

I N D E X

WITNESSES

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

NAME:

PAGE NO.

EARL POUCHER

Examination by Mr. May	810
Examination by Mr. Jaeger	902
Examination by Mr. Curtin	913
Examination by Ms. Christensen	933

EXHIBITS

	NUMBER:	ID.	ADMTD.
1			
2			
3	89		935
4	90		935
5	91		935
6	92		935
7	93		935
8	94		935
9	95		935
10	96		935
11	97		935
12	98		935
13	99		935
14	100		935
15	101		935
16	314		937
17	315		937
18	316		937
19	317		937
20	318		937
21	319		937
22	320		937
23	321		937
24	322		937
25	323		937

EXHIBITS

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

NUMBER:

ID. ADMTD.

324

937

325

Commissioner Mariano's
Remarks to FPSC at 5/24/11
Agenda Conference

878

937

P R O C E E D I N G S

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

4 **COMMISSIONER EDGAR:** Good morning, all. The
5 Chairman is slightly delayed this morning. He will be
6 joining us, but he asked if we would go ahead and get
7 started timely. So, per his desire, that's what we're
8 going to do. So we are back on the record for day three
9 of this proceeding.

10 And I recollect that where we left off last
11 evening, that Mr. Poucher was on the stand and Mr. May
12 was conducting his cross-examination. I also recall
13 that there was some discussion about order of witnesses.
14 And it is my understanding that it was the Chairman's
15 understanding that we were going to go ahead and bring
16 up and then conduct and dispense with the two DEP staff
17 witnesses first this morning who were asked to be here.
18 Now, again, that is my understanding of the Chairman's
19 understanding.

20 And I do know that there are a number of
21 witnesses that we want to get through today and that
22 people have a variety of schedules. And as always, we
23 will certainly try to accommodate within trying to keep
24 a good flow for all parties to present as they -- and
25 question as they need to.

1 And, Ms. Christensen, you have a comment.

2 **MS. CHRISTENSEN:** Correct. I have a
3 suggestion. I think part of the problem yesterday with
4 moving with Mr. Poucher to his rebuttal testimony was
5 that Mr. May was already in the middle of his
6 cross-examination. I would suggest, and I've discussed
7 it with Staff and I haven't had an opportunity to talk
8 with the other ones, but if Mr. May were to finish his
9 cross-examination and then we could stop there and roll
10 Mr. Poucher to his rebuttal testimony, that would free
11 up time to try and deal with the witnesses that are from
12 out of town today, including Commissioner Mariano and
13 YES's witness as well as my witness that's from out of
14 town without disrupting cross-examination for Mr. May.

15 And that would be my suggestion, and I think
16 that may cure what I think was perceived as a problem
17 from the Chairman yesterday of breaking up
18 cross-examination by Mr. May.

19 **COMMISSIONER EDGAR:** So your suggestion at
20 this point is that we continue and finish with
21 Mr. Poucher this morning, and -- first, and then move
22 to --

23 **MS. CHRISTENSEN:** Then the block --

24 **COMMISSIONER EDGAR:** -- the out-of-town
25 witnesses?

1 **MS. CHRISTENSEN:** Yes. And then the block DEP
2 witnesses, or Commissioner Mariano, DEP, and then
3 Ms. Dismukes and the YES witness. And I think that may
4 be -- but we'd stop with Mr. Poucher after Mr. May
5 concludes his cross-examination, and then Staff could
6 pick up any cross-examination they would have with his
7 rebuttal testimony, because he's going to have to come
8 up again anyway.

9 But that's --

10 **COMMISSIONER EDGAR:** Ah, and here he is, so --

11 **MS. CHRISTENSEN:** That would be my suggestion.
12 And, you know, if not, you know, obviously we'll do
13 whatever the Chair would like.

14 **COMMISSIONER EDGAR:** Okay.

15 Mr. Chairman, welcome.

16 **CHAIRMAN GRAHAM:** Thank you.

17 **COMMISSIONER EDGAR:** We were just discussing
18 order of witnesses. As you recall, Mr. Poucher was on
19 the stand and we were conducting, Mr. May was conducting
20 his cross. And we do have some witnesses from out of
21 town, and so we were just discussing how we were going
22 to try to accommodate everybody's schedule in an orderly
23 manner.

24 Mr. May.

25 **MR. MAY:** We will do whatever you all believe

1 is most efficient. I'm certainly amenable to -- I know
2 that Ms. Christensen wants to have Kim, Ms. Dismukes,
3 she wants her finished today, and I'm going to do
4 everything I can to accommodate that, because I know
5 she's come from a long way. And I think that
6 Ms. Christensen's idea is a good one. If you would
7 allow me to complete my cross-examination of
8 Mr. Poucher, and then defer any further cross by Staff
9 or questions by the Commission -- well, I guess it's
10 getting a little complicated. I'll do whatever you all
11 want. But I would like to have an opportunity to
12 complete my cross-examination of Mr. Poucher with some
13 continuity.

14 **COMMISSIONER EDGAR:** Mr. Chairman, I'm going
15 to hand it off to you.

16 **CHAIRMAN GRAHAM:** Okay. So -- thank you.
17 Commissioner Edgar, thank you very much for getting this
18 started. I have to apologize. I had a family emergency
19 I had to deal with. And I tell you what, if you ever
20 have to deal with a bank and you're under a crush,
21 Regions Bank is a fantastic bank. I'm sure someone is
22 going to be very happy I said that. But I just wanted
23 to go ahead and put that out there, because they were
24 able to take care of things very quickly for me.

25 Okay. That being said, I guess what I'm

1 trying to understand is the wish here is to finish the
2 Aqua cross of Mr. Poucher and then go to the government
3 witnesses that were here for time certain?

4 **MR. JAEGER:** That's correct.

5 **CHAIRMAN GRAHAM:** And then from there I
6 believe there's one of two people that are coming here.
7 And then we're supposed to go to Ms. Dismukes?

8 **MS. CHRISTENSEN:** Well, I think we have the
9 four DEP witnesses, which I think will go fairly
10 quickly. We have Commissioner Mariano, who's here.
11 Finish them up this morning, and then go ahead and then
12 put Ms. Dismukes on the stand, and hopefully we will
13 also get to YES's witness by the end of the day.

14 **CHAIRMAN GRAHAM:** Okay.

15 **MR. MAY:** Mr. Chairman, I worked last night
16 diligently in trying to refine my cross-examination of
17 Ms. Dismukes, and I don't think it's going take a long
18 time. Because I know she's in from Baton Rouge and I
19 want to let her get back. So I think we can, we can
20 accomplish that under that kind of schedule.

21 **CHAIRMAN GRAHAM:** All right. Now are we going
22 to completely finish with Mr. Poucher or are we just
23 going to do the Aqua cross?

24 **MS. CHRISTENSEN:** I would suggest we just
25 finish Aqua's cross so they don't have to disrupt in the

1 middle of their cross-examination. And then we can
2 defer, if you would allow it, Staff's cross-examination
3 and any Commission questions that you might have 'til
4 when he comes up for rebuttal. Because he will, he is
5 scheduled to come up and present his rebuttal testimony
6 anyway. So we could just finish up the rest of his
7 direct testimony and his rebuttal at the same time.

8 **CHAIRMAN GRAHAM:** Staff?

9 **MR. JAEGER:** Staff just has very few questions
10 for Mr. Poucher, and it won't affect -- we can do it on
11 rebuttal. So we don't need to do it right after Mr. May
12 finishes his cross.

13 **CHAIRMAN GRAHAM:** Sounds like a good plan.

14 Mr. May, you have the floor.

15 **MR. JAEGER:** Chairman, I think Ms. Christensen
16 had one other housekeeping matter with Mr. May's
17 exhibits.

18 **MS. CHRISTENSEN:** I'm sorry. Yes.
19 Mr. Poucher's exhibits, I think we identified for the
20 record REP-1 through REP-12, and actually that should
21 have been REP-13 for his direct testimony.

22 **CHAIRMAN GRAHAM:** Which is our Exhibit Nos.
23 89 through 101.

24 **MS. CHRISTENSEN:** I believe that's correct.

25 **CHAIRMAN GRAHAM:** Okay. Mr. Jaeger, is that

1 it?

2 MR. JAEGER: That's all I know of. I think
3 we're ready to go with Mr. May and his cross.

4 CHAIRMAN GRAHAM: Mr. May, please.

5 EXAMINATION

6 BY MR. MAY:

7 Q Good morning, Mr. Poucher.

8 A Good morning.

9 Q When we left off yesterday afternoon, I was
10 discussing with you your statement on page 28 of your
11 testimony, where you stated that the monitoring data
12 provided by AUF pursuant to the Phase II monitoring
13 reports provided no historical tracking that OPC
14 requested in its initial meeting that could be used to
15 track improved operating performance over an extended
16 period of time. Do you recall our conversation?

17 A Yes, I do.

18 Q Isn't it a fact that Aqua did provide you with
19 historic monitoring data that could be used to track
20 performance?

21 A They provided some historical data, yes.

22 Q Have you had a chance to look at the
23 July 12th, 2010, report?

24 A Is that one of your exhibits?

25 Q It is. It's Exhibit --

1 A Which one?

2 Q It's Exhibit 316.

3 **MS. CHRISTENSEN:** Is there a Bates page on
4 that exhibit?

5 **MR. MAY:** Sure.

6 **BY MR. MAY:**

7 Q This exhibit is paginated in the upper
8 left-hand corner. It's a little awkward, but it's
9 Page 24 of 91. It's a graph entitled "CSR Call Quality
10 Scores."

11 A Oh, I, I think I, I know that graph. Yes.

12 Q Now doesn't this report provide historical
13 data on call center monitoring statistics back to 2008?

14 A Yes.

15 Q And the graph shows an improving trend line
16 for call quality scores over the period January 2008
17 through August 2010; is that correct?

18 A Yes. Now that, that chart is in this stack.
19 However, do you have the chart? Can you just hand me
20 the chart?

21 (Pause.)

22 Now you're asking me whether or not the --
23 repeat your question, please.

24 Q Sure. This graph shows that there's an
25 improving trend line on call quality scores over the

1 period January 2008 to August 2010.

2 A If you take January 2008 as the starting
3 point, yes, I do, but this is a very misleading chart.

4 First of all, it goes from 50 to 100. Total
5 failure is probably somewhere around 75. And, and if it
6 were magnified, I think you'd see a little bit different
7 story. Yes, call center performance between
8 January 2008 on this chart has improved dramatically
9 from really bad numbers in January 2008, all the way up
10 until January 2009, where they peaked out somewhere
11 around 98%. Because of the condensing of the scale,
12 it's hard to tell whether it's 96, 97, or 98. But the
13 peak was January 2009.

14 And if you'll look closely at this chart, it
15 shows that since January of 2009 the call center quality
16 scores have gone down, and, and it's misleading because
17 of, of the small scale. It's -- this is the only
18 historical data that they gave us. It went all the way
19 back to 2007. And it's not that rosy a picture in terms
20 of improving quality during the monitoring period and
21 following the original 121 docket hearing.

22 Q So it's your testimony today that this is the
23 only historical data that Aqua provided you during
24 the --

25 A No, it is not.

1 Q -- monitoring period?

2 A It is not.

3 Q Okay.

4 A This historical data is the only historical
5 data on call quality I believe that we have. And there,
6 there were backup documents to support these, these
7 numbers. But the overall numbers don't tell the story
8 that you seem to say that it does.

9 Q I'm just going back to your testimony, sir.
10 You said that Aqua provided you with no historic data,
11 and I'm trying to explore that a little bit with you.
12 Can you turn now to Exhibit No. 317?

13 A Yes.

14 Q Are you familiar with this document?

15 A Yes.

16 Q Have you reviewed this document?

17 A Yes.

18 Q Did you review the document prior to filing
19 your testimony?

20 A We did a significant discovery request in
21 September, October 2010, and I believe that this data
22 was there.

23 Q So you had this data prior to filing your
24 testimony and stating that Aqua provided no historic
25 data?

1 A And this data goes back to 2008.

2 Q My question, Mr. Poucher, is you testified in
3 your prefiled testimony that Aqua provided you with no
4 historic data. You had this data in October 2010.

5 A October -- correct. Yes.

6 Q Do you want to correct your testimony for the
7 record?

8 **MS. CHRISTENSEN:** Can I have a page on the
9 prefiled testimony that Mr. May is referring to?

10 **MR. MAY:** Page 28.

11 **BY MR. MAY:**

12 Q Mr. Poucher, you state on page 28, lines 20
13 through 22, "The data provided by the company contains
14 no historical tracking that OPC requested in its initial
15 meetings that could be used to track improved operating
16 performance over an extended period of time." Is that
17 correct?

18 A Yes.

19 Q Do you want to correct your testimony today?

20 A No, I don't. When I talked with Jack
21 Lihvarcik and we talked about historical tracking, we
22 talked about going as far back as they could get into
23 their records to document their performance based on the
24 things that they use to manage their business in
25 Florida.

1 This documentation is far less than I expected
2 and was promised, and, and I don't think it demonstrates
3 anything. I, I looked at all of these documents, and I
4 was extremely disappointed that Aqua did not take
5 advantage of our discovery process during the monitoring
6 program and in its monitoring report to demonstrate
7 clearly that they had active management of their service
8 quality and they were doing something about it.

9 This data tells us nothing.

10 Q Now in response to the request for production
11 of documents No. 251, Aqua provided you with Aqua's aged
12 service order reports from 2008 to 2010, did it not?

13 A That's Public Counsel discovery that we had to
14 go out and ask you to provide; right?

15 Q But they provided it to you; correct?

16 A Yes, in October of 2010.

17 Q And you had this information prior to filing
18 your testimony?

19 A I assume I did.

20 Q Okay. And have you looked at it?

21 A Yes.

22 Q Again, why would you testify that Aqua failed
23 to provide historic information?

24 **MS. CHRISTENSEN:** Objection. Asked and
25 answered.

1 **THE WITNESS:** What page are you referring to
2 now?

3 **CHAIRMAN GRAHAM:** I overrule the objection
4 because he pointed out another piece of information that
5 he said he got, and once again he wanted to ask the
6 question.

7 **BY MR. MAY:**

8 **Q** I'm referring to Page 28 of your testimony.
9 You say the data provided by the company failed to
10 provide historical information. Let's move on.

11 Look at, look at request for production of
12 documents No. 256. Aqua provided you with a Florida
13 score card which were operational metrics from
14 April 2009 through August 31, 2010, did they not?

15 **A** Yes. You got a page number?

16 **Q** It's the request for production of documents
17 in Exhibit 316.

18 **A** Three --

19 **Q** Excuse me. 317. It's request for production
20 of documents 256.

21 **A** Well, it's all in one stack here. Do you have
22 a page number?

23 **Q** AUF 011013. Lower right-hand corner, about
24 two-thirds of the way into the document. Customer
25 service.

1 A April '09?

2 Q Uh-huh.

3 A Yes.

4 Q So let me ask you the question again. Aqua
5 provided you with a Florida score card which provides
6 operational metrics from April '09 through August 31,
7 2010, did they not?

8 A Yes. That was part of the monitoring report.

9 Q And you had that information -- you've had
10 that information since October of 2010; right? That's
11 when this information was provided to you?

12 A Yes. But that's part of the monitoring
13 report.

14 Q This is historical information, isn't it,
15 Mr. Poucher?

16 A That's not the historical information that we
17 were asking for and were promised by Jack Lihvarcik.
18 When we met in 2010 with the Staff to develop an
19 adequate monitoring plan based on the company reports,
20 we were looking for the historical data of 2005, 2006,
21 2007, 2008. We got, in the monitoring report, two
22 charts that show basically this data, one in May of --
23 or April of 2009 and another one in May or April of
24 2010. Two charts.

25 Q Mr. Poucher --

1 A And backed up by this historical data that
2 occurred in 2009.

3 Q I'm sorry I cut you off, Mr. Poucher. Are you
4 finished?

5 A I'm through. Go ahead.

6 Q You say you were looking for data going back
7 to 2005. Take a look at the request that you made to
8 Aqua in the request for production of documents No. 256.

9 A In this docket, which is different than the
10 monitoring report.

11 Q It says, "Please provide," it says, "Please
12 provide a copy of the Florida score card for each month
13 starting January 31, 2008, through August 31, 2010";
14 correct?

15 A Yes.

16 Q You didn't ask for data back to 2005, did you?

17 A No. But I was promised it.

18 Q Take a look at Bates page 011030. It's a
19 little deeper into the document.

20 A Have you got a title?

21 Q You got it?

22 A I've got it.

23 Q Now this is an estimated read rate from
24 December 2008 through October 2009; correct?

25 A Yes.

1 Q And this is historic information, is it not?

2 A Yes. It goes back to December 2008.

3 Q And you had this information prior to filing
4 your testimony, did you not?

5 A Yes.

6 Q So in 2008 the estimated read rate for Florida
7 was approximately 1%; is that correct?

8 A Well, I read .8, but I'll take that.

9 Q The estimated read rate for Florida in 2009 in
10 October was .1%; correct?

11 A Yes, because of the replacement of the meters.

12 Q And that's an improving trend line, is it not,
13 Mr. Poucher?

14 A Well, that doesn't have anything to do with
15 service. You replaced all of your meters during that
16 time frame. And while estimated read rates might have
17 been important when you had manual meter readers and 12
18 of them in the state, as Troy Rendell mentioned
19 yesterday, by the time -- by the end of this time period
20 you had two meter readers. They were reading the meters
21 electronically due to the replacement of all of those
22 meters. And I know this data is here, but it was
23 meaningless to our organization. If you think it has
24 significance, why, you're wrong, because estimated reads
25 in an electronic mode is not a problem.

