  
8 lack of timely responses to leaks and the lack of boil water notices, both of  
9 which can lead to health issues. I believe that the quality of service is  
10 unsatisfactory and that additional quality of service monitoring for this Utility  
11 is warranted.

12  
13 **Q. YOU REFERENCE THE CUSTOMER MEETINGS; PLEASE DISCUSS**  
14 **YOUR REVIEW OF THE CUSTOMER MEETINGS.**

15 A. On September 1, 2010, AUF filed its current Petition for an increase in water  
16 and wastewater rates. As part of the PAA process, the FPSC held nine customer  
17 meetings from October 14, 2010 through November 18, 2010, in the following  
18 cities: Chipley, New Port Richey, Gainesville, Palatka, Sebring, Lakeland,  
19 Eustis, Greenacres, and Ft. Myers. FPSC staff recorded these meetings and  
20 OPC used these recordings to create Unofficial Transcripts. While these  
21 transcripts were not created by a court reporter, I believe they are substantially  
true and accurate renderings of the recordings. I personally reviewed and edited  
each one. These are identified as Attachments A – I to the OPC Quality of  
Service Report and are located at pages 14 – 364 of my Exhibit.

1

2 **Q. DID YOU SUMMARIZE THE COMMENTS MADE AT THE**  
3 **CUSTOMER MEETINGS?**

4 A. Yes, I did. Attachment J (Page 366 of 374) is a summary I compiled of all the  
5 comments. The summary shows that there were 156 speakers at the nine  
6 meetings. Many of the speakers identified more than one issue, and Attachment  
7 J is a summary of those issues specifically related to the quality of service. This  
8 summary does not include all the other issues raised by the customers such as  
9 high rates, high level of expenses included in the MFRs, rate design, and non-  
10 used and useful plant.

11

12 **Q. PLEASE SUMMARIZE THIS SCHEDULE.**

13 A. This schedule summarizes all of the issues that each of the speakers at the staff-  
14 led customer meetings addressed. Of the 156 speakers, forty percent addressed  
15 the poor quality of the water delivered to their homes. Twenty seven percent  
16 addressed the poor quality of the plant maintenance, including unkempt  
17 property, odors from plant facilities, line breaks, malfunctioning lift station  
18 alarms, etc. Thirty five percent addressed poor customer service, including rude  
19 customer service representatives, billing problems, difficulties in reaching  
20 someone in emergency situations, etc. Overall, there were 245 complaints.  
21 These customer meetings were held after the historic test year but during the  
22 Phase II monitoring by the Commission.

23

24 **Q. YOU SAID THE REPORT ADDRESSED COMPLAINTS FILED AT**

1           **THE FPSC. PLEASE ELABORATE.**

2    A.     Attachment K to the OPC Quality of Service Report is a summary of the  
3           customer complaints filed at the FPSC. Using the FPSC website, I searched for  
4           Billing and Service complaints for 2007 – 2010. Given the fact that AUF knew  
5           it was filing a rate case and would be under increased scrutiny by the  
6           Commission, I would expect a company to put extra effort into the services it  
7           provides to its customers. In addition, the Final Order in the last rate case was  
8           issued in May 2009 and ordered additional monitoring. AUF was put on notice  
9           that its service would be under even more increased scrutiny. However, the  
10          numbers in Attachment K indicate an increase in customer complaints in 2009.  
11          In 2010, there was a 19% decrease. I would expect a much larger decrease  
12          considering the additional scrutiny that the Utility was experiencing.

13

14   **Q.     WHAT DID THE REPORT SAY ABOUT CORRESPONDENCE**  
15           **RECEIVED BY THE FPSC IN THIS DOCKET?**

16    A.     The Report counted and summarized the correspondence included in the  
17           current docket file at the time the Report was filed. The Report briefly  
18           summarized the 373 letters and e-mails included on the correspondence side of  
19           the docket file in the current case. I have not reviewed this correspondence;  
20           however, Kim Dismukes will be addressing these in her testimony.

21

22   **Q.     AUF FILED ITS OWN REPORTS SUPPORTING ITS CUSTOMER**  
23           **SERVICE. DID YOU REVIEW THESE?**

24    A.     Yes. I reviewed each of the Phase II Monitoring Plan reports filed for May

1 2010 through December 2010. I have summarized the schedules in these  
2 reports in Attachments L – N. Attachment L is a summary of the call center  
3 benchmarks that AUF provided for May – December 2010. Attachment M is a  
4 summary of the types of all calls reported by AUF for May – December 2010.  
5 Attachment N is a summary that groups the types of calls in Attachment M and  
6 charts the changes by month.

7  
8 **Q. WHAT DOES ATTACHMENT L SHOW REGARDING THE CALL**  
9 **CENTER BENCHMARKS?**

10 A. This Schedule is a summary of the eight monthly “Florida Score Card”  
11 schedules provided by AUF. These schedules show the operation service  
12 metrics and target goals. As Attachment L shows, the Utility reported five  
13 metrics: Read Rate of Metered Accounts, % of Cycles Completed on Scheduled  
14 Date, Overall Estimate Rate, Accounts Estimated > 90 days, and Percentage of  
15 Active Accounts Not Billed. The Utility reported that it consistently met its  
16 target for each of the eight months for one metric – Overall Estimate Rate. For  
17 three of the metrics (Read Rate of Metered Accounts, % of Cycles Completed  
18 on Scheduled Date, and Accounts Estimated > 90 days), the Utility failed to  
19 meet its target for one of the eight months. However, for the Percentage of  
20 Active Accounts Not Billed, the Utility failed to meet its own target for half of  
21 the eight months reported.

22  
23 These are all important metrics as any failures in these areas directly impact  
24 customer bills. Customers expect to be billed timely and correctly for each

1 month's consumption. If these metrics are not met, the customers do not  
2 receive correct and/or timely bills. If the Utility is not billing its active  
3 accounts, this creates a back billing problem, when the Utility corrects this  
4 problem in a later month. The Utility's back billing issue will be addressed  
5 further by other OPC witnesses.

6  
7 **Q. WHAT DOES ATTACHMENT M SHOW REGARDING THE FLORIDA**  
8 **COMPLAINTS?**

9 A. AUF submitted monthly reports that showed, for each Florida system, the  
10 number of Customer Contacts in various categories. Attachment M is a  
11 compilation of these monthly reports on a total Florida basis. I have also  
12 grouped the contacts by type of issue, such as Billing, Quality, Maintenance,  
13 and Other. This compilation shows that the Quality and Customer Service  
14 Issues have stayed about the same throughout the eight months. If anything,  
15 there were only increases noted. The number of maintenance issues showed  
16 some decreases with two spikes in September and November.

17  
18 The Commission stated in Order No. PSC-10-0218-PAA-WS, dated April 6,  
19 2010, that "additional monitoring is required to ultimately render a decision as  
20 to the adequacy of AUF's quality of service." These reports were part of the  
21 additional monitoring. I believe that Attachment M shows that there has been  
22 no significant improvement in the eight months of the additional monitoring.  
23 Attachment N is a summary by chart and graph that shows how little  
24 improvement was made in that eight month period.

1

2 **Q. WHAT DID THE QUALITY OF SERVICE REPORT CONCLUDE?**

3 A. While the commission found in the Final Order in the last rate case that AUF's  
4 quality of service was "marginal" for all systems, excluding Chuluota which  
5 was found to be "unsatisfactory", our Report concluded that AUF's quality of  
6 service should be considered unsatisfactory. I believe that the concerns raised at  
7 the customer meetings and the number of complaints raised during the Phase II  
8 monitoring show that the Utility has not improved its quality of service. The  
9 Customer Meetings were held during the Monitoring Period when the Utility  
10 was under observation by the Commission staff and these meetings still  
11 resulted in numerous complaints regarding the quality of the service provided.  
12 Therefore, the quality of service should be considered unsatisfactory.

13

14 **SALARIES AND WAGES**

15 **Q. WHAT COMMENTS DO YOU HAVE ON THE SALARIES AND**  
16 **WAGES EXPENSE?**

17 A. In the MFRs, the Utility requested five adjustments to the salaries and wages  
18 accounts. Two adjustments were for the normalization of the 4% increases in  
19 the test year for Direct salaries and for "Admin" salaries. Two further  
20 adjustments were for the pro forma effect of the 4% salary increases for Direct  
21 and "Admin" salaries. The fifth adjustment is to include a pro forma increase to  
22 salaries based on a market study the Utility had performed to compare its  
23 salaries to the market. Exhibit DNV-3 is my compilation of the individual  
24 adjustments requested by the Utility for a total adjustment of \$220,410 to



1 Salaries and wages and \$16,861 for the related payroll taxes.

2  
3 The PAA order removed these adjustments stating that "in light of the  
4 economic climate in Florida and throughout the U.S, we find that no increase is  
5 reasonable."<sup>1</sup> I agree with this statement and would urge the Commission to  
6 make this adjustment in the final order. The AUF ratepayers testified repeatedly  
7 that while the Utility continues to increase their rates, the customers' incomes  
8 are not increasing. (See examples on Pages 21, 50, and 153 of my exhibit  
9 DNV-2.) In addition, the CPI for 2010 over 2009 is less than 2%. Customers  
10 testified to the difficulty of paying their current bills, much less any increases,  
11 as they like many in the economy work more than one job to pay the bills or  
12 have had their hours cut (See Page 325 of DNV-2.) Ratepayers should not be  
13 forced to pay for increased salaries at a time when they are suffering through  
14 these difficult economic times.

15  
16 **RATE CASE EXPENSE**

17 **Q. YOU ARE ALSO TESTIFYING ON RATE CASE EXPENSE. WHAT**  
18 **ARE YOU ADDRESSING IN THIS AREA?**

19 **A.** I have reviewed the specific details of the actual invoices and estimated  
20 expenses and found that the rate case expense requested by the utility is inflated  
21 with costs that the ratepayers should not have to bear. AUF requested \$670,269  
22 in rate case expense in its MFRs and, through its responses to discovery, has  
23 indicated that this amount should be increased to \$1,249,319.<sup>2</sup> I believe this

<sup>1</sup> PSC-11-0256-PAA-WS, issued June 13, 2011, p. 80.

<sup>2</sup> Company response to OPC Document Request 132.

1 expense is inflated in the rates that are charged, includes expenses for work that  
2 the ratepayers should not have to bear, and includes duplications of costs. I  
3 went through each of the invoices included in AUF's updated responses to  
4 discovery<sup>3</sup> and prepared schedules of the items I believe should be adjusted.  
5 These are attached to my testimony as Exhibit DNV-4.  
6

7 **Q. WHAT WAS THE FIRST AREA YOU TAKE ISSUE WITH?**

8 A. The first issue I noted was the lack of detailed documentation that the Utility  
9 provided to support its requested rate case expense. The Commission has  
10 consistently held that it is the Utility's burden to support its case.<sup>4</sup> The  
11 Commission has stated that "in those cases where rate case expense has not  
12 been supported by detailed documentation, our practice has been to disallow  
13 some portion or remove all unsupported amounts."<sup>5</sup>  
14

15 I have reviewed the actual invoices submitted by the utility and found  
16 numerous items listed in the summaries; however, no invoice or other support  
17 was provided that would prove the expense was for the rate case or was for  
18 Florida customers. I have also found invoices that are very generic in nature  
19 and that do not identify the specific number of hours that were spent on specific  
20 tasks. Schedule 1 of Exhibit DNV-4 lists the items I believe should be  
21 disallowed based on the lack of supporting documentation. This totals \$89,779.  
22

<sup>3</sup> Company response to Staff Data Requests and OPC POD 132.

<sup>4</sup> See Florida Power Corp. v. Cresse 413 So. 2d 1187, 1191 (Fla. 1982).

<sup>5</sup> Docket No. 090392-WS, In re: Application for increase in water and wastewater rates in Lake County by Utilities Inc. of Pennbrooke, Order No. PSC-10-0400-PAA-WS, issued June 18, 2010, p. 22.

1 Q. WHAT IS ANOTHER AREA YOU HAVE CONCERNS WITH?

2 A. Another issue I noted was the expense the utility incurred because it keeps its  
3 books and records out-of-state. AUF maintains its primary records in Bryn  
4 Mawr, Pennsylvania. The Commission has maintained in prior dockets that rate  
5 case expense should be disallowed when it is incurred due to the books and  
6 records being maintained out-of-state.<sup>6</sup> Commission Rule 25-30.110, Florida  
7 Administrative Code, states that when a utility receives authorization to  
8 maintain its books and records out of state, pursuant to subsection (1)(c), the  
9 utility is required to reimburse the Commission for the reasonable travel  
10 expense incurred by each Commission representative during the review and  
11 audit of the books and records, and that those costs are not to be included in  
12 rate case expense or recovered through rates. The Commission has further  
13 extended this to disallow other costs directly related to the records being  
14 retained out of state. The Commission has stated "We do not believe that the  
15 ratepayers should bear the related costs of having the records located out of  
16 state. This is a decision of the shareholders of the Utility, and therefore, they  
17 shall bear the related costs."<sup>7</sup>

18  
19 I have reviewed the actual invoices and found numerous invoices for travel to  
20 Bryn Mawr and shipping between Bryn Mawr and AUF Florida staff. Schedule  
21 2 of Exhibit DNV-4 lists the items I believe should be disallowed based on the  
22 company's decision to maintain its records out of the state. This totals \$7,879.

23

<sup>6</sup> Docket No. 090392-WS, In re: Application for increase in water and wastewater rates in Lake County by Utilities Inc. of Pennbrooke, Order No. PSC-10-0400-PAA-WS, issued June 18, 2010, p. 23.

<sup>7</sup> Ibid.

1 Q. WHAT IS THE NEXT AREA YOU LOOKED AT?

2 A. I next looked at the expenses that were incurred to correct the deficiencies in the  
3 MFRs that were originally filed. The Utility's original MFR filing was September 1,  
4 2010. By letter dated September 22, 2010, Commission staff advised the utility that  
5 the MFRs were deficient and the petition would not be deemed filed until the  
6 deficiencies were corrected. If the Utility has made errors in its filing and must  
7 correct these errors, it creates a duplication of costs that the ratepayers should not  
8 have to pay. The Commission has previously "disallowed rate case expense  
9 associated with correcting MFR deficiencies because of duplicative filing costs."<sup>8</sup> I  
10 do not believe that costs related to correcting deficiencies should be borne by the  
11 ratepayers, but should be borne by the Company's stockholders. Therefore, I believe  
12 that all costs related to correcting deficiencies should be removed from recoverable  
13 rate case expense.

14  
15 I have reviewed the actual invoices and found numerous charges for correcting the  
16 deficiencies. Schedule 3 of Exhibit DNV-4 lists the items I believe should be  
17 disallowed based on correcting the MFR deficiencies. This totals \$3,312.

18  
19 Q. IS THE UTILITY CHARGING EMPLOYEE TIME TO RATE CASE  
20 EXPENSE?

21 A. Yes, the Utility has included information regarding \$130,258 in costs spent  
22 through July 31, 2011 for in-house employees related to the rate case.<sup>9</sup> Most of

<sup>8</sup> Order Nos. PSC-05-0624-PAA-WS, issued June 7, 2005, in Docket No. 040450-WS, In re: Application for rate increase in Martin County by Indiantown Company, Inc.; and PSC-01-0326-FOF-SU, issued February 6, 2001, in Docket No. 991643-SU, In re: Application for increase in wastewater rates in Seven Springs System in Pasco County by Aloha Utilities, Inc.

<sup>9</sup> Company Response to Staff Data Requests and OPC POD 132.

1 these charges were incurred after the end of the test year. While I agree that rate  
2 case expense is typically incurred after the end of the test year and is  
3 appropriately a pro forma expense, I have serious concerns about including in-  
4 house employee costs in rate case expense. I believe that inclusion of in-house  
5 employees results in a double counting of expenses that the ratepayers will  
6 have to pay. Let me give you a somewhat simplistic example. If Employee A is  
7 paid \$60,000 in the test year, that salary is allocated to numerous systems for  
8 the test year period. If Employee A then works on the rate case after the test  
9 year for 20 hours a week for 6 months and the Utility adds \$15,000 into rate  
10 case expense, this results in Employee A allocating 100% of the salary to the  
11 various systems in the test year and an additional 25% in rate case expense. I  
12 believe that this is double counting and should be removed from rate case  
13 expense.

14  
15 Therefore, I recommend that the entire \$130,258 in expenses for in-house  
16 employees be removed from rate case expense to avoid duplication of in-house  
17 expenses. I have previously recommended that \$78,441 of these charges be  
18 removed from rate case as they were not supported by documentation. This  
19 would leave a remaining balance of \$51,817 that should be removed as shown  
20 in Schedule 4 of Exhibit DNV-4.

21  
22 **Q. WHAT IS THE NEXT AREA THAT YOU LOOKED AT?**

23 **A.** I also found that the utility included legal invoices in the rate case expense  
24 related to the quality of service investigation initiated in the last rate case.

1 These charges were from three separate invoices. The first charge was a  
2 \$170.50 charge from September 2010 for responding to the Staff  
3 Interrogatories in Docket No, 080121-WS. This was included in an invoice for  
4 the current rate case. I recommend that this invoice be removed from the  
5 current rate case expense.

6  
7 Next, I found a charge in May 2011 that was described as a call from Pasco  
8 County regarding a sewage spill and various calls regarding a water  
9 interruption issue. This does not sound like a rate case issue but is related to the  
10 daily operations of the utility and should be considered as Legal Expense for  
11 2011.

12  
13 I also reviewed two invoices for work in April and May 2011 for work related  
14 to the Quality of Service issue. As discussed earlier in my testimony, in the  
15 Final Order of the last rate case, the Commission found that AUF's quality of  
16 service was "marginal" for all systems, excluding Chuluota which was found to  
17 be "unsatisfactory", and established a plan to monitor the areas of concerns (pp.  
18 21-22.) I believe that most of this expense is related to the findings in the last  
19 rate case and should not be included in this rate case. In addition, if the utility is  
20 not found to have satisfactory quality of service, I do not believe that it should  
21 be allowed to recover the costs required for the monitoring program. The  
22 Commission routinely disallows fines and penalties. I believe that this  
23 monitoring program is similar in nature and should also be disallowed.  
24 However, when OPC filed its Response to the Quality of Service Report, we

1 included both docket numbers and pointed out that the quality issues being  
2 monitored for the old docket were occurring in the same time frame as the  
3 customer meetings in the current docket. Even if the Commission was not  
4 monitoring the Utility from the last rate case, some of these issues would still  
5 be addressed in the current case. Therefore, I believe it is reasonable to allow  
6 half of the charges related to the Quality of Service Issues. I recommend that  
7 \$6,978 be removed from current rate case expense as it relates to the prior case.

8

9 Schedule 5 of Exhibit DNV-4 lists the specific charges that I believe should be  
10 disallowed as not relating to the current rate case. This totals \$7,550.

11

12 **Q. DID YOU PERFORM ANY ADDITIONAL REVIEW OF THE LEGAL**  
13 **FEES?**

14 **A.** Yes, I reviewed the cost rates charged. The requested rate case expense  
15 included legal fees based on charged rates of \$155 through \$390. I looked at  
16 these costs as they related to the total costs and found that the total actual and  
17 estimated legal fees of \$529,772 were approximately 42% of the total requested  
18 expense of \$1,248,319.<sup>10</sup> AUF pays legal fees based on hourly rates of \$155 for  
19 a paralegal, \$200 for one attorney level, and \$390 for another attorney level.<sup>11</sup> I  
20 compared these legal rates charged to the rates that I found in a Survey  
21 published by the Florida Bar. I have attached the "Results of the 2010  
22 Economics and Law Office Management Survey" as Exhibit DNV-5 to my  
23 testimony. This same survey is referenced in Exhibit SS-2, Page 6 of 11 in the

<sup>10</sup> Company response to OPC POD 132.

<sup>11</sup> Company response to Staff Data Requests and OPC POD 132.

1 Utility's pre-filed testimony. In this survey, I found several survey responses  
2 that addressed the rates charged by a law firm for attorneys and paralegals.

3  
4 Question 4 of the survey indicates that 70% of the respondents charge \$275 or  
5 less and Question 4B indicates that 77% of respondents in the North Region  
6 (which includes Tallahassee) charge \$250 or less. Question 7 indicates that  
7 76% of the respondents charge \$120 or less for paralegals.

8  
9 I also looked at the change in the rates charged from the last case to the current  
10 case. It appears that in the last case, the rate charged to AUF for the higher  
11 attorney level was \$365 and for the paralegal was \$140.<sup>12</sup> Because these rates  
12 changed, I also looked at the response to Question 31D in the Survey. This  
13 question analyzes the median annual salary for attorneys at all levels of  
14 experience responding to the survey. This median salary either stayed the same  
15 (for recent law school graduates with no experience) or decreased (for all other  
16 levels of experience) from 2008 to 2010. While I do not interpret this to mean  
17 that attorneys were taking pay cuts from 2008 to 2010, I believe that it shows  
18 that salary levels were rather flat and, as attorneys increased their experience  
19 levels, their salaries did not increase in the same patterns as in the past.

20  
21 **Q. WHAT IMPACT DO YOU THINK THIS SURVEY SHOULD HAVE IN**  
22 **THIS CASE?**

---

<sup>12</sup> Docket No. 080121-WS, In re: Application for increase in water and wastewater rates in Alachua, Brevard, DeSoto, Highlands, Lake, Lee, Marion, Orange, Palm Beach, Pasco, Polk, Putnam, Seminole, Sumter, Volusia, and Washington Counties by Aqua Utilities Florida, Inc., Late Filed Exhibit 195, Document No 11894-08, p. 18-23, for examples.



1 A. I think the commission should closely look at the rates charged to AUF and  
2 determine the prudence of the Utility passing on higher than average costs to  
3 the rate payers. I would recommend that the Commission reduce rate case  
4 expense to adjust the rates paid by AUF for legal fees. I recommend an  
5 adjustment of the \$390 to the \$275 rate that 70% of the respondents charged. I  
6 believe that there is room for argument that this should be even lower, since  
7 77% of the respondents from the region that includes Tallahassee charge even  
8 lower rates. However, I believe that using the \$275 allows a slight premium  
9 that is reasonable. I also recommend an adjustment of the \$155 for a paralegal  
10 to the \$120 rate that 76% of the respondents charged.

11

12 **Q. DOESN'T A UTILITY HAVE THE RIGHT TO CHOOSE ITS OWN**  
13 **ATTORNEY?**

14 A. Yes, a utility should be able to hire an attorney to represent it in any proceeding  
15 and recover the reasonable costs of doing business. However, if a Utility  
16 chooses to hire a law firm that charges some of the higher rates in the state, I  
17 also believe that the shareholders should bear some of the burden. Customers  
18 should not have to bear any unreasonable costs. If the full amount of all  
19 reasonable or unreasonable expense is passed through to the ratepayers as rate  
20 case expense, the utility has no incentive to hold costs to a reasonable level

21

22 **Q. IF YOU MAKE THESE ADJUSTMENTS, WHAT IMPACT DOES THAT**  
23 **HAVE ON RATE CASE EXPENSE?**

24 A. Schedule 6 of Exhibit DNV-4 lists each of the invoiced charges included in rate

1 case expense that I propose to adjust, and my recommended adjustments. This  
2 schedule results in a total adjustment of \$81,044.

3

4 **Q. DO YOU HAVE ANY OTHER ADJUSTMENTS TO THE ACTUAL**  
5 **RATE CASE EXPENSE SUBMITTED?**

6 A. Yes, I have reviewed the items included in each of the invoices or summaries  
7 provided by the utility and found several miscellaneous items that I believe  
8 should also be adjusted.

9

10 The first of these miscellaneous items is for three charges in August 2010 related to  
11 legal fees to discuss an ROE witness. Prior to filing the MFRs, the company indicated  
12 in a meeting with staff and OPC that it had considered filing for an ROE separate  
13 from the Commission Leverage Graph. However, the MFRs were filed using the  
14 Commission Leverage Graph and the only protest of the ROE was over which  
15 leverage graph should be used. Therefore, any costs related to the ROE issue should  
16 not be included in rate case expense. For those charges that are for multiple tasks, I  
17 have made a simple split of the charges based on the number of tasks. The total  
18 charges that I recommend be removed related to the ROE issue are \$610.75.

19

20 The second of these miscellaneous charges are for legal costs related to OPC's  
21 Motions to Compel. OPC filed two Motions to Compel, one on October 14, 2010, and  
22 a second on September 6, 2011. The Commission granted both Motions To Compel  
23 by order Nos. PSC-11-0018-PCO-WS, issued January 5, 2011, and PSC-11-0384-  
24 PCO-WS, issued September 13, 2011. The Utility did not prove its case in refusing to

1 provide legitimate discovery. I recommend that all costs related to the Utility's  
2 refusal to provide discovery should be disallowed. The Commission has previously  
3 disallowed similar costs saying that the ratepayers "shall not have to bear these  
4 costs."<sup>13</sup> Therefore I recommend that \$2,182 be removed from rate case expense.

