

BEFORE THE  
FLORIDA PUBLIC SERVICE COMMISSION

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In the Matter of:

DOCKET NO. 100330-WS

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

VOLUME 8

Pages 1384 through 1533

PROCEEDING: HEARING

COMMISSIONERS  
PARTICIPATING: CHAIRMAN ART GRAHAM  
COMMISSIONER LISA POLAK EDGAR  
COMMISSIONER RONALD A. BRISÉ  
COMMISSIONER EDUARDO E. BALBIS  
COMMISSIONER JULIE I. BROWN

DATE: Wednesday, December 7, 2011

TIME: Commenced at 12:03 p.m.  
Concluded at 1:10 p.m.

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

REPORTED BY: LINDA BOLES, RPR, CRR  
FPSC Reporter  
(850) 413-6734

APPEARANCES: (As heretofore noted) DOCUMENT NUMBER-DATE

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## I N D E X

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## 1 P R O C E E D I N G S

2 MR. JAEGER: And I believe that gets us to.  
3 Mr. Stallcup, who has not been stipulated, and that's  
4 Mr. Harris's witness.

5 MR. HARRIS: Staff calls Paul Stallcup.

6 PAUL W. STALLCUP  
7 was called as a witness on behalf of the Staff of the  
8 Florida Public Service Commission and, having been duly  
9 sworn, testified as follows:

## 10 EXAMINATION

11 BY MR. HARRIS:

12 Q Good morning, or afternoon, Mr. Stallcup.  
13 Have you previously been sworn?

14 A Yes, I have.

15 Q Could you please state your name and provide a  
16 business address.

17 A My name is Paul Stallcup. My business address  
18 is 2540 Shumard Oak Boulevard.

19 Q And for whom do you work and what is your  
20 position?

21 A I am the Supervisor of the Economics and  
22 Tariffs Section at the Public Service Commission.

23 Q Mr. Stallcup, did you cause to be prepared and  
24 filed in this proceeding direct testimony consisting of  
25 eight pages?

1           A     Yes, I did.

2           Q     Do you have any changes or corrections to your  
3 prefiled direct testimony?

4           A     No, I don't.

5           Q     Do you have that direct testimony with you  
6 today?

7           A     Yes, I do.

8           Q     And if I asked you the same questions in your  
9 prefiled testimony today, would you give the same  
10 answers are as contained in your prefiled direct  
11 testimony?

12          A     Yes.

13                   **MR. HARRIS:** Mr. Chairman, Staff would like to  
14 ask that the prefiled direct testimony of Paul Stallcup  
15 be inserted into the record as though read.

16                   **CHAIRMAN GRAHAM:** We will insert  
17 Mr. Stallcup's testimony into the record.

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1 Q. Would you please state your name and business address?

2 A. My name is Paul W. Stallcup. My business address is 2540 Shumard Oak Boulevard,  
3 Tallahassee, Florida, 32399.

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

5 A. I am employed by the Florida Public Service Commission as the Supervisor of the  
6 Economics and Tariffs Section of the Division of Economic Regulation.

7 Q. Would you please summarize your educational and professional experience?

8 A. I graduated from Florida State University in 1977 with a Bachelor of Science degree in  
9 Economics with minors in Mathematics and Statistics. I received my Masters of Science  
10 Degree in Economics from Florida State University in 1979 and, as a Ph.D. candidate,  
11 completed the course work and doctoral examinations required for that degree in 1980.

12 In 1981, I was employed by Florida Power & Light Company as a Load Forecast  
13 Analyst. In this capacity, I prepared short and long term forecasts of company sales, peak  
14 demand, and customer growth. In 1983, I was employed by the Florida Public Service  
15 Commission as an Economic Analyst and in 1991 was promoted to my current position. In  
16 this capacity, I have analyzed and made recommendations on a variety of issues in all of the  
17 industries regulated by the Commission.

18 Q. Have you previously testified before the Florida Public Service Commission?

19 A. Yes. In 1983 I testified on behalf of the Commission staff in the Florida Power &  
20 Light Company rate case (Docket No. 830465-EI). In 1997, I testified on behalf of the staff in  
21 Florida Power Corporation's proposed buy-out of Orlando Cogen Limited's energy contract  
22 (Docket 961184-EQ). In 2000, I provided testimony in Aloha Utilities' wastewater rate case  
23 (Docket No. 991643-SU) and in BellSouth's Permanent Performance Measures case (Docket  
24 No. 000121-TP). In 2001, I provided testimony in Aloha Utilities' water rate case (Docket  
25 No. 010503-WU), and in 2007, I filed testimony in Aqua Utilities Florida (Aqua Utilities or

1 AUF) water and wastewater systems rate case (Docket No. 060368-WS). Finally, in 2008, I  
2 provided testimony in Aqua Utilities' water and wastewater systems rate case (Docket No.  
3 080121-WS).