1 Q You provided the Commission -- I think you got
2 this information from Mr. Reams, but you provided the
3 Commission in your testimony with a report from the City
4 of Atlanta regarding meters, did you not?

5 A I'm not sure, as I told you in the deposition,
6 where I, whether I got it from Mr. Reams or not.

7 Q You're not sure about that?

8 A I might have downloaded it from the Internet.
9 It was available there, too.

10 Q Do you recall what the estimated read rate for
11 the City of Atlanta was?

12 A No.

13 Q Subject to check, it was about 2.7%?

14 A Subject to check, I'll accept that.

15 Q Would you, would you admit that, with that
16 understanding, would you admit that Aqua's estimated
17 read rate in Florida is far superior to that of the City
18 of Atlanta?

19 A They City of Atlanta had not completed the
20 replacement of their CRTs, and I don't think those two
21 numbers are comparable. They had, are still replacing
22 their meters in the City of Atlanta. This -- your work
23 was done, the replacement of your meters for Aqua was
24 done well in advance of the City of Atlanta. And the
25 purpose, one of the purposes of replacing all of those

1 meters was to get rid of this really severe problem of
2 estimated reads. That was a major issue in the
3 121 docket. It's not an issue in this docket because
4 it's no longer relevant, and that's why this data is no
5 longer relevant.

6 Q Well, I thought the purpose of this docket,
7 docket was to review Aqua's service over the course of
8 the time. That's what you've been saying during the
9 course of this morning. You've been saying you wanted
10 historical information to see the progress that the
11 company -- or whether the company is making progress.
12 I'm a little confused about this.

13 A So is there a question there?

14 Q Well, yeah, there is. Let's turn to page --
15 tab 4.

16 **CHAIRMAN GRAHAM:** Hold on just a second. I
17 want to take a five-minute recess, if I can.

18 (Recess taken.)

19 Okay. Let's get started back here again.

20 **MR. MAY:** Mr. Poucher --

21 **CHAIRMAN GRAHAM:** Hold on a second, Mr. May.

22 I believe, because for continuity, we're going
23 to let Mr. May continue his cross of Mr. Poucher, and
24 then I want for Staff to do their questions, and I want
25 for the Commission to get their questions, and then you

1 can do your redirect. I don't see how we can recreate
2 where we are right now next week if we just segregate
3 this, so I think we need to continue with that.

4 Mr. May, you have the floor.

5 **BY MR. MAY:**

6 Q Mr. Poucher, let's move on. I, I want to
7 shift the attention to another component of the Phase II
8 monitoring, and that's the aesthetic water quality
9 improvement initiatives. Do you recall that being a
10 component of the plan that we agreed on?

11 A Yes, I do.

12 Q Okay. And you participated in, in that
13 aesthetic improvement program, did you not?

14 A Yes, I did. I attended most all, if not all,
15 of the customer meetings between Aqua and its customers
16 on the eight systems that were chosen for the, that
17 period.

18 Q And you did so with a broken foot.

19 A Yes.

20 Q I admire your service.

21 A Crutches, yes, definitely.

22 Q And so there were -- just to kind of set the
23 record, there were eight systems, Lake Josephine,
24 Leisure Lakes, Sebring Lakes, Rosalie Oaks, Tangerine,
25 Tomoka View, Zephyr Shores, and then Chuluota; correct?

1 A Correct.

2 Q Okay. Do you know the status of the Tangerine
3 aesthetic water quality improvement project?

4 A Do I know the status today? No, I do not.

5 Q Subject to check, would you agree that the
6 projects involved pipe replacement, looping, and
7 installation of sequestration, which is now complete?

8 A Yes, we were there, and the project was
9 explained to the customers that you invited to the
10 meeting.

11 Q Did you -- do you know the status of the
12 aesthetic water quality improvement project for Tomoka
13 View?

14 A The status of that? No, I do not.

15 Q Subject to check, would you agree that the
16 project involved the installation of a chloramination
17 system, and that work is now complete?

18 A Yes. I'll, I'll agree to anything you say as
19 to the current status of those projects. So the answer
20 is yes to all of them.

21 Q But you haven't been tracking the status of
22 those projects?

23 A I have not been tracking the status of that.

24 Q And that was part of the water -- that was
25 part of the Phase II monitoring program that we agreed

1 on; right?

2 A That's correct.

3 Q Okay. Do you know the status of any of the
4 water quality improvement projects that we agreed on as
5 part of the Phase II monitoring?

6 A Well, I would take issue with the phrasing of
7 your statement. The answer to your questions is no,
8 that's not part of my testimony in my part of, my part
9 of my testimony in this docket.

10 But the -- you said that we agreed to, and I
11 will tell you that the water quality portion of
12 monitoring involved Aqua selecting the eight systems,
13 Aqua selecting the options as to the fixes that they
14 wanted to produce in those eight systems, the selection
15 of customers that were going to attend meetings with
16 Aqua, the dates of the hearings aqua conducted the
17 meetings and Aqua made the speeches. Tricia Williams,
18 your engineer, was there. And, and the process was
19 basically between Aqua and its customers. We
20 facilitated that, but we were not the drivers. We
21 didn't call the meetings, we didn't pick the locations,
22 we didn't pick the projects. So I would have to say
23 that the decisions made in those eight systems were your
24 decisions. We had nothing to do with it, had no input.

25 Q Are you opposed to the company implementing

1 aesthetic water quality improvements?

2 A I think you should definitely.

3 Q Okay. Do you know Mr. Dave Bussey?

4 A Yes.

5 Q He's a customer at the Zephyr Shores system,
6 is he not?

7 A I believe that's correct.

8 Q He's a fairly vocal critic of Aqua Utilities
9 Florida, is he not?

10 A I think you could say yes.

11 Q That's one thing we can agree on, Mr. Poucher.
12 You were at the customer hearing in New Port
13 Richey, were you not?

14 A Yes, I was.

15 Q Let's take a look at Exhibit 318.

16 A 318?

17 Q Yes, sir. It's an excerpt from the transcript
18 of the October 11th customer service hearing in New Port
19 Richey, Florida.

20 A A small excerpt.

21 Q A very small excerpt. Are you aware of the
22 aesthetic water quality improvement initiative that Aqua
23 Utilities Florida implemented for Zephyr Shores water
24 system?

25 A Am I aware of it?

1 Q Yes.

2 A I'm aware that there was work done there, yes.

3 Q And you're aware that the work is now

4 complete?

5 A No, I have not checked the status of it.

6 Q Okay. Subject to check, the project involved

7 the installation of sequestration treatment, flushing

8 hydrants, blowoffs, and the project is now complete.

9 Would you accept that, subject to check?

10 A Yes.

11 Q Now I think you previously testified that

12 Mr. Bussey is a customer of Aqua and he resides at

13 Zephyr Shores; correct?

14 A Yes.

15 Q I'm going to read you a question and answer

16 that, a dialogue that Mr. Bussey and I had starting on

17 page 123.

18 I said, "Mr. Bussey, are you familiar with the

19 aesthetic water quality improvement initiative that the

20 Commission approved in a prior order regarding Aqua?"

21 Mr. Bussey, "Yes."

22 "Okay. And did you tell a reporter from the

23 *St. Pete Times* after the last rate case, quote, Aqua

24 began making improvements in the Zephyr Shores community

25 and that Aqua made the water taste better and the color

1 better?"

2 Mr. Bussey, "Yes, I did."

3 Do you recall that dialogue?

4 A I'm reading it right here. I recall it. I
5 was there. And I recall similar conversations with, not
6 only with Mr. Bussey, but also with other customers
7 early on in the monitoring program where many customers
8 were reporting good results. We were there and visited
9 with those customers, and, and the initial reports were
10 good.

11 Q Why didn't you mention this statement in your
12 testimony?

13 A Why didn't I?

14 Q Yes.

15 A Well, the primary reason is that the water
16 quality discussions that we had early on with those
17 relatively small number of eight systems out of Aqua's
18 50 was good. When we went back the second and third
19 time for subsequent meetings, the customers were not
20 nearly as enthusiastic about the quality of water the
21 second time around.

22 That went for -- we were anxiously awaiting
23 the results of the Chuluota project, because that was a
24 major project for you. And the initial reaction from
25 Chuluota customers was good. And then as we moved

1 forward and got away from the implementation of the
2 project, we were getting, once again, bad comments about
3 the water.

4 Those comments are all fairly well documented
5 by the customers as part of our testimony as to the
6 water quality at the various systems. And many of the
7 customers that testified were not impacted by the
8 changes that you did on the eight. So when we look at
9 water quality, you got to look at the whole system. You
10 just can't look at --

11 Q Mr. Poucher, do you know Ms. Dismukes?

12 A Say again.

13 Q Do you, do you know Ms. Kim Dismukes?

14 A Kim who?

15 Q Kim Dismukes.

16 A Oh, yes, I certainly do.

17 Q Do you understand she is trying to get back to
18 Baton Rouge this afternoon?

19 A I'm very much aware of that.

20 Q Okay.

21 **CHAIRMAN GRAHAM:** Mr. May, for the record, as
22 I told other people, I will allow for the witness to
23 editorialize until I hear an objection from you, just
24 like anybody else.

25 **MR. MAY:** Okay.

1 **CHAIRMAN GRAHAM:** For the most part, you need
2 to answer the question yes or no and give a brief
3 explanation on your answer yes or no.

4 **MR. MAY:** Mr. Chairman, I was -- I wanted to
5 give him an ample opportunity to, to explain. And I'll
6 try to move this along.

7 **BY MR. MAY:**

8 **Q** Let's turn to page 32 of your testimony,
9 Mr. Poucher.

10 You state that since the last case AUF appears
11 to have resolved its existing formal violations that
12 have been identified by DEP; is that correct?

13 **A** Well, do you have a line number there? I'm
14 not reading it the same way you're reading it.

15 **Q** You state on line 16, "Having had an
16 additional year to clean up its act, so to speak, Aqua
17 appears to have resolved its existing formal violations
18 that have been identified by DEP."

19 **A** Yes.

20 **Q** Okay. Is that another way of saying that
21 Aqua's environmental compliance records have improved
22 since the last case?

23 **A** That's not part of my testimony. I have no
24 testimony on that subject. But --

25 **Q** Sir, let's take a look at, at page 32 on lines

1 6 through 9.

2 A Could I, could I continue?

3 Q No, sir. I'd ask you to take a look at lines
4 6 through 9, where you state, you said this -- the DEP
5 issue is not part of your testimony. You state that, "I
6 also met with DEP and subsequently reviewed the DEP's
7 voluminous files dealing with water quality issues with
8 all of the Aqua systems dating as far back as 2002." So
9 you're now testifying that DEP issues are not part of
10 your testimony?

11 A I'm not a water quality expert at DEP,
12 environmental expert. We met with DEP to get the data.
13 I got the data, and I then gave the data to our expert,
14 who's also testifying in this case, and he analyzed it
15 and made whatever conclusions and recommendations. But
16 the only thing that I did in terms of DEP was to meet
17 with DEP and get the violations and the fixes, and then
18 give them to another witness.

19 Q I am really confused. Let's -- can you read
20 for the record the question and answer on page 32, lines
21 4 through 9?

22 A Well, it's already in the record.

23 Q I'd like, I'd like for you to read it, because
24 what you said to me was, was incongruous with what you
25 testified to in your prefiled direct. I'm trying to get

1 an understanding of what you're saying and what you're
2 not saying in purposes of this proceeding.

3 A The -- I'll read it into the record. You want
4 me to read it?

5 Q Yes, sir.

6 A "Yes. I also met with DEP and subsequently
7 reviewed the DEP's voluminous files dealing with water
8 quality issues with all of the Aqua systems dating as
9 far back as 2002. I reviewed Staff recommendation
10 dealing with water quality that was part of the original
11 PAA in this docket."

12 Q Do you want to revise your testimony today?

13 A No. I did that.

14 Q Okay. So you met with DEP and subsequently
15 reviewed DEP's voluminous files dealing with water
16 quality issues with all of the Aqua systems dating back
17 as far as 2002?

18 A Yes.

19 Q Okay.

20 A And I looked at every one of them.

21 Q Pardon me?

22 A I looked at every one of them.

23 Q Okay. Very good. So your testimony -- you're
24 testifying today about DEP issues, are you not?

25 A Yes.

1 Q Let me go back to my question. You state that
2 since the last case Aqua appears to have resolved its
3 existing formal violations that have been identified by
4 DEP. Is that correct?

5 A Yes.

6 Q Okay. Isn't that another way of saying that
7 AUF's environmental compliance records have improved
8 since the last case?

9 A And did I say yes to that question? I, I will
10 be glad to say yes.

11 Q Okay. You said that wasn't part of your
12 testimony initially, but now you're saying yes; correct?

13 A I'm saying that the DEP files in terms of
14 violations reflect that the violations have been cured
15 that were identified in those files.

16 Q Let me follow up on your statement that you
17 subsequently reviewed DEP's voluminous files for all of
18 Aqua's systems dating back as far as 2002.

19 Before doing so, I want to bring you back to
20 some of our chat yesterday where you stated that in the
21 last case the Commission found that AUF's quality of
22 service was marginal, except for Chuluota, which was
23 found to be satisfactory. Now in the last case the
24 Commission stated that the Chuluota system needed
25 improvement, did it not?

1 A Yes.

2 Q Now the reason for the Commission's finding of
3 unsatisfactory service at Chuluota was largely due to
4 trihalomethanes; correct?

5 A I believe that that was a major part of it.

6 Q And subsequent to the final order, the utility
7 has made investments, substantial investments in water
8 treatment facilities to address that water quality
9 issue; correct?

10 A Yes.

11 Q In the testimony in the last case you spent a
12 great deal of time talking about Chuluota, did you not?

13 A I think there was significant testimony on the
14 record, yes.

15 Q So in this case when you met with DEP and
16 reviewed DEP's voluminous files dating back to 2002, did
17 you go over DEP files regarding AUF's Chuluota system?

18 A My recollection is yes. And my recollection
19 is that the violations that were identified back at the
20 time of the last case had been cured by the replacement
21 of the system, and I believe you had four quarters of
22 good testing.

23 Q Do you have the exhibit that we've designated
24 as 311 handy? I'd like you to turn to tab 6.

25 A Now we're going back to 311. Is that this one

1 over here?

2 Q It's the thick one. The 311.

3 A Tab 6?

4 Q Yes, sir.

5 A Okay.

6 Q Take a moment and review this letter. It was
7 part of the voluminous files that you went over with
8 DEP. Do you remember this letter?

9 A I've read it.

10 Q Do you recall seeing this letter before you
11 filed your testimony?

12 A I'm not sure that I've seen this letter. But
13 I, I do know that I saw in the DEP files case closure on
14 that violation, yes.

15 Q I see nothing in your testimony where you
16 reported on this letter; correct?

17 A No.

18 Q But you spent a tremendous amount of time and
19 energy in your last testimony in the last case talking
20 about the problems at Chuluota; correct?

21 A I believe I testified.

22 Q Don't you think the Commission would have
23 liked to have had a report on Chuluota from you since
24 you raised the issue in the last case?

25 MS. CHRISTENSEN: Objection. Chuluota, other

1 than the water quality for the Phase II monitoring
2 program and whether it should be continued, is really
3 not part of this rate case.

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

5 **THE WITNESS:** Did you say you would allow it?

6 **CHAIRMAN GRAHAM:** Yes, sir.

7 **THE WITNESS:** The Chuluota water quality
8 testimony includes more than just the project and the
9 violation. The violation was, was registered by DEP,
10 and Aqua had no choice but to cure that violation or
11 lose its certificate to operate. And, and so the curing
12 of that violation is part of it.

13 I think, I think Chuluota is very interesting,
14 but the Chuluota case was not part of this docket in
15 terms of water quality. We did accept some testimony
16 regarding customer service from Chuluota customers, and
17 that's included in this stack of complaints that were
18 received by the PSC, as well as in the public hearings.
19 We listened to Chuluota customers. But Chuluota itself
20 is outside this docket, and, therefore, I don't -- if
21 the Commission didn't find out from someone else, namely
22 you, that the Chuluota violation had been cured, I
23 certainly didn't see it as my job to plow new ground or
24 plow over old ground in my testimony, sir. I didn't
25 think it was relevant to what I was saying in this case.

1 BY MR. MAY:

2 Q Let's turn to -- you would admit that the
3 Phase II monitoring is part of this docket, would you
4 not?

5 A Yes.

6 Q You testified earlier that Chuluota was part
7 of the Phase II monitoring. That was one of the eight
8 systems that was part of the aesthetic water quality
9 improvement initiatives, was it not?

10 A Yes.

11 Q Okay. Please turn to tab 7 in Exhibit 311.

12 A Okay.

13 Q Can you read this letter into the record? I
14 have some questions for you.

15 A You want me to read this letter into the
16 record?

17 Q Yes. This is another one of the letters that
18 you reviewed in the voluminous files of the DEP.

19 A This is a letter from Kim Dodson, Program
20 Manager, Drinking Water Compliance and Enforcement, to
21 Mr. Lihvarcik. It's three paragraphs. Jack Lihvarcik
22 was the President of Aqua Utilities at that time.

23 "This confirms a visit to the subject public
24 water system on January 25th, 2011, by Nathan Hess to
25 conduct a sanitary, sanitary survey inspection. A copy

1 of the sanitary survey inspection report is attached for
2 your reference and records.