5

6 Another miscellaneous item is a \$429 legal fee charged in March 2011 to analyze the  
7 issue of "press access to depositions." There have been no depositions to date so any  
8 analysis of such an issue in March was not related to the processing of this case and  
9 should be removed from rate case expense.

10

11 Another item is a May 2011 charge for researching "case law on municipalities acting  
12 against private utilities." This issue may be an issue the utility chooses to pursue;  
13 however, it is not a rate case issue and should not be included in rate case expense.  
14 This charge was included with other activities and I would recommend that the total  
15 charge be split among the activities, and that \$120 be removed as a related charge for  
16 this item.

17

18 Another item is a June, 2011 charge for reviewing the test year approval letter  
19 for Chuluota. This is another rate case that the Utility was considering and  
20 should not be included in this rate case. I recommend that the total charge of  
21 \$273 be removed from rate case expense.

22

23 One last item is a May 2011 charge for \$429.41 dated May 23, 2011. This is a

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<sup>13</sup> Docket No. 070293-SU, In re: Application for increase in wastewater rates in Monroe County by K W Resort Utilities Corp., Order No. PSC-09-0057-FOF-SU, issued January 27, 2009, p. 39.

1 bill from a Tallahassee restaurant for a dinner for seven. Divided equally  
2 between the seven people, this averages out to a \$61 dollar meal for each of  
3 them. This is an excessive amount for a meal that should not be passed on to  
4 the ratepayers. The State of Florida only allows state employees a \$19  
5 allowance for dinner. My review of dinner receipts included in the Utility's  
6 response to Staff Data Requests and OPC POD No. 132, show about 20 dinners  
7 that all fall less than \$30 per person. As a rough estimate of what is a  
8 reasonable meal, I recommend that the expense be cut in half and \$214.71 be  
9 removed from rate case expense.

10  
11 Schedule 7 of Exhibit DNV-4 lists each of these miscellaneous charges  
12 included in rate case expense that I believe should be removed. This schedule  
13 results in a total adjustment of \$3,829.46.

14  
15 **Q. HAVE YOU ALSO REVIEWED THE ESTIMATED RATE CASE**  
16 **EXPENSE PROJECTED BY THE UTILITY?**

17 **A.** Yes, in its response to OPC Request for Production of Documents No. 132, the  
18 Utility included an updated projection for rate case expense from August 1,  
19 2011, through the completion of the rate case. This estimated expense is  
20 \$330,689. OPC requested in Interrogatory No. 205:

21 Please provide an estimate of costs to complete the case  
22 through end of the hearing process, broken down by hour,  
23 consultant or employee, description of work to be performed,  
24 and detail of the estimated remaining expense to be incurred.

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The Utility response was: “see response to OPC POD No. 132.” I have reviewed all the documents included in this response and the utility has failed to provide supporting documentation, much less specific information regarding specific tasks involved and the related hours and costs. Even without the supporting documentation, I would recommend that the estimated rate case expense is excessive. In the Utility response to Staff Data Requests, the Utility included \$131,506 in estimated legal fees through the end of the rate case. This included 519 hours to cover all tasks from pre-filed testimony through post-hearing pleadings. However, in the last rate case, the Commission found that the estimated legal expenses should include no more than 301 hours.<sup>14</sup> The last case was a much more complex hearing as it had 76 issues with 23 issues stipulated or typical fall-out issues, leaving 53 litigated issues. Because this case initially went through the PAA process and only specific issues were protested, the issues are substantially less. The initial list of issues proposed by staff in this case included 35 issues, excluding probable stipulations. Fourteen of these issues were identified as fall-out issues, leaving 21 litigated issues, roughly 40% of the issues in the prior case.

In the last case, the actual invoices were updated through November 30, 2008<sup>15</sup>

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<sup>14</sup> Docket No. 080121-WS, In re: Application for increase in water and wastewater rates in Alachua, Brevard, DeSoto, Highlands, Lake, Lee, Marion, Orange, Palm Beach, Pasco, Polk, Putnam, Seminole, Sumter, Volusia, and Washington Counties by Aqua Utilities Florida, Inc., Order No. PSC-09-0385-FOF-WS, issued May 29, 2009, p.100.

<sup>15</sup> Docket No. 080121-WS, In re: Application for increase in water and wastewater rates in Alachua, Brevard, DeSoto, Highlands, Lake, Lee, Marion, Orange, Palm Beach, Pasco, Polk, Putnam, Seminole, Sumter, Volusia, and Washington Counties by Aqua Utilities Florida, Inc., Late Filed Exhibit 195, Document No 11894-08, p. 15.

1 and the Final Order was issued May 29, 2009, approximately six months later.  
2 In this case, the utility has estimated rate case expenses through July 31, 2011,  
3 and the Final Order is expected to be issued March 6, 2012, approximately  
4 seven months later

5  
6 Also, because the actual invoices do not include the service hearings and they  
7 were included in the actual invoices in the prior case, the current estimated  
8 expense should be allowed to include approximately 80 hours for these  
9 hearings.

10  
11 Therefore, I have considered all these facts and I recommend that the estimated  
12 legal expenses be limited to the 301 hours allowed in the past case. Applying  
13 this 301 hours to the \$275 rate, allows an estimated expense of \$82,775, or  
14 \$153,250 less than projected in the utility's response to OPC POD 132.

15

16 **Q. ARE THERE OTHER ESTIMATED EXPENSES THAT YOU LOOKED**  
17 **AT?**

18 A. Yes, the utility estimated an additional \$12,149 for its consultants, \$29,434 for  
19 in-house employees, and \$53,080 for other expenses. The Utility did not  
20 provide any support for these items. Without any support for the work that the  
21 consultants will be required to perform, I recommend that the \$12,149 be  
22 disallowed. Prior documentation addresses the work the consultants did to  
23 prepare the MFRs and assist in discovery and audit requests. Since most of this  
24 work is already completed and because the Utility did not provide any

1 supporting documentation, I recommend that these estimates be removed from  
2 rate case expense.

3

4 In a previous issue, I recommended that the Commission remove any post-test  
5 year expenses for in-house employees. Therefore, I recommend that the  
6 estimated \$29,434 be removed from rate case expense.

7

8 The Utility did not provide any supporting documentation for the \$53,080 for  
9 other expenses. I looked at what the Utility has previously provided for Other  
10 Expenses and recommend that only \$30,000 is reasonable for the remainder of  
11 the case. In its response to Staff Data Requests, the utility provided information  
12 regarding \$59,844 in Other Costs. These costs included Travel, Filing Fee,  
13 Notices and Mailing, Mapping, and Other. Based on adjustments I have  
14 recommended previously, much of the travel and some of the shipping costs  
15 should be disallowed. In addition, the filing fee and mapping are non-recurring  
16 costs and should not be needed to complete the case. Therefore, I recommend  
17 that approximately \$30,000 is reasonable for travel, mailing, etc for the  
18 remainder of the case.

19

20 Schedule 8 of Exhibit DNV-4 shows the estimated expenses and my  
21 recommended adjustments. This schedule results in a total adjustment of  
22 \$217,914.

23

24 **Q. DID THE UTILITY MAKE ANY ADJUSTMENTS TO THE**

1           **REQUESTED RATE CASE EXPENSE?**

2    A.    Based on its response to discovery,<sup>16</sup> it appears that the utility agrees with  
3           certain adjustments that were included in the PAA Order. In its response, the  
4           Utility indicates a total adjustment of \$26,966. This is not the total Commission  
5           adjustment so it appears that this is the amount the Utility agrees with.

6

7    **Q.    DO YOU HAVE A SUMMARY FOR RATE CASE EXPENSE?**

8    A.    Yes, I have prepared three exhibits to aid in reviewing the discovery responses  
9           provided by the Utility and discussed in my testimony. Exhibit No. DNV-6 is a  
10          listing of all invoices and supporting documentation that the utility provided in  
11          response to Staff Data Requests addressing rate case expense and OPC  
12          Production of Document Request No. 132. Exhibit No. DNV-7 is a copy of the  
13          Utility's Responses and Supplemental Responses to the following Staff Data  
14          Requests: Second Set, Questions 27 – 31, Twenty Second Set, Questions 1 – 3,  
15          and Thirtieth Set, Question 1. Exhibit No. DNV-8 is a copy of the Utility's  
16          Response to OPC's Production of Document Request No. 132. Based on my  
17          testimony, I recommend that the Commission closely scrutinize the requested  
18          rate case expense and allow only those reasonable and necessary costs to  
19          process the rate case. Ratepayers should not have to pay any more than those  
20          costs that are reasonable and necessary. Schedule 9 of Exhibit DNV-4  
21          summarizes the amounts requested by the Utility and my recommended  
22          adjustments. This schedule results in a total rate case expense of \$809,275,  
23          which is \$139,007 higher than the MFRs, but \$440,045 lower than the revised

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<sup>16</sup> Company response to OPC Document Request 132 and PAA Order No. PSC-11-0256-PAA-WS, issued June 13, 2011.



1 estimate provided by the Utility. This addresses the individual adjustments. Ms.  
2 Dismukes addresses additional rate c case adjustments based on the back to  
3 back filing of rate cases.

4

5 **Q. DOES THAT CONCLUDE YOUR TESTIMONY?**

6 **A. Yes, it does.**

1 **BY MS. CHRISTENSEN:**

2 Q. And I would also ask Ms. Vandiver, did you  
3 have Exhibits DNV-1 through DNV-8 attached to your  
4 Prefiled Direct Exhibits?

5 A. Yes, I did.

6 Q. Do you have any corrections to make to any of  
7 your exhibits?

8 A. No, I don't.

9 **MS. CHRISTENSEN:** Thank you. I would ask that  
10 the witness be allowed to summarize her testimony.

11 **CHAIRMAN GRAHAM:** Sure.

12 **THE WITNESS:** Good morning, Chairman and  
13 Commissioners. I am providing testimony on three  
14 issues: Quality of service, salaries and wages, and  
15 rate case expense. As you have heard, Aqua was required  
16 in the last rate case to enter into a monitoring plan  
17 because of the Commission's concerns with Aqua's  
18 customer service. Aqua filed its required or final  
19 report on the monitoring program on February 28th of  
20 this year. My testimony includes the Citizens' response  
21 to this report.

22 Our response addresses many of the reasons why  
23 the Citizens believe that the quality of service is  
24 unsatisfactory. This report is largely based on the  
25 customer comments at the customer meetings held last

1 year in this docket. The customers were very compelling  
2 in their assessment of the quality of service provided  
3 by Aqua. These customers had so many complaints. These  
4 complaints were not very different than the testimony at  
5 the service hearings which you, Commissioners, attended  
6 this year.

7           There were reports of water that could not be  
8 used for drinking, bathing, or other uses. There were  
9 reports of poor customer service that included poor  
10 billing practices and rude or nonresponsive customer  
11 service representatives. These customers took time out  
12 of their busy lives to attend and provide comments.  
13 They were sincere and reported problems that they live  
14 with every day of the year. These customers deserve a  
15 better quality of service.

16           My second issue addresses salaries and wages.  
17 I am testifying that the pro forma salary increases  
18 requested in the MFRs be removed. As the Commission  
19 stated in its PAA order, in light of the economic  
20 climate in Florida and throughout the United States, no  
21 increase in salaries is reasonable. The customers  
22 testified repeatedly that while the utility continues to  
23 increase their rates, the customers' incomes are not  
24 increasing. In addition, the CPI for 2010 over 2009 was  
25 less than 2 percent.

1                   Customers testified to the difficulty of  
2 paying their current bills, much less any increases.  
3 Customers should not be forced to pay for increased  
4 salaries at a time when they are suffering through these  
5 difficult economic times. My recommended adjustment is  
6 \$220,410 to salaries and wages and \$16,861 for the  
7 related payroll taxes.

8                   My last issue is rate case expense. I  
9 reviewed the requested rate case expense, and I  
10 recommend that it is inflated with costs that the  
11 utility customers should not have to bear. I have  
12 numerous issues with items that the utility has put into  
13 its request. Customers should only be required to bear  
14 the burden of those costs that are sufficiently  
15 documented and are reasonable and necessary in  
16 processing the rate case.

17                   I agree that a company has the right to make  
18 business decisions. However, when those business  
19 decisions are advantageous only to the company and add  
20 additional cost to the customers, I believe that these  
21 costs should be borne by the shareholders and not the  
22 customers.

23                   Two of these business decisions in particular  
24 are the fact that Aqua has its offices in Pennsylvania,  
25 and the fact that its attorneys fees are higher than the

1 average fees in the State of Florida. The Commission  
2 has a rule that allows a company to maintain its books  
3 and records out of state, but it requires that the  
4 company absorb the cost of the Commission staff going  
5 out of state to review those records. The rule does not  
6 allow those costs to be passed through to the customers.  
7 I recommend that for the same reasoning any additional  
8 rate case expense due to the company's location in  
9 Pennsylvania should not be allowed to be recovered from  
10 customers. Only reasonable costs should be allowed in  
11 rate case expense.

12 I am also recommending that the Commission  
13 look closely at the legal fees charged to rate case  
14 expense. It is true that the utility should be allowed  
15 to recover rate case expense for competent counsel in  
16 processing the rate case, and I agree that the company  
17 certainly does so. However, I believe that when a  
18 company chooses to go over and above that it should bear  
19 some of the cost for that decision.

20 This is a regulated company and a monopoly  
21 environment. If the Commission does not look closely at  
22 the individual costs that a company pays, there is no  
23 incentive for a company to incur reasonable and prudent  
24 costs. The Commission has an important role in  
25 balancing the interests of the utilities and the

1 customers. The Commission takes the place of the  
2 competitive marketplace and must provide incentives for  
3 the utility to make the best decisions for the utility  
4 as well as the customers. Otherwise, the company will  
5 know that whatever it pays out will automatically be  
6 passed on to customers.

7 I have several other adjustments to rate case  
8 expense that are detailed in my testimony. My adjusted  
9 total rate case expense is \$809,000, which is 139,000  
10 higher than the MFRs, but 440,000 lower than the revised  
11 estimate provided by the utility.

12 In summary, my three points are that the  
13 customers deserve recognition that their quality of  
14 service is unsatisfactory, the salary and wage increases  
15 should be removed from O&M expenses, and rate case  
16 expense should be carefully examined to remove  
17 unsupported and unreasonable costs that the customers  
18 should not have to pay. Thank you.

19 **MS. CHRISTENSEN:** I tender the witness for  
20 cross-examination.

21 **CHAIRMAN GRAHAM:** Okay. Mr. May.

22 **CROSS EXAMINATION**

23 **BY MR. MAY:**

24 **Q.** Good afternoon, Ms. Vandiver.

25 **A.** Good afternoon.

1 Q. Good to see you, again.

2 MR. MAY: Mr. Chairman, to move things along,  
3 we have distributed two composite exhibits. The first  
4 is titled, "The Master Demonstrative Exhibits of AUF,"  
5 and this is an exhibit that contains a lot of the  
6 orders, a lot of the rules, a lot of the case law that  
7 we will be questioning the OPC witnesses throughout the  
8 course of the afternoon and into tomorrow when we talk  
9 to Ms. Dismukes.

10 CHAIRMAN GRAHAM: Mr. May, I hate to interrupt  
11 you. Ms. Helton, I'm looking at the script here and it  
12 has me going to Aqua first. Should this also go to the  
13 intervenors first and then back to Aqua?

14 MS. HELTON: If I were sitting in your chair,  
15 that is how I would do it, Mr. Chairman. I would go to  
16 the intervenors first and then to Aqua.

17 CHAIRMAN GRAHAM: Do any of the intervenors  
18 have any questions of this witness?

19 MR. RICHARDS: Pasco has no questions.

20 MR. CURTIN: I just have a few.

21 CHAIRMAN GRAHAM: Sure.

22 CROSS EXAMINATION

23 BY MR. CURTIN:

24 Q. Ma'am, you were here yesterday for the  
25 testimony where it was talked about how many people

1 testified at the prior rate hearing in 2009, how many  
2 customers testified at Arredondo Farms?

3 A. In the last rate case?

4 Q. Yes.

5 A. Yes, I was here.

6 Q. And I believe it was nine testified and 11  
7 were in attendance --

8 A. Right.

9 Q. -- at the rate hearing. And in the hearing  
10 for Arredondo Farms in this case 40 people testified?

11 A. Yes.

12 Q. Do you have a calculator? Do you know how  
13 much percentage that is more testified?

14 A. I would say that is about four times as many.

15 Q. So over 400 percent more people testified?

16 A. Yes.

17 MR. CURTIN: No further questions.

18 MR. MAY: Mr. Chairman.

19 CHAIRMAN GRAHAM: Madam Counsel, I mean  
20 Attorney General.

21 MS. BRADLEY: No questions.

22 MR. MAY: May I inquire? In the prehearing  
23 order there was a prohibition on friendly  
24 cross-examination, and I thought that that was an order  
25 that no one has protested or objected to, and I thought



1 that that was the rules that we were going to be  
2 following.

3 **MS. CHRISTENSEN:** Would you like to jump in?

4 **MS. BRADLEY:** I'm shocked at this. I think  
5 our prehearing officer can tell you we did object to the  
6 friendly cross language, and pointed out the fact that  
7 it's not covered by any rules, or statutes, or any case  
8 law. And we did, in fact, object and several of the  
9 other parties joined that objection.

10 **CHAIRMAN GRAHAM:** Was there a determination  
11 made in the prehearing if we were going to allow  
12 friendly cross or not?

13 **MS. BRADLEY:** No, sir. They said they would  
14 let it be decided when it came up, as they did in the  
15 last rate case.

16 **MR. MAY:** I'm quoting -- excuse me. May I  
17 respond?

18 **CHAIRMAN GRAHAM:** Ms. Helton, is this my  
19 determination if we are going to allow friendly cross?

20 **MS. HELTON:** Mr. Chairman, the prehearing  
21 order I do believe states that the parties shall avoid  
22 duplicative or repetitious cross-examination. Friendly  
23 cross will not be allowed.

24 Ms. Bradley and I over the last several years  
25 have been in disagreement with respect to whether the

1 concept of friendly cross is even a legally recognized  
2 concept and whether it is appropriate or inappropriate  
3 for the Commission to allow friendly cross. She doesn't  
4 believe that our prohibition on friendly cross is  
5 recognized in the law. I disagree wholeheartedly. I  
6 have -- if you were to look at prior transcripts where I  
7 have advised the Commission, you will see where I have  
8 read excerpts from Judge Padovano's treatise on civil  
9 practice -- he is a judge at the First DCA -- where I  
10 believe that he states clearly that friendly cross  
11 should -- his description of the testimony equates to  
12 friendly cross, and that it should not be allowed.

13 Professor Chuck Ehrhardt, who taught me  
14 evidence, who was instrumental in creating the Florida  
15 Evidence Code and who also has a treatise on Florida  
16 evidence, I believe that he also has a section that  
17 states, in effect, that friendly cross should not be  
18 allowed. I don't believe that it is contemplated by  
19 Chapter 120, which are the statutes that govern these  
20 proceedings.

21 Now, all that being said, I think that you  
22 have a lot of discretion whether to allow certain, you  
23 know, cross-examination testimony or not. I have --

24 **CHAIRMAN GRAHAM:** So you are my attorney.

25 **MS. HELTON:** Yes, sir.

1                   **CHAIRMAN GRAHAM:** Yes or no, do I have the  
2 discretion to determine friendly cross or not?

3                   **MS. HELTON:** You do.

4                   **CHAIRMAN GRAHAM:** Okay. Let's scratch that  
5 last question and that response.

6                   Mr. May.

7                   **MS. BRADLEY:** Mr. Chairman, I say that Mr. May  
8 object, because Mr. May's objection was untimely, and  
9 since that was something that was going to be ruled on  
10 when it was raised, it was not decided prior to the  
11 hearing, and he allowed counsel to go ahead and ask the  
12 question and the witness to answer it. I think it is  
13 part of the record and cannot be retroactively struck.

14                   **MR. CURTIN:** If I may, Chairman, since it is  
15 my question. I will repeat what the Attorney General  
16 has just said, but, also, I think it would take away our  
17 due process rights not to have the answer to be able to  
18 question a witness about relevant information. At the  
19 very least I should be able to rephrase my question and  
20 continue with that questioning now. Because I stopped  
21 my questioning because there was no objection to it, and  
22 the objection came after I stopped, after I said I had  
23 no other questions, and then an objection came up.

24                   So, one, the objection was untimely, and so  
25 the testimony should stay. And if it doesn't, I at

1 least have the right to continue my cross-examination  
2 and continue questioning.

3 **CHAIRMAN GRAHAM:** I agreed with the objection,  
4 and I struck the question and the response.

5 Mr. May.

6 **CROSS EXAMINATION**

7 **BY MR. MAY:**

8 Q. Ms. Vandiver, I had previously identified two  
9 exhibits, two composite exhibits, a master demonstrative  
10 exhibit. Do you have that?

11 A. Yes, I do.

12 Q. And then there is another composite exhibit  
13 entitled Composite Exhibit, April 2nd, 2008, and  
14 September 18th, 2008, letters with attachments. Do you  
15 have that, as well?

16 A. I don't believe I do.

17 **MR. CURTIN:** Mr. Chairman, I hate to interrupt  
18 this, but I just think for appellate reasons I have to  
19 ask to at least proffer my questions that I wanted to  
20 ask this witness. I am sorry to interrupt Mr. May, but  
21 I just have to put it on the record that I would at  
22 least want to -- I understand your ruling. I understand  
23 that you won't let me ask any more questions, but for  
24 the record I would like to proffer my questions to the  
25 witness for appellate purposes.

1           **MS. HELTON:** I believe that when you rule to  
2 not allow cross-examination to continue and to preserve  
3 an appellate record that proffering is appropriate.  
4 However, I guess I'm a little bit confused here because  
5 I thought that the question had been asked and answered,  
6 and it is on the record, and it is preserved for  
7 appellate purposes.

8           **MR. CURTIN:** My only response to that is  
9 I would not -- if the objection was timely made by  
10 Mr. May, I would not have stopped my cross-examination  
11 and I would have rephrased my question at that time. So  
12 that is my objection.

13           The question was asked. The question was  
14 answered. I stopped my cross-examination, said I had no  
15 further questions. Then Mr. May made an objection. So  
16 I didn't have a chance to rephrase my question if the  
17 objection had been made timely. So either the question  
18 and answer should not be stricken, or I should be able  
19 to continue my cross, or I should at least be able to  
20 proffer my questions of how I would have continued my  
21 cross.

22           **MR. MAY:** May I say one thing? I was acting  
23 in good faith under the specific directions of the  
24 Prehearing Officer's Order Number PSC-11-0544, which  
25 says, "Further, friendly cross-examination will not be

1 allowed. Cross-examination shall be limited to  
2 witnesses whose testimony is adverse to the party  
3 desiring to cross-examine." There was no reason for me  
4 to object. The rules of the proceeding were already in  
5 place.

6 **CHAIRMAN GRAHAM:** Mr. May, please continue.

7 **BY MR. MAY:**

8 Q. We are going to get there, Ms. Vandiver. Have  
9 you been provided with a copy of the exhibit styled  
10 April 2nd, 2008, and September 18th, 2008, letters with  
11 attachments?

12 A. No, I have not.

13 **MR. MAY:** Mr. Chairman, may we have these  
14 exhibits identified, please?

15 **CHAIRMAN GRAHAM:** Which one is which? We are  
16 to Exhibit Number 311. Do you want to mark the  
17 composite exhibit --

18 **MR. MAY:** The master demonstrative, we would  
19 suggest that it be marked as Exhibit Number 311.

20 **CHAIRMAN GRAHAM:** Okay.

21 **MR. MAY:** And that the composite exhibit with  
22 the two letters would be 312.

23 **CHAIRMAN GRAHAM:** All right.

24 (Exhibit Numbers 311 and 312 marked for  
25 identification.)

1 BY MR. MAY:

2 Q. Do you have the exhibits, Ms. Vandiver?

3 A. I do now.

4 Q. Let's see if we can start over. Thank you for  
5 your patience. Prior to joining the Office of Public  
6 Counsel as a legislative analyst, you worked with the  
7 Commission for approximately 26 years, isn't that  
8 correct?