4 Q. What is the purpose of your testimony?

5 A. The purpose of my testimony is to discuss three issues relevant to this case. First, I  
6 will discuss why I believe it would not be appropriate to adjust the test year revenues and  
7 billing determinants as recommended by the Office of Public Counsel (OPC) witness  
8 Dismukes. Second, I will discuss how the values for the Rate Cap Thresholds were  
9 determined at the May 24, 2011 Agenda Conference and why I believe that the Rate Cap  
10 Threshold values for AUF's water and wastewater systems are appropriate. Third, I will  
11 discuss why I believe the rates approved at the May 24, 2011 Agenda Conference are as  
12 affordable as possible given the requirements of Section 367.081, Florida Statutes.

13

14 Test Year Revenues and Billing Determinants

15 Q. Have you read the portion of OPC witness Dismukes' direct testimony that describes  
16 her recommended adjustments to test year revenues and billing determinants?

17 A. Yes.

18 Q. Please summarize your understanding of witness Dismukes' recommended adjustment.

19 A. OPC witness Dismukes recommends increasing test year revenues by \$372,925 to  
20 remove some of the revenue impact of reduced sales since the last rate case. The amount of  
21 Ms. Dismukes adjustment is based upon AUF's Budget Variance Reports which document the  
22 difference between the actual number of gallons sold and the number of gallons AUF had  
23 budgeted to be sold. According to OPC witness Dismukes, this unanticipated decline in  
24 AUF's sales should be offset by imputing \$372,925 in test year revenues and adjusting  
25 upwards the number of gallons sold by 56,722,489 gallons during the test year. OPC witness

1 Dismukes says AUF should absorb the revenue impact of reduced sales for two reasons: 1) the  
2 company has more control of the factors that led to reduced consumption than customers do,  
3 and 2) the company's return on equity already includes a risk component which should  
4 compensate AUF for reduced sales.

5 Q. Do you believe that this adjustment is appropriate?

6 A. No. Just because AUF underestimated the extent of customers' response to increased  
7 prices from the utility's last rate case does not mean that the reduced sales observed during the  
8 test year are transitory and not reflective of the period when AUF's new rates will go into  
9 effect. In fact, of the 56,722,489 gallon reduction cited in Ms. Dismukes' testimony,  
10 approximately 80 percent of those gallons are attributable to the Scottish Highlands area of the  
11 Silver Lakes Estates system. This is significant because as AUF states in its Budget Variance  
12 Reports, the customers of this area have installed shallow irrigation wells to replace AUF as  
13 their source for irrigable water. I believe that once customers have invested in installing  
14 shallow wells, they will not return to AUF for their irrigation demands. Thus, these lost  
15 gallons and their associated revenues are a permanent reduction in AUF's sales and should not  
16 be artificially adjusted back into the test year.

17 Q. What do you believe the ramifications would be of making the adjustments  
18 recommended by OPC witness Dismukes?

19 A. If the number of gallons sold were to be increased as Ms. Dismukes recommends, the  
20 resulting rates would fall short of generating the utility's revenue requirement. In other words,  
21 the rates would not be compensatory as required by Section 367.081, Florida Statutes.

22 Q. Do you believe, as OPC witness Dismukes asserts, that the risk component of the  
23 utility's return on equity is intended to compensate AUF for a permanent reduction in sales  
24 like those seen in Scottish Highlands?

25 A. No. Although I am not an expert on return on equity, it is my understanding that



1 inherent with the appropriate determination of return on equity is the assumption that rates  
2 will be set such that the utility will be able to recover reasonable and prudent costs, including  
3 a fair rate of return. If OPC witness Dismukes' adjustment is adopted, then the resulting rates  
4 will fall short of fully recovering these costs by \$372,925. Therefore, a fundamental  
5 assumption used in determining an appropriate return on equity will not be satisfied and would  
6 likely require an additional risk premium to compensate investors for the revenue shortfall.  
7 Thus, I do not believe that the normal risk component of the utility's return on equity is  
8 intended to compensate the utility for a permanent reduction in sales like those seen in  
9 Scottish Highlands.

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#### Rate Cap Threshold

12 Q. Do you believe that the value of the Rate Cap Thresholds approved at the May 24,  
13 2011 Agenda Conference are appropriate?