3 "There were no deficiencies at your water
4 plant at this time of our visit. The overall operation
5 of the water plant was good, which is a credit to both
6 you and your operator. The Department appreciates the
7 excellent work being done on your water system and
8 values your continued spirit of cooperation in complying
9 with Department rules.

10 "If you have any questions, please contact
11 Nathan Hess by email at nathanhess@DEP.state.fl.us, or
12 by phone at (407)894-7555, extension 2276.

13 "Sincerely, Kim Dodson."

14 And of course this has nothing to do with my
15 testimony. I didn't testify on this specific docket --
16 document.

17 Q This, this was part of the DEP files that you
18 reviewed; correct?

19 A Yes. That was part of about a 6-inch file of
20 DEP violations. Yes.

21 Q And, again, why didn't you bring this letter
22 to the Commission's attention in your report?

23 A The purpose of my -- I didn't think that was
24 the purpose of my testimony, short answer.

25 Q Do you know why OPC did not want to question

1 Ms. Dodson in this case?

2 A No.

3 MS. CHRISTENSEN: Objection. I mean, it calls
4 for speculation, but --

5 CHAIRMAN GRAHAM: I agree with the objection.

6 BY MR. MAY:

7 Q Have you ever heard of the term "cherry
8 picking"?

9 A Yes.

10 Q What does it mean to you?

11 A Picking cherries off a cherry tree.

12 Q From an analysis standpoint, not a literal.

13 A I think you're trying to get me to say that
14 cherry picking is picking the best example out of a
15 statistical base. Did that make you happy?

16 Q I liked your first explanation better.

17 (Laughter.)

18 Let's move on, Mr. Poucher. Is back billing
19 defined in Chapter 367?

20 A Is back billing an issue in this docket? Is
21 that your question?

22 Q Let me, let me --

23 A Get a little closer, if you will.

24 CHAIRMAN GRAHAM: I don't think he heard your
25 question, sir.

1 BY MR. MAY:

2 Q Is back billing defined in Chapter 367?

3 A I don't believe that back billing is defined
4 in Chapter 367, but back billing is in the rules. And
5 it may well be there in 367. I haven't looked for it.

6 Q So is back billing defined in the rules?

7 A Yes.

8 Q Where?

9 A In the PS -- you want me to go back over here
10 to the --

11 Q Yeah. I'd like you to provide that
12 definition, if you can find it in the rules.

13 A If you have it, why don't you just give it to
14 me?

15 Q I can't find a definition in the rules.

16 MS. CHRISTENSEN: Commissioners, I would ask
17 that if there's a rule applicable to back billing, that
18 it be provided to the witness. I think he testified
19 there's a rule on back billing, but I'm not sure that he
20 knows off the top of his head the back billing rule by
21 heart and whether there's a specific definition
22 contained in it.

23 MR. MAY: The question is, I, I personally
24 can't find a definition of back billing in the rules.
25 If you can, I'd be more than happy to hear it.

1 **MS. CHRISTENSEN:** Well, I think Mr. May is
2 more -- is testifying. But I think Mr. Poucher said
3 that there's a rule on back billing and he would like to
4 review it. And if Mr. May has a rule citation, that
5 might facilitate this line of questioning.

6 **CHAIRMAN GRAHAM:** I believe Mr. May said that
7 he can't find a rule citation, and Mr. Poucher says that
8 there is a rule on back -- and so he's just asking for
9 him to provide that.

10 **THE WITNESS:** If, if you want to take time, I
11 will be more than happy to go into this stack of 700 and
12 some pages of PSC complaints. There are 37 of them
13 involving back billing, and in those back billing
14 complaints, the PSC Staff identifies rule violations
15 regarding 365 days in Florida and, and quotes a specific
16 rule regarding back billing that limits back billing by
17 utilities in Florida to 365 days.

18 **BY MR. MAY:**

19 **Q** Are you referring to Rule 25-30.350?

20 **A** I'm not referring to a number, but I would not
21 be surprised if that's not the correct number. But that
22 back bill rule applies to all utilities in Florida, not
23 just water. So it probably won't be found in 367. But
24 the Staff quotes it liberally in responding to PSC
25 complaints where the company has back billed beyond the

1 365-day limitation, and so I'm taking on face value from
2 the Staff responses on those documents there that there
3 is a rule. I didn't bother to go back and find it.

4 Q What's your definition of back billing?

5 A I think a common layman's definition of back
6 billing would be when a company bills for service that's
7 provided in arrears prior to the point in the current
8 billing period. And so it could be one month, it could
9 be 20 months, three years.

10 Q You stated at your deposition that the
11 Commission has adopted a similar rule on back billing
12 for telecom companies; correct?

13 A I think the rule applies to all companies.
14 365 days is as far back as you're allowed to go in back
15 billing.

16 Q And you're referring to Rule 25-30.350?

17 A I'll accept that, subject to check.

18 Q I don't see the term 365 days anywhere in that
19 rule, sir. Do you?

20 A I'm not reading it. But I can tell you, if
21 you will review the PSC complaints where the PSC -- if
22 you want, I'll go find some of them -- advises that
23 there is a 365-day rule. And I can also show you those
24 PSC complaints where Aqua in its response to the
25 Commission spells out the fact that it has a, there's a

1 365-day rule. They comply with it by back billing up to
2 365 days, and then writing off or ignoring any of the
3 billing that might have occurred prior to that 365 days.

4 Q So you have a lot of experience in the
5 telecommunications industry, don't you?

6 A Yes, I do. About 30 years.

7 Q Turn to tab 9. This is a PSC order dated
8 December 3rd, 2010. If you could flip over to page
9 6 and read the highlighted provision into the record.

10 MS. CHRISTENSEN: Objection. Is there a
11 question that Mr. May is posing?

12 CHAIRMAN GRAHAM: Well, let's get to that.

13 MR. MAY: Sure. I wanted to get a predicate
14 for the question.

15 CHAIRMAN GRAHAM: I'll allow him to continue.

16 THE WITNESS: So you want me to read it now?
17 BY MR. MAY:

18 Q Yes. This is, just to put it in context, this
19 is a dispute between Verizon and Bright House, and you
20 can read the highlighted provision.

21 A "Both parties agree that back billing is a
22 fact of life in the telecommunications industry, and on
23 occasion disputes may take more than a year to resolve."

24 Q So you would agree, Mr. Poucher, would you
25 not, that back billing is a common occurrence in the

1 telecom area?

2 A I wouldn't say --

3 MS. CHRISTENSEN: Objection. Relevance. This
4 is back billing between two commercial entities and not
5 back billing as it relates to a company and its
6 customers.

7 CHAIRMAN GRAHAM: Well, I have to overrule the
8 objection, because I don't know who it's between until
9 he can get to the point.

10 BY MR. MAY:

11 Q Is there a threshold above which the number of
12 back bills issued by a utility becomes excessive?

13 A Not that I know of. I have not seen any one
14 established, but to the telecom industry, back billing
15 is a fact of life.

16 Q You would agree the Commission hasn't
17 established any type of threshold level for back
18 billing, has it?

19 A In terms of a benchmark, no.

20 Q Now Ms. Chambers has testified that the
21 percentage of back bills on AUF's system is
22 approximately .07%. Do you recall that?

23 A I heard that testimony. And I would refer you
24 to my exhibit that provides the, the back billing
25 complaints all, in all the, the PSC complaints that

1 we've been discussing. And back billing is a
2 significant part of the complaints before the PSC, about
3 25% of the complaints in the last year.

4 Q Sir, if you could just answer the question.

5 A I'm answering the question, and I'm clarifying
6 that 25% of the PSC complaints deal with back billing
7 here in Florida.

8 Q Do you know how many -- do you know how the
9 .07% compares to the percentage of back bills for any
10 other water or wastewater utility in Florida?

11 A No.

12 Q Turn to page 15 of your testimony. I'm
13 specifically referring to lines 4 through 8.

14 A Okay.

15 Q I think I'm on the wrong page. Hold one
16 second, Mr. Poucher.

17 You state in your testimony that Aqua has no
18 systematic, has no systematic review of its accounts to
19 alert it to zero consumption; correct?

20 A Where, where did you see that?

21 **MS. CHRISTENSEN:** Can we have a page and the
22 line citation for that?

23 **MR. MAY:** Sure. Let me grab that for you.

24 **CHAIRMAN GRAHAM:** Mr. Poucher, do you not
25 recall saying that in your testimony?

1 **THE WITNESS:** Page 16, line 1, is that where
2 you're looking at?

3 **MR. MAY:** No. Hold on. Let me get this.

4 **CHAIRMAN GRAHAM:** Mr. Poucher, do you not
5 recall, do you not remember saying that in your
6 testimony?

7 **THE WITNESS:** I don't know where it's in my
8 testimony.

9 **CHAIRMAN GRAHAM:** Do you not recall saying
10 that in your testimony?

11 **THE WITNESS:** I'm not sure.

12 **CHAIRMAN GRAHAM:** Okay. Thank you. We'll
13 take the time to find it.

14 **MR. MAY:** Give me one second. We'll find it
15 for you.

16 (Pause.)

17 **BY MR. MAY:**

18 **Q** It's page 12, lines 9 through 11. And I
19 apologize, Mr. Poucher.

20 You state in your testimony that Aqua
21 apparently has no systematic review of its accounts to
22 alert it to the absence of billing and the failure of
23 the ERT, which has become a common problem; is that
24 correct?

25 **A** Yes. Yes, that's in my testimony.

1 Q Do you know what a seasonal customer is?

2 A Yes, I do.

3 Q Do you know that AUF has seasonal customers?

4 A Yes, I do.

5 Q When a seasonal customer is not residing at
6 his or her second home in Florida, isn't it possible for
7 that zero -- that seasonal customer's meter to read zero
8 consumption?

9 A Yes, it is.

10 Q So for AUF, a zero consumption read does not
11 necessarily mean that there's a problem with the meter
12 or the ERT; correct?

13 A Not necessarily. You have to investigate it
14 to find out, or have a record that would show you.

15 Q Were you here when Ms. Sue Chambers testified?

16 A Yes, I was.

17 Q And are you aware now that AUF is actively
18 working zero consumption reports in order to address
19 zero consumption, which is a root cause of back billing?

20 A Yes, that's what I heard.

21 Q Okay. Was that the first you've learned of
22 that?

23 A Yes. And there is no evidence of that in the
24 complaint file, which is part, the major part of my
25 testimony.

1 Q You're recommending a 100 basis point
2 reduction in AUF's ROE, are you not?

3 A That's Public Counsel's position, yes.

4 Q Can you turn to tab 13 of the master exhibit?

5 A Got it.

6 Q Can you read the last sentence in subparagraph
7 2 of that statute? And I have a couple of questions.

8 A "If the Commission," is that where you want me
9 to start?

10 Q Yes, sir.

11 A "If the Commission finds that a utility has
12 failed to provide its customers with water or wastewater
13 service that meets the standards promulgated by the
14 Department of Environmental Protection or the Water
15 Management Districts, the Commission may reduce the
16 utility's return on equity until the standards are met."

17 Q What standards promulgated by the Department
18 of Environmental Protection or the Water Management
19 Districts is -- are you alleging that AUF has failed to
20 meet in this case that would warrant an ROE penalty?

21 A None.

22 Q Except for Chuluota, the Commission did not
23 impose an ROE penalty on AUF in the last case; correct?

24 A Correct.

25 Q But you are proposing an ROE penalty in this

1 case.

2 A Yes. And I discuss that in my testimony. So
3 does Kim Dismukes.

4 Q Are you basing that ROE penalty on the failure
5 of the company to meet some of its internal goals and
6 metrics?

7 A I'm basing my recommendation --

8 Q Could you answer the question yes or no, and
9 then we can -- I'll certainly give you an opportunity to
10 explain.

11 A Partially, yes. So it's halfway yes and
12 halfway no.

13 Q Okay. Fair enough.

14 A Do you want me to explain it?

15 Q Absolutely.

16 A The -- our recommendation for a, an adjustment
17 to the lower end of the ROE range is described in my
18 testimony as an incentive. Our record -- and it's based
19 on customer service. Our record that is before you in
20 this docket, that's a major part of it. And you've
21 heard the customers complain about the customer service.
22 We think that the company needs an incentive to do
23 better. These are the worst customer hearings that I've
24 ever had in terms of unanimous customer opinion about
25 bad service. So this is an incentive to get you to

1 continue to work to try to improve your service, so that
2 the next time we have a round of customer service
3 hearings someone will appear and say they're happy.

4 Q Do you believe it's important for a business
5 to have internal performance goals to drive quality?

6 A I believe that your internal service goals
7 have improved.

8 Q But you also indicated earlier, did you not,
9 that part of your basis for your ROE penalty is because
10 of the failure of AUF to meet some of its internal
11 performance goals; correct?

12 A Yes.

13 Q I think you and I talked about this at your
14 deposition. Unlike the telecommunications area, the
15 Commission rules don't require water and wastewater
16 utilities to have service metrics; correct?

17 A There are very few rules that apply to water
18 companies.

19 Q I'm going to ask you the same question I asked
20 Ms. Vandiver yesterday, because I'm struggling with
21 this. But should, should a utility be rewarded with an
22 ROE bonus for meeting voluntary target goals to ensure
23 quality?

24 A Absolutely not. Utilities ought to get a fair
25 rate of return. We pay them to provide good service to

1 operate in the State of Florida. We shouldn't give
2 people bonuses to do their job.

3 Q But you're stating that --

4 A But we should have incentives to make them do
5 better when they're not doing their job.

6 Q But you stated that you're recommending an ROE
7 penalty for failure to meet those internal goals;
8 correct?

9 A Well, the 100 point adjustment that is in my
10 testimony, primarily in Kim Dismukes' testimony, is
11 based on the totality of customer service, which is bad.
12 And the record is there, and we think that's sufficient
13 for the Commission to take action.

14 Q Again, I'm kind of in a quandary here. If a
15 utility is not to be rewarded for meeting voluntary
16 performance goals but could be subject to a penalty for
17 failure to meet some of those goals, why would the
18 utility ever adopt the goals in the first instance?

19 A Well, obviously if you want to run a company
20 well, you're going to have to have goals. And the
21 performance goals that apply to Aqua that are the basis
22 of, of your payment plan for your managers has to be
23 based on something. And that's how, how good businesses
24 are run. So I wouldn't recommend that any company
25 operating in Florida as a public utility would attempt

1 to run its operation without performance goals.

2 Q Does the Office of Public Counsel have
3 performance goals?

4 A Yes. We do good every day.

5 Q Other than that, do you have any formal
6 performance goals?

7 A We don't have any numerical goals. But, of
8 course, we can be fired the very next day for no reason
9 whatsoever. So that's sufficient motivation for us.

10 Q Let's turn to page 19 of your testimony.

11 A Yes.

12 Q Actually, let's flip over to page 21 to kick
13 this off.

14 You're testifying as an expert in
15 affordability, are you not?

16 A Yes.

17 Q And during your deposition you agreed that the
18 terms affordability or affordable rates are not defined
19 in Chapter 367; correct?

20 A The words are not included in Chapter 367,
21 yes.

22 Q And affordable rates or affordability is not
23 defined in the Commission's rules regulating water or
24 wastewater utilities either; correct?

25 A Well, I believe -- yes. Correct.

1 Q Are you proposing to apply an affordability
2 adjustment on AUF's rates?

3 A I think the decision of the Commission, and
4 this is our testimony, is that the end result of this
5 Commission's decision must produce rates that are fair,
6 just, and reasonable. There's testimony in the record
7 regarding the unaffordability of Aqua's service, and
8 then you all heard that testimony, and you saw customers
9 bring their bills, compare their rates to their
10 neighbors'. And you cannot ignore that.

11 Reasonable rates, by definition, which are in
12 the statute, the words reasonable, must be affordable.
13 And while that phrase is not defined, that doesn't mean
14 that it's [sic] important. And evidence that the,
15 that's in the record that shows you that those rates are
16 unaffordable means you've got a real problem in
17 accepting a revenue requirement that produces rates that
18 are not affordable. And that's in the record. I don't
19 have a solution to that problem and I don't have a
20 formula and I don't have a number.

21 Q Let's talk about a formula. I think you and I
22 and maybe Mr. Harris chatted about this at your
23 deposition. Do you have your deposition handy?

24 A No.

25 Q I'll read you the question.

1 The question was presented to you, "Can you
2 provide us with a formula or some other method to define
3 what constitutes an affordable rate?"

4 "No. I cannot give you a formula for a water
5 company in Florida."

6 Do you recall that?

7 A Yes, I recall the definition -- the
8 deposition.

9 Q Would it be fair to the utility to adjust a
10 utility's rates based upon an affordability criteria
11 without the utility having advance notice of how that
12 adjustment, how that affordability formula would be
13 applied?

14 A Well, I think the, the answer to your question
15 is, is yes. The statutes say fair, just, and
16 reasonable. When you file a rate case, you throw your
17 hands at the mercy of the Commissioners, the definition
18 of reasonable. And the decision is up to them. So
19 there's no certainty here. You file a case; you have no
20 guarantee how it's going to come out.

21 Q At your deposition you couldn't identify any
22 case where the Commission has applied an affordability
23 adjustment on a water and wastewater utility's revenue
24 requirement; correct?

25 A Yes. In my deposition, Commissioners, I could

1 not recall a single case, and I've worked for Public
2 Counsel for 20 years.