9 A. That is correct.

10 Q. And you served as Bureau Chief of Auditing for  
11 the Commission, correct?

12 A. Correct.

13 Q. And your responsibilities as bureau chief  
14 included setting audit standards for the bureau?

15 A. That's correct.

16 Q. And you also managed the administrative  
17 aspects of the auditing office, correct?

18 A. Correct.

19 Q. And as bureau chief, I'm assuming that you  
20 knew your staff and monitored their performance,  
21 correct?

22 A. I'm sorry, I didn't hear the whole question.

23 Q. As bureau chief, I'm assuming that you knew  
24 your staff and you monitored their performance, correct?

25 A. Correct.

1 Q. Was Kathy Welch one of your auditors?

2 A. She was a supervisor that reported to me, yes.

3 Q. In your opinion, is Ms. Welch a good and  
4 thorough auditor?

5 A. A good --

6 Q. A good and thorough auditor?

7 A. Oh, yes.

8 Q. And as bureau chief you supervised the audit  
9 of the Commission, correct?

10 A. Yes.

11 Q. You actually supervised the audit of AUF's  
12 last rate case, correct?

13 A. Correct.

14 Q. I would like to turn your attention to a  
15 document that we have identified as Exhibit 312, and  
16 that includes a letter from you to Aqua dated April 2nd,  
17 2008, and a memorandum from you dated September 18,  
18 2008. You and I discussed these documents at your  
19 deposition, correct?

20 A. Correct.

21 Q. And you're familiar with these documents, are  
22 you not?

23 A. Yes, I am.

24 Q. And your April 2nd, 2008, letter advises Aqua  
25 that your staff would be conducting an audit of their



1 affiliate transactions for the test year, correct?

2 A. Correct.

3 Q. Okay. And that final audit is attached to  
4 your September 18, 2008, memorandum, correct?

5 A. Yes, it is. What ended up happening in this  
6 case was we -- as I went back and looked at what had  
7 happened and read the documents I had in the office, we  
8 initiated an affiliate transaction audit and intended to  
9 complete that before we started the MFR audit. That did  
10 not happen, so the two were rolled into one, and one  
11 audit report was issued for the MFRs as well as the  
12 affiliate transactions.

13 Q. Okay. Thank you for that clarification. And  
14 the Commission addressed your staff's audit in its final  
15 order in AUF's last rate case, correct?

16 A. Correct.

17 Q. Can you turn to -- let's see, tab number --  
18 hold on one second -- Tab Number 1 of Exhibit 311. And  
19 on the second page of that tab, can you read for the  
20 record what the order says? It's on Page 78 of the  
21 order.

22 A. Sure. While this isn't part of what I  
23 originally was planning to testify on today, I will be  
24 glad to read it. It says, "In order to determine the  
25 reasonableness of AUF's affiliate transactions, our

1 staff performed an audit of the affiliate transactions  
2 for the test year 2007 in accordance with Commission  
3 audit procedures. During the audit, our staff obtained  
4 and reviewed the total expenses allocated to the  
5 individual systems from AAI and AUF. Total AAI and AUF  
6 allocation expenses allocated to the individual systems  
7 were traced to the general ledgers. Our staff reviewed  
8 and recalculated the allocated expenses from AAI and  
9 AUF, and sampled allocated expenses for the proper  
10 amount period, classification, and whether the expenses  
11 were utility related, nonrecurring, unreasonable, and/or  
12 imprudent. There was nothing found in the audit to  
13 suggest that the affiliate charges were unreasonable or  
14 imprudent."

15 Q. So, Ms. Vandiver, in the last case the  
16 Commission relied in part on your audit in determining  
17 the reasonableness of AUF's affiliate transactions,  
18 correct?

19 A. In part on my staff's audit, yes.

20 Q. Okay. Now, the Commission's audit staff has  
21 conducted a similar audit of AUF in this case, correct?

22 A. A similar audit of affiliate transactions?

23 Q. Yes.

24 A. I believe so.

25 Q. And that audit in this case was handled

1 primarily by Ms. Kathy Welch?

2 A. I believe so.

3 Q. And she's a witness in this case, is she not?

4 A. I believe she was stipulated in, yes.

5 Q. Ms. Vandiver, you are testing (sic) as to  
6 quality of service issues, are you not?

7 A. Yes, I am.

8 Q. In that context, did you personally attend any  
9 of the customer meetings in this case?

10 A. No, I did not.

11 Q. And you didn't attend any of the customer  
12 service hearings in the case, either, did you?

13 A. No, I did not.

14 Q. You relied on reviewing the transcripts?

15 A. Well, I relied on reviewing the recordings of  
16 the customer meetings and creating the transcripts,  
17 which meant I listened to the recordings multiple times,  
18 and then I relied solely on the transcripts of the  
19 service hearings.

20 Q. Thank you. In preparing your quality of  
21 service testimony, you did review customer complaints  
22 filed with the Public Service Commission, correct?

23 A. I reviewed the listing of customer complaints  
24 off the website.

25 Q. Can you turn to Page 7 of your testimony,

1 please?

2 A. I'm there.

3 Q. I'm looking on Lines 9 through 12, and that  
4 reference is in Attachment K. Attachment K, I think,  
5 can be found in your Exhibit DNV-2, which is at Page 368  
6 of 374.

7 A. What page did you say, again?

8 Q. In the upper right-hand corner, it is  
9 Attachment K. It is Page 368 of 374.

10 A. I've got it.

11 Q. In 2007, the year AUF filed its last case, 186  
12 complaints were filed with the Commission concerning  
13 AUF, correct?

14 A. Correct.

15 Q. Okay. And in 2010 that number dropped to 142?

16 A. Correct.

17 Q. Ms. Vandiver, that is a 24 percent decline in  
18 the number of complaints filed against AUF, is it not?

19 A. Correct.

20 Q. And on Page 7 of your testimony you state that  
21 there was a 19 percent decrease in complaints from 2009  
22 to 2010, correct?

23 A. Correct.

24 Q. Wouldn't you agree that that is an improving  
25 trend line?

1           A.    I wouldn't call two or three years a trend  
2 line, but I would agree that there has been some  
3 improvement for the two-year period.

4           Q.    Thank you.  Can you turn back to Page 5 of  
5 your Direct Testimony, Ms. Vandiver?

6           A.    I'm there.

7           Q.    And bear with me, because we're going to  
8 replot some old ground here.  I wanted to get your  
9 deposition in the record so we could avoid this, but,  
10 you know, there were some issues there.  So we will just  
11 walk over some ground that we have covered before, so  
12 please bear with me.

13          A.    That's fine.

14          Q.    On Lines 5 through 7 on Page 5, you state that  
15 your analysis of information shows some concerning  
16 trends regarding maintenance and water quality, is that  
17 correct?

18          A.    That's correct.

19          Q.    I would like to talk with you a little bit  
20 about that.  Ms. Vandiver, are you a toxicologist?

21          A.    No, I'm not.

22          Q.    Have you received any training in toxicology?

23          A.    No, I have not.

24          Q.    Are you a hydrologist?

25          A.    No, I'm not.

1 Q. Have you received any training in hydrology?

2 A. No, I have not.

3 Q. Do you have any training in water quality  
4 analysis?

5 A. No, I have not.

6 Q. Have you ever operated a water utility?

7 A. No, I have not.

8 Q. Have you ever operated a wastewater utility?

9 A. No, I have not.

10 Q. Have you ever inspected one of AUF's water  
11 treatment systems?

12 A. I don't believe so, no.

13 Q. Have you ever inspected one of AUF's  
14 wastewater treatment systems?

15 A. I don't believe so, no.

16 Q. Have you ever visited an Aqua call center?

17 A. No, I have not.

18 Q. Do you have Mr. Poucher's testimony with you  
19 today?

20 A. No, I don't.

21 Q. Okay. On Page 8 of your testimony, you  
22 discuss AUF's service metrics and target goals for its  
23 call centers, do you not?

24 A. Yes, I do.

25 Q. I'm going to read you what Mr. Poucher said in

1 his Direct Testimony on Page 29, Lines 11 through 20,  
2 and I'm going to ask you some questions about it. He  
3 says, "For instance, prior to 2010, Aqua had a  
4 tremendous problem with bad or nonexistent meter reading  
5 and estimated bills. Customer complaints did not solve  
6 the problem, and there was little evidence to suggest  
7 that the company even cared. Many customers were billed  
8 month after month with estimated bills and billing  
9 problems were pervasive and excessive, however you wish  
10 to characterize it. They solved that problem by getting  
11 rid of most of their meter readers and replacing  
12 existing meters with digital meters that could be read  
13 electronically from a passing vehicle. Meter reading  
14 complaints because of estimated bills has declined  
15 significantly. Those positive results are reflected in  
16 Aqua's service quality reports."

17 Do you agree with Mr. Poucher's testimony?

18 A. I'd have to look at some specific statistics  
19 to be able to agree to that.

20 Q. Mr. Poucher went on on Line 22 to say, "Aqua  
21 reports also show improvements in call center  
22 performance."

23 Do you agree with that testimony?

24 A. I would have to look at specific statistics to  
25 agree with that.

1           Q.    Let's go back to your testimony on Page 8.  
2           Isn't it correct that these are target goals that AUF  
3           has adopted for itself to ensure call center quality?

4           A.    That's correct.

5           Q.    Do you believe it's important for businesses  
6           to have internal performance goals to drive quality?

7           A.    Definitely.

8           Q.    Does OPC have target goals and quality  
9           assurance metrics for its employees?

10          A.    No, we don't.

11          Q.    Does the Florida Public Service Commission  
12          rules require water and wastewater utilities to have  
13          service metrics and target goals for its call centers?

14          A.    I don't believe it does.

15          Q.    Does the Florida Public Service Commission  
16          rules require a water and wastewater utility to have any  
17          performance goals for its company?

18          A.    It has certain rules that the customer service  
19          representatives would have to follow, but I don't  
20          believe it sets a metric, but it goes have rules that  
21          they must follow.

22          Q.    Let's talk about that.  You would agree, would  
23          you not, that the Commission does not have rules that  
24          would require a water and wastewater utility to adopt  
25          service quality metrics?



1           A.    Correct.

2           Q.    Should a utility be financially rewarded for  
3 meeting voluntary target goals to ensure quality?

4           A.    I don't believe so, no.

5           Q.    Are you aware of Mr. Poucher's testimony where  
6 he's suggesting that the Commission penalize the company  
7 for failing to meet its own internal goals?

8           A.    I believe he may have said that.

9           Q.    If a utility could not be rewarded for meeting  
10 voluntary goals to ensure quality, but would be subject  
11 to a penalty for failure to meet those same goals, why  
12 would a utility ever adopt those goals in the first  
13 place?

14          A.    I would think as a management tool, at a very  
15 minimum, would be a reason a company would adopt metrics  
16 on their own. But I think if a company had any interest  
17 in providing quality customer service, you would adopt  
18 those.

19          Q.    But, again, if the utility could not be  
20 rewarded for meeting the goals, but could only be  
21 penalized for failing to meet the goals, what incentive  
22 would there be for a utility to adopt the goals in the  
23 first instance?

24          A.    I could not begin to tell you what Mr. Poucher  
25 meant in his testimony, but if I were going to expound

1 on that testimony, I would say that in a case where a  
2 company occasionally missed their metrics, I don't think  
3 that would be a good recommendation to penalize them.  
4 But when you have a company who consistently provides  
5 poor quality of service, I do think it would be  
6 appropriate to penalize them, and that would be the case  
7 in Aqua's case.

8 Q. Let's turn to your testimony on salaries and  
9 wages.

10 A. Okay.

11 Q. You have recommended -- well, let me back up.  
12 Were you here when Mr. Rendell was questioned by some of  
13 the Commissioners regarding the performance-based  
14 increase proposed by Aqua in its MFRs?

15 A. Yes, I was.

16 Q. You're recommending eliminating that  
17 performance-based salary increase, correct?

18 A. Correct.

19 Q. And your recommendation to eliminate that  
20 performance-based salary increase is not based upon any  
21 market study that you performed, correct?

22 A. I did not perform a market study, no.

23 Q. The basis for your disallowance or your  
24 adjustment is that the ratepayers shouldn't be forced to  
25 pay for increased salaries at a time when they are

1 suffering through difficult economic times, correct?

2 A. Correct.

3 Q. Did you recall Ms. Christensen's opening  
4 statement about the need for the company to tighten its  
5 belt in this kind of economy?

6 A. I remember her saying that.

7 Q. Ms. Vandiver, did you compare AUF's salary  
8 expense in this rate case to AUF's salary expense in  
9 2008?

10 A. I might have looked at that at one point.

11 Q. Let's look at it again. Can you turn to Tab 8  
12 in the demonstrative exhibit?

13 A. Which tab, please?

14 Q. Tab Number 8.

15 A. Okay.

16 Q. It's on Page 4 of the audit. Can you read the  
17 highlighted section? It's the second full paragraph  
18 beginning with, "For AUF, we selected"?

19 A. Okay. This is an audit that was performed in  
20 the current rate case by the staff of the Commission, so  
21 this would be their words.

22 Q. Absolutely.

23 A. "For AUF, we selected time sheets for some  
24 employees and reconciled the hours through the payroll  
25 documentation. We also traced a sample of entries from

1 the payroll data sheet to the ledger. We reconciled the  
2 payroll data to the MFRs. We also reviewed the  
3 supporting documentation for the normalizing and  
4 pro forma payroll adjustments to net operating income in  
5 the MFRs for AUF. The Florida payroll was approximately  
6 11 percent less in the test year than in 2008."

7 Q. So you would agree, would you not, that AUF's  
8 payroll for the test year was around 11 percent less  
9 than AUF's payroll at the time of the last rate case?

10 A. Oh, I don't know. That's what the staff  
11 auditor said.

12 Q. Do you disagree with that audit?

13 A. I don't have any way to agree or disagree at  
14 this point.

15 Q. Can you turn to the first page of that audit?

16 A. Okay.

17 Q. Who prepared the audit?

18 A. The audit manager was Kathy Welch.

19 Q. I think you previously said you had confidence  
20 in Ms. Welch's ability as a thorough auditor?

21 A. Yes, I did.

22 Q. Do you have any reason to doubt that this is  
23 an accurate audit?

24 A. I don't have any reason to doubt that it is an  
25 accurate audit. I don't know that she looked at it the

1 same way I would look at it for salaries and wages,  
2 though.

3 Q. Let's assume for the sake of our discussion  
4 today that the audit is accurate. Isn't an 11 percent  
5 decrease in payroll since the last rate case evidence  
6 that AUF has tightened its belt?

7 A. In that one area it would be evidence, if that  
8 is what they did, yes.

9 Q. Bear with me, Ms. Vandiver. We're getting  
10 close to the goal line. Let's turn your attention to  
11 your testimony regarding rate case expense.

12 A. Okay.

13 Q. On Page 19 you recommend that the Commission  
14 reduce rate case expense by imputing a reduced attorney  
15 billable hour rate of \$275 per hour, correct?

16 A. I recommended an adjustment to the 275, not by  
17 the -- I wasn't sure if I understood the question, but  
18 from 392 to 275.

19 Q. Okay. And that \$275 hourly rate is based in  
20 large part upon a Florida bar survey, correct?

21 A. Yes, it is.

22 Q. Now, you and I talked about this at your  
23 deposition, and I just wanted to go through it one more  
24 time just so I'm clear.

25 A. Okay.

1           Q.    The \$275 billable hour rate that you are  
2 recommending is substantially below the \$400 billable  
3 hour rate that the Commission recognized in the Waste  
4 Management Services rate case in Docket Number 100104?

5           A.    You mean the Water Management case? I believe  
6 it was.

7           Q.    And it's substantially below the billable hour  
8 rate recently recognized by the Commission in the Lake  
9 Utility Services rate case in Docket Number 100426-WS,  
10 correct?

11          A.    I believe so.

12          Q.    And you haven't spoken with the individual at  
13 the Florida Bar who put together the survey that you  
14 relied on in recommending this adjustment, have you?

15          A.    No, I have not.

16          Q.    So you don't know if the survey included the  
17 billable hour rate of the attorney who has a \$400 hour  
18 rate that was recognized in the Water Management  
19 Services case, do you?

20          A.    No, I do not. I just know that the survey  
21 explains that they sent out a sample survey to a sample  
22 of their attorneys, and those people responded. So it  
23 should have included -- a random sample would include a  
24 little bit of everybody.

25          Q.    Do you know if the survey included the

1 billable hour rate of the attorney who represented Lake  
2 Utility Services, Inc. in Docket Number 100426?

3 A. No, I don't know.

4 Q. Do you know if the survey included my rate?

5 A. I don't know.

6 Q. Subject to check, would you agree it didn't?

7 A. Subject to check.

8 Q. Do you know if the survey included any of the  
9 private law firms that represent Florida's  
10 investor-owned electric utilities?

11 A. I don't know whether it did or didn't.

12 Q. Do you know if the survey includes any hourly  
13 from any private law firm that represents investor-owned  
14 telecommunications companies?

15 A. I don't know whether it did or didn't.

16 Q. And do you know whether the survey includes  
17 hourly rates from private attorneys that represent  
18 investor-owned natural gas utilities?

19 A. I don't know whether it did or didn't.

20 Q. Do you know whether the survey includes any  
21 rates from any private attorney that practices before  
22 the Florida Public Service Commission?

23 A. I don't know whether it did or didn't.

24 Q. Do you know if the survey includes any rates  
25 from any private attorney that specializes in public

1 utility law?

2 A. I would be surprised if it didn't. If they  
3 sent out a random sample I would suspect that at least  
4 someone in there would have been selected.

5 Q. Would it be prudent for a utility to hire a  
6 lawyer to represent it in a fully litigated rate case  
7 before the Commission if that lawyer did not have  
8 experience in public utility rate cases?

9 A. Could you say that again, please? That was  
10 too long.

11 Q. It was a long question. Would it be prudent  
12 for a utility to hire a lawyer to represent it in a  
13 fully litigated rate case before the Commission if that  
14 lawyer did not have experience in public utility rate  
15 cases?

16 A. Probably not. Could I add to that it would  
17 depend on the size of the utility and what they needed  
18 the expertise for. I'm sure there have been some  
19 smaller utilities that have hired attorneys that may not  
20 have been very experienced, but it was sufficient for  
21 their needs.

22 Q. Thank you. Ms. Vandiver, wouldn't you agree  
23 that the larger the volume of discovery in a rate case,  
24 the higher the rate case expense?

25 A. Not necessarily.



1           Q.    Do you know the exact number of  
2 interrogatories and requests for production of documents  
3 that OPC has served on AUF in this case?

4           A.    I don't have that with me right now.

5           Q.    Mr. Szczygiel's testimony indicates that OPC  
6 has propounded 796 interrogatories and 299 requests for  
7 production of documents.  Would you disagree with that  
8 analysis?

9           A.    Yes, I would.

10          Q.    Why?

11          A.    Because I believe he's counting subparts which  
12 I would disagree are individual requests.  I believe a  
13 lot of the subparts were an explanation of what we  
14 expected to be included.  Because if we are not  
15 specific, the company will not provide the information  
16 that we are asking for, so we put a list to make sure  
17 that it was very clear what the discovery was for.  And  
18 I believe he was counting each of those subparts as  
19 separate discovery requests, when they were not meant to  
20 be that.

21          Q.    Do you understand that Mr. Curtin's client is  
22 suing my client in circuit court in Alachua County,  
23 Florida?

24          A.    I don't know.

25          Q.    You understand, though, in the Rules of Civil

1 Procedure that litigation is limited to  
2 30 interrogatories, including subparts, correct?

3 A. I am not familiar with circuit court. I  
4 believe we had a procedural order that laid out how much  
5 discovery we could propound, and I believe we met that.

6 Q. While you were at the Commission, did you ever  
7 see the OPC issue that volume of discovery in a PAA  
8 water utility rate case?

9 A. I did not see discovery very much while I was  
10 in auditing, and it had been 16 years -- well, 18 years  
11 since I have been in water and wastewater. So 20 years  
12 ago, no, I did not see that level of discovery. But  
13 things have changed an awful lot in those 20 years.

14 Q. You were with the Commission when the  
15 Commission addressed the Florida Power and Light nuclear  
16 power plant need determination?

17 A. I don't know. I was not familiar with it.

18 Q. Do you know how many interrogatories -- well,  
19 let me back up. Do you know the value of that plant?  
20 It was over \$10 billion, wasn't it?

21 **MS. CHRISTENSEN:** Objection, relevancy.

22 **CHAIRMAN GRAHAM:** Can you tell us what the  
23 relevancy is?

24 **MR. MAY:** I'm trying to put the context of  
25 this discovery in this case, which is a \$4.1 million

1 rate case, into the amount of discovery propounded by  
2 the Office of Public Counsel in a \$10 billion need  
3 determination for a nuclear power plant.

4 **CHAIRMAN GRAHAM:** I'll allow the question.

5 **BY MR. MAY:**

6 Q. Do you know how many interrogatories the  
7 Office of Public Counsel served on Florida Power and  
8 Light in that \$10 billion need determination proceeding?

9 A. I have no idea.

10 Q. Subject to check, would it be less than 15?

11 A. Subject to check, I have no idea. But I do  
12 understand that need determinations have very extensive  
13 filings that are extensive in their natures, and there  
14 are a lot of estimates in it, and so there may not be as  
15 much need for discovery in those cases.

16 Q. And you don't agree that the volume of  
17 discovery in a litigated proceeding has an impact on  
18 rate case expense?

19 A. I think it has an impact. I don't think it's  
20 the driving force, necessarily.

21 Q. When was a PAA order issued in this case?

22 A. I believe it was April or May of this year.

23 Q. And at that time the amount of the rate case  
24 expense included in the PAA order was around \$778,000?

25 A. That sounds about right.

1           Q.    When was the deadline for protesting the PAA  
2 order?

3           A.    It was three weeks after the order was issued.

4           Q.    Would you agree that it was around July 5th,  
5 2011?

6           A.    That sounds about right.

7           Q.    And which parties protested the PAA order on  
8 or before that deadline?

9           A.    I believe the Office of Public Counsel and  
10 Mrs. Wambsgan protested it the Friday before the  
11 deadline.

12          Q.    None of the other parties sitting here at this  
13 table protested it before that deadline, did they?

14          A.    No. I believe they all waited and then did  
15 cross-petitions, but they may have done that since we  
16 had already protested it.

17          Q.    But none of the parties sitting at this table  
18 other than the OPC protested that order before the  
19 deadline, correct?

20          A.    Correct.

21          Q.    And Ms. Wambsgan now has withdrawn from the  
22 proceeding, correct?

23          A.    Correct.

24          Q.    So but for the OPC's protest, we wouldn't be  
25 sitting here today, would we?

1           A.    Oh, I would disagree with that.  I think if we  
2 had not protested it on Friday, someone may very well  
3 have protested it on the last day.

4           Q.    How do you know that?

5           A.    I don't know that.  I said I believe that they  
6 might have.

7           Q.    Did you monitor Ms. Dismukes' deposition?

8           A.    Yes, I did.

9           Q.    Ms. Dismukes agreed that it was foreseeable  
10 that a protest of the PAA order would increase rate case  
11 expense.  Do you agree with that opinion?

12          A.    I believe it's possible.

13          Q.    Let's step up a couple thousand feet and talk  
14 in generalities.  And I have a great deal of respect for  
15 you, Ms. Vandiver.  I know you are an excellent auditor,  
16 and I really appreciate what you do for the state in  
17 your new role with the Office of Public Counsel.

18                    During our deposition, we had a philosophical  
19 discussion, I guess, on the role that regulatory  
20 certainty plays in cost-of-service regulation.  Do you  
21 recall that?

22          A.    Yes, I do.

23          Q.    I want to understand your position a little  
24 better.  Under Florida regulatory law, water and  
25 wastewater utilities like Aqua have defined service

1 areas, isn't that correct?

2 A. That's correct.

3 Q. And the same is true for an electric and gas  
4 utility, correct?

5 A. I believe that's correct.

6 Q. And within that defined service area, a water  
7 utility has an obligation to serve its customers,  
8 correct?

9 A. That's correct.

10 Q. And in order to fulfill that obligation to  
11 serve, the utility at times will have to make  
12 substantial capital investments, correct?

13 A. Correct.

14 Q. Just so I don't misquote you, do you have your  
15 deposition with you? I'm just going to --

16 A. Yes, I do.

17 Q. Okay. Just so you can track, I don't want to  
18 repeat what we talked about, but I want you to keep me  
19 honest if I get -- if I don't correctly summarize what  
20 you talked about. I'm looking at Pages 47 and 49 of  
21 your deposition.