14 A. Yes. The values of the Rate Cap Thresholds (\$65.00 for water and \$91.55 for  
15 wastewater) were calculated such that the rate caps are as low as possible while still allowing  
16 AUF to earn the revenue requirements approved by the Commission. Furthermore, these Rate  
17 Cap Thresholds were calculated in conjunction with a Subsidy Limit of \$12.50 as originally  
18 set in AUF's prior rate case (Docket 080121) and reaffirmed at the May 24, 2011 Agenda  
19 Conference for AUF's current case.

20 Q. Once the Commission approved the revenue requirements and the Subsidy Limits, is  
21 there any discretion that can be used in setting the Rate Cap Thresholds?

22 A. No. Once the revenue requirements and Subsidy Limits have been determined, the  
23 determination of the appropriate Rate Cap Threshold is merely a fallout calculation.

24 Q. Please explain how this calculation is performed.

25 A. The Subsidy Limit and the Rate Cap Threshold are parameters used in the Capband

1 Rate Consolidation methodology. Under this methodology, once the stand-alone revenue  
2 requirements for each of the existing rate bands and stand-alone systems have been  
3 determined, the fully compensatory stand-alone rates for each existing rate band and system  
4 can be calculated. Next, the rates for the most expensive rate bands and systems (measured in  
5 terms of a customer's bill at a predetermined amount of usage) are lowered by the imposition  
6 of the Rate Cap Threshold. This Rate Cap Threshold simply reduces rates for the expensive  
7 systems so that the resulting customer bill does not exceed the amount of the Rate Cap  
8 Threshold. But by reducing rates to a level below the fully compensatory amount, a revenue  
9 shortfall is created. This revenue shortfall is then reallocated to the less expensive rate bands  
10 and systems. However, by reallocating revenue recovery to the less expensive systems, the  
11 rates for these customers will be higher than they otherwise would have been. These higher  
12 rates create a subsidy paid by the customers of the less expensive systems to make up for the  
13 imposition of the Rate Cap Threshold for the more expensive systems.

14 With Subsidy Limit of \$12.50 per customer bill, only a finite number of dollars can be  
15 reallocated from the expensive systems to the less expensive systems without exceeding the  
16 \$12.50 limit. The calculation of the Rate Cap Threshold therefore consists of a simple  
17 iterative search to find the lowest Rate Cap Threshold possible that will not cause the Subsidy  
18 Limit to be exceeded.

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#### Affordability

21 Q. Do you have an opinion about the affordability of the rates approved at the May 24,  
22 2011 Agenda Conference?

23 A. Yes. While I agree that the rates approved at the May 24, 2011 Agenda Conference  
24 are higher than most people, including myself, would expect water and wastewater rates to be,  
25 I also believe that the rates approved by the Commission are as low, or affordable, as they can

1 be given the requirements of Section 367.081, Florida Statutes. This statute requires water  
2 and wastewater rates approved by the Commission to be "just, reasonable, compensatory, and  
3 not unfairly discriminatory." It is my opinion that, given the statutory requirement that AUF's  
4 rates must be compensatory, the Commission did take additional steps to help make AUF's  
5 rates more affordable than they otherwise would have been.

6 Q. Can you provide some examples of how the Commission attempted to make AUF's  
7 rates more affordable?

8 A. Yes. One example is the Commission's approval of the Capband Rate Consolidation  
9 methodology. Under this methodology, the rates of the more expensive systems are capped  
10 such that a customer's water or wastewater bill will not exceed the amount of the Rate Cap  
11 Threshold. This methodology is designed to help restrain excessively high stand-alone  
12 customer bills and to make them more affordable. For example, had the Commission decided  
13 to maintain the stand-alone rates that existed prior to the May 24, 2011 Agenda Conference,  
14 customers of the Breeze Hill system would have faced water bills of \$95.03 for 7,000 gallons  
15 of usage, while under the Capband methodology, this bill is reduced to \$65.00. More  
16 dramatically, for wastewater customers of the old Rate Band 3, approval of the Capband  
17 methodology reduces their wastewater from \$204.66 on a stand-alone basis to \$91.55.

18 Another example of how the Commission exercised its discretion to help make rates  
19 more affordable is the adoption of the inclining block rate structure for water. Under the  
20 approved inclining block rate structure, the gallonage rate for the first 6,000 gallons of usage  
21 is significantly lower than it would be under a standard uniform gallonage charge (\$3.59 per  
22 1,000 gallons vs. \$5.10 per 1,000 gallons). This lower rate for the first 6,000 gallons of usage  
23 results in lower total customer bills for all usage less than 12,000 gallons per month. Thus,  
24 approval of the inclining block rate structure provides customers with the opportunity to avoid  
25 higher bills by adopting water conservation measures.