3 And the reason for that, if I may expand, is
4 that it's never been an issue. The water rates that
5 apply to Florida, my \$24 rate in Sopchoppy is fair and
6 reasonable and affordable. We've never had testimony
7 like this before. The 121 docket, which basically
8 occurred before the first of three increases, didn't
9 have a lot of testimony about affordability. But in
10 this docket, and with these hearings and that stack of
11 customer complaints, in the minds of the customers who
12 are our clients, affordability is an issue. And I, the
13 only reason it's an issue is because Aqua has such high
14 rates.

15 Q Let's talk about your experience with
16 affordability a moment. And I think during our
17 deposition I think you stated that your experience with
18 affordability criteria is primarily in relation to your
19 work with the Universal Service Fund in the telecom
20 area; is that correct?

21 A That's correct.

22 Q And I've known you a long time, Mr. Poucher,
23 and I respect you. And I know you have a tremendous
24 amount of knowledge in the telecommunications area, and
25 let's talk about that a little bit.

1 When the U.S. Department of Justice broke up
2 the Bell system in the early '80s, you stayed with
3 Southern Bell; correct?

4 A That's correct.

5 Q And some of your other contemporaries went
6 with AT&T Communications of the Southern States; is that
7 correct?

8 A That's correct.

9 Q Actually my first job when I got out of law
10 school with my firm was to file the application for an
11 IXC certificate for AT&T Communications of the Southern
12 States, and I know there's been discussion for quite
13 some time about how you can keep basic
14 telecommunications rates affordable.

15 A Yes.

16 Q You stated at your deposition that the
17 Universal Service Fund is structured to satisfy the
18 requirements of the Federal Telecommunications Act of
19 1996; correct?

20 A Yes.

21 Q And that law requires specific funding for the
22 purpose of achieving universal service and affordable
23 rates for all citizens of the United States; correct?

24 A Yes.

25 Q You also agreed at your deposition that the

1 Universal Service Fund provides a subsidy to certain
2 rural high cost telecommunications companies so that
3 they can keep their local rates affordable; is that
4 correct?

5 A Yes. The low cost states like Florida
6 subsidize the high cost states like Montana.

7 Q And that subsidy flowing to these high cost
8 telecommunications companies is funded from
9 contributions from all telecommunications company
10 customers, not just the customers of the high cost
11 systems; correct?

12 A That's correct. That's just what I said.

13 Q Is there a federal or state law that would
14 provide a subsidy to certain high cost water systems so
15 that they could keep their basic water rates affordable?

16 A Not that I know of.

17 Q You work rather extensively with NARUC on
18 Universal Service Fund issues, do you not?

19 A With NASUCA, not NARUC.

20 Q I'm sorry. I didn't get that, sir.

21 A With NASUCA, the National Association of State
22 Utility Consumer Advocates.

23 Q And you've actually traveled to several NARUC
24 and SEARUC meetings over the last several years on
25 universal service issues; correct?

1 A That's correct.

2 Q And one of those meetings was in California
3 and the other was in Nashville?

4 A Last year, yes.

5 Q While you were at these conferences, have you
6 ever discussed legislation that would mirror the
7 Telecommunications Act of 1996 so as to provide
8 subsidies to high cost water systems so that those
9 companies could keep their basic water rates affordable?

10 A No.

11 Q Why not?

12 A That's not my job.

13 Q Could you explain the difference between the
14 subsidies from the Universal Service Fund to keep basic
15 telecommunications services affordable and subsidies
16 received by a telecommunications company from the
17 Universal Service Fund for offering a Lifeline rate?

18 **MS. CHRISTENSEN:** Objection. Relevancy. I
19 mean, I think we're getting a little far afield, but --

20 **CHAIRMAN GRAHAM:** I'm going to overrule the
21 objection, and I can tell you the key reason is it's
22 difficult getting clear, concise answers, so I'm going
23 to give the attorney latitude to make the point that
24 he's trying to make.

25 **THE WITNESS:** Well, I'll try to keep it short.

1 It's hard.

2 However, the universal service program, as one
3 of the arms of universal service, includes Lifeline
4 telephone service support for those companies that
5 provide a Lifeline discount for low income subscribers.
6 And the purpose of that is to ensure that every customer
7 in the country has access to basic telephone service at
8 affordable rates.

9 **BY MR. MAY:**

10 Q Have you, have you ever worked for the folks
11 at, with your organization that you just mentioned on
12 proposing federal or state legislation concerning a
13 Lifeline type rate structure for water or wastewater
14 utility customers?

15 A No, we have not. I have not.

16 Q Have you ever approached Aqua with the
17 possibility of working together on a proposal that could
18 come up with a Lifeline type rate that would provide
19 water rates at an affordable rate to the customer?

20 A No, I have not.

21 Q Okay. Let's talk about your role in this rate
22 case, Mr. Poucher. I think on page 13 of your
23 deposition I asked you about who you represent, and you
24 said the citizens of the State of Florida; is that
25 correct?

1 A That's correct.

2 Q Okay. I followed up and asked whether you
3 meant the citizens or just -- all citizens or just
4 citizens that were customers of utilities. And you said
5 all citizens; correct?

6 A Yes.

7 Q You also said during your deposition that one
8 of your responsibilities is to inform your clients, the
9 citizens, as to what to expect in a rate case; correct?

10 A Yes.

11 Q And you agreed that some of the customers in
12 Pasco County want AUF to sell its systems to the FGUA so
13 that the customers can get Pasco County rates; correct?

14 A I'm aware of that, yes.

15 Q Okay. What's the FGUA?

16 A Florida Governmental Utility Authority, I'm
17 guessing, but I would say that's it.

18 Q On page 94 of your deposition you stated that
19 you were aware that Mr. Mariano had testified that he
20 had asked the FGUA to look into purchasing Aqua's Pasco
21 County facilities; correct?

22 A I believe I answered yes to a question that
23 you posed.

24 Q Now if FGUA were to purchase Aqua's Pasco
25 County facilities, have you looked into whether your

1 clients, the citizens, would receive Pasco County rates?

2 A The -- repeat your -- have I --

3 Q Sure.

4 A Repeat. Please repeat.

5 Q If FGUA were to purchase Aqua's Pasco County
6 facilities, have you looked into whether your clients,
7 the citizens, AUF customers in Pasco County, would then
8 receive Pasco County rates?

9 A No. That is not part of our job. FGUA is not
10 regulated by this Commission, and therefore we wouldn't
11 be looking at that.

12 Q But you're, you're an affordability expert;
13 correct?

14 A Yes.

15 Q And you represent all of the citizens, not
16 just customers of utilities; correct?

17 A If you want to correct my testimony, I'll
18 answer no to that question. Our charge, per the
19 Legislature, is regulated utilities. Just about every
20 single citizen in the state receives service from some
21 regulated electric, telephone, gas, or water company.
22 And so we legitimately would say we represent all the
23 citizens, but only as it relates to regulated public
24 utility services. That's the end of our authorization
25 by the Legislature.

1 Q But I thought that you testified that you
2 understood that some of your current clients, the
3 customers of Aqua, expect as a result of this rate case
4 that Aqua will sell its facilities to Pasco County,
5 excuse me, to the FGUA, and then be able to enjoy Pasco
6 County rates; correct?

7 A You asked me if I was aware. I think I'm
8 aware, but I'm not directing that activity and I have
9 nothing to do with it. It has nothing to do with my
10 testimony.

11 Q You don't believe it's your responsibility to
12 manage expectations of your clients, your customers?

13 A Not as, not as far as it relates to the issues
14 that you're trying to talk about that are not in my
15 testimony.

16 Q Let's turn to tab 10 of Exhibit 311. This is
17 an order of the Public Service Commission approving
18 FGUA's acquisition of Lindrick Utility System in Pasco
19 County, is it not?

20 A Yes.

21 Q And prior to this acquisition, Lindrick
22 Utility System was regulated by the Florida Public
23 Service Commission; correct?

24 A That's correct.

25 Q Now after the acquisition by FGUA, did

1 Lindrick Utility System enjoy Pasco County rates, or was
2 there some other rate?

3 A I don't know. I have no knowledge of this
4 document. It was not part of my testimony. I didn't
5 review it. I don't know what rates apply to Lindrick.

6 Q But you're testifying as an expert in
7 affordability, are you not?

8 A Yes.

9 Q Let's talk about the Exhibit 319.

10 A Did you say 319?

11 Q Yes. 319. You and I had a conversation
12 regarding this document, and I know that you had not
13 seen this document before your deposition, but I want to
14 talk to you about this document. It's a report by
15 Standard & Poor's regarding Florida Governmental
16 Utilities Authority Lindrick Utility System.
17 Specifically referring you to page 3 of the report,
18 there's a highlighted section there.

19 MS. CHRISTENSEN: I'm going to object to this
20 document. I believe the witness testified in his
21 deposition that he had no personal knowledge of this
22 document and it was not a document that he relied on in
23 preparing his testimony. And I don't believe we've
24 established a foundation on which this witness can
25 testify regarding the contents of this document here

1 today. It contains hearsay within hearsay. It's a
2 Standard & Poor's report that contains an analysis by
3 somebody that's not present today to cross-examine. And
4 I think Mr. Poucher has already testified today that he
5 doesn't know what Lindrick's rates are.

6 **MR. MAY:** I think the Florida Evidence Code
7 specifically exempts market reports and commercial
8 publications from the hearsay rule, Section 90.803(17).

9 **MS. CHRISTENSEN:** Market reports as far as --

10 **CHAIRMAN GRAHAM:** Hold on a second.

11 Ms. Helton.

12 I'm sorry. Ms. Christensen, please continue.

13 **MS. CHRISTENSEN:** I was going to just briefly
14 respond that market reports such as ticker tapes and
15 daily stock trading would be market reports. An opinion
16 analysis of an analyst from Standard & Poor's is clearly
17 hearsay and not an exemption within that hearsay rule.
18 Plus, I don't think that he's established that this
19 witness has personal knowledge of the document or
20 anything that's contained within.

21 **CHAIRMAN GRAHAM:** Ms. Helton.

22 **MS. HELTON:** Mr. Chairman, I do think that a
23 foundation should be laid with respect to the witness's
24 knowledge of the document. That being said, if it's a
25 hearsay document, which I'm not sure, I think that the

1 exception probably does apply that Mr. May has
2 mentioned. If it's a hearsay document, the
3 administrative proceeding type of proceeding that we're
4 in today does not prohibit hearsay testimony or hearsay
5 evidence from coming in. It -- hearsay itself cannot be
6 competent, substantial evidence to make a finding, but
7 it can corroborate other evidence. And as long as
8 there's other evidence that you can rely on, this would
9 be an appropriate document for you.

10 We also typically look at Standard & Poor's
11 documents in all types of proceedings. That is one of
12 the, I'm not sure if institution is the right word, but
13 one of the types of documents that the Staff regularly
14 looks at, and I believe that you would regularly look at
15 in making a decision.

16 So my recommendation to you would be to allow
17 the cross-examination to go on, let Mr. May lay a
18 foundation with respect to Mr. Poucher's knowledge of
19 the document. And then if there's another objection
20 that Ms. Christensen has, address that at the time.

21 **CHAIRMAN GRAHAM:** Ms. Christensen, I'm going
22 to have to overrule your objection. Let Mr. May
23 continue.

24 **BY MR. MAY:**

25 Q Mr. Poucher, I'm asking you this question or

1 this series of questions in your capacity as an expert
2 on affordability.

3 The Standard & Poor's document states, "To
4 finance," in reference to the Lindrick system, "To
5 finance the system's acquisition and its CIP," which
6 means capital improvement plan, "FGUA raised rates by
7 25% in fiscal year 2010 and 5% in fiscal 2011. It plans
8 to increase rates by 14% in 2012. As a new owner, FGUA
9 has full rate setting authority. Now it is" -- excuse
10 me -- "it is now projecting to raise rates by 13% in
11 fiscal year 2013, compared with the previously planned
12 3.7% increase. After the initial increase, rates are
13 what we consider very high, \$112.96, based on a monthly
14 combined water and sewer consumption of 7,500 gallons.
15 Based on the planned rate increase, we project rates for
16 7,500 gallons of combined monthly service to increase to
17 \$155.95 by fiscal year 2012. Rates are what we regard
18 as high compared with the rates of neighboring systems,
19 especially when we take into account area wealth and
20 income levels and the county's 12.1% unemployment.
21 Although management believes its projected rate
22 increases include those rates passed on for purchased
23 water and wastewater treatment, rates could increase
24 further if actual rates end up being higher than
25 currently projected."

1 My question to you, sir, do you see anything
2 in the increases in rates by the FGUA where FGUA
3 addressed affordability?

4 A I don't see anything in here by the FGUA. I
5 see an analysis by Standard & Poor's apparently.
6 However, this came off the Internet. I don't know who
7 originated this. I have no knowledge of the document.
8 I never saw it before. I have no knowledge of Lindrick.
9 I have no knowledge of FGUA rates. And, and, therefore,
10 I don't believe I can intelligently discuss a document
11 that I have never seen. And it certainly does not
12 include any prices, so it's not relevant in terms of
13 affordability either.

14 Q But I think you testified earlier that your
15 clients, your current clients have an expectation that
16 if FGUA acquires Aqua's facilities in Pasco County, they
17 will receive Pasco County rates.

18 A I accepted that question and said yes. I have
19 not talked to a single customer in Pasco County
20 regarding acquisition of their service by the county or
21 by FGUA or anyone else.

22 Q Subject to check, sir --

23 A That's not part of my testimony, and I don't
24 know why you want to ask me a question about it.

25 Q Do you see anything in this report that

1 indicates that in increasing rates, FGUA considered
2 quality of service before increasing the rates of
3 Lindrick?

4 A Well, if you insist on talking about rates,
5 I'd be glad to. First of all --

6 Q I asked you, sir, did you see anything in this
7 report that indicates that FGUA considered quality of
8 service before increasing the rates of Lindrick?

9 MS. CHRISTENSEN: I'm going to object. I
10 think there's a lack of foundation for the question.
11 Mr. Poucher has testified he doesn't know the contents
12 of the document, he didn't rely on it, and it's not part
13 of his testimony. And while it may be admissible
14 through some other witness, I think at this point, I
15 think for purposes of questioning this witness, there's
16 a lack of foundation to continue the cross-examination
17 on this particular exhibit.

18 MR. RICHARDS: I'd like to join in the
19 objection also, because we've confirmed that this is
20 Standard & Poor's document, and he's asking about FGUA's
21 decisions and issues and what they considered in the
22 rates. And this is an analysis by a third party, and I
23 don't think it's an appropriate question.

24 CHAIRMAN GRAHAM: I'll agree with the
25 objections. I understand the path that the attorney is

1 trying to get down, but I didn't see anything in this
2 document where it talks about the rates tied to quality
3 of service. So unless you can somehow have some other
4 supporting documentation that is not part of this that
5 says that it was definitely not looked at or it was
6 definitely looked at, I need to go with the objection.

7 **MR. MAY:** I understand, Mr. Chairman. Thank
8 you.

9 **BY MR. MAY:**

10 **Q** Subject to check, Mr. Poucher, you would agree
11 that when FGUA acquired Lindrick's system in Pasco
12 County, that the Lindrick system customers did not
13 receive Pasco County rates?

14 **A** Well, that's your testimony, but I have no
15 knowledge of it.

16 **Q** Okay.

17 **A** I'll accept it, subject to check.

18 **Q** Subject to check, are the rates that FGUA
19 charges customers of Lindrick higher than AUF's PAA
20 rates established in the PAA order?

21 **A** Once again, I have no knowledge of the
22 Lindrick rates. I have not seen them, and of course
23 this document doesn't talk about prices. The, the
24 prices that started when FGUA acquired Lindrick, those
25 existing rates, I don't know what they were. I don't

1 know what they would be at the end of whatever the
2 company might propose to do.

3 Q You were at the customer service hearings in
4 New Port Richey, were you not?

5 A Yes.

6 Q And you were at the May 24th agenda here last
7 year when the Commission voted on the PAA order, were
8 you not?

9 A Yes, I was.

10 Q And you saw the placards in the back, "We Want
11 Pasco County Rates"?

12 A I was facing the Commissioners.

13 Q Okay. Is it your testimony today that the
14 customers that you represent in Pasco County don't want
15 Pasco County rates?

16 A I have -- am not here testifying on behalf of
17 the Pasco County customers as it relates to their
18 desires to change providers. There is a witness here
19 that will be glad to discuss that with you, I'm sure.

20 Q But you previously testified that one of your
21 roles as Public Counsel is to manage the expectations of
22 your clients, and that's what I'm trying to figure out.
23 Have you done anything to, to educate yourself or
24 educate your clients as to whether if, if FGUA acquires
25 the Aqua facilities, those customers will receive Pasco

1 County rates?

2 MS. CHRISTENSEN: Objection. Asked and
3 answered. I think we've -- I think Mr. Poucher has
4 clearly stated numerous times that he has not explored
5 this, that was not the scope of his testimony, and that
6 he is not representing the customers in a capacity of,
7 of trying to switch their provider.

8 CHAIRMAN GRAHAM: I have to agree with the
9 objection.

10 BY MR. MAY:

11 Q Is the FGUA a governmental entity?

12 A It's a private entity, I believe, established
13 by, I think, a Florida statute.

14 Q It's subject to the Public Records Act, is it
15 not?

16 A Yes. It's unregulated by this PSC. It sets
17 its own rates.

18 Q And its rates are posted on its website;
19 correct?

20 A I haven't seen the website.

21 Q Subject to check, anyone could access the
22 rates and figure out what they are, could they?

23 A If there's a website.

24 Q And you've made no attempt to do that?

25 A No.

1 Q Okay. Subject to check, FGUA acquired
2 Colonial Manor Utility Company in Pasco County in
3 December of 2009, did it not?