22 A. I'm there.

23 Q. Okay. Now, at your deposition you explained  
24 the concept of regulatory certainty in two progressions.  
25 First, you stated that because the Commission plays a

1 role in setting a utility's rates as a substitute for  
2 competitive markets, the utility needs to know what to  
3 expect from that rate-setting process. You went on to  
4 explain that it's important for a utility to know what  
5 to expect so that it can make prudent decisions in  
6 investing capital plant and incurring expenses. Is that  
7 a fair characterization of your definition of regulatory  
8 certainty?

9 A. That's a fair characterization of what I said,  
10 yes.

11 Q. Now, Ms. Vandiver, you are familiar with the  
12 concept of regulatory precedent, aren't you?

13 A. Yes, I am.

14 Q. And how would you describes that?

15 A. I believe regulatory precedent is when a  
16 regulatory body has made a decision in the past, and  
17 that is used to guide their decisions in the future  
18 until there is evidence put on to change that decision.

19 Q. You would agree, wouldn't you, that in order  
20 to provide an element of regulatory certainty, it's  
21 important for the Commission to follow precedent?

22 A. I believe that it's important for them to use  
23 that in making their decision. I don't think that the  
24 Commission is always bound to do exactly what was done  
25 by a prior Commission.

1 Q. If one wanted to find out about the  
2 Commission's regulatory precedent, one would typically  
3 look to published orders and court cases, is that  
4 correct?

5 A. Correct.

6 Q. Let me shift back over to rate case expense  
7 for a moment. I want to talk about your recommended  
8 adjustment for the in-house employees of Aqua,  
9 recovering their expense in the rate case.

10 I think you recommend removal of approximately  
11 \$130,000 in rate case expense incurred by Aqua's  
12 in-house rate department, do you not?

13 A. That sounds about right.

14 Q. And you're familiar with the Commission's  
15 decision on rate case expense in Aqua's last rate case,  
16 correct?

17 A. Correct.

18 Q. Are you aware that the Commission allowed  
19 Aqua's in-house rate department employees to be  
20 recovered in rate case expense?

21 A. Yes, I am.

22 Q. And at your deposition you acknowledged that  
23 the Commission recently allowed the recovery of in-house  
24 employees in rate case expense in the Lake Utility  
25 Services, Inc. rate case, correct?



1           A.    I did.  But at the last Agenda Conference the  
2 Commission changed their opinion and removed that from  
3 the Eagle Ridge rate case, which was the sister company  
4 of that group.

5           Q.    But in the Lake Utilities Services, Inc. case  
6 it allowed the in-house employees to be recovered in  
7 rate case expense, correct?

8           A.    Correct, and then they removed it in the next  
9 case.

10          Q.    Now, if the Commission disallowed in-house  
11 employees to be included in rate case expense in this  
12 case, wouldn't that be a departure from precedent?

13          A.    It would be a departure from what they did in  
14 the last case, yes.

15          MR. MAY:  Ms. Vandiver, that's all the  
16 questions I have.  Thank you so much.

17          THE WITNESS:  Uh-huh.

18          CHAIRMAN GRAHAM:  Staff.

19          MR. HARRIS:  Thank you, Chairman.

20                                **CROSS EXAMINATION**

21          **BY MR. HARRIS:**

22          Q.    Ms. Vandiver, I have a couple of questions in  
23 some various areas, and I'll identify them first.  The  
24 first one I wanted to talk to you about is this quality  
25 of service.  If you could refer to your Direct

1 Testimony, Page 5.

2 A. Okay.

3 Q. And I believe you discuss a quality of service  
4 monitoring report, is that correct?

5 A. Correct.

6 Q. And I believe you state that the Citizens  
7 concluded that AUF has not improved its quality of  
8 service as perceived by their customers, is that  
9 correct?

10 A. Correct.

11 Q. Ms. Vandiver, how much weight do you believe a  
12 customer's perception of quality of service holds in  
13 comparison to quality of service metrics and statistics?

14 A. Considering that the Citizens are our client,  
15 I would believe that they should be granted quite a bit  
16 of weight in their opinions. I believe that they are  
17 the ones that are living and dealing with the quality of  
18 the product and the customer service on a daily basis  
19 and should be the best witnesses as to what is being  
20 provided.

21 I do understand that there are other  
22 considerations and that the metrics could certainly play  
23 an important part in evaluating the service. Depending  
24 on how the metrics are set, and whether they adequately  
25 measure the service is an issue that would have to be

1 looked at pretty closely.

2 Q. Ms. Vandiver, do you recall that during your  
3 deposition we had a brief discussion about a weighing  
4 between metrics and the customers' perceptions?

5 A. Correct.

6 Q. And do you agree that we agreed that perhaps a  
7 50/50 weighting might be appropriate?

8 A. I believe we talked about that, yes.

9 Q. Did you agree that 50/50 weighting may be  
10 appropriate?

11 A. At this point I think that sounds about right.  
12 I don't have any anything better to offer at this time.

13 Q. Okay. And then going back to your Direct  
14 Testimony on Page 5, starting with Line 9, could you  
15 read your testimony on Lines 9 through 11?

16 A. "I believe that the quality of service is  
17 unsatisfactory and that additional quality of service  
18 monitoring for this utility is warranted."

19 Q. And that continues to be your testimony today?

20 A. Yes, it is.

21 Q. Could you describe -- and I believe we talked  
22 about this again a little bit at your deposition, but  
23 could you describe for me any additional quality of  
24 service monitoring that you believe is needed? That  
25 would specifically include a service issue that should

1 be monitored, what types of data reports AUF should be  
2 required to provide, and how many additional months of  
3 monitoring you believe should be required?

4 A. I haven't really put together a monitoring  
5 plan of my own. I do believe that if the Commission  
6 were to enter into a monitoring plan, it would need to  
7 develop some of the metrics, if you wanted to call it  
8 that, on their own instead of necessarily using what the  
9 company has set up, unless the company has some that  
10 meets what the Commission is interested in.

11 I think the Commission should or the staff  
12 should be looking at the actual DEP violations and the  
13 frequency of noncompliance, whether it's a consent order  
14 or not. I think there have been numerous occasions  
15 where the company has been in violation of quality  
16 standards, but they have not been written up, so I think  
17 that would have to be an important part of the  
18 monitoring program.

19 I think that there are several issues with the  
20 customer service representatives and the number of  
21 back-billing. I don't believe you can just look at the  
22 total bills over a year. I think you would need to look  
23 at how many customers are being back-billed at a  
24 particular time and why there is recurring issues with  
25 back-billing. I don't disagree that there is nothing --

1 that there is something wrong with back billing. Back  
2 billing is appropriate when it is needed, but it appears  
3 that it is a very big problem in this case. It  
4 shouldn't be that often as they are doing it.

5 I believe that there are still people  
6 complaining about the customer service representatives  
7 not being -- that are being plain rude to the customers.  
8 I know that the company has testified that they monitor  
9 that, but I don't understand why the customers are still  
10 complaining if it's not happening. So I believe that is  
11 an issue.

12 I believe that the company has testified  
13 regarding the electronic weight queue, or something like  
14 that, is being monitored. But if customers are asking  
15 to speak to a supervisor, even in the late late-filed  
16 exhibit the first step when a customer asks to speak to  
17 a supervisor they are tried to be talked out of it is  
18 basically what I read in the late-filed exhibit.

19 I think if customers aren't allowed to talk to  
20 a supervisor they are not going to reach that metric.  
21 So I think there are certain areas we need to improve  
22 what the Commission is monitoring so that we are really  
23 looking at what's bothering the customers instead of  
24 whether the company is meeting their own metrics.

25 Q. But other than those areas that you believe we

1 should look at, you don't have a specific plan that you  
2 can present today, is that correct?

3 A. Not at this time, no.

4 Q. Okay. Then regarding the improvement of  
5 quality of service, you know, metrics or performance, is  
6 it correct that you don't have at this point a specific  
7 percentage or measurement in mind that would indicate to  
8 you that the quality of service is satisfactory?

9 A. I'm sorry, could you say that again?

10 Q. Sure. Regarding the -- you know, we all want  
11 the improvement in quality of service, and my question  
12 to you is is it true that at this time you don't have a  
13 specific number, or percentage, or metric that you would  
14 say this target specifically says that they have  
15 improved their quality of service?

16 A. Well, I don't think we're looking at whether  
17 they improve their quality of service, I think we're  
18 looking at over the last two years is their quality of  
19 service satisfactory or during the test year. I'm not  
20 real sure how the issue is worded, but has their quality  
21 of service been satisfactory, not whether it has  
22 improved from the last rate case. If it was marginal in  
23 the last case it could still improve but still not be  
24 what I would consider satisfactory.

25 Q. Right here today, can you tell me what facts

1 you would -- what you would believe is an acceptable  
2 level of improvement today?

3 A. I guess I'm not -- I guess we're looking at it  
4 differently. I'm not looking at improvement. I'm  
5 looking at them being where they are supposed to be, not  
6 violating the water quality standards, the wastewater  
7 quality standards, providing quality customer service to  
8 the customers. So I guess -- I haven't set those  
9 numbers. I would say you set a threshold for the  
10 standards. How many standards are they violating in a  
11 one-month period or a six-month period. How many back  
12 bills do they have per system each month, things like  
13 that. But I don't have those numbers today, no.

14 Q. And we don't have those standards or  
15 thresholds today, is that correct?

16 A. Correct.

17 Q. Thank you. I'm referring to Page 8 of your  
18 Direct Testimony, and I believe we discussed this at  
19 your deposition. Regarding the AUF call center  
20 benchmarks, have you done any analysis to determine the  
21 actual number of customers or accounts that are affected  
22 when AUF does not meet its percentage targeted  
23 benchmarks?

24 A. I did on a few of these. You mean like if it  
25 said -- if their benchmark said .1 percent, how many

1 customers did that mean?

2 Q. Correct.

3 A. I did. I don't have that me at this point.

4 Q. Hold on for a second, please. Okay. And I  
5 have one last area on quality of service, and I believe,  
6 again, we discussed this during your deposition. I  
7 think it is on Page 102, and we had a bit of a  
8 discussion about the concept of the quality of service  
9 monitoring program versus a fine. And I believe you  
10 indicated that you might be willing to accept the  
11 concept, at least, that the Commission could eliminate  
12 the quality of service monitoring program and instead  
13 impose a monetary fine, is that correct?

14 A. That's what I said, yes.

15 Q. And do you still stand by that today?

16 A. I will recognize, first, that I was a little  
17 tired when I said that, but I do agree. I have some  
18 hesitation about a monitoring program. I think that's  
19 probably the nice way to go about doing this, but I do  
20 get frustrated that when you get into a monitoring  
21 program it's more like the Commission sitting there  
22 watching them do bad instead of correcting the problem.  
23 So I get frustrated when I think about what a monitoring  
24 program is going to include, and if the only way to get  
25 a company's attention is to penalize them in some way to



1 get their attention to correct their mistakes.

2 Q. Okay. I think that's the questions I had on  
3 the quality of service. Now I want to move on to rate  
4 case expense. And we had a little bit of discussion  
5 with Mr. May about this. I think my questions are  
6 slightly different. But specifically the first question  
7 is is it possible that some Florida attorneys may earn  
8 more than the highest total listed in the Bar's survey?

9 A. It's certainly possible.

10 Q. And are you aware that the Commission  
11 discussed the use of the survey -- the results of the  
12 survey at the May 24th, 2011, Commission Conference for  
13 this docket?

14 A. I believe it came up, yes.

15 Q. And are you aware that the Commission also  
16 discussed the use of the survey results at the  
17 October 4th, 2011, Commission Conference regarding Lake  
18 Utility Services, and that is Docket Number 100426-WS?

19 A. It came up, yes.

20 Q. And to your knowledge, did the Commission make  
21 any adjustments to the hourly rates of the attorneys  
22 allowed in rate case expense based on the results of the  
23 survey at either of those Agenda Conferences?

24 A. Not at those times, no.

25 Q. Thank you. And then the third area I would

1 like to briefly discuss with you is your work  
2 experience. And Mr. May covered some of it, but I  
3 wanted to step back a little bit to the earlier part of  
4 your employment. And I believe you mentioned in your  
5 Direct Testimony that you had worked as an accounting  
6 analyst, is that correct?

7 A. That is correct.

8 Q. And would part of your duties as an accounting  
9 analyst have included looking at utility rate filings?

10 A. Yes, they did.

11 Q. And would that include looking at things like  
12 rate base, and expenses, and the goal of calculating a  
13 revenue requirement for the utility?

14 A. That's correct.

15 Q. And once you had looked at that revenue  
16 requirement, would you send the results of that on to a  
17 rates analyst who would then design a rate structure?

18 A. I believe that at most times it did go to a  
19 rate analyst. I know in -- I believe there was a case  
20 when I was in auditing that we were helping out and we  
21 did a small case, and we did the rates on our own in  
22 that case, but it was a small staff-assisted case, I  
23 believe.

24 Q. So you do have a bit of rate design experience  
25 yourself?

1           A.    A very slight bit, yes.  And I'm not going to  
2 take credit for the design as much as applying the Excel  
3 spreadsheet to the numbers.

4           Q.    Would you agree with me that when you are  
5 designing rates, essentially in order to design those  
6 rates you would have to have the revenue requirement  
7 from the analyst and also the billing determinants as  
8 sort of prerequisites?

9           A.    That's how it's done, yes.

10          Q.    And so, therefore, would you agree with me  
11 that the rate structure is sort of a function of the  
12 revenue requirements and the billing determinants?

13          A.    The rate structure?  No, I wouldn't.  The rate  
14 structure would be designed on whether you're trying to  
15 include fixed costs in a particular place, whether it's  
16 a base facility charge, or the gallonage charge, and the  
17 variable costs, and the investment costs, and things  
18 like that.

19          Q.    Not the structure, but the rates themselves, I  
20 guess, that would be charged to the ratepayers?

21          A.    Could you say that again.

22          Q.    Would the rates that are ultimately ordered by  
23 the Commission be a function of the utility's revenue  
24 requirement and the billing determinants?

25          A.    That's correct.

1           **MR. HARRIS:** Thank you. I think that's all  
2 the questions we have for you. Thank you so much.

3           **THE WITNESS:** Uh-huh.

4           **CHAIRMAN GRAHAM:** Commissioners.

5           Ms. Vandiver, I have a question. Talking  
6 about rate case expense and setting a rate of 275 for  
7 attorneys, what other things do you think that we should  
8 be -- that we are not currently benchmarking when it  
9 comes to rate case expense?

10          **THE WITNESS:** I'm sorry, I didn't understand  
11 the question.

12          **CHAIRMAN GRAHAM:** I look at the process of  
13 putting a cap on what you're going to put on what an  
14 attorney can make as benchmarking.

15          **THE WITNESS:** Right.

16          **CHAIRMAN GRAHAM:** We do a lot of benchmarking  
17 as it applies to rate case expenses. What other things  
18 that we are not currently benchmarking do you think that  
19 we should be benchmarking?

20          **THE WITNESS:** Management fees. I would say I  
21 think everything should be looked at from, in some  
22 way -- I think a critical part of an analysis of a rate  
23 case is to benchmark where the company is compared to  
24 the last case, and what's an average for the industry,  
25 and use that as a guide. When you start putting a cap

1 on things I think you tend to limit it more to areas  
2 where there is less of a market maybe, or where there --  
3 let me think. I think salaries is another area where we  
4 have looked at before, and I think the Commission has  
5 occasionally made adjustments to salaries for whether  
6 they are owners or -- usually it's the owners or not the  
7 field people as much, but the management of a company.  
8 And I think that has been done before.

9 I think there is certainly a page in the MFRs  
10 that benchmarks everything to look at the amount of the  
11 increase from the last case that has been used as a  
12 guide. I don't know that you can use that to randomly  
13 cut all expenses, but I do think it has to be looked at  
14 for reasonableness, and when a company is over that  
15 amount it needs to be looked at and justified why it is.  
16 Does that help?

17 **CHAIRMAN GRAHAM:** It does. And this is not a  
18 trick question by any means. I agree that we should be  
19 doing more benchmarking. I'm actually looking for  
20 ideas. This question has come up before, and the  
21 argument I hear from staff is specific to the management  
22 fees that you are speaking of. It's difficult to  
23 benchmark, because you go some places and the water  
24 hardness is hard enough to stand on, and some places  
25 where you just have to drip a little bit of hypo in

1 there and you are ready to go.

2 Do you have any ideas or suggestions on how do  
3 you benchmark something on that line, or it's just  
4 always -- do you keep it localized to specific areas, or  
5 is it just based on what your last rate case was?

6 **THE WITNESS:** Well, I think that's why it's  
7 hard to benchmark certain areas, and why management fees  
8 are not as specific to the type of service necessarily.  
9 They could, but they tend to be more administrative  
10 costs, and those would be something that should be more  
11 uniform from company to company.

12 I'm thinking of another company, like we used  
13 Lake Utility Services a little bit ago. If their  
14 administrative costs are a certain amount, why are some  
15 companies higher than that? It seems like there might  
16 be a way to study what the average is for the state. I  
17 know it's hard -- and, you know, I have looked at some  
18 of the other testimony, I don't want to get out of my  
19 area, but you have to be careful to look at what the  
20 data is that you're looking at, whether it is complete  
21 or not, because some annual reports are not complete.  
22 So you have to try to look at that.

23 But once you have done that, why should one  
24 company have administrative costs five times more than  
25 another company? It just doesn't seem appropriate.

1 Salaries and wages for management would be the same  
2 thing whether it's a management fee or just an  
3 owner/manager.

4 You know, benchmarks for other things, I think  
5 you do sometimes use a benchmark when you do plant in a  
6 sense that, you know, you're looking at bids there, so  
7 you have kind of got a fail-safe there so that you are  
8 not letting a company just go and pay whatever it wants.  
9 You're not going to get a gold-plated plant if you're  
10 getting bids. So I think you're avoiding the use of  
11 benchmarks in that sense. On cost of capital, you  
12 definitely use benchmarks in the cost of capital  
13 already.

14 **CHAIRMAN GRAHAM:** No, but I was just talking  
15 about things that were not benchmarked.

16 **THE WITNESS:** Oh, that you're not already.  
17 Yes. Well, I think -- I guess those would be some of my  
18 bigger areas would be management fees, and manager  
19 salaries, administrative costs, those would be some.

20 **CHAIRMAN GRAHAM:** Okay. Commissioner Balbis.

21 **COMMISSIONER BALBIS:** Thank you, Mr. Chairman.  
22 I only have one question, and it's along the same line  
23 of questioning that you just had.

24 In your previous experience as being head of  
25 the audit bureau, correct?

1                   **THE WITNESS:** Yes.

2                   **COMMISSIONER BALBIS:** Mr. May had you read an  
3 excerpt from a previous audit, which I believe stated to  
4 the effect of none of these costs were found to be  
5 imprudent, et cetera. But when the audit group audits a  
6 company, and specifically in Tab 8, Audit Finding 2, and  
7 according to this audit finding the group selected a  
8 sample of invoices. They certainly did not audit every  
9 invoice or every cost associated with the company,  
10 correct?

11                   **THE WITNESS:** Correct.

12                   **COMMISSIONER BALBIS:** And in this case, there  
13 was over \$255,000 worth of expenses that the audit group  
14 found should not be passed along, correct?

15                   **THE WITNESS:** Correct.

16                   **COMMISSIONER BALBIS:** Now, does the audit  
17 group look at whether or not the costs were prudent in  
18 that they spent too much time or money doing a certain  
19 task or group of tasks, or is it more of was it properly  
20 documented, was it properly assigned to the correct cost  
21 centers, et cetera?

22                   **THE WITNESS:** Even though I was the bureau  
23 chief, I will have to admit that different auditors have  
24 different interpretations of prudence, so I would  
25 hesitate to say that they always look at it a certain



1 way or that they never look at it a certain way. I have  
2 found in my experience that generally they did not look  
3 at it from a global prudency perspective, but whether it  
4 was documented and put into the rate place in the right  
5 manner.

6 **COMMISSIONER BALBIS:** Okay. So, again, back  
7 to the benchmarking concept. There really isn't any  
8 benchmarking of the management fees, it is more of a  
9 documentation of, yes, they did spend this amount that  
10 was properly assigned to a certain cost center?

11 **THE WITNESS:** That is what the audit does,  
12 yes.

13 **COMMISSIONER BALBIS:** Okay. Thank you.

14 **CHAIRMAN GRAHAM:** Commissioner Brisé.

15 **COMMISSIONER BRISÉ:** Thank you, Mr. Chairman.

16 When looking at the quality of service from  
17 the perspective of trying to make correlations between  
18 how the individual customer interacts with the company,  
19 were you able to find any correlations, for example, if  
20 we looked at a particular area, if there were more  
21 billing issues, did we see that there were more quality  
22 of service complaints, or were there more customer  
23 service complaints? I mean, are there any direct  
24 correlations that you can identify or that maybe you  
25 have identified from looking at the quality of service

1 reports?

2           **THE WITNESS:** I did not look at them for  
3 correlations, no, I'm sorry.

4           **COMMISSIONER BRISÉ:** Okay. Thank you.

5           **CHAIRMAN GRAHAM:** Redirect.

6           **MS. CHRISTENSEN:** Hopefully just a few brief  
7 areas.

8                                   **REDIRECT EXAMINATION**

9           **BY MS. CHRISTENSEN:**

10           **Q.** I think you were having some conversation with  
11 Mr. May regarding the decrease in salaries that  
12 attributed -- or a decrease in the salary and expenses  
13 from the previous rate case to the current rate case.  
14 Do you recall that conversation?

15           **A.** I do.

16           **Q.** Okay. Could the reduction in salaries be due  
17 to the reduction in staff for meter readers and  
18 maintenance positions that were discussed previously?

19           **A.** It certainly could be.

20           **Q.** And I think you also had a discussion with Mr.  
21 May, and I think it may also have been with Mr. Harris  
22 regarding certain water cases regarding rate case  
23 expense and allowing higher attorney fees than you are  
24 suggesting in this case. Do you know if any of those  
25 cases that they mentioned were subject to a fully

1 litigated hearing?

2 A. Other than the last Aqua rate case, and the  
3 Lucie, anyone else was not -- or Water Management was  
4 not -- Water Management was a fully litigated hearing,  
5 but Lucie was not.

6 Q. Okay. And I think you had said that in the  
7 last rate case or the last case that came before the  
8 Commission at Agenda there was a reduction, is that what  
9 your testimony was?

10 A. Yes. In the Eagle Ridge Utilities, Inc. case,  
11 the Commission voted to remove all in-house rate case  
12 expense, all rate case expense for in-house employees.

13 Q. And can you explain why you believe it's  
14 appropriate to remove in-house expenses?

15 A. Because it is a duplication of what has  
16 already been accounted for during the test year.

17 Q. Okay. And based on your review of the quality  
18 of service in this case, how would you characterize  
19 Aqua's quality of service?

20 A. As unsatisfactory.

21 **MS. CHRISTENSEN:** I have no further questions.

22 **CHAIRMAN GRAHAM:** Okay. Ms. Christensen,  
23 exhibits?

24 **MS. CHRISTENSEN:** Yes. I would move  
25 Ms. Vandiver's exhibits into the record, and I believe

1 those start at 81 through Exhibit 88.

2           **CHAIRMAN GRAHAM:** That is 81, 82, 83, 84, 85,  
3 86, 87, and 88 into the record.

4           (Exhibit Numbers 81 through 88 admitted into  
5 the record.)

6           **CHAIRMAN GRAHAM:** Mr. May.

7           **MR. MAY:** Aqua would move Exhibits 311 and  
8 312.

9           **CHAIRMAN GRAHAM:** Move 311 and 312 into the  
10 record. Are there any objections to moving those?

11           **MS. CHRISTENSEN:** Yes, I would object at this  
12 time. I don't think Ms. Vandiver testified to all the  
13 documents that are contained in his master document  
14 list. I have no objection to, I guess, 312, which is  
15 the prior case audit, but I think she only testified on  
16 a few of the attached exhibits in the master document  
17 list, and I think it would probably be more appropriate  
18 until, you know, there has been testimony proffered on  
19 all of the exhibits to move it in at that point,  
20 assuming we get there.

21           **CHAIRMAN GRAHAM:** Well --

22           **MS. CHRISTENSEN:** I mean, I obviously have no  
23 objection to orders, but there are a few things that are  
24 in here that are not orders or rules. There is a couple  
25 of letters from DEP, there is a contract with Mr.

1 Woodcock. So particularly with reference to those  
2 particular items.

3 **CHAIRMAN GRAHAM:** I'm not sure if it's  
4 necessary to have everything in an exhibit addressed,  
5 but I think out of fairness we'll wait until the end.  
6 And if there's specifics in here that you want to  
7 disclosed (phonetic), we can do that, or we can have that  
8 conversation at that time.