1           Because Section 367.081, Florida Statutes, requires that all rates approved by the  
2 Commission must be compensatory, AUF's rates will necessarily be relatively high. This is  
3 because AUF has a relatively small customer base to support its revenue requirement.  
4 However, through its actions at the May 24, 2011 Agenda Conference discussed above, I  
5 believe that the Commission did everything possible to help address affordability concerns  
6 given the constraints placed on it by Section 367.081, Florida Statutes.

7 Q.     Does this conclude your testimony?

8 A.     Yes.

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1 BY MR. HARRIS:

2 Q Mr. Stallcup, have you prepared a brief  
3 summary of your testimony?

4 A Yes, I have.

5 Q Could you give it at this time?

6 A Yes.

7 The purpose of my testimony is to discuss  
8 three items relevant to this case. First, I discuss why  
9 it would not be appropriate to adjust test year revenues  
10 and billing determinants as recommended by OPC Witness  
11 Dismukes. This relates to Issue 14, and it's my belief  
12 that this adjustment would result in non-compensatory  
13 rates.

14 Second, I discuss how the values for the rate  
15 cap thresholds were determined at the May 24th, 2011,  
16 Agenda Conference, were determined, and why I believe  
17 the rate cap thresholds for AUF's water and wastewater  
18 systems are appropriate. This relates to Issue 26,  
19 which was raised by Ms. Wambsgan, who intervened. She  
20 has since withdrawn, and therefore this issue is now  
21 listed as a fallout issue.

22 Finally, I discuss why I believe that the  
23 rates approved at the May 24th, 2011, Agenda Conference  
24 are as affordable as they can be, given the requirements  
25 of Section 367.081, *Florida Statutes*. This relates to

1 Issue 31A, which is raised by the Office of Public  
2 Counsel.

3 This concludes my summary.

4 **MR. HARRIS:** Thank you, Mr. Stallcup.

5 Chairman, Mr. Stallcup is available for  
6 questions and cross-examination.

7 **CHAIRMAN GRAHAM:** Thank you.

8 Welcome, Mr. Stallcup.

9 **THE WITNESS:** Thank you.

10 **CHAIRMAN GRAHAM:** Intervenors.

11 Ms. Christensen.

12 **MS. CHRISTENSEN:** No questions.

13 **CHAIRMAN GRAHAM:** Ms. Bradley?

14 Mr. Richards?

15 **MR. RICHARDS:** Yes, I have some questions.

16 **CHAIRMAN GRAHAM:** Please.

17 **EXAMINATION**

18 **BY MR. RICHARDS:**

19 Q Good morning.

20 A Good morning.

21 Q Or good afternoon. Excuse me.

22 Last week we entered in Exhibit 310, which was  
23 your amended direct testimony from 2008. Do you have a  
24 copy of that?

25 A From 2008? No, I don't. I'm sorry.

1 Q I have an extra copy. Can I -- now on page 12  
2 of that direct testimony you talk about how the subsidy  
3 works. Is that still a valid statement?

4 A Yes.

5 Q Now on page 14 you talk about subsidies that  
6 would be greater than \$5.90 would be excessive and  
7 inconsistent with Section 376.08 [sic].

8 A That's correct.

9 Q Okay. Now on your direct testimony filed in  
10 this case, page 5, line 17, you talk about a subsidy  
11 limit of \$12.50.

12 A Correct.

13 Q Is that correct? Could you explain to me how  
14 we got from 5.90 to 12.50?

15 A In the last case, in the '08 case, the  
16 Commission decided that the appropriate subsidy level  
17 was \$12.50. So I've carried that forward to this case.

18 Q Okay. Now you're familiar with the Southern  
19 States case?

20 A I'm aware of it. Yes.

21 Q In that case, they, the court talked about a  
22 modest deviation from the standalone rates.

23 A I will take your word for it.

24 Q Okay. Do you have an opinion as to whether a  
25 subsidy rate of 12.50 is a modest deviation from the

1 standalone rates?

2 A No particular opinion, no.

3 MR. HARRIS: Mr. Chairman -- I'm sorry. I was  
4 going to object. Mr. Stallcup is not a lawyer, so to  
5 the extent he's being asked for a legal opinion, I would  
6 object to that.