4 A I'll accept that.

5 Q Do you know whether those customers received
6 Pasco County rates after FGUA acquired it?

7 A I have no knowledge of FGUA rates for its
8 customers.

9 Q Subject to check, would you agree that, that
10 FG -- that Colonial Manor customers did not receive
11 Pasco County rates, instead they received FGUA rates,
12 and they're expected to face a 15% increase in rates in
13 2012?

14 **MS. CHRISTENSEN:** Objection. The witness has
15 answered that he does not know what the rates are, and I
16 believe Mr. May is bordering on testifying himself.

17 **CHAIRMAN GRAHAM:** I have to agree with your
18 objection. Mr. May, I need for you to move a little
19 quickly to the point you're trying to make with FGUA.

20 That being said, we need to take a break for
21 the court reporter. So let's take a ten-minute break.

22 (Recess taken.)

23 Okay. I think we're about ready to reconvene.

24 Mr. May.

25 **BY MR. MAY:**

1 Q Thank you, Mr. Chairman.

2 Mr. Poucher, during your deposition, you
3 stated that your role is to represent customers in
4 water, wastewater, electric, and gas cases; correct?

5 A Yes.

6 Q Did you listen to the questions from the bench
7 yesterday regarding why some customers -- why some
8 customer service hearings were more heavily attended
9 than others?

10 A I'm not sure that I was here then.

11 Q Okay. How many customer service hearings were
12 conducted around the state?

13 A I think around ten or 12.

14 Q Did you attend the customer service hearing on
15 August 30th in Fort Myers?

16 A No.

17 Q Do you know how many customers spoke at the
18 Fort Myers customer service hearing?

19 A Zero.

20 Q Out of the ten customer service hearings, you
21 attended only two of those hearings; correct?

22 A That's right.

23 Q One in New Port Richey and one in Lakeland?

24 A Correct.

25 Q How many customers spoke at New Port Richey?

1 A How many attended?

2 Q How many spoke.

3 A Off the top of my head, I think 41, something
4 like that. There was a large crowd.

5 Q And there was another large crowd at Lakeland;
6 correct?

7 A That's correct.

8 Q And you attended the Lakeland hearing;
9 correct?

10 A Yes.

11 Q I want to explore your role a little more in
12 representing the consumers.

13 In the discovery process you produced a number
14 of emails and correspondence with a gentleman by the
15 name of Frank Reams.

16 A I produced all of my emails.

17 Q Now you said that your responsibility is to
18 represent customers of utilities. Mr. Reams isn't an
19 AUF customer, is he?

20 A He's not a customer of Aqua.

21 Q You communicate with him quite often, don't
22 you?

23 A He sends me a lot of emails, yes.

24 Q During your deposition, you stated that the
25 role of the Office of Public Counsel is not to advance

1 political agendas; correct?

2 A I believe I said that we don't propose
3 legislation, but the answer is yes.

4 Q Okay. Let's take a look at Exhibit 320.

5 A Exhibit which, 320?

6 Q 320, yes, sir. It's an excerpt from the New
7 Port Richey hearing.

8 A Okay.

9 Q In response to one of my questions, Mr. Reams
10 stated that in the course of this case he works with
11 Food & Water Watch folks, particularly Jorge Aguilar and
12 Mary Grant. Do you recall that?

13 A That I work with them?

14 Q That he works with them.

15 A I have no connection whatsoever. I have never
16 talked to those people. Mr. Reams has, however.

17 Q My question to you, you understand that
18 Mr. Reams works closely with the Food & Water Watch
19 folks; correct?

20 A Yes.

21 Q Okay. Now Mr. Reams has a political agenda,
22 doesn't he?

23 A I believe so.

24 Q Okay. Let's look at Exhibit 321. At the top
25 of the page there's an email from Frank Reams to you

1 dated June 27th, 2011. Can you, can you read that for
2 the record, please?

3 **MS. CHRISTENSEN:** Objection. If -- excuse me.
4 Mr. May has not posed a question to the witness.

5 **CHAIRMAN GRAHAM:** I believe the question is
6 coming after he reads the email.

7 **MS. CHRISTENSEN:** I would then ask that the
8 witness be instructed to read the email to himself, and
9 then he can respond to whatever question Mr. May may
10 have.

11 **CHAIRMAN GRAHAM:** I'd like to hear the email.
12 If you'd just please read the email.

13 **THE WITNESS:** Read it?

14 The email is dated July -- June 27th. It's
15 from Frank Reams and it is to me, June 27th, 2011.

16 "I think we have the best of both worlds right
17 now. Aqua is hung up with marginal service quality. We
18 have the monitoring, which affords the opportunity to
19 keep the pressure up on them, and we have the proposed
20 legislation that will be introduced with the two items
21 above, gives us a feel, a pretty strong argument to get
22 a bill passed. My feeling only. Have not yet talked
23 with many others."

24 That's from Frank Reams, and I was the
25 recipient.

1 BY MR. MAY:

2 Q Am I to read that email that you and Mr. Reams
3 are working closely on legislation, or is he talking
4 about another --

5 A Absolutely, absolutely not.

6 Q Okay. Do you know whether Food & Water Watch
7 has a political agenda?

8 A Yes.

9 Q Let's take a look at Exhibit 323.

10 A Yes.

11 Q I'm referring you to page 7. And I wanted to
12 ask you -- you had indicated that you knew that Food &
13 Water Watch has a political agenda. I want to explore
14 that a little more. Can you read the highlighted
15 paragraph there, starting with, "This year, eight
16 communities"?

17 A Sure.

18 MS. CHRISTENSEN: Objection. Lack of
19 foundation. He hasn't established that the witness has
20 any familiarity with this document whatsoever.

21 CHAIRMAN GRAHAM: I want to see where this is
22 going.

23 BY MR. MAY:

24 Q This is the annual report for Food & Water
25 Watch. Could you read that paragraph, sir?

1 A I don't know anything about this document,
2 except I did read it last night, Mr. Chairman.

3 And do you want me to read it?

4 Q Yes, I do.

5 A "This year, eight communities from across the
6 State of Florida served by Aqua America joined us to
7 form a statewide coalition. The three groups in Food &
8 Water Watch have agreed to work on a statewide campaign
9 to ask state officials to freeze any new Aqua
10 acquisitions, reduce the rate of return that Aqua makes
11 in Florida, and help communities remunicipalize their
12 water systems. This new coalition will call itself
13 Florida Flow, For Local Ownership Of Water. We are
14 demanding better oversight of the company, want to
15 remunicipalize local water."

16 I have never seen this document before last
17 night, never talked to the people from Food & Water
18 Watch.

19 Q Let me ask you a question, Mr. Poucher. What
20 does it mean, remunicipalize local water systems?

21 A I don't know.

22 Q You have no idea?

23 A No. Not my document.

24 Q The passage that you just read states that
25 three groups in Food & Water Watch have agreed to work

1 on a statewide campaign to ask state officials to freeze
2 any new Aqua acquisitions, reduce the rate of return
3 that Aqua makes in Florida, and help communities
4 remunicipalize their water systems.

5 You have no, you have no idea what
6 remunicipalize their water system -- what does it mean
7 to ask a state official to reduce the rate of return?

8 A I don't know what it means. I don't know what
9 that document means. I've never seen it before.

10 MR. MAY: We'd like to pass out another
11 exhibit, Mr. Chairman.

12 CHAIRMAN GRAHAM: Sure. We're going to have
13 to give this an exhibit number, so we'll call this --
14 Staff, I believe we're at 325; is that correct?

15 MR. JAEGER: Yes, Chairman. 325.

16 CHAIRMAN GRAHAM: Mr. May, the description
17 will be page 131 from --

18 MR. MAY: This will be Commissioner Mariano's
19 Remarks to the Florida Public Service Commission at the
20 May 24th, 2011, Agenda Conference.

21 CHAIRMAN GRAHAM: Okay.

22 (Exhibit 325 marked for identification.)

23 BY MR. MAY:

24 Q Do you have the document before you,
25 Mr. Poucher?

1 A Yes.

2 Q You were at this Agenda Conference, were you
3 not?

4 A Yes.

5 Q Do you recall when Commissioner Mariano said,
6 on line 12, page 130, "So if you took that number down,"
7 he's referring to the ROE, "if you took that number
8 down, you would dramatically affect their rates, and I
9 guarantee you they would come to the table quicker with
10 not only myself but everyone else. But when you keep
11 the rates up at 10, 12, 11%, it's tough to get them to
12 the table. So that would be the first step."

13 Do you recall him saying that?

14 A No.

15 Q Do you dispute that he said that?

16 A No. I was not in the room when he said it.

17 Q I think you previously read the, the Food &
18 Water Watch playbook, and their strategy is to ask state
19 officials to reduce the rate of return of Aqua to make
20 it -- it makes in Florida so as to help communities
21 remunicipalize their water systems; correct?

22 A I'll accept it; subject to check, that it was
23 in that document.

24 Q Would you agree that Commissioner Mariano was
25 following the Food & Water Watch's playbook?

1 A No. I don't know what Commissioner Mariano
2 was talking about.

3 Q Okay. Are you aware that Aqua has entered
4 into a contract to acquire Harbor Hills Utility System?

5 A Yes.

6 Q And are you aware that Mr. Reams is working to
7 oppose that acquisition?

8 A Yes.

9 Q And there was a meeting with Harbor Hills
10 residents on March 11, 2011, that in part was organized
11 by Mr. Reams; correct?

12 A Yes.

13 Q And Mr. Reams made a presentation at that
14 meeting in opposition to the acquisition, did he not?

15 A Yes.

16 Q And you were at that meeting; correct?

17 A Yes.

18 Q Who else from OPC was at that meeting?

19 A Steve Reilly.

20 Q Did the OPC make a presentation to the Harbor
21 Hills folks?

22 A Yes, we did.

23 Q Was there any other Florida Public Service
24 Commissioner in attendance at the meeting?

25 A No, there was not.

1 Q Was there any former Public Service
2 Commissioner at the meeting?

3 A Commissioner, former Commissioner Argenziano
4 was there.

5 Q Was there any Florida Public Service
6 Commission Staff at the meeting?

7 A No.

8 Q Let's talk a little bit more about your role
9 in this case. During your deposition I think you stated
10 that one of your roles is to rally the troops. Is that
11 correct?

12 A I believe those might have been my words.

13 Q In --

14 A I'm sorry. I don't remember saying that. If
15 you, if you can show me on my deposition.

16 Q Let me, I guess, let me re -- let me ask the
17 question.

18 A The phrase "rally the troops," I'm not sure
19 that I said that.

20 Q Do you encourage customers to participate in
21 the ratemaking process?

22 A Very definitely. Yes.

23 Q That's what I was referring to as rallying the
24 troops. Is one of your goals, or one of your objectives
25 during the customer service hearings is to, is to get

1 people to come out and to voice their opinions?

2 A It is the goal of Public Counsel to get the
3 customers to attend and participate and give their
4 opinions.

5 Q Let's turn to Exhibit 322.

6 A Okay.

7 Q Ten pages in there's a, there's an email from
8 Frank Reams to you and others.

9 A Do you have a date?

10 Q September 20 -- excuse me. September 3rd,
11 2011. The Bates label page is Aqua POD 1-11-001305.

12 A 1205?

13 Q 1-11-001305.

14 CHAIRMAN GRAHAM: It's three from the back.

15 BY MR. MAY:

16 Q Do you see that email?

17 A Yes, I see it.

18 Q Who's copied on that email?

19 A Dave Bussey, Jack Mariano, J. P. Stakun,
20 whoever that is, Glenn -- I don't know who these people
21 are. F, somebody F. Pita, McGough, Grant, Sullivan.

22 Q I think we established previously that Jorge
23 Aguilar is with Food & Water Watch; correct?

24 A Yes.

25 Q And Mary Grant is with Food & Water Watch;

1 correct?

2 A Yes.

3 Q And Kelly Sullivan is the attorney who
4 represented Ms. Wambsgan in this case; correct?

5 A Yes.

6 Q She's withdrawn from this case; correct?

7 A I believe that's correct.

8 Q This email says, "FYI, we talked with every
9 HOA we could find and asked them to get the word out
10 here in Sunny Hills."

11 What's Mr. Reams referring to here?

12 A I'm not sure. I, I really don't know. I'm
13 not sure what HOA means.

14 **MR. RICHARDS:** Mr. Chairman, if I can make an
15 objection. Mr. Reams testified at several service
16 hearings and Mr. May had the opportunity to
17 cross-examine Mr. Reams directly, and now we're spending
18 a lot of time with this witness asking about Mr. Reams'
19 intentions. I think it's inappropriate.

20 **CHAIRMAN GRAHAM:** I'll overrule the objection.

21 **BY MR. MAY:**

22 Q You sent an email to Mr. Reams on
23 September 7th, 2011. Do you see that? It's the --

24 A Is that before or after that one?

25 Q It's the page preceding the page that we just

1 discussed, the email we just discussed. Dated
2 September 7th, 2011, at 9:30 a.m.

3 A What time?

4 Q 9:30. Your email states -- this is to Frank
5 Reams. This is from you. It says, Do you have a
6 contract -- excuse me. "Do you have a contact list of
7 homeowners association officers that I could use for the
8 upcoming hearings?"

9 Do you see that?

10 A Yes.

11 Q And Mr. Reams responded to your email later on
12 that morning by saying, "Here are most all I could find.
13 Hope this helps." Correct?

14 A Well, I think it's correct. I assume it's the
15 preceding page. I think that's correct.

16 Q And during our deposition I pointed out that
17 that email from Mr. Reams to you had an attachment;
18 correct?

19 A Yes.

20 Q And that attachment is aquasystemwo.pdf
21 (phonetic). And I asked for you to provide me with that
22 attachment?

23 A Yes. And I'm looking at the email now.

24 Q And were you able to provide me with that
25 attachment?

1 A No, I couldn't find it. I never opened it. I
2 never looked at the list, never used it, and I don't
3 know what I did with it, but I could not find it.

4 Q You can find the email but you couldn't find
5 the attachment?

6 A Yes.

7 Q Why did you send the email to Mr. Reams
8 requesting a contact list of homeowners associations if
9 you, if you didn't read it?

10 A As I told you in our deposition, we were about
11 to go out on another big round of, of customer hearings,
12 and I, at the time that I sent the email, I thought it
13 would be appropriate, good to have a list of the people
14 that might be there who were associated with the various
15 homeowners, and I asked for the list.

16 We subsequently, we either ran out of time or
17 we just never pulled the list, never looked at it. And
18 we were pushed for time, so we never used it. But it
19 was a good idea.

20 Q During the deposition you stated that
21 encouraging customers to -- in your encouraging
22 customers to participate in the ratemaking process,
23 you're careful not to use inflammatory language in
24 describing the utility; is that correct?

25 A Yes. I think the best example of that,

1 Mr. Kelly's speech encourages customers to participate
2 and to share their opinions, whatever they might be.

3 Q And in encouraging people to participate in
4 the process, you don't use inflammatory language
5 describing the utility?

6 A I try not to.

7 Q Let's look at Exhibit 321.

8 A Three point --

9 Q 321.

10 A Okay.

11 Q It's the second page. There's an email from
12 you to Frank Reams. Can you read this for the record?
13 I have a couple questions.

14 A "No decision yet from YES. May be still on
15 the fence. Aqua can cross-protest ten days after a
16 protest is filed."

17 Q I think you're reading from the wrong email.
18 I'm looking at the email from you to Frank Reams dated
19 June 23rd, 2010. The page number is Aqua POD
20 1-11-001328.

21 **CHAIRMAN GRAHAM:** That's the very next page
22 from where you were reading on.

23 **THE WITNESS:** June 23rd? Okay.

24 "Frank, for what it's worth, my take on this
25 is that depending on the system" --

1 BY MR. MAY:

2 Q Excuse me, Mr. Poucher. It's at the top of
3 the page. It's June 23rd, 2010, at 10:21 a.m.

4 A "I agree with you, Frank. PSC does little to
5 hold these companies accountable and our only good shot
6 at them is in a rate case. I've long wanted to go into
7 the water business in Florida because it is purely a
8 license to steal from the customers."

9 Q Mr. Poucher --

10 A Yeah. Wait. Wait. There's more to it.

11 "Yes, as we get closer to the meetings and our
12 agenda is worked out, I want to meet with as many people
13 as possible, see as many systems as possible. Might
14 even have to require a meeting or two after our trip."

15 Q Your email describes AUF as having a license
16 to steal from customers; correct?

17 A The email does not say that.

18 Q Would you agree that accusing someone of
19 stealing is a serious allegation?

20 A The -- no. I didn't say anything about Aqua
21 in that, in that email. And it's an unfortunate choice
22 of words, and I apologize if I have offended anybody.

23 Q Isn't it -- where I come from, accusing
24 someone of stealing is a pretty serious allegation.

25 A Well, I think that's correct.

1 Q Isn't it foreseeable that this type of
2 language could inflame customers?

3 A Well, it was a private email between Frank
4 Reams and myself, and it was not intended obviously for
5 distribution to the world.

6 Q During our discussion yesterday you stated
7 that you would expect Aqua's customer service
8 representatives to be professional and courteous on a
9 phone call; correct?