9 **MS. CHRISTENSEN:** That's fair. Thank you.

10 **CHAIRMAN GRAHAM:** So we won't enter it now,  
11 but, Mr. May, if you would bring this back up towards  
12 the end.

13 **MR. MAY:** Absolutely. I understand where Ms.  
14 Christensen is coming from on it.

15 **CHAIRMAN GRAHAM:** Okay.

16 **MS. HELTON:** Mr. Chairman, may I say something  
17 about using orders, and rules, and statutes as exhibits  
18 just so everybody is clear, and it might make the record  
19 a little bit more clear. I don't believe that they need  
20 to be offered up as an exhibit. I don't even believe  
21 that you have to seek official recognition prior to the  
22 hearing. It's the Commission's longstanding practice  
23 that if you have a Florida Commission order, a statute  
24 that falls under your jurisdiction, or a rule that you  
25 have adopted, or a rule that you use in your governance,

1 then it does not require official recognition. I think  
2 it's very helpful to have copies of them distributed for  
3 use during the hearing, but I don't think they need to  
4 be listed as an exhibit.

5 **CHAIRMAN GRAHAM:** Well, I'm not going to  
6 complain about this, just like I wouldn't complain about  
7 Ms. Christensen when she gave us a stack of these  
8 things. I would much rather them come at one big piece  
9 than ten different times coming up here with different  
10 ones. But I do understand what you're saying, because I  
11 know as Public Counsel brought up other ones that were  
12 orders and that sort of thing, and we didn't put exhibit  
13 numbers on those, as well. But duly noted.

14 Let's take a quick five-minute break, rest the  
15 fingers for the court reporter over there, and we'll  
16 start back again at about 4:00 o'clock.

17 (Recess.)

18 **CHAIRMAN GRAHAM:** Okay. Ms. Christensen, you  
19 have the floor.

20 **EARL POUCHER**

21 was called as a witness on behalf of the Citizens of the  
22 State of Florida, and having been duly sworn, testified  
23 as follows:

24 **DIRECT EXAMINATION**

1 **BY MS. CHRISTENSEN:**

2 Q. Mr. Poucher, can you please state your name  
3 and your business address for the record?

4 A. Good afternoon, Commissioners. My name is  
5 Earl Poucher. I'm testifying on behalf of the Citizens  
6 of the State of Florida for the Office of Public  
7 Counsel, State of Florida, 111 West Madison Street,  
8 Tallahassee, Florida 32399-1400. My title is Chief  
9 Legislative Analyst.

10 Q. And did you cause to be filed Prefiled Direct  
11 Testimony consisting of 39 pages in this docket?

12 A. Yes, I did. Are you on your speaker?

13 Q. Yes, but I can move closer if that would be  
14 easier for you.

15 Do you have any corrections to your testimony?

16 A. No, I do not.

17 Q. And if I were to ask you the same questions  
18 today, would your answers be the same?

19 A. Yes, they would.

20 **MS. CHRISTENSEN:** I would ask that the  
21 testimony be entered into the record as though read.

22 **CHAIRMAN GRAHAM:** We will enter Mr. Poucher's  
23 testimony into the record.

24

25

**DIRECT TESTIMONY****OF****EARL POUCHER**

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**Q. PLEASE STATE YOUR NAME AND BUSINESS ADDRESS.**

A. My name is Earl Poucher. My business address is 111 W. Madison Street, Room 812, Tallahassee, FL 32399-1400.

**Q. WHO ARE YOU EMPLOYED BY, WHAT IS YOUR POSITION AND HOW LONG HAVE YOU BEEN EMPLOYED THERE?**

A. I am a Chief Legislative Analyst with the Office of Public Counsel, State of Florida where I have been employed for the past 20 years.

**Q. PLEASE SUMMARIZE YOUR UTILITY AND REGULATORY EXPERIENCE.**

A. I graduated from the University of Florida in 1956 and I started employment with Southern Bell that same year. I retired from the company (BellSouth) in 1987. As a BellSouth/Southern Bell employee, I held a wide variety of regulatory and operations management positions and I testified on behalf of the company in Georgia and North Carolina dockets. During my 29 years with Southern Bell/BellSouth, my positions included Customer Service Representative (Jacksonville), Business Office Supervisor (Orlando), Business Office Manager (Orlando) Business Office District Manager (Downtown Atlanta), General



1 Commercial Supervisor (Atlanta Area), Division Manager Business Services,  
2 (Georgia) and Distribution Manager (Pensacola) in charge of Installation,  
3 Maintenance and Construction, among others. While my experience with  
4 BellSouth included a wide range of assignments (See Exhibit REP-1), I have  
5 highlighted those positions I have held that are most closely aligned with the  
6 specific issues in this docket. As a member of the small Public Counsel team, I  
7 have been actively involved in hundreds of dockets over the past two decades,  
8 testifying in some and providing support to our attorneys in others. As the  
9 "resident customer service expert," I have the privilege of speaking to many of the  
10 citizens who call our office for help regarding utility problems.

11 **Q. HAVE YOU TESTIFIED BEFORE THE FPSC PRIOR TO THIS**  
12 **DOCKET?**

13 A. Yes, in many dockets. Exhibit REP-2 includes prior testimony that has been filed  
14 before the FPSC over the past 20 years that includes subject matter from customer  
15 service, sales, repair, depreciation, assignment of area codes, slamming and water  
16 quality. I have also testified before the Georgia Commission regarding Rates and  
17 Tariffs, before the North Carolina Commission regarding anti-trust issues and  
18 before the FCC regarding depreciation.

19 **Q. WHAT IS THE PURPOSE OF YOUR TESTIMONY?**

20 A. I am testifying on behalf of the Office of Public Counsel, and the purpose of my  
21 testimony is directed specifically to those issues currently before the Commission  
22 in this docket that relate to service quality and the adequacy of Aqua's customer  
23 service. In this testimony, I recommend that the Commission should reach a

1 finding that Aqua's service is unsatisfactory and that rates be set so as to produce  
2 a return on equity (ROE) that is at least 100 basis points below the midpoint until  
3 such time as Aqua's service is deemed to be satisfactory by the Commission  
4

5 **I. FPSC COMPLAINT REVIEW**

6 **Q. HAVE YOU REVIEWED THE AQUA COMPLAINTS FILED WITH THE**  
7 **FLORIDA PSC (FPSC)?**

8 A. Yes, I have reviewed the complaints filed with the PSC from January 1, 2010,  
9 through July 28, 2011. There are 210 complaints in this file that contains 769  
10 pages that are attached to my testimony.

11 **Q. BASED ON YOUR REVIEW OF AQUA'S COMPLAINTS RECEIVED BY**  
12 **THE FPSC, HAVE YOU PREPARED A SUMMARY OF THOSE**  
13 **COMPLAINTS.**

14 A. Yes, I have created a summary of the PSC complaints against Aqua by type and  
15 by the percentage to the total complaints that is contained in Exhibit No. \_\_ REP-  
16 3. Exhibit No. \_\_ REP-3 summarizes the complaints chronologically in groups of  
17 approximately 100 pages. Exhibit No. \_\_ REP-4 through Exhibit No. \_\_ REP-11  
18 include the individual PSC complaints I received from the Commission Staff as a  
19 result of my request.

20  
21 The cover sheets to Exhibit No. \_\_ REP-4 through Exhibit No. \_\_ REP-11 include  
22 my specific evaluation of each complaint. The cover sheets include my summary  
23 of the complaints, the complaint number, the customer name, my classification of

1 the complaint, my determination as to any error or fault on the part of Aqua and a  
2 brief description of the failure I identified. The full body of the complaint is  
3 contained in each of the Exhibits REP-4 through REP-11. Finally, the full  
4 summary of all 210 complaints is found in Exhibit No. \_\_REP-3.

5 **Q. THE INDIVIDUAL COMPLAINTS HANDLED BY THE COMMISSION**  
6 **REFLECT A DETERMINATION AS TO WHETHER THE COMPANY**  
7 **VIOLATED PSC RULES. DOES YOUR ANALYSIS TAKE THAT INTO**  
8 **CONSIDERATION?**

9 A. No, it does not. Seldom does any complaint in the Commission's files show a  
10 rule violation simply because the Commission has so few rules dealing with  
11 customer service, especially for water and wastewater companies. My review  
12 found fault with the company based on my own evaluation and my own  
13 experience. For instance, a Commitment Not Met is an indication that the  
14 company made a promise to a customer such as a call back or an appointment that  
15 was not kept, and I classify those as serious problems. Likewise, many Aqua  
16 customers complain that they were disconnected without notice or disconnected  
17 for an improper bill or even disconnected for a bill that had been paid. A  
18 Disconnect in Error is an extremely serious problem for a company that wants to  
19 provide good service and my review would classify those cases as a company  
20 fault.

21 **Q. PLEASE SUMMARIZE YOUR REVIEW OF THE FPSC COMPLAINT**  
22 **FILE.**

1 A. The first thing I would point out when reviewing PSC complaints for any  
2 company is that the PSC complaint file is the tip of the iceberg. The real body of  
3 the complaints against Aqua is contained in the company's records that are  
4 difficult, if not impossible to recover. Call centers today, as well as the business  
5 offices of yesterday, are established by nearly all companies as the primary  
6 conduit for customers to do business with the company. They process telephonic,  
7 written and electronic communications that allow a company to conduct its  
8 business, effectively and most efficiently. That is how Aqua does business with  
9 its multiple water systems that are spread throughout the country.

10

11 The overwhelming volume of data in the company's files is transactional in  
12 nature. When customers complain to the company, the problem is dealt with and  
13 resolved and the files are closed. Most customer complaints are resolved through  
14 these internal company channels. In my experience, sometimes companies make  
15 customers happy and sometimes they do not, however, customers generally live  
16 with the results.

17

18 While Aqua is able to summarize its complaints, obtaining and reviewing the  
19 actual files is an entirely different manner. During the past 20 years that I have  
20 worked at the Office of Public Counsel, we have never successfully received the  
21 full body of complaints received by any of the companies that we have dealt with,  
22 even when asked through formal discovery. The majority of customers do not

1 contact the Commission, even though they have filed a complaint with the  
2 company.

3

4 For example, calls from Florida customers to Aqua's call centers have been  
5 averaging over 5,000 calls per month, while the FPSC complaint files show 210  
6 complaints received since January 1, 2010. Florida customers are currently  
7 averaging more than 60,000 calls to the Aqua call centers each year, amounting to  
8 almost three calls per customer per year. So the tip of the complaint iceberg is  
9 contained in the Commission files and I accept that as being representative of the  
10 thousands of complaints that are processed by the company each year in the  
11 course of doing business in Florida.

12 **Q. WHY ARE THE COMMISSION COMPLAINT FILES VALUABLE?**

13 **A.** First, I would be unable to analyze all of the complaints received by Aqua from its  
14 customers in Florida due to the sheer volume. Second, when a customer files a  
15 complaint with the Commission, the company is required to respond within 15  
16 business days and provide the full details of the cause of the complaint and its  
17 resolution. Therefore, the data base is manageable and the data is fairly reliable,  
18 particularly when the PSC staff asks the company to provide specific information.  
19 While company responses to the PSC will almost certainly be cast in a favorable  
20 light, the customer ultimately has an opportunity to review the response and take  
21 issue with it, if applicable. When grouped by complaint category, as I did in my  
22 review, the Commission files become an excellent source to target corrective  
23 action where it will do the most good.

1 Q. IS THERE ANY INDICATION FROM YOUR REVIEW OF AQUA'S FPSC  
2 COMPLAINTS THAT AQUA CUSTOMERS HAVE BEEN ENCOURAGED  
3 TO FILE FRIVOLOUS COMPLAINTS?

4 A. Aqua's testimony and exhibits include excerpts from the FLOW organization's  
5 web site that encourage customers to complain. However, my review of the FPSC  
6 complaints shows absolutely no evidence that would indicate customers have filed  
7 complaints that are not real or valid. In our joint meetings with customers and  
8 Aqua during the Monitoring Program, both Aqua and OPC encouraged customers  
9 who appeared at the meetings to register complaints about water quality so that  
10 those issues could be addressed by the company. Our office continues to  
11 encourage customers to participate in customer meetings and to provide their  
12 input in the process, without regard in whether the customer supports or opposes  
13 the Aqua petition.

14  
15 After having spent the past several years dealing with Aqua issues, I believe that a  
16 correct observation is that the bad service delivered by Aqua and the high rates it  
17 charges for an inferior product have moved customers to organize in order to  
18 obtain relief. There should be no better proof that Aqua service is bad and its  
19 rates are too high than to find a formal organization with its own web site that  
20 seeks to have Aqua removed from the State of Florida

21  
22 Q. WHAT ARE THE MOST COMMON COMPLAINTS RECEIVED BY THE  
23 FPSC REGARDING AQUA SERVICE?

1 A. The most frequent complaints for Aqua relate to billing issues. Sixty seven  
2 percent of Aqua's PSC complaints relate to billing issues, including High Bills  
3 (31%), Backbilling (18%), Other Billing (15%) and Estimated Bills (3%). In  
4 addition, 15% of the PSC complaints deal with Service issues and 11% deal with  
5 rates. A summary of the PSC complaints is found in my Exhibit No. \_\_REP-3.

6

7 **Q. WHAT DID YOUR REVIEW REVEAL REGARDING THE HIGH BILLS**  
8 **ISSUE?**

9 A. Thirty one percent of all Aqua's PSC complaints deal with customer receipt of a  
10 bill that includes unusually high bills. Many of these cases can be tracked down  
11 to billing errors and meter read errors such as those found in the following  
12 complaints:

13 Cannon (Exhibit No.—REP-9, Pg. 29)

14 Berman (Exhibit No.—REP-6, Pg. 42)

15

16 Other billing errors can be traced to leaks at the customer premise. Where it can  
17 be determined that there was a leak at the customer premises and the customer  
18 pays to fix the leak, the company provides a leak adjustment to the bill and I have  
19 not faulted the company for a failure. The following cases are an example of how  
20 customer leaks on the customer's side of the meter are handled:

21 McGill (Exhibit No. \_\_REP-7, Pg. 24)

22 White (Exhibit No. \_\_REP-7, Pg. 27)

23

1 Finally, numerous High Bill complaints have been received by the Commission  
2 where the company is unable to identify the cause for the high bill. Aqua likes to  
3 pass these complaints off as "unexplained events" after they have checked the  
4 meter for accuracy and looked for evidence of leaks on the customer side of the  
5 meter. One of the reasons why this is such a problem for Aqua customers is the  
6 steep inclining rate structure that puts a customer in severe jeopardy when there is  
7 an event that actually causes increased usage, or some external event within the  
8 Aqua billing system that creates a high bill. Examples are as follows:

9 O'Neil (Exhibit No.—REP-7, Pg. 83)

10 Castro (Exhibit No. REP-7, Pg. 42)

11  
12 Aqua does not appear to have any plan or procedure to deal with the High Bill  
13 issue other than to suggest that the customer check for leaks and make sure that  
14 the flapper in the toilet is operational, followed by an expensive meter check at  
15 the customer's premises. Since this is the most frequent of all Aqua complaints  
16 identified, it would seem that the Company should be devoting material resources  
17 toward resolving the underlying causes for these complaints. Aqua needs to  
18 reduce these complaints down to lower levels in order to reduce the considerable  
19 resources required by Aqua to respond to the complaints. Reduction of High Bill  
20 complaints would improve customer service while simultaneously reducing costs.  
21 I have found no evidence of any company plan to accomplish this goal.

22  
23 **II. BACKBILLING**



1 Q. **YOU MENTIONED BACKBILLING. IS THIS A PROBLEM?**

2 A. Backbilling, in my opinion, is the most egregious problem that Aqua customers  
3 face and there is no evidence that I have reviewed to suggest that the company is  
4 doing anything meaningful to resolve this problem.

5 Q. **PLEASE EXPLAIN WHAT THE BACKBILLING PROBLEM IS.**

6 A. The new radio frequency meters installed by the company throughout Florida  
7 involve use of a transmitter (ERT) that reads the meter and allows a drive-by  
8 vehicle to capture the meter reading remotely without the need for a physical visit  
9 to the meter itself. When the ERT device fails, the drive-by meter reader receives  
10 no indication of usage and the subsequent bill mailed to the customer includes the  
11 flat rate Base Facility charge with no usage component. Eighteen percent of the  
12 total complaints received by the FPSC involved backbilling for usage not billed to  
13 the customer. My review of FPSC complaints started with complaints received  
14 after January 1, 2010. Backbilling should not be a serious problem in terms of  
15 volume today as a result of the installation of new RF meters that reduced  
16 estimated reads and eliminated human error from much of the meter reading  
17 process. However, complaints continue to be a significant problem that are, in my  
18 opinion, due to Aqua's improper handling of complaints and ineffective  
19 procedures.

20

21 Q. **WHAT IS AN ERT?**

22 A. The ERT is the transmitter located in the meter box that sends the reading on the  
23 meter itself to the drive by meter reader.

1

2 **Q. WHAT SPECIFIC PROBLEMS HAVE YOU DISCOVERED WITH**  
3 **AQUA'S BACKBILLING?**

4 A. My review of PSC complaints and the company responses to OPC discovery  
5 indicates that Aqua's major problems include (but are not limited to) the  
6 following:

- 7 • Aqua frequently backbills over 365 days in violation of PSC rules.
- 8 • Aqua corrects its backbilling to comply with PSC rules **after** receiving a  
9 complaint from the customer.
- 10 • Aqua has backbilled its customers as far back as 2007.
- 11 • Aqua has allowed customer accounts to continue to be billed as far back as  
12 2008 due to faulty ERT's that register no usage.
- 13 • Although Aqua's 9-page report of backbilling (Exhibit No. \_\_REP-12)  
14 shows that Aqua has never backbilled over one year, this is absolutely  
15 incorrect based on the PSC complaints in my exhibit. This report was  
16 obtained from Aqua in response to OPC POD #131.
- 17 • In addition, Aqua's 9-page report does not include all of the backbilling  
18 complaints that have been filed with the FPSC.

19 **Q. PLEASE EXPLAIN THE 365 DAY BACKBILLING ISSUE.**

20 A. The best way to explain it is to provide an actual example. The complaint of  
21 Chuluota customer Carol Edwards, filed on April 7, 2011, Exhibit No.—REP-10,  
22 page 54, is a good example. Ms. Edwards was billed \$5,917 by Aqua on March  
23 31, 2011, for unbilled usage starting April 19, 2010 through March 22, 2011. Ms.

1 Edwards complained on April 7, 2011. Six days later, Ms. Edwards was rebilled  
2 \$1,378 for unbilled usage amounting to 184,300 gallons for 365 days in  
3 compliance with the PSC rules. Ms. Edwards, apparently, was never billed usage  
4 on her account dating back to September 12, 2008, due to a faulty ERT.

5  
6 There are numerous flagrant errors in the handling of Ms. Edwards' account that  
7 the Commission should consider. First, the company allowed her account to be  
8 billed for 18 months without usage and never took action to correct it. That  
9 means Aqua apparently has no systematic review of its accounts to alert it to the  
10 absence of billing and the failure of the ERT, which has become a common  
11 problem.

12  
13 Second, the first backbill was for \$5,917 for 18 months of service in violation of  
14 the PSC rules, a bill that might have been paid, had Ms. Edwards not complained.  
15 This begs the question of what happened to those other customers who simply  
16 paid their backbills and never complained. How many customers have been  
17 erroneously overbilled in a like manner?

18  
19 Third, Ms. Edwards was never billed for usage for the entire 18 months from the  
20 day she moved into her home. Since she was never billed timely, Ms. Edwards  
21 was denied knowledge of her usage, denied the ability to exercise control and  
22 conservation over her usage, which is the prime purpose of the tiered rate  
23 structure. It is important that customers receive prompt and accurate bills for their

1 water services due to the conservation rates approved by the Commission. Ms.  
2 Edwards' billing was neither prompt nor accurate.

3 **Q. HOW MANY CUSTOMERS HAS AQUA BACKBILLED OVER THE PAST**  
4 **TWO YEARS?**

5 A. I do not know. The Aqua report is insufficient and inadequate to identify the full  
6 scope of the backbill problem. However, that report alone includes 387 backbills  
7 between January, 2009 and March, 2011. Twenty seven of the backbills are for  
8 over \$1000 and these 27 backbills amount to \$100,463, for an average of \$3,720.  
9 The highest backbill I found was over \$20,000.

10

11 Customers who were billed for over one year of backbilling in violation of PSC  
12 Rule 25-30.340, F.A.C., include:

13 Morris (Exhibit No. \_\_REP-5, Pg. 35)

14 Kroelinger (Exhibit No. \_\_REP-6, Pg. 40)

15 Bennett (Exhibit No. \_\_REP-6, Pg. 75)

16 Rieder (Exhibit No. \_\_REP-6, Pg. 78)

17 Rovira (Exhibit No. \_\_REP-7, Pg. 5)

18 Johns (Exhibit No. \_\_REP-7, Pg. 56)

19 Vachon (Exhibit No. \_\_REP-7, Pg. 64)

20 Peppin (Exhibit No. \_\_REP-7, Pg. 70)

21 Hatch (Exhibit No. \_\_REP-9, Pg. 55)

22 Fuertes (Exhibit No. \_\_REP-9, Pg. 87)

23 Crackel (Exhibit No. \_\_REP- 9 Pg. 98)

- 1 Casale (Exhibit No. \_\_REP-10, Pg. 9)  
2 Peterson (Exhibit No. \_\_REP-10, Pg. 40)  
3 Sloan (Exhibit No. \_\_REP-10, Pg. 44)  
4 Edwards (Exhibit No. \_\_REP-10, Pg. 54)  
5 Rodriguez (Exhibit No. \_\_REP-11, Pg. 28)  
6

7 **Q. ARE THERE OTHER EXAMPLES FROM THE PSC FILES WHERE THE**  
8 **COMPANY MADE ADJUSTMENTS ONLY AFTER RECEIPT OF A**  
9 **CUSTOMER COMPLAINT?**

10 A. Yes. The PSC complaint files shows that customers Morris (REP-5, Pg. 55),  
11 Rovira (REP-7, Pg. 5), Vachon (REP-7, Pg. 64), Piccirilli (REP-9, Pg. 77),  
12 Peterson (REP-10, Pg. 40), Sloan (REP-10, Pg. 44), Edwards (REP-10, Pg. 54),  
13 Salamone (REP-11, Pg. 13) and Elmargin (REP-11, Pg. 32) are examples of  
14 where the company made adjustments in backbilling following receipt of a  
15 complaint.

16 **Q. WHAT EXAMPLES DID YOU FIND OF EXTENDED BILLING**  
17 **WITHOUT USAGE?**

18 A. The FPSC should recognize Aqua's poor performance in identifying customers  
19 who receive bills without usage coupled with the failure to do anything about it.  
20 Aqua loses money when it backbills for extended periods of time. Aqua also  
21 spends an inordinate amount of time in resolving billing issues that literally go  
22 back for years. It is important that customers have up to date billing data in order  
23 to know how much water they are using. Examples in the PSC complaint files

1 where customers were not billed usage on a current basis include the following  
2 customers: Morris for 2.3 years (REP-5, Pg. 35), Vachon for 400 days (REP-7,  
3 Pg. 64); Peppin for one year (REP-7, Pg. 70); Troesch for 18 months ((REP-8, Pg.  
4 64), Wagner for 462 days (REP-9, Pg. 42); McAllpine for 14 months (REP-9, Pg.  
5 52); Piccirilli for 22 months (REP-9, Pg. 80), Crackel for 18 months (REP-9, Pg.  
6 98); Houlker for 12.5 months (REP-10, Pg. 18); Peterson for 12 months (REP-  
7 10, Pg. 40); Sloan 21 months (REP-10, Pg. 44), Edwards for 2.5 years (REP-10,  
8 Pg. 54); Rosser for 18 months (REP-10, Pg. 70), Rodriguez for 15 months (REP-  
9 11, Pg. 29; Elmargie for 2 years (REP-11, Pg. 32) and Cannady for 22 months  
10 (REP-11, Pg. 58).

11  
12  
13 **Q. DO YOU HAVE A PROBLEM WITH AQUA'S RESPONSE TO OPC'S POD**  
14 **REGARDING BACKBILLING?**

15 **A.** Aqua's backbill report in response to OPC's discovery (Exhibit No. \_\_REP-12) is  
16 seriously inadequate. The report failed to include some backbilling that was  
17 identified in the PSC complaint files and the report does not reflect any violations  
18 of the PSC rule limiting backbilling to a maximum of 365 days, which is also not  
19 consistent with the PSC files. As a result, the responses to OPC's discovery fails  
20 to quantify the total number of backbilled customers and the total number of PSC  
21 violations that the company has committed in the past three years due to  
22 backbilling.

1 There appears to be no automated Aqua program in place that will stop  
2 backbilling in order to comply with the 12-month rule applicable in Florida.

3  
4 Aqua needs a process in place to deal with RF meters that are not reporting usage  
5 in the first month that they do not receive a reading, rather than waiting around for  
6 a couple of years to see if the problem goes away. Effective and immediate action  
7 to identify and deal with defective meters would reduce customer complaints and  
8 eliminate the high cost of dealing with those complaints. This is another example  
9 where improved customer service could actually result in lower operational  
10 expenses for the company. There are other indications that Aqua does not  
11 calculate backbilling charges accurately, however there is no single document in  
12 the complaint files to confirm it because the calculation of the backbilled charges  
13 is not included in the company reports. There are 34 examples of backbilling in  
14 the PSC files, yet Aqua's response to OPC POD # 131 shows that there have been  
15 387 Florida backbills from January 2009 to March 2011.

16  
17 **Q. WHAT RECOMMENDATIONS DO YOU HAVE REGARDING THE**  
18 **BACKBILLING ISSUE?**

19 **A.** Because of Aqua's negligence in handling its backbilling problems and because  
20 the company has demonstrated it is consistently violating the FPSC backbilling  
21 rules, I recommend that you deny the company the opportunity to backbill  
22 customer usage due to non-functional meters until such time as the company  
23 develops an effective program to identify non-functional ERTs and correct the

1 problem in a timely manner. Last year, the City of Atlanta developed a program  
2 aimed at reducing the number customer calls due to meter problems. This is the  
3 type of approach that Aqua needs to take in resolving meter issues within the  
4 Aqua system.

5  
6 **Q. PLEASE DISCUSS THE CITY OF ATLANTA METER INVESTIGATION.**

7 A. Attached is Exhibit No. \_\_ REP-13 that describes the extensive activities of the  
8 City of Atlanta in dealing with the replacement of its old water meters with RF  
9 (radio frequency) meters, just as Aqua has done in Florida. The report is well  
10 written, and relevant to some of the issues facing Aqua today, as discussed below.  
11 I present this report to the Commission as an example of a thorough investigation  
12 by a professional organization that knows how to identify a problem and develop  
13 a comprehensive action plan to deal with it. Later in my testimony I will critique  
14 Aqua's failure to analyze its service quality and develop adequate plans to  
15 improve it.

16  
17 The City of Atlanta project team recommendations are included in a 71-page  
18 report dated March 10, 2011. Atlanta Project Team identified multiple problems  
19 associated with meter reading, assigned responsibilities for implementation of  
20 operational changes needed to correct the problems and a time frame for  
21 corrective action. While it's impossible to simply transfer a corrective program  
22 from Atlanta to Aqua, it is the approach to the problem that should be carefully  
23 evaluated by the Commission and Aqua. I recommend the Commission order the



1 company to investigate and evaluate its problems of non-functional meters and  
2 other related meter reading issues and present a corrective program to the  
3 Commission.

4  
5 When I read the Atlanta report and Aqua's Monitoring Program together, it would  
6 appear to me that Aqua lacks either the capability, or the motivation, to develop a  
7 comprehensive plan that will actually result in better service for its customers. In  
8 my opinion, Aqua has failed to identify its operational problems in Florida and  
9 come up with a comprehensive action plan for improvement.

10

11 **III. WATER QUALITY**

12 **Q. PLEASE DESCRIBE THE COMPLAINTS YOU REVIEWED DEALING**  
13 **WITH WATER QUALITY.**

14 A. The FPSC complaint files include only 12 complaints dealing with water quality  
15 (or 6% of the total PSC complaints). Based on my reviews of numerous customer  
16 meetings, review of correspondence and petitions to the Commission, the water  
17 quality issues raised by Aqua customers are real and are a continuing problem.  
18 Customers with the water quality issues could conceivably file a complaint every  
19 single day of the year. However, many Aqua customers that I have spoken to or  
20 heard from feel that they have been complaining for years and nothing ever  
21 changes.. Thus, it would not surprise me to see reduced attendance at customer  
22 hearings and fewer PSC letters and complaints, since I believe Aqua customers  
23 are tired of complaining without getting results.

1

2

3 **Q. PLEASE DESCRIBE THE COMPLAINTS YOU REVIEWED DEALING**  
4 **WITH SERVICE.**

5 A. PSC complaints regarding service issues amount to 15% of the total complaints  
6 summarized in Exhibit No. \_\_REP-3. The service complaints involve all  
7 operations from initial installation to water main breaks. I have identified those  
8 instances where I find the company at fault, such as failure to provide prompt  
9 service or failure to show up for an appointment. The process is subjective, since  
10 customers generally say one thing and the company says something else. Where I  
11 have found no company error, I have shown that on the analysis and when it is  
12 impossible to identify fault, I have classified the fault as Unknown.

13

14 **IV. AFFORDABILITY**

15 **Q. PLEASE EXPLAIN THE RELATIONSHIP BETWEEN FAIR AND**  
16 **REASONABLE RATES, COMPENSATORY REVENUES AND**  
17 **CUSTOMER SERVICE?**

18 A. There is a direct relationship between setting fair, reasonable and compensatory  
19 rates and providing satisfactory customer product and service. In my opinion, this  
20 requires the Commission to look at the end product, the service that is delivered  
21 by the company, and the rates that it charges for its service or products, to  
22 determine that customers are receiving a fair value. The Commission must also  
23 determine that capital is prudently invested for services that are efficiently

1 delivered to the customers. It is not in the public interest for the Commission to  
2 authorize rates that are unaffordable to major segments of the customer body or to  
3 charge rates that are not fair and reasonable by definition. Therefore, the  
4 Commission should first look at affordability and value when it evaluates  
5 proposed rates in order to meet the requirement that rates should be fair and  
6 reasonable. While the statutes also ensure that stockholders should receive a fair  
7 return on their investments, that does not translate to providing excessive returns,  
8 compensating for inflated costs, or assuming that all corporate expenses should be  
9 automatically recovered through rates simply because the money was spent.  
10 There is significant testimony on the record to suggest that Aqua rates are not  
11 affordable. The company, therefore, should be required to show that it has taken  
12 every step it could possibly take to avoid an increase in rates through cost cutting  
13 and effective management. My review of the record shows that this company has  
14 failed to introduce sufficient evidence to support the efficiency of its operations  
15 other than the fact that it spent the money and it wants increased rates.

16  
17 **Q. WHAT EVIDENCE IS THERE THAT SUGGESTS AQUA RATES ARE**  
18 **UNAFFORDABLE?**

19 A. As the Commission knows, this is not the first time Aqua has been before the  
20 Commission requesting a rate increase. For the past three years, we have  
21 participated, along with the Commission and its staff, in numerous customer  
22 hearings where customers objected because of high rates. Even before the last  
23 increase in 2010, customers were complaining about unaffordable rates that were

1 increased in 2010, and in 2011 and might possibly be increased again in 2012 if  
2 the company's petition in this docket is granted.

3  
4 My review of the PSC Complaint files shows that 11% of the complaints that  
5 were received since January 1, 2010, were purely complaints about high rates. In  
6 addition, customers complain frequently about multiple problems, such as bad  
7 service, Call Centers not answering customer calls and high rates that are  
8 unaffordable.

9 **Q. WHAT MAKES YOU AN EXPERT REGARDING AFFORDABILITY?**

10 A. While a significant portion of my experience with Southern Bell, BellSouth and  
11 AT&T involves business office and call center operations, another major portion  
12 of my career was involved in ratemaking and pricing, that encompassed six  
13 different assignments, including serving as the General Rate and Tariff Supervisor  
14 for Southern Bell Headquarters. For the past 11 years, I have been a Staff  
15 Member of the Federal/State Joint Board for Universal Service that administers  
16 the \$9 billion Universal Service Fund. The pricing of telecommunications  
17 services is woven tightly around the concept that basic service must be provided  
18 at rates that are non-discriminatory, fair, reasonable and affordable. Basic  
19 telephone service was considered to be a monopoly in years past with a single  
20 service provider that gave customers no options or choices. The same is true of  
21 water today. Aqua customers have no choice as to their water service provider,  
22 and Aqua is obligated to furnish those services at fair, reasonable and affordable  
23 rates.

1 Q. **WHAT HAVE THE CUSTOMERS SAID ABOUT AQUA RATES?**

2 A. The customer hearings have not yet concluded as of the writing of this testimony.  
3 Therefore, all of the evidence and testimony has not yet been received on this  
4 subject. Public Counsel has an obligation to review all of the facts prior to taking  
5 a firm position on any of the issues in any of the dockets in which we participate.  
6 My assumption is that the customer's sworn testimony in this current docket will  
7 be consistent with the testimony we have heard during the past year regarding  
8 excessively high Aqua rates that customers cannot afford. The current economic  
9 environment in Florida makes the Aqua rate proposals in this docket even more  
10 troubling than they would normally be. While most Florida citizens are taking a  
11 big financial hit as a result of this current economic downturn, there is no  
12 evidence in this docket that Aqua is willing to trim its costs or reduce its rates.

13  
14 Q. **WHAT SPECIFICALLY HAVE CUSTOMERS SAID ABOUT RATES?**

15 A. Following are some of the comments we have heard and I expect to have more  
16 when we have sufficient opportunity to review the transcripts of all customer  
17 hearings in this docket:

18  
19 **EUSTIS:**

20 In the Eustis hearing, Mr. Cummings testified as to his "unreasonable bill". Jason  
21 Conrad testified that the water was a necessity, but he could not afford it. Mr.  
22 Janica testified he was on food stamps and could not afford the bill. Another  
23 customer complained that the rates were double those charged in Lake Worth.

1

**SEBRING:**

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**CHULUOTA:**

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In the Sebring hearing one customer complained about a \$1500 bill and a \$1200 bill. Jim Brown of Breeze Hill complained that the development has 120 homes and the water rates discourage people from coming into his community. He noted declining home values because of high water rates and concluded that the prices are not reasonable. Other witnesses complained of \$1,000 bills that they considered unreasonable. William Sills complained of unreasonable rates.

In Chuluota, Susan Mortenson emphasized that a necessity such as water must be affordable. Nancy Booney complained about the loss in value to her home because of the water problems. Christin Castro complained about a \$1423 bill. In Gainesville, Kimberly Odenbright noted that many of her neighbors are unemployed and cannot afford the water rates of Aqua. Eleanor Cummings complained that she could not afford any increase. Eugene Davis stated that neighbors are moving out because of their water bills. William Miller testified that he could not afford the increase. William Connelly stated that the Aqua rate increases have blighted his community. Jim Berg testified it was cheaper to go to the Laundromat than to use Aqua water and wash at home. Jason Conrad stated that the value of the homes in his community has dropped because customers cannot afford to water their lawns.

**LEISURE LAKES:**

1  
2 Leisure Lakes customer Bernell Hanson, speaking on behalf of her neighbors  
3 maintained that Aqua water is not affordable and that it costs as much as  
4 electricity. Kathy Madden from Lake Josephine testified that most of the houses  
5 in Lake Josephine were empty and that the empty houses did not belong to  
6 snowbirds.

**FAIRWAYS:**

7  
8  
9 Michelle Minichino of the Fairways at Mt. Plymouth complained that Aqua rates  
10 are driving her neighbors out of the subdivision. Tim Clappes and Robert  
11 Minichino testified that the Aqua rates were not affordable.

12  
13 After reviewing all of the sworn testimony from customers in this docket, it is my  
14 expectation that the inescapable conclusion will be that the rates of Aqua are not  
15 reasonable, not fair and are not affordable.

16  
17 **Q. IS THIS YEAR ANY DIFFERENT THAN THE OTHERS WHEN WE**  
18 **HAVE HAD RATE CASES INVOLVING AQUA?**

19 **A.** This year is different. For perhaps the first time in my experience in Florida, we  
20 are receiving testimony that people are moving out of Aqua developments or  
21 unable to sell their existing properties because of the high Aqua rates. OPC and  
22 the Commission have received customer input stating that Aqua rates are  
23 contributing to a downward spiral in the number of occupied homes in

1 developments served by Aqua because of Aqua's high rates. Obviously,  
2 FlowFlorida did not spring up this year simply because their members had  
3 nothing to do. Something very unique caused FlowFlorida to get organized. It is  
4 my belief that the catalyst was the combination of Aqua's poor service and high  
5 rates.

6 **Q. IS THERE SOMETHING SIGNIFICANT ABOUT THE TERMS "FAIR,**  
7 **REASONABLE AND AFFORDABLE"?**

8 A. Definitely. While I am not an attorney, my early training in utility regulation  
9 started with the normal statutory obligation of a regulated utility to deliver quality  
10 service at fair, reasonable and affordable rates. As a Staff Member of the  
11 State/Federal Joint Board for Universal Service, our goal in managing the \$9  
12 Billion Universal Service Fund embody the concept that quality services should  
13 be universally provided at fair, reasonable and affordable rates. I have been  
14 working on the Joint Board since 1999. The fair, reasonable and affordable  
15 requirements for telecommunications services are clearly written into the  
16 Telecommunications Act of 1996. Those historic concepts impose obligations  
17 upon utility companies that provide monopoly services to their customers....just  
18 like Aqua.

19  
20 In my opinion, fair and reasonable means that rates must be non-discriminatory  
21 and should be affordable within the budgets of the overwhelming majority of the  
22 customer body without unusual sacrifice. When we talk about affordable rates in  
23 connection with universal telephone service, we talk about two standard



1 deviations above and below the nationwide average. While this degree of  
2 precision is not required in normal water cases, there is no doubt that the  
3 Commission should be looking at comparative rates for all water companies that  
4 operate in Florida as a matter of practice.

5

6 **Q. DO YOU BELIEVE THAT AQUA IS PROVIDING AN INFERIOR**  
7 **PRODUCT AND WHAT EVIDENCE DO YOU HAVE TO SUPPORT THAT**  
8 **STATEMENT?**

9 A. The Commission need only to consider the latest round of customer hearings to  
10 reach a conclusion that Aqua service is unsatisfactory, the product is inferior and  
11 the rates are unaffordable. The sworn testimony of the customers carries the same  
12 weight as the testimony of Aqua witnesses regarding quality of service. I have  
13 reviewed some notes from those hearings and I will further clarify my thoughts in  
14 subsequent testimony. While I have read notes from some of those hearings it  
15 would be inappropriate at this point to make reach final conclusions until the  
16 transcripts from all of the hearings can be reviewed.

17

18 **V. PHASE II MONITORING REPORT**

19 **Q. WHY DO YOU CONCLUDE THAT AQUA SERVICE IS**  
20 **UNSATISFACTORY IN LIGHT OF THE TESTIMONY OF AQUA**  
21 **WITNESSES REGARDING THEIR MONITORING PLAN AND**  
22 **IMPROVED SERVICE?**

1 A. The "FINAL PHASE II QUALITY OF SERVICE MONITORING REPORT"  
2 which is an exhibit in two of the Aqua witness' testimony fails to pass muster if it  
3 was intended to demonstrate that Aqua service is satisfactory.

4  
5 I urge you to take a close look at this 183-page report. The first 30 pages consist  
6 of a verbal public relations product that spells out all of the good work that Aqua  
7 has engaged in, over the past two years that was supposed to produce satisfactory  
8 service. The concluding statement states that "the information clearly shows that  
9 AUF has good customer service and consistently complies with environmental  
10 requirements." Based on customer testimony, I do not agree with that statement.

11  
12 Exhibit A of this report is a one page report that provides the number of calls  
13 from Florida customers in June 2010 delineated by the primary subject matter of  
14 the call.

15  
16 Exhibit B is a totally unrelated exhibit that is a two page excerpt from the web site  
17 of FlowFlorida, an organization that was formed by customers to oppose Aqua  
18 because of their continuing poor service and unaffordable rates.

19  
20 Exhibit C is the Aqua Florida score card of Customer service, a one page  
21 document that deals solely with meter reading statistics, a historical problem that  
22 should have disappeared when Aqua replaced all of its old meters with radio  
23 frequency meters capable of being read remotely by a passing service vehicle.

1 While meter reading continues to be a problem because of Aqua's poor  
2 management, there is no good reason for meter reading to be a continuing  
3 problem on a going forward basis.  
4

5 Exhibit D is another one page report that includes 10 months of national call  
6 center data that is only marginally related to Florida operations. Not only do I  
7 take issue with the conclusion that the national call center performance is fully  
8 satisfactory. I also take issue that those results are directly translatable to Florida  
9 operations. Aqua congratulates itself in the monitoring report for adopting call  
10 center goals without being ordered to do so by the Commission. However, it is  
11 my opinion that the goals they have embraced are unsatisfactory.

12  
13 Exhibit E is another one page document charts Aqua's call center  
14 performance over a two year period starting with January 2008.  
15

16 To summarize, as for the operational performance of Aqua that is described in the  
17 183 pages of their exhibit, there are only four pages of actual data. This data fails  
18 to demonstrate to me that Aqua's service has improved.  
19

20 The data provided by the company contains no historical tracking that OPC  
21 requested in its initial meetings that could be used to track improved operating  
22 performance over an extended period of time. The data is basically a snapshot of  
23 where the company is today on a number of measurements that Aqua declares to

1 be adequate to reach a determination of "Satisfactory" from the Commission. We  
2 have been given no in-depth analysis of problem areas that have been or are  
3 facing the company that would identify specific problems and show the  
4 development of specific programs and targets for improvement. We have been  
5 furnished voluminous data that is irrelevant to the issue of Satisfactory Customer  
6 Service.

7  
8 **Q. IN YOUR OPINION, HAS AQUA'S SERVICE QUALITY IMPROVED?**

9 A. I believe you can look at some of the numbers and see improvement. However, if  
10 you look deeper, then the picture is not nearly as rosy as Aqua would suggest in  
11 its testimony. For instance, prior to 2010, Aqua had a tremendous problem with  
12 bad or non-existent meter reading and estimated bills. Customer complaints did  
13 not solve the problem and there was little evidence to suggest that the company  
14 even cared. Many customers were billed month after month with estimated bills  
15 and billing problems were pervasive or excessive, however you wish to  
16 characterize it. They solved that problem by getting rid of most of their meter  
17 readers and replacing existing meters with digital meters that could be read  
18 electronically from a passing vehicle. Meter reading complaints because of  
19 estimated bills has declined significantly. Those positive results are reflected in  
20 Aqua service quality reports.

21  
22 Aqua reports also show improvements in Call Center performance. However, I  
23 would caution that Call Center reports can be deceiving. The company reports

1 show that less than 5% of Aqua's incoming callers drop off the line while holding  
2 to speak to a Customer Service Representative. That is a good number. Yet, I  
3 would warn against making an assumption that this is good service. Aqua makes  
4 no mention of customers who are blocked from even entering the call center  
5 queue due to insufficient numbers of incoming access lines. We have identified  
6 numerous customers who have said they cannot reach the company's call center  
7 **because they get a busy signal.** Aqua's testimony states that they have a 5% or  
8 less abandoned call rate after customers reach the queue. That says to me that  
9 those customers who receive busy signals may never get into the queue and are  
10 not part of the equation .I believe there is ample evidence to suggest that Aqua is  
11 juggling the Call Center results that they portray as proof that "things are getting  
12 better."

13  
14 During this time period when Aqua had a significant number of rate cases in  
15 various stages throughout the country, call center performance should be the  
16 easiest problem to solve. It is basically a matter of scheduling and training. The  
17 company has multiple call centers. They are all connected, so that excess calling  
18 volume at one center overflows to another call center. The process achieves  
19 significant savings for the company which is unavailable to smaller operations.  
20 Florida customers should not be complaining that they are getting busy signals  
21 and unable to reach Aqua business offices based on the company's published  
22 results. However, the problem persists and customers continue to complain.

1 Aqua points with pride in its testimony that it is answering 80% of its calls within  
2 90 seconds or less. This is not good service. That means that 20% of the  
3 customers have to wait 90 seconds or more to reach an Aqua customer service  
4 representative. Keith Goodman, a customer in the Fairways at Mt. Plymouth,  
5 spoke to the Commission at the Eustis customer hearing about this problem. In  
6 my telephone days, we staffed our telephone call centers to answer 95% of  
7 incoming calls in 30 seconds. I would urge you to remember that absent a rate  
8 case, that those Call Center performance numbers would not be provided to the  
9 Commission and there would be no oversight.

10  
11 **Q. IF AQUA PERFORMANCE REPORTS ARE NOT RELIABLE**  
12 **MEASURES OF CUSTOMER SATISFACTION, THEN WHAT IS?**

13 A. The best way to find out if customers are satisfied is to ask them. My  
14 recommendation includes use of customer surveys to measure the quality of  
15 service provided by the company.

16  
17 **Q. WHAT IS IN THE REST OF THE REPORT?**

18 A. The rest of the report consists of (1) water quality reports that Aqua was required  
19 to make to the DEP to get into compliance for its numerous environmental  
20 violations, and (2) extended documentation regarding the company's plan to  
21 "attack" the water quality issues on eight of its 83 systems in order to pacify the  
22 customers, OPC and this Commission. Based on my observations and those of  
23 Aqua's customers in the most recent service hearings, Aqua has failed in this

1 regard, even when it was dealing with only with eight customer systems out of the  
2 83 systems that it operates in Florida.

3  
4 **Q. DID YOU REVIEW THE SECTION OF THE AQUA REPORT DEALING**  
5 **WITH WATER QUALITY VIOLATIONS?**

6 A. Yes. I also met with DEP and subsequently reviewed the DEP's voluminous files  
7 dealing with water quality issues with all of the Aqua systems dating as far back as 2002.  
8 I also reviewed the Staff Recommendation dealing with water quality that was part of the  
9 original PAA proceeding in this docket.

10  
11 **Q. WHAT ARE YOUR CONCLUSIONS ABOUT WATER QUALITY ISSUES**  
12 **THAT ARE COVERED IN THE PHASE II MONITORING REPORT?**

13 A. Aqua has a rich history in the files of DEP regarding water quality issues. During  
14 the last case, despite the fact that Aqua had an active rate case in process, there were  
15 several water quality violations that were unresolved at the time of the hearings. Having  
16 had an additional year to "clean up its act" so to speak, Aqua appears to have resolved its  
17 existing formal violations that have been identified by DEP. We are told by DEP that the  
18 process of dealing with water quality violations begins first with verbal discussions and  
19 then moves forward to formal notification, if needed. We have no idea where Aqua  
20 stands regarding its current compliance that has not yet reached the formal stage. While  
21 the Phase II Monitoring Report includes extensive documentation of Aqua's activities in  
22 dealing with water quality issues, the actions of the company in resolving water quality  
23 violations identified by DEP was certainly not discretionary or voluntary. I would have

1 expected no less than full efforts to comply and fix any outstanding violations from a  
2 company that is before this Commission requesting increased rates.

3

4 **VI. RECOMMENDATIONS**

5 **Q. WHAT ACTION ARE YOU RECOMMENDING THE COMMISSION**  
6 **TAKE IN THIS DOCKET AS IT RELATES TO CUSTOMER SERVICE?**

7 **A.** Contrary to the testimony filed by Aqua's experts, the Office of Public Counsel  
8 continues to support Aqua customers who complain about high rates and bad  
9 service. It is my testimony and belief that Aqua's current level of service fails to  
10 clear the satisfactory service bar that the Commission must first require if a  
11 company is to increase its rates in Florida. Aqua's testimony suggests that the  
12 PSC should declare victory in its long battle with Aqua, to force the company to  
13 provide a drinkable product and satisfactory customer service. Public Counsel is  
14 asking the Commission to determine that the existing service quality provided by  
15 Aqua is unsatisfactory. We are asking this Commission to require its staff to  
16 continue to actively monitor Aqua's service quality and to require the company to  
17 provide prompt and comprehensive reporting of its efforts and progress in  
18 providing a drinkable, quality product.

19 **Q. WOULDN'T A DETERMINATION BY THIS COMMISSION THAT THE**  
20 **COMPANY'S SERVICE QUALITY IS UNSATISFACTORY BE**  
21 **DETRIMENTAL TO ACTUALLY ACHIEVING GOOD SERVICE IN THE**  
22 **FUTURE?**



1 A. Absolutely not. At the end of the day in this docket, the Commission will  
2 determine a revenue requirement that the company needs to achieve a fair and  
3 reasonable return on its investments in Florida. In so doing, the Commission will  
4 also establish a range above and below that revenue requirement that is deemed to  
5 also constitute a fair and reasonable return. We are not asking the Commission to  
6 set rates that fail to produce a fair and reasonable return for the company. We are  
7 simply asking this Commission to establish an appropriate incentive for Aqua to  
8 take positive steps to improve its service and its product in the future.