10 A Yes.

11 Q Do you believe it's professional to describe a
12 utility as having a license to steal from customers?

13 A No.

14 Q As part of your role in encouraging customer
15 participation, you stated that you try to explain the
16 process to the customer so that they can know what to
17 expect out of the process. I think you agreed to that;
18 correct?

19 A Yes.

20 Q Let's look at page -- at Exhibit No. 321
21 again.

22 A I thought we were looking at 321.

23 **CHAIRMAN GRAHAM:** Yes, we are.

24 **BY MR. MAY:**

25 Q This is at the last page of 321.

1 A Okay.

2 Q And, Mr. Poucher, you state -- this is an
3 email from you to, to Mr. Reams. And you state, "As a
4 service quality witness, one of my problems in a rate
5 case is that a historical test year captures existing
6 O&M and existing service quality. If we push for
7 reduced rates in a rate case and, and increased expense
8 for improved quality of service, then we run the risk of
9 promoting conflicting positions. It's my opinion that
10 we must prove negligence or incompetence in a rate case
11 in order to justify a penalty for poor service in order
12 not to make the company's case to increase rates for
13 customers."

14 Do you see that?

15 A Yes.

16 Q And this one really has me scratching my head.
17 I need some help in understanding what you're saying
18 here.

19 You state that, "If we push for reduced rates
20 in a rate case and increased expense for improved
21 quality of service, then we run the risk of promoting
22 conflicting positions."

23 Are you saying that a customer needs to be
24 careful not to complain about quality of service issues
25 that can be improved by the utility making capital

1 investments; instead, the customer should complain about
2 issues that can't be fixed with capital investments?

3 A I certainly don't read that into the
4 statement, and it was certainly not the intent of that
5 email.

6 Q Okay. Let's turn to page 3 of your testimony.

7 A Where are you directing me?

8 CHAIRMAN GRAHAM: It's page 3 of your direct
9 testimony.

10 THE WITNESS: Of my testimony?

11 BY MR. MAY:

12 Q Yes. Page 3 your testimony.

13 I want to have a better understanding of your
14 analysis of the complaints that were filed against Aqua.
15 Is your analysis based upon your review of the complaint
16 filed -- excuse me -- the complaint filed with the
17 Commission?

18 A Yes.

19 Q Okay. Did you discuss the complaint with the
20 customer?

21 A No.

22 Q Okay. Did you discuss -- so you simply
23 reviewed the correspondence in the Commission's
24 complaint file; correct?

25 A Correct.

1 Q And then you assigned fault for the company
2 based upon your own subjective analysis?

3 A Yes. And I explain that on page 4 of my
4 testimony.

5 Q So you never talked to the company, you never
6 talked to the customer, and you never talked to the
7 staff analyst who reviewed the complaint?

8 A No, we did not.

9 Q Okay. Let's talk about the tip of the iceberg
10 argument on page 5 of your testimony. You state that,
11 "When reviewing the PSC complaints for any complaint,
12 the PSC complaint file is the tip of the iceberg."
13 Correct?

14 A Yes.

15 Q And you go on to say, "The real indicator is
16 the number of complaints received by the company at the
17 call center." Correct?

18 A Yes.

19 Q Do you believe that the calls coming in to the
20 call center are complaints?

21 A Some portion of their calls are, not all of
22 them.

23 Q Okay. Isn't it true, Mr. Poucher, that the
24 Commission has found that the calls coming in to the
25 call center are not all complaints? In fact, the

1 majority of the calls are not all complaints; correct?

2 A That's correct.

3 Q Okay. Do you agree with that?

4 A Sure.

5 Q It seems like a long time ago, but when you
6 and I first began our conversation yesterday, we, we
7 discussed that as part of the initial monitoring program
8 AUF provided the Commission on a monthly basis sound
9 recordings of all calls coming in to the call center; is
10 that correct?

11 A Yes.

12 Q And you agreed that Staff reviewed those
13 calls; correct?

14 A Staff reviewed those calls. Yes.

15 Q Staff listened to those calls. And I think
16 you stated at your deposition that you never attempted
17 to review those calls, did you?

18 A No, I did not.

19 Q And no one at the OPC ever attempted to review
20 those calls; correct?

21 A No, we did not.

22 Q If you had taken the time to review the sound
23 recordings of the calls coming in to the call center,
24 you wouldn't have to speculate on what type of calls
25 were coming in to that center; correct?

1 A No.

2 Q Let's take a look at Exhibit 324.

3 A Pardon me. Let me go back. There's another
4 double negative question.

5 Could you ask your question again in a
6 positive question?

7 Q I said, if you would have reviewed or listened
8 to the sound recordings coming in to the call center,
9 you wouldn't have to speculate as to what types of calls
10 were coming in to the center; correct?

11 A What speculation are -- where are you
12 referring to speculate? Is it in my testimony?

13 Q I'm referring to your testimony. You're
14 saying, "The real body of complaints against Aqua is
15 contained in the company's records that are difficult,
16 if not impossible, to recover."

17 A Oh. So your question is, regards speculation
18 about how much data is in the call centers.

19 Staff, Staff did not review the call center's
20 calls. They reviewed about a 10% sample. So they got a
21 small sliver in their sample of the recordings that were
22 taken. And so they didn't review all of those calls
23 either, and, and neither did I.

24 Q Did you make any attempt to listen to the
25 calls coming in to the call center?

1 A No. I didn't think they were of value since
2 you made the company aware that you're going to be
3 taking observations of their calls. When you give them
4 advance warning, you don't get much back in terms of
5 real performance.

6 Q Do you understand the, the expense and the
7 time that went into retrieving these calls, filing these
8 calls under confidential classification with the
9 Commission?

10 A Yes, I do. It cost about \$100,000, according
11 to you, and that's why we supported discontinuing that
12 process during the remainder of the monitoring plan.

13 Q But neither you nor anyone at the Public, at
14 the Office of Public Counsel attempted to look at these
15 calls or listen to these calls?

16 A No. I just have to tell you that I've run
17 call centers before, and when people say they're coming
18 to visit, you're on your best behavior. And so I didn't
19 think there was anything relevant in there anyway. And
20 I trusted the Staff to do their good job and they did.
21 They didn't find much.

22 Q Let's look at Exhibit 324. The Office of
23 Public Counsel actually requested us to provide all of
24 the tapes back in September of 2009, did it not?

25 Sir?

1 A I'm looking. Yes.

2 Q We provided the Office of Public Counsel with
3 all of the calls on September 3rd, 2009, and we followed
4 it up by providing additional unredacted reports of
5 customer increase, as well as CDs of, of sound
6 recordings and disks.

7 A Yes. That was the September 3rd, 2009.

8 Q And we followed it up with another round of
9 documents, disks, CDs, information on December 23rd,
10 2009; correct?

11 A I believe that's correct.

12 Q And you never listened to one of those tapes?

13 A No.

14 Q The Office of Public Counsel never listened to
15 one of those tapes?

16 A No.

17 Q You still have those tapes, don't you? You
18 haven't returned them to Aqua.

19 A Yeah. I don't believe -- I don't know.

20 Q Who's copied on that correspondence?

21 A You mean from you?

22 Q Yes.

23 A Ralph Jaeger, Cecilia Bradley, and Kimberly
24 Joyce.

25 Q Do you know if the Attorney General ever

1 attempted to listen to any of those tapes?

2 A I have no knowledge.

3 MS. CHRISTENSEN: Objection. This is beyond
4 his personal knowledge, what the Attorney General did or
5 did not do.

6 MR. MAY: He can say he doesn't know.

7 CHAIRMAN GRAHAM: I was going to say, how do
8 you know it's beyond his knowledge if you don't ask the
9 question?

10 BY MR. MAY:

11 Q Do you know if the Attorney General ever
12 listened to any of these tapes?

13 A I already gave you my answer. I have no
14 knowledge.

15 MS. BRADLEY: I object to the relevance.

16 CHAIRMAN GRAHAM: You object to the relevance?

17 MS. BRADLEY: I don't see what whether
18 somebody from our office listened to tapes has to do
19 with his, the issues that are before the Commission at
20 this time.

21 CHAIRMAN GRAHAM: I see the relevance, because
22 if the complaint is, the complaint is our Staff spent a
23 lot of time and effort reviewing tapes and our Staff
24 came back and said that the quality problems -- or that
25 the problems that we say were out there were not

1 noticed, and the witness had said that it's because the
2 call centers knew that it was coming, and therefore they
3 cleaned up -- they changed their behavior. And so
4 Mr. May is asking specifically, did you go back and
5 pinpoint? And now he's asking if your office did, if he
6 knew if your office did.

7 What relevance do you not understand? Which
8 part of this chain are you not following?

9 **MS. BRADLEY:** I'm not following the fact of
10 what it has to do with whether or not -- you said your
11 Staff looked at it, they said it was okay. Mr. Poucher
12 just testified that he is -- in his practice, listening
13 to tapes is not a good indicator if they're forewarned
14 that people are coming.

15 **CHAIRMAN GRAHAM:** But --

16 **MS. BRADLEY:** And whether we went and listened
17 to the tape or not, I just --

18 **CHAIRMAN GRAHAM:** I'm not going to get ahead
19 of Mr. May, and I can go ahead and ask the question that
20 I was going ask, if you want to go ahead and add some
21 relevance to all this.

22 **MS. BRADLEY:** I'm just saying I don't see the
23 relevance of what counsel did. Their preparation for
24 trial, what they employed, how they did it. Usually
25 that kind of thing is considered confidential work

1 product, and --

2 CHAIRMAN GRAHAM: I will overrule the
3 objection.

4 BY MR. MAY:

5 Q I'm about ready to move on, Mr. Poucher. It's
6 been a long morning and I appreciate your indulgence.

7 But I have to ask this question. Why did the
8 OPC ask for these tapes if it never reviewed them?

9 A I can't answer that question. I'm not sure
10 what our thought was back in September 2009, so I don't
11 know.

12 Q Can I turn you back to tab 4, please, of the
13 Exhibit 311?

14 A Did you say 311?

15 Q Exhibit 311.

16 A The big one?

17 Q I'm referring you back to the, on page 9 and
18 10, it's the agreement that the Office of Public Counsel
19 and Aqua entered into regarding the scope of the Phase
20 II monitoring.

21 A What tab are you looking at?

22 Q It's tab 4.

23 A Okay.

24 Q On page 9 attached to that order which the
25 Commission approved was the Phase II monitoring plan

1 that the Office of Public Counsel and Aqua agreed to;
2 correct?

3 A Yes.

4 Q And that sets forth a number of different
5 terms or requirements under the monitoring plan;
6 correct?

7 A Yes.

8 Q Can you read item number 5 of that monitoring
9 plan agreed to by OPC and AUF and approved by the
10 Commission?

11 A "In order to better apprise the OPC of Aqua's
12 commitment to quality of service during the Phase II
13 monitoring, Aqua will provide for an OPC representative
14 to visit one of its call centers and tour the facility."

15 Q Have you ever visited and inspected the call
16 center as contemplated by this order?

17 A I did not visit the Aqua call center.

18 Q Now I think you previously stated that you've
19 had occasion to travel out of the state on Universal
20 Service Funds to Nashville and to California; is that
21 correct?

22 A That's correct.

23 Q But you haven't had time to visit the Aqua
24 call center as contemplated by this order?

25 A I did not want to visit the Aqua call center.

1 And the reason I did not want to visit the Aqua call
2 center -- I had three offers from Chris Franklin,
3 offered to pay our way. And I have run call centers
4 from almost the very beginning of my career, and I don't
5 want to tell you how far back that is, but I've run call
6 centers, and you don't learn much. It's a PR visit when
7 you go see a call center because they're on their best
8 behavior. They know you're coming. Certainly they're
9 going to give excellent, outstanding service when they
10 know that someone else is listening. So there's nothing
11 to be gained by going to a call center. I've been in
12 too many of them already, and I know what they're like.

13 Q But you would agree that that was a term of
14 the agreement that we agreed on and the Commission
15 approved; correct?

16 A Yes. But I certainly didn't ask for the visit
17 to the call center.

18 Q At your deposition you testified that the
19 Commission had promulgated quality of service
20 requirements for telephone companies that required those
21 companies to report on certain metrics to the
22 Commission; is that correct?

23 A Yes.

24 Q And you also testified that when those telecom
25 companies were subject to rate of return regulation, the

1 cost of complying with the reporting requirements were
2 specifically allowed to be included in rates; correct?

3 A Yes.

4 Q If the Commission orders AUF to continue to
5 report on quality of service metrics, would you agree
6 that the company should be able to recover the cost of
7 complying with those reporting requirements through
8 rates?

9 A Well, the question I guess is about whether or
10 not the expenses are in the test year. If they're in
11 the test year, they're in the test year. And I assume
12 that the expenses for the current monitoring program are
13 there also. I haven't looked, but those, those expenses
14 are there. And, of course, we modified the monitoring
15 plan to make it easy for the company to file its reports
16 out of existing data. So I didn't see a great deal of
17 expense there at any rate.

18 Q Mr. Poucher, I want to again thank you for,
19 for putting up with these questions. It was a, it was a
20 long morning.

21 But before I conclude, I want to take you back
22 to a statement you made yesterday. You said that when
23 AUF filed for its request for rate relief in this case,
24 that this became a war to you. There's nothing in the
25 statutes or the rules that remotely suggest that a rate

1 case is a war, is there?

2 A No.

3 Q I was on the phone last night. This company
4 is a publicly traded company, and I'm not saying it's
5 never made mistakes, but I was on the phone last night,
6 and they serve ten different states, and they've never
7 had a Public Counsel representative say that a rate case
8 was a war. I guess my question to you as I wrap this up
9 is does a rate case have to be a war?

10 A I would hope not, and generally it is not.
11 And it's usually civil. But it's an extensive effort on
12 your part as well as ours, and it requires a lot of
13 resources, and we dedicate all our resources to
14 processing rate cases.

15 MR. MAY: Thank you, Mr. Poucher. I have no
16 further questions.

17 CHAIRMAN GRAHAM: Staff?

18 MR. JAEGER: Thank you, Chairman. Staff has
19 just a few.

20 EXAMINATION

21 BY MR. JAEGER:

22 Q Mr. Poucher, the first questions concern AAI's
23 call center. And I think on page 28 of your direct
24 testimony, lines 10 and 11, you state, "It is my opinion
25 that the goals they have embraced are unsatisfactory,"

1 as regards to the AAI call center. Do you see that?

2 A Yes.

3 Q And then on page 31, lines 5 through 7, you
4 state, "In my telephone days, we staffed our telephone
5 call centers to answer 95% of incoming calls in 30
6 seconds." Is that correct?

7 A Yes.

8 Q For AUF, how quickly and in what percentage do
9 you believe AUF should strive to have the calls
10 answered?

11 A Did you ask me -- is your question what number
12 of seconds average waiting time?

13 Q Well, you have 95% of incoming calls in 30
14 seconds. Is there a -- you know, how many do you think
15 should be done in, say, a minute?

16 A I didn't hear the last sentence.

17 Q How many calls should be answered within a
18 minute, in your opinion? What percentage?

19 A The -- I'll just tell you my experience.
20 Mr. Goodman down in the Lakeland hearing took the same
21 exception. He has a telephone background.

22 The metric, primary metric for call answering
23 is 80% in 90 seconds, which is a minute and a half. And
24 I should wait for a minute and a half to answer your
25 question because it's a long time, something like 18

1 rings.

2 Telephone standards were originally 30
3 seconds. We had a battle with the industry back in the
4 '90s when they wanted to extend it to 45 seconds.

5 All of my experience regarding prompt
6 answering in call centers, which is the whole goal,
7 centered around an answer time that was well under a
8 minute. And after a minute, studies show that customers
9 get very, very unhappy with call holding times and are
10 very much more apt to drop off the line.

11 So between 30 seconds, which is fast, and 45,
12 50 is a good number. That's my experience and my
13 expectation.

14 Q And what percentage would that be in that time
15 period?

16 A 95%.

17 Q Okay.

18 A The best, the best calling is when they pick
19 it up on the first ring.

20 Q Did you do any analysis of what the increased
21 cost would be to reach this goal?

22 A There is an increased cost with any --

23 MR. JAEGER: Chairman, I'd like to ask -- we
24 try to get them to answer yes or no, and I'll just, you
25 know, I'll let him explain, but I think I'd like to have

1 the yes or no. Did he do any analysis of what the
2 increased cost would be to reach this goal?

3 **CHAIRMAN GRAHAM:** If I may, Mr. Jaeger.

4 Mr. Poucher, I know sometimes it's difficult to hear the
5 questions, and I don't have a problem with you restating
6 the questions or clarifying the question, because -- and
7 several witnesses will do that. They'll restate the
8 question to make sure that they fully understand the
9 question and then they'll answer it. But if you fully
10 understand the question, you need to answer yes or no,
11 and then give your brief explanation.

12 **THE WITNESS:** Yes. I do not have any analysis
13 of increased cost.

14 **BY MR. JAEGER:**

15 **Q** Have you determined any other specific call
16 center performance standards that you believe would
17 indicate an acceptable level of improvement?

18 **A** I'd have to look at all of them, but the
19 primary measurement that, that is universal is the
20 initial answer time. The calls put on hold are
21 problematic, part of the process that Ms. Chambers
22 discussed in her testimony. And the holding time when
23 they go off line is, is significant. Blocked calls are
24 significant. All of these are the tools that you use to
25 monitor performance in a call center.

1 Q Okay. If you would turn to page 30.

2 A Got it.

3 Q Lines 5 through 12. You state, "We have
4 identified numerous customers who have said they cannot
5 reach the company's call center because they get a busy
6 signal." Is that right?