9  
10 We recognize that not only does Aqua desire closure, customers also want  
11 improved service and a quality product now. Therefore, we recommend that the  
12 Commission require its staff to continue to monitor Aqua's progress. Our  
13 recommendation is that the Commission reduce company revenues to achieve a  
14 100 basis points temporary incentive adjustment until such time as the  
15 Commission determines that Aqua service quality is satisfactory. The proposed  
16 adjustment in revenues should be designed to take Aqua's earnings to the lower  
17 end of its authorized range. Kim Dismukes, who is also testifying in this docket  
18 on behalf of Public Counsel, discusses this proposal more completely in her  
19 testimony.

20  
21 **Q. DO YOU AGREE WITH MS. DISMUKES CONCLUSION THAT AQUA**  
22 **CUSTOMER SERVICE IS UNSATISFACTORY?**

1 A. Yes. I do. Ms. Dismukes' testimony includes substantial evidence from last year's  
2 Aqua customer hearings and customer correspondence that documents the  
3 company's shortcomings in delivering a quality product to its customers. Aqua's  
4 customers have provided compelling and comprehensive evidence to this  
5 Commission over the past three years that clearly justifies a determination that  
6 Aqua's customer service is unsatisfactory. Ms. Dismukes' recommendation is that  
7 the Commission should set rates to allow the company to earn at the low end of  
8 the authorized range by reducing ROE by 100 basis points.

9  
10 **Q. IS A 100 BASIS POINT REDUCTION THE RIGHT THING TO DO?**

11 A. A 100 basis point incentive is, perhaps, the only choice this Commission has to  
12 deal with the problem. Some might call it a 100 basis point penalty. I prefer to  
13 think of it as a 100 basis point incentive to push Aqua forward with proper  
14 motivation to improve its service and product, as well as its operational efficiency.

15 My testimony supports the recommendations of Ms. Dismukes regarding  
16 customer service and setting rates to produce an ROE that is at the bottom of the  
17 allowable range.

18  
19 **Q. WHAT IS WRONG WITH SIMPLY ALLOWING THE COMPANY TO SET**  
20 **RATES AT THE MIDDLE OF THE AUTHORIZED ROE RANGE?**

21 A. The short answer is that bad service should never be tolerated by the Florida  
22 Public Service Commission. Aqua has a rich history of bad service that it relies  
23 on to deliver an overpriced and undrinkable product. The customer testimony

1 proves that the quality of service provided by Aqua to its Florida customers  
2 continues to be unsatisfactory. The Commission is required to make a decision on  
3 this issue. If the decision is made that includes a finding of satisfactory quality of  
4 service, then the Commission would be rejecting the huge volume of evidence  
5 that has been compiled over the past three years to the contrary. If we fail to hold  
6 Aqua's "feet to the fire" in this docket, the Commission would also send the  
7 wrong signal at the wrong time to a company that is at the crossroads in its  
8 Florida operations.

9  
10 **Q. WHY IS THIS THE WRONG TIME TO DETERMINE THAT AQUA'S**  
11 **SERVICE QUALITY IS SATISFACTORY?**

12 A. First, the Commission should look at the record and the testimony. Aqua declares  
13 that it provides satisfactory service while it continues to ignore major problems  
14 that cause me to question the company's ability to effectively manage its wide-  
15 spread organization. I have discussed many of the company's failures in my  
16 earlier testimony. A close reading of the company's handling of its complaints  
17 received by the FPSC clearly shows mistake after mistake where customers have  
18 received bad service. I see no evidence of any active involvement of Aqua's top  
19 management within the company to develop comprehensive plans to improve  
20 both its service and product. With the highest complaint rate of any FPSC  
21 regulated company in Florida, this company needs oversight and an incentive to  
22 improve.

1 Q. SO DO YOU SEE THE 100 BASIS POINT INCENTIVE AS BEING GOOD  
2 FOR CUSTOMERS AS WELL AS GOOD FOR THE COMPANY?

3 Absolutely. The Commission can impose a 100 basis point incentive to induce  
4 better performance in the future, while still allowing stockholders to receive a fair  
5 and reasonable return as required by the statutes. If the Commission imposes a  
6 100 basis point incentive to induce better performance in the future, then all of the  
7 capital expenditures and O&M expenses proposed by the company that the  
8 Commission deems prudent will be fully funded. If the Commission imposes a  
9 100 basis point incentive and an ongoing monitoring program, then the  
10 Commission will be fully aware of service quality improvements achieved by the  
11 company on a going forward basis that would support a finding that Aqua's  
12 quality of service is satisfactory.

13  
14 If the Commission lets Aqua off the hook now, then the three-year old spotlight  
15 will be turned off. In my experience, organizations in the position of Aqua need  
16 incentives to improve performance. Since 2009, Aqua has been "under the  
17 spotlight" in Florida due to its filing of three separate rate cases before this  
18 Commission. There is no better incentive to improve customer service than  
19 pursuit of a rate case before a regulatory body such as the FPSC. My many years  
20 with BellSouth taught me that when a rate case is pending every single employee  
21 needs to know that their job is on the line if they allow a customer complaint to  
22 reach the Commission. It is naïve not to at least consider the possibility that every  
23 Company regulated by the FPSC, including Aqua, operates with the same mindset

1 of going to extreme lengths to keep customers from complaining to the PSC,  
2 especially when rate cases are pending. My review of Aqua PSC complaints  
3 demonstrates that the company has the capability and the propensity to make  
4 problems go away in the most expedient manner possible. Absent the glare of the  
5 spotlight, there would be nothing to prevent Aqua from returning to its draconian  
6 past that has been documented in the 2009, 2010 and 2011 customer hearings.

7 **Q. PLEASE SUMMARIZE YOUR RECOMMENDATIONS.**

8 A. First, the evidence is clear that Aqua needs continuing service improvement  
9 incentives to improve the quality of its product and its service. Closing this  
10 docket without an effective service improvement incentive as recommended by  
11 the Office of Public Counsel would put Aqua's entire Florida customer base at  
12 risk of abuse from a company that has a nationwide reputation for poor service.  
13 Ms. Dismukes' testimony includes specific examples of Aqua's problems in other  
14 states that should not be ignored by this Commission.

15  
16 Second, in reviewing the complaints registered by Aqua customers with the  
17 Commission, it is apparent to me that Aqua has operational inefficiencies that are  
18 not only producing poor service but also higher costs. A service improvement that  
19 sets the starting point at the low end of the authorized ROE range sets the stage so  
20 that Aqua stockholders and its customers can benefit from improved customer  
21 service and for the adoption of more effective and efficient operational  
22 procedures. Public Counsel's proposals in this docket provide a framework for  
23 positive steps on a going forward basis that hold the promise of breaking the

1 downward spiral of Aqua's repetitive rate cases and increasing costs that are  
2 harmful to both ratepayers and the company.

3  
4 Third, the Commission should not just close this docket and walk away from  
5 Aqua's customers who are seeking help and depending on the FPSC for  
6 protection. This Commission has a historic commitment and record of protecting  
7 Florida citizens. This Commission is recognized in regulatory circles across the  
8 nation as one of the most progressive and effective regulatory bodies in the  
9 country. My recommendation is that the FPSC accept Public Counsel's proposals,  
10 set rates at the bottom of the allowable range and impose continued monitoring.

11  
12 Fourth, the monitoring program was recommended and by Public Counsel and  
13 adopted in the last rate case. I recommend that the Commission order the  
14 Commission Staff, Public Counsel and Aqua collectively develop and implement  
15 a monitoring program that includes measurement, benchmarks and programs that  
16 will improve Aqua's operational efficiencies and service quality. The  
17 Commission needs proof that service is actually improving, and the best way to  
18 obtain that proof is by asking customers.

19  
20 **Q. DOES THIS CONCLUDE YOUR TESTIMONY?**

21 **A.** Yes, it does.

1 BY MS. CHRISTENSEN:

2 Q. And did your prefiled testimony have twelve  
3 exhibits labeled REP-1 through 12 attached to it?

4 A. Yes, it does.

5 Q. And do you have any corrections to make to  
6 those exhibits today?

7 A. No, I do not.

8 MS. CHRISTENSEN: I would ask that the witness  
9 be allowed to provide his five-minute summary.

10 CHAIRMAN GRAHAM: Sure.

11 Mr. Poucher, welcome.

12 THE WITNESS: Commissioners, my Direct  
13 Testimony in this docket deals with those issues  
14 relating directly to customer service. My testimony,  
15 together with that of the testimony of Kim Dismukes and  
16 Denise Vandiver also appearing on behalf of Public  
17 Counsel, covers the full scope of the customer input in  
18 this docket. And that massive data base includes a  
19 series of customer meetings that were held last year by  
20 the PSC staff in response to the initial PAA. It  
21 includes the customer correspondence files that the  
22 Commission solicits when they go out on the road to  
23 hearings, so that customers have an opportunity to  
24 participate in the process. It includes the transcripts  
25 of the public hearings that you held in this docket and

1 presided over at the various Aqua locations, and it  
2 includes copies of the Aqua customer complaints that  
3 have been received by this Commission during 2010 and  
4 2011 year-to-date.

5 My Direct Testimony includes eight separate  
6 exhibits, and there's the stack. We have broken them  
7 down for ease of trying to find the complaints, but  
8 these are the details of the PSC complaints that have  
9 been filed against Aqua by PSC customers during the past  
10 two years, starting January 1st, 2010. There are 769  
11 pages in these complaint files, and they provide the  
12 specific details.

13 They are good reading, and I will tell you why  
14 they are good reading. When customers come to our  
15 hearings and complain, you hear the customer's side of  
16 the story, and frequently its heart rending. But when  
17 customers come and complain to the PSC through a formal  
18 complaint process, that complaint is forwarded to the  
19 company, the company investigates it, and has 15 days to  
20 respond back, and then the file begins to get larger as  
21 your PSC staff does their job as a referee between the  
22 customer and the company. This is not part of my  
23 testimony, but if you will read those files to any  
24 length whatsoever, there is good evidence that your  
25 staff does great work on a very difficult job of



1 handling these PSC complaints.

2           The evidence there is not all bad. I found  
3 Aqua to be at fault in some area of their handling of  
4 the complaint in over half of the complaints, and I have  
5 documented those failures. Missed commitments, failure  
6 to return phone calls, wrong information, back billing,  
7 of course billing issues, they are all there. But if  
8 you read through the full body of all of those  
9 complaints, and you read the complaint data that has  
10 been developed in my testimony and my exhibits, the  
11 correspondence files, the hearings, look at it from way  
12 back, it's not hard to see that there is significant  
13 inefficiencies in the way that Aqua delivers its  
14 service. And if you look at that full record, it's easy  
15 to see overwhelming customer dissatisfaction with the  
16 quality of the water and the quality of service  
17 delivered by Aqua.

18           As Public Counsel witnesses testifying on  
19 behalf of the Citizens of Florida, we have given you a  
20 record here that is massive that will support a  
21 determination by this Commission that their service is  
22 unsatisfactory. It's my recommendation in this  
23 testimony that Aqua needs on-going incentives,  
24 motivation, to improve its efficiency, to improve the  
25 quality of its product, and to improve its customer

1 service. And that means that our recommendation is you  
2 set the ROE at the bottom of the range that you  
3 determine is reasonable, and you continue to closely  
4 monitor the company's progress in meeting its customer  
5 service goals.

6 **MS. CHRISTENSEN:** We tender the witness for  
7 cross-examination.

8 **CHAIRMAN GRAHAM:** Thank you.

9 Mr. May.

10 **MR. MAY:** Thank you, Mr. Chairman.

11 **CROSS EXAMINATION**

12 **BY MR. MAY:**

13 Q. Mr. Poucher, do you have what has been  
14 designated as Exhibit 311 up there, the witness copy of  
15 the demonstrative exhibit?

16 A. This stack?

17 Q. Yes, sir.

18 A. I will find it.

19 **MR. MAY:** Mr. Chairman, I think we have a --

20 **THE WITNESS:** What am I looking for?

21 **MS. CHRISTENSEN:** He has a copy of it. He's  
22 just indicating which one he wants you to refer to.

23 **MR. MAY:** Mr. Chairman, I think we have a  
24 batch of exhibits that we may want to hand out at one  
25 time so we don't keep going back and forth. If you

1 could give me one minute, I will see if I have those  
2 together.

3 **CHAIRMAN GRAHAM:** Sure. While we are waiting  
4 on Mr. May, let's just go ahead and label this staff  
5 exhibit as 313. A short title will be Late-filed  
6 Exhibit Number 10 and 11 for Mr. Poucher.

7 **MR. JAEGER:** Mr. Chairman, this is Ralph  
8 Jaeger. I just noticed that there is a Late-filed 1  
9 that is a part of this, so we might as well put  
10 Late-filed 1, 10, and 11. We are actually only going to  
11 be asking questions on 10 and 11, but this was submitted  
12 all as one document.

13 **CHAIRMAN GRAHAM:** Okay. We'll make that  
14 change.

15 (Exhibit 313 marked for identification.)

16 **MR. MAY:** Mr. Chairman, this is going to be a  
17 series of documents. Ms. Theresa is going to be busy.  
18 I don't know what the most efficient thing to do is. I  
19 guess we will keep giving her the documents and allowing  
20 her to distribute them.

21 **CHAIRMAN GRAHAM:** We can allow her to continue  
22 to do that. Let's put a number on the first one you are  
23 dealing with, and we will go from there. You can  
24 continue as we pass this stuff out, if possible.

25 **MR. MAY:** Okay.

1                   **CHAIRMAN GRAHAM:** Are one of these two the  
2 first one?

3                   **MR. MAY:** Those are the two staff witnesses.

4                   **CHAIRMAN GRAHAM:** All right. Mr. May, you are  
5 starting with 314. Which one do you want to label that?

6                   **MR. MAY:** 314. I'd like to have it identified  
7 for the record as Composite Exhibit E-mails between  
8 Charlie Beck and AUF, Phase II Monitoring.

9                   **CHAIRMAN GRAHAM:** Okay. That's 314. What  
10 else have you got?

11                   **MR. MAY:** 315 would be the e-mail dated  
12 April 6th, 2010, from Bruce May to Charles Beck  
13 regarding Phase II monitoring.

14                   **CHAIRMAN GRAHAM:** 315. Okay.

15                   **MS. CHRISTENSEN:** Commissioner, I'm sorry, can  
16 we ask to have that started over. I guess there had  
17 been some confusion in the handing out process, and I  
18 had given my copies to our witness to ensure that he had  
19 them, and then had requested additional copies because  
20 I'm sharing with the Attorney General. And I just need  
21 to make sure we have all copies. I think those were the  
22 only two that we were missing were the e-mail composite  
23 exhibits and I need to know what number they were, as  
24 well.

25                   **CHAIRMAN GRAHAM:** Okay. We'll go back to

1 that. 316?

2 **MR. MAY:** 316 would be Exhibit SC-6 to Susan  
3 Chambers' rebuttal testimony.

4 **CHAIRMAN GRAHAM:** That's 316. 317?

5 **MR. MAY:** 317 would be AUF's letter and  
6 responses to OPC's 15th Request for Production of  
7 Documents.

8 **CHAIRMAN GRAHAM:** Okay. And 318?

9 **MR. MAY:** 318 would be an excerpt from  
10 October 11th, 2011, New Port Richey customer service  
11 hearing.

12 **CHAIRMAN GRAHAM:** 319?

13 **MR. MAY:** 319 would be Standard & Poor's  
14 summary of FGUA's Lindrick utility system.

15 **CHAIRMAN GRAHAM:** Is that all the ones you  
16 had? Okay.

17 Ms. Christensen, did you get those two  
18 e-mails?

19 **MS. CHRISTENSEN:** I think we are going to try  
20 and retrieve them, but I needed to know what 314 and 315  
21 were labeled.

22 **CHAIRMAN GRAHAM:** Okay. Composite Exhibit  
23 E-mails between Charlie Beck and Aqua Utilities is 314,  
24 and e-mail dated April 6th, 2010, from Bruce May to  
25 Charlie Beck is 315.

1                   **MS. CHRISTENSEN:** Thank you for your  
2 indulgence.

3                   **CHAIRMAN GRAHAM:** Not a problem.

4                   **MR. MAY:** I think we are at 320 now.

5                   **CHAIRMAN GRAHAM:** That's correct. 320 would  
6 be excerpt from October 11 New Port Richey customer  
7 service hearing, Pages 137 through 140.

8                   **MS. CHRISTENSEN:** We're not there. I don't  
9 think we have had that handed out to us yet.

10                   **CHAIRMAN GRAHAM:** Yes, I've got it.

11                   **MR. JAEGER:** Staff does not have that copy,  
12 either.

13                   **CHAIRMAN GRAHAM:** The description is Pages 137  
14 through 140 excerpts from --

15                   **MS. CHRISTENSEN:** Yes. We are just getting  
16 that handed to us now.

17                   **CHAIRMAN GRAHAM:** 321?

18                   **MR. MAY:** 321 is Earl Poucher e-mails.

19                   **MR. JAEGER:** You have e-mails of Earl Poucher  
20 e-mails and you have Earl Poucher e-mails with Frank  
21 Reams. Which one is that?

22                   **CHAIRMAN GRAHAM:** 321 is Earl Poucher E-mails  
23 with Frank Reams.

24                   **MR. MAY:** 322 is the same title, but it's a  
25 different batch of e-mails. We'll call it Part 2.

1           **CHAIRMAN GRAHAM:** I don't believe I have that.  
2           (Pause.) Mr. May, I have to apologize. I do not have  
3           what you just called 322. I only have one stack that  
4           says e-mails from Earl Poucher. Yes, the one from Frank  
5           Reams. That's 321.

6           **MR. MAY:** Strike the 322. I think it's just  
7           321, the e-mails from Earl Poucher with Frank Reams.

8           **CHAIRMAN GRAHAM:** Okay. I have that. And I  
9           found the other one. It says e-mails with Earl Poucher,  
10          and that is just the end of the description? Did you  
11          want to call that 322?

12          **MR. MAY:** I'm sorry, Mr. Chairman?

13          **MR. JAEGER:** Bruce, there's one that says Earl  
14          Poucher e-mails with Frank Reams and then there is  
15          another one that says e-mails of Earl Poucher. And 321  
16          was the one with Frank Reams, and we have not designated  
17          e-mails of Earl Poucher yet.

18          **MR. MAY:** That's 322, excuse me.

19          **CHAIRMAN GRAHAM:** Okay.

20          **MR. MAY:** The next exhibit is 323. It's Food  
21          and Water Watch, 2009 Annual Report.

22          **CHAIRMAN GRAHAM:** Okay.

23          **MR. MAY:** And the last one is 324, and that's  
24          AUF's letters of September 3rd, 2009, and December 23rd,  
25          2009, to Charles Beck.

1                   **MR. CURTIN:** (Inaudible; microphone off.)

2                   **CHAIRMAN GRAHAM:** All right. Let's make sure  
3 that everybody has got 313 through 324.

4                   Yes, you are missing 324?

5                   **MR. CURTIN:** Yes, I am. But if it will be  
6 provided tomorrow, that would be fine, if you don't have  
7 an extra copy.

8                   **MR. RICHARDS:** I need a copy of 321, also.

9                   **CHAIRMAN GRAHAM:** 321 is the one that is  
10 labeled Earl Poucher E-mails with Frank Reams.

11                   **MR. RICHARDS:** Right, and I don't have it.

12                   **CHAIRMAN GRAHAM:** Okay. Has everybody else  
13 got 13 through 24?

14                   **MS. BRADLEY:** I have one that is described as  
15 Food and Water Watch, which I'm not sure what number  
16 that is.

17                   **CHAIRMAN GRAHAM:** That is 321. I'm sorry,  
18 323.

19                   **MS. BRADLEY:** Then I'm just missing 324.

20                   **CHAIRMAN GRAHAM:** 324 is a composite exhibit,  
21 Aqua Utilities Florida letters dated September 3rd.  
22 It's about two or three pages thick. Did you find it?

23                   **MS. BRADLEY:** I think we did.

24                   **CHAIRMAN GRAHAM:** Did you find one, or did you  
25 get one?



1           **MR. CURTIN:** If you will make a copy tomorrow,  
2 that would be fine.

3           **CHAIRMAN GRAHAM:** Okay. And the one you are  
4 waiting on is 324? Okay.

5           **MR. MAY:** Thank you for your indulgence.

6           (Exhibit Numbers 314 through 324 marked for  
7 identification.)

8 **BY MR. MAY:**

9           Q. Good afternoon, Mr. Poucher.

10          A. Good afternoon.

11          Q. I'm Bruce May with Holland and Knight  
12 representing Aqua in this case. And it's good to see  
13 you, again.

14                 We recently had occasion to talk about this  
15 case at your deposition, did we not?

16          A. Yes, we did.

17          Q. Do you have a keep of your deposition  
18 transcript with you?

19          A. No, I do not.

20           **MR. JAEGER:** I have an extra one.

21 **BY MR. MAY:**

22          Q. And I think we have already confirmed you have  
23 Exhibit 311, which is a demonstrative exhibit. It is  
24 kind of a compilation of various orders and statutes, et  
25 cetera, that we will be referencing during our

1 conversation.

2 A. Are you talking about this one here?

3 Q. Yes.

4 A. Okay. I have it.

5 Q. You testified in AUF's last rate case on  
6 quality of service, did you not?

7 A. Yes, I did.

8 Q. And that was back in 2008?

9 A. Correct.

10 Q. And you're testifying on quality of service in  
11 this case, correct?

12 A. Correct.

13 Q. In the final order in the last case, the  
14 Commission found AUF's quality of service to be marginal  
15 except for Chuluota, which the Commission found to be  
16 unsatisfactory, correct?

17 A. Yes.

18 Q. Now, the Commission makes quality of service  
19 determinations in every water and wastewater case,  
20 doesn't it?

21 A. Yes, they do.

22 Q. And in making that quality of service  
23 determination, the Commission is generally governed by  
24 Rule 25-30.433, correct?

25 A. I believe that's probably correct.

1 Q. Just for you to follow along, why don't you  
2 turn to Tab 5 of the master exhibit. Can you read the  
3 highlighted portions of the rule?

4 A. I can read it.

5 Q. For the record.

6 A. "The Commission in every rate case shall make  
7 a determination of the quality of service provided by  
8 the utility. This shall be derived from an evaluation  
9 of three separate components of water and wastewater  
10 utility operations; the quality of the utility's  
11 product, water and wastewater, operational conditions of  
12 the utility's plant and facilities, and the utility's  
13 attempt to address customer satisfaction."

14 Q. As OPC's quality of service witness, I need to  
15 better understand which of those three components of  
16 quality of service you are testifying about?

17 A. You're going to have to either talk louder or  
18 get closer. We had this trouble in the hearings, too.

19 Q. As OPC's quality of service witness, I need to  
20 better understand which of those three components of  
21 quality of service you are testifying on. You have  
22 never inspected any of AUF's wastewater facilities, have  
23 you?

24 A. To answer your first question, I'm addressing  
25 the utility's attempt to address customer satisfaction

1 in my Direct Testimony.

2 Q. And you have never inspected any of AUF's  
3 wastewater facilities, correct?

4 A. I have been at their wastewater facility  
5 plants, but an inside inspection like we would do at a  
6 nuclear plant, no.

7 Q. And you have never inspected the operational  
8 condition of any of AUF's plant or facilities, correct?

9 A. Say that one more time.

10 Q. You have never inspected the operational  
11 condition of any of AUF's plants or facilities, correct?

12 A. Well, I have been in AUF customer service  
13 territory. I have been at customer locations. I have  
14 been with AUF employees. We have looked at various  
15 piece-parts of the AUF facilities, so the answer is no.

16 Q. At your deposition you stated that your  
17 testimony touches on the quality of AUF's water and  
18 wastewater product, correct?

19 A. Repeat your question.

20 Q. I said at your deposition you testified that  
21 your testimony touches on the quality of AUF's water and  
22 wastewater product.

23 A. I believe that is correct from my deposition.  
24 I do include some information about the quality of the  
25 water, particularly as it relates to customers

1 complaining about it. But in terms of compliance, no.

2 Q. Again, as I mentioned to Ms. Vandiver, in the  
3 last case we had stipulated the depositions of the  
4 witnesses into the record. And, unfortunately, that is  
5 not the case here. So I'm going to have to walk you  
6 down a path that you and I walked before, so bear with  
7 me.