7 A Yes.

8 Q And I think you go on to say that those, those
9 customers who receive busy signals may never get into
10 the queue and are not part of the equation; is that
11 correct?

12 A Yes.

13 Q In your deposition you provided a late-filed
14 deposition Exhibit 10. We've had that marked as Exhibit
15 No. 313, which was passed out last night.

16 A Yes.

17 Q Do you have that available? It's a very thin
18 document, one page, and it's your Late-Filed Exhibit
19 No. 1, 10 and 11, all combined on that page. Do you
20 have that available?

21 A I know what's in it.

22 Q Okay. And I think you base that exhibit on
23 your review of customer testimony from the ten customer
24 service hearings?

25 **CHAIRMAN GRAHAM:** Mr. Jaeger, Mr. Jaeger, can

1 I get you to pull your mike down and speak a little
2 louder?

3 MR. JAEGER: I'm sorry. I'm too loud?

4 CHAIRMAN GRAHAM: No. A little louder.

5 MR. JAEGER: Okay. Usually I'm too loud, so I
6 was trying to go the other way today.

7 BY MR. JAEGER:

8 Q I think -- did you base that exhibit on your
9 review of customer testimony from the ten customer
10 service hearings in this docket?

11 A Yes.

12 Q And would you agree your Late-Filed Deposition
13 Exhibit 10 shows that there was one customer at the
14 Lakeland hearing, one customer at the Gainesville
15 hearing, and one customer at the New Port Richey hearing
16 that complained about getting a busy signal?

17 A Yes.

18 Q And based upon your review, did those three
19 customers indicate whether this was a recurring problem
20 or a single incident?

21 A My recollection from the record was that we
22 heard from a number of customers who had difficulty
23 reaching the business office. When I went back to the
24 hearing transcripts, that evidence did not show up. My
25 recollection was that I heard from a lot of customers

1 about that issue, but, but the records don't support it.

2 Q Going to the next area of questions. It's
3 involving the Phase I and Phase II monitoring plans that
4 the Commission required, and I believe Mr. May has gone
5 over that thoroughly. And basically you said, you said
6 that the call center, the monitoring of that was not
7 that good because they were forewarned; is that correct?

8 A Regarding the recording, yes.

9 Q And that there was no need to follow the meter
10 reader around because you had the electronic read
11 transmitter, so that has sort of gone away also; is that
12 correct?

13 A And the meter reading issues, yes, disappeared
14 with the replacement of the meters. Yes.

15 Q And then I think you held up, it was
16 approximately a 200-page booklet, I couldn't see what it
17 was from here, but you were talking about all the stuff
18 that Aqua had provided, and you said there was only four
19 pages that was really on point; is that correct?

20 A Yes. The Aqua monitoring report filed with
21 the Commission is 193 pages, from my memory.

22 Q Now on page 33, if you'll turn to that, of
23 your direct testimony. On lines 15 through 18 you
24 state, "We're asking this Commission to require its
25 Staff to continue to actively monitor Aqua's service

1 quality and to require the company to provide prompt and
2 comprehensive reporting of its efforts and progress in
3 providing a drinkable quality product." Is that
4 correct?

5 A Yes.

6 Q Can you briefly describe the additional
7 quality of service monitoring that you believe is
8 needed, such as the specific service issues that should
9 continue to be monitored, what type of data or reports
10 AUF should be required to provide, and how many
11 additional months of monitoring you believe should be
12 required? I just want to see what the Phase III
13 monitoring plan would be, is basically what I'm getting
14 at.

15 A Okay. Off the top of my head, I think that I
16 provided in the last docket a series of recommendations
17 that included monitoring. And what, what we wanted the
18 company to do was to isolate and report all of its
19 complaints, and complaints only, not transactions, like
20 in moves and out moves, which were part of the database.
21 We wanted them to report all of their complaints, to
22 look at them, analyze them, not only report the
23 complaint but what they did about it, what they might do
24 to prevent it in the future.

25 I think always we have recommended that that

1 is a process that should be a collaborative process.
2 That's how we approached it in the previous monitoring,
3 Phase II, and that's how we would approach it in Phase
4 III. You don't just require a bunch of reports without
5 knowing the cost of developing those reports and what's
6 available without excessive expense.

7 So I, I see that as a work in progress. I
8 don't have the answers that I would dictate that you
9 require the company to produce. I would once again
10 recommend that you require the company and Staff and
11 Public Counsel and any of the other Intervenors to be
12 involved in developing an effective way to look at
13 complaints as an, on an individual basis and treat them
14 as individuals, not as a group.

15 Q I have just one or two more questions. Turn
16 to page 36, if you will, of your testimony, lines 20
17 through 22. You state, with the highest -- this is in
18 regards to complaints filed with the Commission. "With
19 the highest complaint rate of any FPSC regulated company
20 in Florida, this company needs oversight and an
21 incentive to improve." Is that correct?

22 A Yes.

23 Q And during your deposition we asked you to
24 describe the analysis you conducted in order to come to
25 the conclusion that AUF has the highest complaint rate

1 of any FPSC regulated company in Florida. And I think
2 in response in you provided that Late-Filed Deposition
3 Exhibit 11; is that correct?

4 A Yes.

5 Q And I think that Late-Filed Deposition 11 is
6 also a part of that Exhibit No. 313 that we gave you.

7 A Yes.

8 Q And I think basically what you did there, you
9 just, you show that, you determined the percentage of
10 all water and wastewater complaints are filed with the
11 Commission that were attributable to AUF during 2010 and
12 2011 as of October 31st; is that correct?

13 A Yes. That's what the exhibit shows.

14 Q Did you consider making any type of
15 adjustments to make the comparison more comparable
16 between different size companies, such as determining
17 the percentage of complaints on a per 100 customer
18 basis?

19 A I, I considered it, but we ran out of time.
20 We got the data from the consumer, PSC Consumer Affairs
21 group, then ran the data that showed that Aqua
22 complaints were 41.7% of the total complaints received
23 by the Commission on water and wastewater in 2010, and
24 in 2011 those complaints amounted, Aqua complaints
25 amounted to 44.7% of all of the complaints received by

1 the Commission regarding water and wastewater. And
2 because Aqua only has about 17,000 customers, obviously
3 if you did that comparison based on per 100, it would be
4 even worse.

5 **MR. JAEGER:** Staff has no further questions,
6 Chairman.

7 **CHAIRMAN GRAHAM:** Okay.

8 **MR. CURTIN:** Mr. Chairman, if I may, YES has a
9 few questions of this witness. I don't know when you
10 want to take my questions on that. I understand your
11 ruling on friendly cross, and while I respect it, I
12 respectfully disagree on it. I think a couple of these
13 questions are not dealing with what we call friendly
14 cross. In particular, 321, which I'm assuming Mr. May
15 will try to put into evidence, specifically talks about
16 YES in there, and I would like to ask this, this witness
17 some of those questions about those emails which
18 specifically mention my client, in particular the first
19 page there.

20 **CHAIRMAN GRAHAM:** Now are these questions
21 going to be contrary to the position of OPC?

22 **MR. CURTIN:** Mr. Chairman, if you look at it,
23 it says, "Have you heard anything from YES," there at
24 the bottom, the bottom of the first page of 321.

25 **CHAIRMAN GRAHAM:** Yes, sir.

1 A That's correct.

2 Q I've never talked to you before; correct?

3 A We've never talked.

4 Q And if we have any emails, I don't remember
5 specifically emailing you. You might have been on a CC
6 of the whole world in this case, but I don't remember
7 ever specifically emailing you.

8 A That's correct.

9 Q And have you talked to anybody, my partner,
10 Mr. Bernstein, or my associate Mr. McBride here from my
11 office, other than today or yesterday?

12 A On that specific day was the day before the
13 end of the time period to appeal the PAA. And that was
14 a very difficult decision for Public Counsel, and there
15 were several Intervenors that had said they were going
16 to intervene. YES didn't know. But what, what I did
17 was try to give our office a current update as to
18 whether or not other people were going to intervene or
19 not.

20 Q You mean protest the PAA?

21 A Yes, and protest.

22 Q We had already intervened by that time?

23 A Yes. Yes.

24 Q Okay.

25 A And that was a, it's a difficult decision when

1 we decide to protest and go into hearings.

2 Q But there was no collusion between Office of
3 Public Counsel and YES Communities or my office on who's
4 going to protest, who won't protest?

5 A No. No. Those, those decisions were made
6 independently. But knowing what other parties might
7 have been doing obviously is, is a big help when you're
8 trying to decide about spending a lot of money.

9 Q And in the end YES cross-petitioned, just like
10 Aqua cross-petitioned.

11 A That's correct.

12 MR. CURTIN: No further questions.

13 CHAIRMAN GRAHAM: Okay. Thank you, sir.

14 Commissioners, who wants to go first?

15 Commissioner Edgar.

16 COMMISSIONER EDGAR: Thank you, Mr. Chairman.

17 At this point I just have two what I think will be very
18 brief questions.

19 Mr. Poucher, in your testimony you state that
20 you recommend that the Commission should reach a finding
21 that Aqua's service is unsatisfactory and that, as a
22 result of that, ROE should be reduced at least 100 basis
23 points until such time as Aqua's service is deemed to be
24 satisfactory by the Commission.

25 What would you recommend that the Commission

1 would need to see in order to base a finding of
2 satisfactory?

3 **THE WITNESS:** I think the biggest problem with
4 Aqua is its customers, and I think the customer
5 complaints and the customer testimony and the customer
6 feedback is absolutely critical to this case.

7 We never found a customer that came to a
8 hearing that praised Aqua for anything except for three
9 customers in Lake Osborne who liked the water. And I
10 think that, that the Commission should seriously
11 consider customer surveys as a way to measure whether
12 there is any improved customer satisfaction out there.
13 Call center performance, still unsatisfactory but
14 improving. The company's meter reading problems have
15 disappeared. The billing problems that are shown in the
16 PSC complaints are serious and severe and need to be
17 dealt with.

18 And it was my opinion in the last case that
19 there, that there should be some metrics, that we ought
20 to get together and say, okay, your service is
21 unsatisfactory. We want to see a 20% improvement. And
22 I throw the number out because that's just a number.
23 But, but a percentage improvement from where they are in
24 terms of their complaints.

25 44% of your PSC complaints from Aqua is, is

1 totally unacceptable, should be totally unacceptable to
2 the PSC, because you have a lot of resources tied into
3 that. And a reduction in those complaints -- their
4 calls to the call center are double what the rest of
5 Aqua companies generate to the call center. The
6 reduction of those calls is extremely important to
7 improve the efficiency of this operation.

8 I could go on, but those are the kind of
9 things that should be looked at. And it just, you can't
10 do it from the bench without talking with the company.
11 And I repeat myself, but you've got to have a reasonable
12 and achievable goal in order to release them in terms of
13 their earnings expectations.

14 **COMMISSIONER EDGAR:** And I did say two
15 questions, but that prompts another question, so I will
16 have slightly more than two questions.

17 You mentioned that one tool might be customer
18 satisfaction surveys. And I know that that is also a
19 suggestion that you make in your written prefiled
20 testimony. Do you know if in Florida Aqua has done
21 customer surveys in the past, or has used that as one
22 tool?

23 **THE WITNESS:** The only customer survey that I,
24 that I saw from Ms. Chambers was a 2006 survey, 2005
25 survey, which is irrelevant. And it didn't look all

1 that good anyway. But I don't -- I have not seen
2 current surveys by Aqua.

3 **COMMISSIONER EDGAR:** Okay. And then the
4 second question I was going to ask is -- and I don't
5 think you need to turn to this, but if you do -- on page
6 4 of your prefiled testimony you say that the Commission
7 has, it says -- I shall read the whole sentence. It
8 says, "Seldom does any complaint in the Commission's
9 files show a rule violation, simply because the
10 Commission has so few rules dealing with customer
11 service."

12 So my question to you is, to your knowledge,
13 has OPC, as a representative of the citizens of Florida,
14 proffered or suggested or requested additional customer
15 service rules of the PSC for water and wastewater?

16 **THE WITNESS:** No, we have not, and neither has
17 the Staff, and I think we both should.

18 **COMMISSIONER EDGAR:** Okay. Thank you.

19 **THE WITNESS:** Uh-huh.

20 **CHAIRMAN GRAHAM:** Commissioner Brisé.

21 **COMMISSIONER BRISÉ:** Thank you, Mr. Chairman.
22 I have a few questions.

23 The first question goes to what extent have
24 you seen a difference in meter reading complaints when
25 taking into account the upgrades that AUF has made to

1 its meters?

2 **THE WITNESS:** The upgrades were only eight
3 systems out of 50. So there's a long way to go, I
4 think, until you get down the road.

5 But I, I did, Commissioner, take a look at how
6 the complaints regarding water quality have, have moved
7 through the time period. And, remember, my complaint
8 file started on January 1st, 2010, and the last file is
9 the most current, and that was about July.

10 And the water quality complaints, except for
11 about May of this year, tended to be fairly flat but
12 insignificant in terms of the total numbers. For
13 instance, you know, one batch of complaints, two water
14 quality complaints out of 22. The numbers on water
15 quality in the PSC complaint file are -- would indicate
16 that water quality is not as bad an issue, until you go
17 out on the hearings. And, of course, you were there and
18 you know what it was like.

19 Certainly the water quality initiatives with
20 the eight systems had a positive impact and reduced the
21 customer dissatisfaction, but there's still a lot of
22 customers out there bringing bottles of water to the
23 hearings. And as long as that exists, we're going to
24 have a problem with Aqua service.

25 **COMMISSIONER BRISÉ:** Talk a little bit about

1 the back billing issue. In the course of your
2 investigation, have you reviewed the company's policies,
3 and, based upon, I guess, your interactions looking at
4 the data and so forth, can you first describe the policy
5 that you have gleaned? And then number two, are they
6 abiding by the policies that they have set?

7 **THE WITNESS:** They, the company has a
8 procedure. They modified it on October the 11th to
9 automatically hold any bills -- this was October 11th,
10 2011, after we had filed our testimony -- to hold all
11 Florida bills where there was a back billing problem
12 that went beyond 365 days. And that was a late-filed
13 exhibit from Ms. Chambers. I'm glad they did that,
14 because we found a significant number of customers that
15 were billed beyond 365 days because of faulty meters.

16 The back billing problem in terms of time from
17 January of 2009 -- 2010 through the current time have
18 begun to get bigger. 25% of the calls in the last
19 complaints in the last year dealt with back billing.
20 And the problem is that when an electronic transmitter
21 goes bad, and they do, and they quit transmitting, and
22 the meter reader gets a zero read, there is no plan, no
23 good plan on Aqua's behalf to identify that zero read
24 and do something about it.

25 And all I can tell you is in Atlanta, where

1 this has been exactly the same problem, same meter, same
2 problem, if a meter reader goes by and gets a zero read,
3 he stops and goes and reads the meter, and the bill is
4 issued on a current basis and there is no back billing.

5 Aqua in Florida in many of these cases rode
6 by, got a zero read for more than 12 months, some of
7 them went back two or three years, and never did
8 anything about it. Atlanta would introduce into the
9 system a service order immediately when there was a no
10 read on the ERT, and within a couple of days they'd be
11 out and do something about it.

12 Back billing at the rates that Aqua has can be
13 devastating for customers. None of us would be happy
14 with a four or five hundred dollar bill. We have
15 numerous customers who had \$1,000 bills, \$5,000 bills.
16 And on top of it, if you fail to bill at Aqua's rates
17 the usage charges, then the customer has no way to
18 adjust their activities. They're just billed for
19 whatever the amount of usage was, with no chance or
20 opportunity to maybe stop watering as much as they're
21 watering. The absence of that billing for a year and
22 then the expectation that they're going to collect it is
23 very, very bad service.

24 And the amount of these complaints you're
25 getting now, they're rising because those meters are

1 getting older. And so this is a problem they need to
2 deal with. I thought it was extremely serious. And
3 none of us wants to get a \$1,000 bill, and certainly
4 none of the Aqua customers like to do that either.

5 **COMMISSIONER BRISÉ:** I'm going to ask you a
6 couple questions on the concept of reasonable and the
7 way your testimony lays it out between pages 20 and 21,
8 talking about the concept of affordability.

9 I guess the first question as a baseline that
10 may be able to help me, is help me understand what is
11 considered affordable and what should be used to
12 determine whether something is affordable or not.

13 **THE WITNESS:** That's a difficult question, and
14 I'll try to answer it. There are no numbers in Florida
15 that deal with affordable. At the federal level,
16 because of the '96 Telecom Act where the prospects of
17 rates going up tremendously for rural customers was
18 good, they inserted the words "affordable" and
19 "comparable" into the statutes that we're all familiar
20 with, of fair, just, and reasonable. The assumption is
21 that if a rate is not affordable, then it is neither
22 reasonable. So that's the tie to the traditional
23 regulatory statutes.

24 Affordable rates have been proposed by various
25 parties to the FCC, and your own Commissioner Edgar is

1 probably more expert on this than I am because she was a
2 member of the joint board. And various parties have
3 suggested a percentage of, of disposable income, a
4 percentage of income as a good way to measure whether
5 the rates are affordable.

6 Comparable rates are another way to, to
7 evaluate reasonable. And, and the FCC does extensive
8 rate comparisons every year of telephone rates around
9 the country.