8 When you talk about water quality, you're not  
9 a water quality specialist, are you?

10 A. I'm not a trained water quality specialist.

11 Q. And you're not a specialist in wastewater, are  
12 you?

13 A. I'm not a trained specialist in wastewater.

14 Q. And you're not a toxicologist?

15 A. I'm not a trained toxicologist.

16 Q. And you're not a hydrologist?

17 A. I'm not a trained hydrologist.

18 Q. Are you an untrained hydrologist?

19 A. Yes. I think I know a lot about hydrology,  
20 but I'm an amateur.

21 Q. You and me both. Have you ever operated a  
22 water utility?

23 A. No, I have not.

24 Q. And you have never operated a wastewater  
25 utility, either, have you?

1           A.    No, definitely.

2           Q.    At your deposition you stated that your  
3 testimony addresses the third prong of quality of  
4 service, and that is the utility's attempt to address  
5 customer satisfaction, correct?

6           A.    Yes.

7           Q.    And you also stated at your deposition that a  
8 utility will never be able to meet 100 percent customer  
9 satisfaction, correct?

10          A.    Yes.

11          Q.    I want to talk to you about AUF's attempt to  
12 meet customer satisfaction, but to put matters in  
13 context, I'd like to first better understand more of  
14 your background. During your deposition you stated that  
15 you have a background in telecommunications regulation,  
16 correct?

17          A.    I have a background of telecommunications  
18 regulation and operation.

19          Q.    And I think you stated that you are better  
20 versed in telecom regulations, but you still have a good  
21 understanding of water and wastewater utility  
22 regulation, correct?

23          A.    Our job at the Public Counsel is to deal with  
24 all public utilities, and so the answer to your question  
25 is my major expertise in the past has been telecom, but

1 I have also worked heavily in electric, and I worked on  
2 the original Southern States case. I testified in the  
3 last water case. I am testifying in this water case,  
4 and so we do it all at Public Counsel.

5 Q. Sure. And just so we are not missing each  
6 other, my question, you have a good understanding of  
7 water and wastewater utility regulation, correct?

8 A. I believe I have a good understanding of it.

9 Q. And you agreed at your deposition that the  
10 Florida Statute governing the Commission's regulation of  
11 water and wastewater utilities is Chapter 367, correct?

12 A. Without looking at it, yes.

13 Q. And the Commission's rules regulating water  
14 and wastewater utilities is found in Chapter 25-30 of  
15 the Florida Administrative Code, correct?

16 A. Without looking at that exact number, I would  
17 agree.

18 Q. You also stated that the statutes and rules  
19 governing the regulation of water and wastewater  
20 utilities are different from the statutes and rules  
21 governing telephone companies, correct?

22 A. And, yes, I agree to that.

23 Q. I think you mentioned that there was a  
24 definite difference between the two statutes, correct?

25 A. Well, Florida does not have any regulatory

1 statutes or rules dealing with telephone companies  
2 because we don't regulate them anymore, but the  
3 regulations that we operated under in years past were  
4 far more extensive in terms of reporting and performance  
5 for the telephone companies than for the water  
6 companies.

7 Q. Sure. Thank you, Mr. Poucher, for that.

8 With that background, I would like to ask you  
9 a couple of questions about your testimony. Let's start  
10 on Pages 28 and 29.

11 A. Okay.

12 Q. You are critical of the monitoring reports and  
13 other data that AUF has provided to the Commission since  
14 the last rate case, are you not?

15 A. Yes.

16 Q. I want to talk with you about the monitoring  
17 programs that have been in place since the final order  
18 in the last case. Can you turn to Tab 1 in the  
19 Demonstrative Exhibit Number 311?

20 A. Tab 1.

21 Q. It's Tab 1. It is actually Page 22 of the  
22 final order in the last case.

23 A. Yes.

24 Q. I want to talk to you about the initial  
25 monitoring program. You and I charted about this at



1 your deposition. Are you familiar with these three  
2 components of the initial monitoring program that are  
3 summarized on Page 22 of the final order?

4 A. Yes.

5 Q. So the Commission's final order, Mr. Poucher,  
6 required AUF to submit over a six-month period  
7 essentially three monthly reports. First, a report on  
8 information regarding customer complaints; second, sound  
9 recordings coming into the call center; third, meter  
10 reading route schedules so that staff could  
11 independently verify the accuracy of AUF's meter  
12 reading, is that correct?

13 A. Yes.

14 Q. Let me go back. Now, AUF went forward with  
15 Phase I of this monitoring, did it not?

16 A. Yes.

17 Q. And staff reviewed the reports that AUF  
18 presented under the Phase I monitoring, and provided the  
19 Commission with its recommendation on March 4th of 2010,  
20 correct?

21 A. Yes.

22 Q. That's on Tab 2 of the Demonstrative Exhibit  
23 Number 311, correct?

24 A. Yes.

25 Q. Turn to Page 8 of that recommendation, please.

1           A.    Page 8?

2           Q.    Yes, sir.  And can you read the highlighted  
3 passage for the record?

4           A.    Sure.  "After reviewing more than 700 calls  
5 between AUF and its customers, staff believes that AUF  
6 is adequately handling its customer complaints and  
7 inquires."

8           Q.    Let's talk a little bit about the monthly  
9 submission of sound recordings of Florida calls coming  
10 into the call center.  You recall, do you not, that  
11 because the sound recordings contained proprietary  
12 customer-specific information, Aqua requested  
13 confidential classification of those audio tapes, did it  
14 not?

15          A.    I don't know.

16          Q.    At your deposition you stated that you never  
17 listened to the sound recordings of those calls coming  
18 into the call center, did you?

19          A.    No, I did not.

20          Q.    Are you aware of anyone at the Office of  
21 Public Counsel that listened to those sound recordings?

22          A.    We did not.

23          Q.    Are you aware of anyone at the Office of  
24 Public Counsel that attempted to listen to those sound  
25 recordings?

1           A. Well, there's more people than just myself,  
2 but I don't believe that anyone at Public Counsel did.

3           Q. Why not?

4           A. I believe that that was a staff project.  
5 Staff was heavily involved in reviewing those calls. We  
6 trust the staff. They do good work. We expected them  
7 to review them and find what was in there and deal with  
8 it.

9           Q. And staff did review those tapes, did it not?

10          A. Based on their report, I would assume that  
11 they did.

12          Q. Can you turn to Page 7 of the recommendation,  
13 and read for the record the highlighted provision on  
14 that page?

15          A. "Out of the 738 total sound recordings  
16 reviewed, staff believes the majority was handled in a  
17 courteous and professional manner, and the  
18 representatives were taking the appropriate action to  
19 resolve all issues raised in the call."

20          Q. Let's talk about the meter reading function of  
21 the Phase I monitoring. Turn to Page 10 and read for  
22 the record the highlighted provision there, please.

23           **MS. CHRISTENSEN:** Commissioners, I'm going to  
24 object. He has not asked a question, I mean, other than  
25 to read into the record something out of staff's

1 recommendation. He hasn't asked if he was aware of what  
2 is in the recommendation, or if he has any independent  
3 knowledge. I think we are starting to get a little far  
4 afield having him read into the records things that are  
5 not his own work.

6 **CHAIRMAN GRAHAM:** Mr. May, is there a question  
7 coming?

8 **MR. MAY:** There is one coming.

9 **CHAIRMAN GRAHAM:** Okay.

10 **MR. MAY:** And what I'm getting at is I think  
11 that Mr. Poucher has testified that he never listened to  
12 the sound recordings, and I want to ask him a couple of  
13 questions about that.

14 **CHAIRMAN GRAHAM:** Sure.

15 **A.** So did you want me to read this or not?

16 **Q.** Yes, please, at the top.

17 **A.** "Based on the findings of the --"

18 **MS. CHRISTENSEN:** Objection. I don't think he  
19 actually asked him a question. And, I'm sorry, I  
20 apologize to my witness, but I have no problem with him  
21 asking a question and having him answer it, but asking  
22 him to read into the record something out of a document  
23 that he did not create or that is not an order of the  
24 Commission is -- I think we are starting to get a little  
25 far afield.

1                   MR. MAY: I can short circuit this.

2 BY MR. MAY:

3           Q. I think if you have got the highlighted  
4 provision, I will just ask you to read it and I will ask  
5 you a question about it.

6           A. Okay, and I'll respond. "Based on the  
7 findings of the sample results presented above, staff  
8 recommends that there is no systemic failure in AUF's  
9 meter reading procedures and that AUF's meter readings  
10 can be relied upon. In addition, since AUF's rate case,  
11 the company has replaced its manually read meters with  
12 electronically scanned meters. This new meter reading  
13 technology should reduce the likelihood of the meter  
14 reading errors attributable to human error.

15                   You had a question?

16           Q. And staff ultimately recommended that AUF's  
17 performance under the initial monitoring plan was  
18 adequate, correct? That's on Page 13.

19           A. As it relates to those two issues. And I  
20 would expound on that a little bit. I know that the  
21 staff recommended that the performance was adequate, but  
22 you have got to realize that this company had replaced  
23 all of its meters with electronic ERT meter-reading  
24 devices that did not require a meter reader to go read  
25 the meter. At that point in time, when the staff was

1 following the company around reading meters to comply  
2 with this order, in my opinion it was a waste of time  
3 because the company had already resolved the issues of  
4 meter reading.

5 We knew that the meter reading problem had  
6 been resolved by the replacement of the meters, and it  
7 was not productive at all to follow the company around  
8 to check to see if they read their electronic meters.  
9 And so whether or not the staff ruled that their  
10 procedures were appropriate or not was not relevant to  
11 customer service, because the replacement of the meters  
12 the customers paid for and are continuing to pay for is  
13 what resolved the problem of meter reading with Aqua.

14 Likewise, on the call center side of the  
15 house, the Commission staff was monitoring Aqua  
16 Utilities' call centers with selected recordings that  
17 were extracted from their database, and it's pretty  
18 naive to expect that Aqua was not aware of the fact that  
19 the PSC was taking that sample and was retrieving those  
20 records. It was a totally inappropriate way to check on  
21 the call center performance and didn't result in any  
22 findings of bad performance.

23 And, my gosh, this is one of the biggest water  
24 companies in the country. Surely they could have been  
25 aware and taken the appropriate action to make sure that

1 they gave good service during the time period that they  
2 were being monitored. We agreed to eliminate this part  
3 of the monitoring program, Phase I, at the request of  
4 Aqua because of the high cost to Aqua. And we agreed,  
5 because it was of little value to us anyway.

6 Q. Thank you, Mr. Poucher. Back to my initial  
7 question. You were here earlier when there was a  
8 discussion among the bench and some of the witnesses  
9 about some of the complaints you read about and hear  
10 about in some of the customer service hearings about  
11 CSRs being rude to customers --

12 A. Yes.

13 Q. -- and how you verify that. You had an  
14 opportunity, did you not, in Phase I to listen to these  
15 audiotapes, and you never took one step or made one  
16 attempt to listen to one of those tapes, did you?

17 A. I certainly didn't expect to find customers  
18 being treated rudely, and the answer is no. Oh, I'm  
19 sorry, the answer is yes.

20 Q. So you did try to listen to the tapes?

21 A. No, you asked -- I'm agreeing with you.  
22 Whatever you want, yes or no.

23 CHAIRMAN GRAHAM: You asked the question in  
24 the negative and he agreed with you.

25 MR. MAY: I stand corrected, Mr. Poucher.

1 BY MR. MAY:

2 Q. Now, while the staff recommended that Aqua's  
3 performance was adequate, the Commission required Aqua  
4 and OPC to agree upon a Phase II Monitoring Plan, did it  
5 not?

6 A. Yes, and I believe they included staff in that  
7 process.

8 Q. And staff, as well, correct.

9 And that requirement to instruct Aqua, OPC,  
10 the parties, and staff to agree upon a Phase II  
11 Monitoring Plan, that was memorialized in an order dated  
12 April 6th, 2010, correct?

13 A. I would agree with that.

14 Q. I'm not going to ask you to read the entire  
15 order, but I did want you to verify that that order is  
16 in Tab Number 3 of your packet?

17 A. The April 6th order, yes, I believe that's the  
18 order.

19 Q. Now, the order required Aqua to get together  
20 with OPC, the staff, and the other parties and agree on  
21 a more focused monitoring plan. I think you agreed to  
22 that, right?

23 A. Yes.

24 Q. And AUF, and OPC, and the staff did just that,  
25 correct?



1           A.    Yes, we had a meeting.

2           Q.    I'm going to ask you some questions about a  
3 document, Composite Exhibit Number 314.

4           A.    Okay.

5           Q.    This is a series of e-mails between Charles  
6 Beck, who was counsel to the Office of Public Counsel,  
7 myself, Kim Joyce with Aqua, and you are copied on a  
8 number of those e-mails. I'd like you to take a look at  
9 this.

10          A.    Yes.

11          Q.    Isn't it correct that pursuant to the  
12 Commission's instruction, Aqua and OPC shared  
13 information about what types of reports would go into  
14 the monitoring plan?

15          A.    Well, I think the answer is yes, but I would  
16 have to clarify. I think we received some reports. It  
17 was our position early on in Phase II of the monitoring  
18 plan, and I personally discussed that with Jack  
19 Lihvarcik, who is your president, that if we were to  
20 monitor this company without undue expense, that surely  
21 we should be able to rely on their internal documents  
22 that they use to run the business, because they have to  
23 monitor their quality of service as well. And I fully  
24 expected that those internal documents that they would  
25 use to monitor the business operation every day would

1 certainly be sufficient for the Commission to determine  
2 whether or not they were providing good service or not.  
3 And we shared those documents.

4 Q. Sure. Let's take a look what has been  
5 designated as Exhibit Number 315. This is the document  
6 that memorialized the ultimate agreement between OPC and  
7 AUF regarding what was to be included in the Phase II  
8 monitoring plan, correct?

9 A. Yes.

10 Q. And that plan included examples of the reports  
11 that Aqua was required to submit?

12 A. Yes.

13 Q. And we jointly submitted the Phase II  
14 Monitoring Plan to the Commission for approval, did we  
15 not?

16 A. Yes.

17 Q. And the Commission approved the Phase II  
18 Monitoring Plan in Order Number PSC 10-0297, correct?

19 A. Yes.

20 Q. And that plan itself was actually appended to  
21 the order. I think that is in Tab 4 of the  
22 demonstrative exhibit, correct?

23 A. Yes.

24 Q. Let me refer you back to Page 21 of your  
25 testimony?

1           A.    Are you through with this one?

2           Q.    Page 31 of your testimony.

3           A.    Okay.

4           Q.    On Lines 1 through 2, you state that Aqua  
5 points with pride in its testimony that it is answering  
6 80 percent of its calls within 90 seconds or less. This  
7 is not good service. Do you see that?

8           A.    Yes.

9           Q.    Let's take a look under Tab 4 of the order  
10 approving the Phase II Monitoring Plan. I am  
11 specifically looking at Exhibit B, the call center  
12 monitoring statistics report.

13          A.    Do you have a page number?

14          Q.    It's Page 13 of the order.

15          A.    Okay.

16          Q.    Do you see in the far left column that it's a  
17 metric average of calls answered in less than 90  
18 seconds?

19          A.    Yes.

20          Q.    And in the far right-hand column is the goal  
21 for that metric, right?

22          A.    Yes.

23          Q.    The plan you agreed to shows that the goal for  
24 this metric is that 80 percent of the calls should be  
25 answered within 90 seconds, correct?

1           A.    I didn't agree to the measurement, I agreed to  
2 the report.  And the answer is no, I did not agree to  
3 that metric.

4           Q.    So you reviewed this report and you never  
5 indicated that this was an improper metric, did you,  
6 when you reviewed -- you had this report prior to you  
7 agreeing to the monitoring plan, did you not?

8           A.    I'm not sure that I did, but we agreed to call  
9 center metrics, but I don't recall having this report in  
10 my hand prior to the point in time that we agreed that  
11 there would be reporting on call center performance.

12          Q.    Let's look back at Exhibit 315.  It's the  
13 e-mail from me to Charlie Beck dated April 6, 2010.

14          A.    We're going back to 315?

15          Q.    Yes.

16          A.    Okay.

17          Q.    Look at Exhibit B to this report that you had.

18          A.    D as in dog?

19          Q.    B as in boy.  Do you see that same metric,  
20 calls answered in less than 90 seconds.  The standard  
21 goal is at least 80 percent of the calls would be  
22 answered in less than 90 seconds?

23          A.    Yes.

24          Q.    So you had this metric before you agreed to  
25 the Phase II Monitoring Plan, did you not?

1           A.    Well, sure.  Yes, I agree now.  I see it is  
2 here, but I did not recall that it was there.  But, once  
3 again, what we agreed to with Jack Lihvarcik was that we  
4 would use the metrics that you use to run your business.  
5 And whatever you were to use to run your business was  
6 what we were going to accept in terms of oversight.

7                   And I would also add to that that when the  
8 order was issued following the rate case, the war  
9 between Aqua and Public Counsel stopped.  We were being  
10 supportive as much as we could to try to assist the  
11 company in getting the job done.  Our goal was the same  
12 as yours, happy customers.  And it was not our goal to  
13 run your business, to tell you what things were  
14 important to look at.  Our opportunity there was to work  
15 together to try to make sure that the things that you  
16 used to run the business were the things that we looked  
17 at in gauging whether or not customers were happy and  
18 receiving good service, because that was our combined  
19 goal.  And so we stopped criticizing your work the day  
20 the rate case ended.

21           Q.    But now you are criticizing the metric,  
22 correct?  You're saying that this is not good service;  
23 this metric is not good?

24           A.    When you filed the PAA and asked for increased  
25 rates, the well was poisoned, and the combat started

1 once again.

2 Q. So it's a war to you, it's a battle?

3 A. What?

4 Q. It's a battle to you? Is that what this is  
5 all about?

6 A. I think it was pitched battle back in the last  
7 rate case, and it's getting very close now.

8 Q. Let's turn to Page 29 of your testimony. On  
9 Lines 4 through 6 in reference to the quality of service  
10 monitoring reports that were part of the Phase II  
11 Monitoring Plan, you claim that Aqua -- excuse me. You  
12 claim that OPC has been furnished voluminous data that  
13 is irrelevant to the issue of satisfactory customer  
14 service.

15 A. That's what the testimony says.

16 Q. And you just testified that the reports that  
17 Aqua provided to the Commission were filed in accordance  
18 with a plan that OPC and AUF agreed to, correct?

19 A. Yes.

20 Q. And now you are testifying that those reports  
21 are irrelevant to customer service?

22 A. What my testimony says is that we were  
23 referring to a 193-page document. Four pages deal with  
24 customer service out of 193, and those four pages are  
25 simply graphs that are not really meaningful. I

1 expected, and I think Charlie Beck expected that we  
2 would receive a lot more good solid analysis that every  
3 Commissioner here knows would be required if you are  
4 going to run a business successfully by analyzing your  
5 performance and doing something about it. We got four  
6 pages of meaningless data along with 189 pages of  
7 worthless data in terms of customer service issues.

8 Q. Why would you say that data and reports that  
9 you agreed to to monitor customer service are now  
10 irrelevant? I'm struggling with that, Mr. Poucher.

11 A. We agreed to use the reports that you use to  
12 run your business. You, Aqua, uses to run its business  
13 on a day-to-day basis to evaluate its problems, to  
14 identify needed changes, to track those changes and  
15 monitor your performance. That's how good businesses  
16 are run. We had no idea that there was so little data  
17 available from Aqua as to how to operate their business.  
18 If that's it, then I certainly am justified in being  
19 critical.

20 Q. That is your prerogative certainly. Let's  
21 turn to Page 28, Lines 20 through 22. You state, and I  
22 quote, "The data provided by the company contains no  
23 historical tracking that OPC requested in its initial  
24 meeting to track improved operating performance over an  
25 extended period of time." Is that an accurate quote of

1 your testimony?

2 A. That's what the testimony says.

3 Q. Have you reviewed the quality of service  
4 monitoring reports that Aqua provided during the course  
5 of the Phase II monitoring?

6 A. You mean the monthly reports?

7 Q. That and the other reports that we provided to  
8 you.

9 A. Yes.

10 Q. Have you reviewed each one of those reports  
11 and each one of those documents that we provided to you?

12 A. I believe that I probably looked at them. I  
13 don't recall those specific documents. I can't tell you  
14 what was in them.

15 Q. The first report was provided to you on  
16 July of 2010, correct?

17 A. As I said, I don't recall the report. If you  
18 want to show it to me, I will be glad to talk about it.

19 Q. Let's refresh your memory. Look at Exhibit  
20 Number 316.

21 A. Okay.

22 Q. It's a letter from me to the Clerk including  
23 Aqua's first Phase II monitoring.

24 A. Do you have a page number?

25 Q. It's Page 1. This is a cover letter from me



1 to the Clerk of the Florida Public Service Commission  
2 covering the initial monitoring reports. You are copied  
3 on that letter, correct?

4 A. Yes.

5 Q. Can you read Item Number 4 that was included  
6 in this report?

7 A. Did I?

8 Q. Could you read it for the record?

9 A. Do you have a page number?

10 Q. It is Item Number 4, Paragraph Number 4 on the  
11 first page.

12 A. Call center monitoring statistics, historical  
13 data report.

14 Q. You would agree, would you not, that this  
15 first report that you were provided in July of 2010  
16 contained historical information so that you could track  
17 performance over a longer period of time?

18 A. Well, not having recalled the data, I would  
19 like to look at the chart. Can you tell me which page  
20 it is?

21 **CHAIRMAN GRAHAM:** Mr. May, we said that we  
22 were going to stop today at about 5:00 o'clock. I think  
23 this is a good time. Mr. Poucher can actually take this  
24 home with him so he can familiarize himself so you can  
25 ask specific questions on this report. And we will

1 reconvene tomorrow morning at 9:30.

2 If there is any questions or concerns? Ms.  
3 Christensen.

4 **MS. CHRISTENSEN:** I just have one concern. We  
5 were hoping to take Ms. Dismukes tomorrow. I don't know  
6 if it will be possible to roll Mr. Poucher until after  
7 Ms. Dismukes, or to take him up again with his rebuttal  
8 testimony in that order and just do the direct and  
9 rebuttal together. That would be my suggestion, and  
10 then we don't have to pull him up multiple times.

11 **CHAIRMAN GRAHAM:** I would imagine, because of  
12 the volume of stuff that was put in front of us, that  
13 Mr. May has quite a few questions on the direct.

14 **MR. MAY:** I should be able to finish him up  
15 pretty soon tomorrow, probably another hour, hour and a  
16 half.

17 **MS. CHRISTENSEN:** Well, I mean, I would hope  
18 so, but I still think we have got four DEP witnesses and  
19 Commissioner Mariano that are scheduled to go tomorrow,  
20 and I think that could create an issue. I mean, I would  
21 prefer if we could just put Mr. Poucher on pause and get  
22 Ms. Dismukes onto the record in the interim time and  
23 just restart his testimony on the 7th. He's in town and  
24 available to come back then.

25 **CHAIRMAN GRAHAM:** Well, I would hope that we

1 can get it all done tomorrow, because it sounds like the  
2 time-certain witnesses we have, that staff has are not  
3 going to be that long.

4 **MS. CHRISTENSEN:** And I would agree with you.  
5 I don't believe the DEP witnesses will take very long  
6 whatsoever, and I don't believe Mr. Mariano should take  
7 that long. I'm just not sure how long Ms. Dismukes will  
8 take, and that's my concern. But I'm certainly willing  
9 to -- you know, we certainly go in order if that's the  
10 Chair's wish.

11 **CHAIRMAN GRAHAM:** Yes. I think there is quite  
12 bit of data here, and I guess, Mr. Poucher, you can  
13 assume that these Exhibits 314 through 324 you are going  
14 to be asked questions on, so you may want to take some  
15 time to familiarize yourself with that stuff.

16 Is there anything else to come before us?

17 **MR. MAY:** No, sir.

18 **MR. CURTIN:** Chairman, I have a similar issue  
19 with Mr. Harpin, Mr. Shawn Harpin who has been here all  
20 week. I was expecting that we would at least get to him  
21 before the end of this week. He may not be here next  
22 week, but we will see how maybe it goes tomorrow, and we  
23 could address that. I just wanted to bring that to the  
24 attention of the Commission.

25 **CHAIRMAN GRAHAM:** Okay. Anything else?

1 All right. Seeing none, we will be adjourned  
2 and we will reconvene tomorrow morning at 9:30.

3 (The hearing adjourned at 5:06 p.m.)

4 (Transcript continues in sequence with  
5 Volume 5.)

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STATE OF FLORIDA        )  
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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 8th day of December, 2011.

  
\_\_\_\_\_  
JANE FAUROT, RPR  
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