10 If you were to try to get hard numbers, you
11 would want your Staff to be collecting comparable rates
12 from water utilities on a regular and consistent basis
13 so that you could identify the outliers, those rates
14 that stood out in terms of excessive price. And that's
15 a study that has not yet been done. It's a study that
16 should be done. And the only reason it should be done
17 now as opposed to ten years ago is because of the Aqua
18 rates.

19 We've never had to worry about affordability
20 of water rates in Florida because they were reasonable
21 and they were fair. But the rates we're looking at now
22 for these customers of Aqua demand that you look at
23 affordability and consider it.

24 And I wish I had a better answer other than
25 what I've given you. But no specific data. We should

1 start dealing with the issue and developing a database
2 so that you could make a more informed decision.

3 **COMMISSIONER BRISÉ:** So if I'm hearing you
4 right, then we should be looking at -- the thought would
5 be to look at affordability just the way we'd look at
6 the free lunch program, Lifeline, and those type of
7 things. In other words, a person's ability to pay, not
8 necessarily what it costs to provide the service, and,
9 therefore, there should be a system in place to provide
10 some sort of subsidy to cover that. Is that -- if I'm
11 mischaracterizing what you're saying, please correct me.

12 **THE WITNESS:** No. That's, that's not my
13 testimony, but it's not a bad idea either. It's worked
14 for the telephone industry, and now perhaps is the time
15 to think about that for water customers, especially when
16 Aqua's rates are so high.

17 However, a fair, reasonable, and adequate
18 return on their investment -- there's a lot of ways that
19 you could evaluate the issue as to whether or not the
20 customers can afford Aqua service and Aqua overheads.

21 When I was in Tangerine, Florida, I lived
22 there and I was an Aqua -- would have been an Aqua
23 customer if I had stayed. We had a, we had a guy who
24 ran the water company part-time. Now the Tangerine
25 customers pay for significant overheads of executives in

1 Florida, another group of executives on the regional
2 staff, and we pay a portion of the president's salary.
3 That's what Tangerine customers are faced with today.

4 There's a lot perhaps more effective and
5 efficient ways to run a water company than what, the
6 system that Aqua uses.

7 **COMMISSIONER BRISÉ:** Okay. And final question
8 with respect to affordability. So if we were to look at
9 each system as individual standalone systems, would not
10 the affordability factor, if it were not tied directly
11 to a poverty index or something to that effect, wouldn't
12 that vary from system to system if you were to take
13 whatever the needs of that particular system were, and
14 if it were tied to a particular index, that that would
15 fluctuate based upon the needs?

16 **THE WITNESS:** That's a realistic expectation.
17 The results, however, don't show that. The small
18 systems around Aqua -- in the record, the customers came
19 in and brought their telephone [sic] bills, and you
20 looked at those bills, and they talked about their
21 neighbors' bills, and the surrounding systems' rates
22 that are not Aqua's systems are far lower, according to
23 the testimony, than the Aqua rates.

24 And so I wish I had, I wish I knew why Aqua
25 revenue requirements are so high. But I certainly would

1 look hard at the number of executives they have located
2 in Florida and the other tier of executives in their
3 regional staff, and recognize the fact that there's only
4 17,000 customers in this system. It's tiny, even when
5 you put all of them together.

6 And I would agree with you, there are, have to
7 be inefficiencies in serving 20 or 30 customers at one
8 location and then 20 or 30 customers in another.

9 **COMMISSIONER BRISÉ:** And final question. At
10 most of the hearings a lot of the comparison was to
11 municipal systems, and I suppose the structure and the
12 financing and all of those factors are completely
13 different from municipal systems to investor-owned
14 systems or privately owned systems. And I'm not sure
15 if, in the context of affordability if they match up.
16 If you can help me understand that concept a little bit
17 better, that could be helpful to me.

18 **THE WITNESS:** Well, your observation is
19 correct, that the, the municipal system's bookkeeping,
20 there is no ROE because they have no stockholders, and
21 their cost of debt should be lower. Aqua's cost of debt
22 is not excessive. And so the books are different. The
23 rates comparisons are not favorable to Aqua. We did not
24 do -- I did not do rate comparisons. Kim Dismukes did.
25 And I would suggest that you ask her the same question,

1 give her a shot at it.

2 **COMMISSIONER BRISÉ:** Thank you very much.

3 **THE WITNESS:** You're welcome.

4 **CHAIRMAN GRAHAM:** Mr. Poucher, I have a couple
5 of questions. I guess one of the first ones, the, the
6 agreement to the scope of Phase II monitoring, who
7 signs, who signed off on that? Not necessarily the
8 specific person, but which entities?

9 **THE WITNESS:** The first part of your question,
10 who signed off on --

11 **CHAIRMAN GRAHAM:** The agreement on the scope
12 of Phase II monitoring.

13 **THE WITNESS:** Charlie Beck, who was the
14 Assistant Public Counsel.

15 **CHAIRMAN GRAHAM:** Well, no, I don't need to
16 know a specific person, but which groups? OPC, Aqua,
17 PSC?

18 **THE WITNESS:** Yes, that's it.

19 **CHAIRMAN GRAHAM:** Just those three?

20 **THE WITNESS:** Uh-huh.

21 **CHAIRMAN GRAHAM:** Now one of the questions was
22 about somebody from OPC going out and visiting the call
23 center. And you said that you didn't think that that
24 was worthwhile, or they're on their best behavior once
25 they know somebody is coming out there. Did you let any

1 one of those three entities know that you didn't agree
2 with that when it comes to the scope of the agreement?

3 **THE WITNESS:** No. Well, actually, no, no, I
4 did not. The visit to the call center was, was
5 certainly not relevant for my purposes. It was relevant
6 for Staff because they probably had never been to one.
7 But, but the last time I went to a call center I went
8 with a PSC attorney, and we got escorted out because we
9 didn't give them any advance notice.

10 And -- but I, I, I know call centers. The
11 main thing you look for in call centers, and there are
12 three of them for Aqua around the country, is the
13 metrics. You know, what's, what's the call answer, how
14 long does it take to answer the call? How long do you
15 put them on hold? How many calls are blocked? And
16 those metrics, you don't have to visit the call center
17 to get them.

18 And I will also mention to you that we just
19 don't take trips at Public Counsel because we think it's
20 a good idea. We're under the same kind of budgetary
21 controls that you are.

22 **CHAIRMAN GRAHAM:** The other question I have
23 for you, one of the charts that we were looking at
24 yesterday, the question was asked of Ms. Chambers,
25 talked about, talked about the calls that come in and

1 qualified them as if they had back billing or if they
2 want to turn on new service or if they want to do this
3 or if they want to do that.

4 Do they register -- if the call, call is for
5 back billing, but yet the guy, somebody was rude to
6 them, do they register bad service and back billing, or
7 is it just back billing? Is it just whatever the
8 initial call came about, or if there's three different
9 things going on, what --

10 **THE WITNESS:** Are you talking about the
11 separation of the calls as to which group?

12 **CHAIRMAN GRAHAM:** Yes.

13 **THE WITNESS:** Yeah. I'll have to admit I
14 haven't gone into their interactive system. But, but
15 the system will ask, I believe, is this a billing
16 question or is this a service issue? And, and then they
17 only have two sets of service reps, the regular CSRs
18 that handle service orders, installation, and then the
19 other that handle collections. So it's just a two-prong
20 decision. Each of the call centers has both. They're
21 now cross-training so that they, if more calls come in
22 one way or the other, they're able to handle them. I, I
23 don't have any problems with that process. I think
24 that's probably the way that I would do it.

25 **CHAIRMAN GRAHAM:** And this is probably a

1 better, a question I probably should have asked
2 Ms. Chambers yesterday, and my fault that I forgot to
3 ask her. But since you're here, it's one of those
4 things that popped into my head.

5 The other question I have, if you didn't think
6 visiting the call centers were worthwhile, and some of
7 the screening that our Staff did to the call centers
8 were worthwhile, why didn't somebody from OPC, when you
9 know specifically somebody said that they had a rude
10 person that called, go back and get that specific
11 recording to verify or corroborate that witness's
12 testimony?

13 **THE WITNESS:** We didn't get that many
14 complaints. I know I said something different under my
15 testimony, but I went back and looked, and customers
16 complained in the context of other issues if they
17 weren't able to get to the call center. And, of course,
18 if they didn't get to the call center, then they don't
19 have a record.

20 Where they complain about rude treatment, I, I
21 still think I found four or five. This company
22 obviously has been working on the call center. And the
23 re -- and you saw some of those 2008 numbers. The call
24 center had to improve, because in the 121 docket we had
25 a lot of customers who were very critical of their

1 abusive treatment by the call center. You didn't see
2 nearly as much.

3 We're in a rate case. What would you do? You
4 would really work hard at public relations. And the
5 call center is the easiest way to do it because the
6 costs are spread over a million customers, and so that's
7 a very effective way to deal with those transactions.
8 And I think their, what I would call overtones are far
9 improved today as a result of these cases and as a
10 result of the monitoring program. They know we're
11 looking at them and it's good.

12 **CHAIRMAN GRAHAM:** One last question, and you
13 may not be the best to answer this, but this is -- I
14 don't know the answer to this question and I asked this
15 before of another witness.

16 Why is it -- or would you care to guess why
17 some of the management fees are more expensive for Aqua
18 than they are for some of the other ones, or why do they
19 vary so much throughout the State of Florida?

20 **THE WITNESS:** All I have is opinions, and I
21 don't have hard data. I think Kim Dismukes, who is our
22 primary accounting witness, she knows the inner workings
23 of the mechanics of Aqua, and it would, my opinions
24 should not carry a lot of weight. I would be glad to
25 share them with you, but I don't think I could back it

1 up with hard data that I've looked at.

2 **CHAIRMAN GRAHAM:** Well, I'll hear your
3 opinion, if you care to render it.

4 **THE WITNESS:** I -- when Mr. Luitweiler
5 (phonetic) shared with us in his deposition the other
6 day the number of executives in Florida, I was shocked.
7 This is a tiny little, 17,000 customers. And, and those
8 are executives. My water company has a -- half as big
9 as Aqua -- has a manager who drives around in overalls,
10 and he does have a Sopchoppy Water Company truck.

11 The overheads that you see in Aqua are, are
12 intolerable for the customers because of the impact on
13 the rates. Aqua, because of the size of the system, a
14 million customers, should have the, some of the lowest
15 rates in the State of Florida, and that's not the case.

16 So -- and I will also make one other
17 observation about the mechanics here. When Aqua bought
18 Florida, whatever the price was, and I don't know what
19 it was, but if they bought it for 10 cents on the dollar
20 or even 50 cents on the dollar, it was a good deal for
21 Aqua. But the Commission allowed them to hold a rate
22 base that was 100% of the book value.

23 And so let's assume they paid a million
24 dollars, but they, they bought a system with a book
25 value of a million and, and they bought it for 10 cents

1 on the dollar. Well, we've got a million-dollar rate
2 base that we're paying for. And Aqua comes in and the
3 customer rates reflect that million-dollar rate base,
4 and they say, these systems need to be rebuilt.

5 So we're already paying for the old rate base
6 that they didn't pay for, and now we're going to be
7 paying for the rebuild, for all of the stuff that had to
8 be done that wasn't done before, and so you end up
9 paying twice for the same thing.

10 The failure to make an acquisition adjustment
11 is significant. Ms. Dismukes addresses that issue in
12 her testimony.

13 **CHAIRMAN GRAHAM:** Okay. That's all the
14 questions I had.

15 Anybody else on the Commission?

16 Rebuttal?

17 **MS. CHRISTENSEN:** I just have a few questions
18 on redirect.

19 **EXAMINATION**

20 **BY MS. CHRISTENSEN:**

21 Q You had extensive discussions with Mr. May
22 regarding historical data, and I think you made the
23 point that you had requested historical data that was
24 much further back so you could track a longer period of
25 time. Do you recall when that conversation or when

1 those conversations occurred with Mr. Lihvarcik?

2 A I think that was prior to the point in time
3 when we signed the agreement, when we were first
4 meeting.

5 Q Okay. And that -- would that have been prior
6 to this rate case being filed?

7 A Prior to the protest, yes.

8 Q Okay. And let me ask you, are you familiar
9 with the quality of service plan that was required as
10 part of the order, final order in Docket 080121-WS?

11 A Yes.

12 Q Okay. And were you aware, and it can be found
13 on page 22 of the final order, that the Commission
14 required that AUF shall submit to this Commission on a
15 monthly basis all sound recordings of customer
16 complaints from the customers to this Commission for the
17 first six months after this order, and our Staff will
18 listen to a sample of these to determine if the customer
19 complaints are handled in a professional and courteous
20 manner?

21 A Yes. And that was the purpose of that
22 recording.

23 Q Okay. So were you aware that OPC was -- or it
24 was intended that OPC be the ones to listen to the sound
25 recordings based on that language in the order?

1 **A** No. It was not contemplated that, that we
2 were part of that review process. Later on we did ask
3 for the recordings. But, but during the active
4 monitoring process Staff was receiving those recordings,
5 taking a sample, listening to them. And their primary
6 purpose was to determine whether the, the Aqua customer
7 service representatives were treating customers
8 politely, because that was a major complaint.

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

10 **CHAIRMAN GRAHAM:** Okay. I think we have a lot
11 of exhibit numbers, so, OPC, let's start with your
12 exhibits.

13 **MS. CHRISTENSEN:** I would move Mr. Poucher's
14 prefiled direct testimony exhibits, and I'm thinking it
15 starts at 89 through 101 on the Comprehensive Exhibit
16 List.

17 **CHAIRMAN GRAHAM:** We'll enter Exhibits 89
18 through 101. Did you have any others?

19 (Exhibits 89 through 101 admitted into the
20 record.)

21 **MS. CHRISTENSEN:** I believe that was all that
22 Office of Public Counsel sponsored for Mr. Poucher.

23 **CHAIRMAN GRAHAM:** Mr. May? I'm sorry. Okay.
24 Mr. May?

25 **MR. MAY:** Yes. Aqua would move Exhibits 314

1 through 325.

2 **CHAIRMAN GRAHAM:** 314 through 325.

3 **MR. RICHARDS:** Mr. Chairman, excuse me. I
4 don't know if it's appropriate at this time, but I have
5 an issue with 325. To steal a phrase, that Mr. May
6 cherry picked one page out of more than 20 pages of
7 Mr. Mariano's comments at the May 24 hearing. You'll
8 see on the one page he did provide, Exhibit 25, the very
9 first line is a portion of a question that starts on the
10 previous page.

11 So I think if we're going enter in this one
12 page, I would ask that the entire 20 or so pages of
13 Mr. Mariano's comments at that hearing be included.

14 **MR. MAY:** We would have no objection to that.

15 **CHAIRMAN GRAHAM:** Okay.

16 **MR. RICHARDS:** I can work on that at lunch and
17 get the rest of those pages copied and we'll include
18 that in this.

19 **CHAIRMAN GRAHAM:** Is there any objection to
20 that from OPC?

21 **MS. CHRISTENSEN:** No objection.

22 **CHAIRMAN GRAHAM:** Staff?

23 **MR. JAEGER:** No objections.

24 **CHAIRMAN GRAHAM:** All right. We will make
25 sure that Exhibit 325 is basically Commissioner

1 Mariano's entire testimony during that, and if you could
2 just make sure that Staff has that.

3 **MR. RICHARDS:** Thank you.

4 **CHAIRMAN GRAHAM:** All right. Thank you.

5 Mr. May? 314 through 325?

6 **MR. MAY:** As 325 is amended to meet
7 Mr. Richards' requirements.

8 **CHAIRMAN GRAHAM:** Was that it?

9 **MR. MAY:** Yes, sir.

10 **CHAIRMAN GRAHAM:** Staff?

11 **MR. JAEGER:** We had 313. We would move it.

12 **CHAIRMAN GRAHAM:** Okay.

13 (Exhibits 313 through 325 admitted into the
14 record.)

15 Okay. We are at what we said was going to be
16 lunchtime. I think there's a lot that we need to get
17 done between now and 4:30, when we said we're going to
18 end today.

19 The question I have of you Intervenors and
20 Aqua, what's a sufficient amount of break time for
21 lunch? I mean, we can be here and back in 25 minutes,
22 but I know some of you have to go down the street and
23 what have you. So I'm open to suggestions.

24 **MR. MAY:** The will of the Chair, from Aqua's
25 standpoint.

1 **MR. CURTIN:** 30 minutes would be fine from our
2 standpoint.

3 **MR. RICHARDS:** 30 minutes is fine with us
4 also.

5 **MS. CHRISTENSEN:** We can accommodate 30
6 minutes.

7 **CHAIRMAN GRAHAM:** Okay. I have it as roughly
8 six after 1:00 right now, so at 1:35 we'll be back.
9 We're adjourned for lunch.

10 **MS. CHRISTENSEN:** Mr. Chairman, is Mr. Poucher
11 excused?

12 **CHAIRMAN GRAHAM:** Yes.

13 (Break taken.)

14 (Transcript continues in sequence in Volume
15 6.)

16

17

18

19

20

21

22

23

24

25

1 STATE OF FLORIDA)
 2 COUNTY OF LEON) : CERTIFICATE OF REPORTER

3
 4
 5
 6
 7
 8
 9
 10
 11
 12
 13
 14
 15
 16
 17
 18
 19
 20
 21
 22
 23
 24
 25

I, LINDA BOLES, RPR, CRR, Official Commission Reporter, 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' attorneys or counsel connected with the action, nor am I financially interested in the action.

DATED THIS 8th day of December, 2011.

Linda Boles
 LINDA BOLES, RPR, CRR
 FPSC Official Commission Reporter
 (850) 413-6734