7 CHAIRMAN GRAHAM: I don't think he asked for a  
8 legal opinion. He just said, "In your opinion."

9 MR. HARRIS: I just wanted to put that on the  
10 record.

11 BY MR. RICHARDS:

12 Q I'm sorry. I didn't catch your answer.

13 A I'm really not in a position to determine  
14 whether or not it's a modest deviation or not. However,  
15 since it was approved by the Commission in the last  
16 case, I would presume that it would comply with statute.

17 Q Okay. On Exhibit 310, page 21, you have  
18 residential customer system statistics.

19 A Yes.

20 Q I believe they're, the systems in Pasco County  
21 I had highlighted on that exhibit, and I was going to  
22 talk about those.

23 A I see them.

24 Q For the Palm Terrace system, the way I  
25 calculated it, based on the rates, their standalone



1 rates compared to the rates that they ended up paying in  
2 the 2009 order, the subsidy paid by Palm Terrace would  
3 be about \$30.

4 A I don't see that calculation here.

5 Q Do you, do you, do you have the rates, the  
6 pre-PAA order rates, the 2009 rates?

7 A Yes, I do.

8 Q So you could look at the rates for rate band  
9 4, which included Palm Terrace.

10 A I've got it.

11 Q Okay. Based on -- page 21 of your Exhibit 310  
12 talks about 7,000 gallons. So if you'd look at  
13 7,000 gallons under the rate band 4.

14 A Uh-huh.

15 Q Based on my calculation, the cost would be  
16 about \$67 for rate band 4.

17 A Approximately, yes.

18 Q And page 21, the cost to Palm Terrace was \$57  
19 for that same, that 7,000 gallons?

20 A Yes.

21 Q So it's a difference of about \$9. And if you  
22 look at sewer rates, 6,000 gallons for Palm Terrace is  
23 \$59.76. And Palm Terrace was in rate band 2 for sewer,  
24 and 6,000 gallons, they'd be paying about \$79?

25 A Correct.

1           Q     So that's a \$20 difference, so \$20 for sewer  
2 and \$9 for water, you've got approximately a 29,  
3 \$30 difference.

4           A     Correct.

5           Q     So in a sense, those people in Palm Terrace  
6 are paying a \$30 subsidy.

7           A     On a combined basis.

8           Q     Right. Now if that's a \$30 subsidy and the  
9 subsidy limit is \$12.50, what am I missing? Why, why is  
10 that happening?

11          A     I'm going through that right now. On a  
12 standalone basis -- oh, I'm sorry. I think I know the  
13 answer. I'm looking at the rates as they existed just  
14 prior to the filing of the current case and comparing  
15 that to the bills that you've just handed me from the  
16 last case, from the '08 case. And the differential  
17 we're seeing includes not only a subsidy that may have  
18 been paid, but also pass-through rate increases that  
19 occurred since the '08 case, which would cause those  
20 subsidies to become larger.

21          Q     Okay.

22          A     I think that's the cause.

23          Q     Okay. So you're saying the subsidy is above  
24 \$12.50 for certain customers?

25          A     At this point the subsidy would be a moot

1 calculation, because the subsidy was calculated at the  
2 time of the '08 case. Since that time there have been  
3 rate increases through the pass-throughs that were not  
4 included in the original subsidy calculations.

5 Q But the rates we were just talking about were  
6 the pre-PAA rates, the 2009 rates compared to the  
7 standalone rates, and we got a subsidy of \$30 in that  
8 one example.

9 A But the pre-PAA rates include those  
10 pass-throughs.

11 Q Okay.

12 A So I'm not sure if we're talking around each  
13 other or not, to tell you the truth. I'm sorry.

14 Q No. I think, I think we're on the same page.  
15 Thank you.

16 Now you're recommending in the PAA order that  
17 we go from four bands to two; is that correct?

18 A Correct.

19 Q Now does that increase the level of subsidy  
20 that certain systems have to pay?

21 A I couldn't address the subsidies on a  
22 system-by-system basis, but I could only do it on a  
23 rate-band-by-rate-band basis. And on that basis, no, it  
24 would not.

25 Q Do you have a copy of the June 13th order?

1 A I have excerpts from that.

2 Q I'm just concerned about pages 101 and 102.

3 A Okay. Give me just a second.

4 Okay. Page 101?

5 Q Yes.

6 A Okay.

7 Q I want to ask you a couple questions about  
8 that table there. The standalone bill, you've got a  
9 column, a row for a standalone bill at the top and then  
10 a current bill at the bottom. Could you tell me the  
11 difference between those two? Is the current bill what  
12 those people are paying prior to this rate case?

13 A The current bill would be based upon the rates  
14 prior to the case. That's correct.

15 Q And that's what they're paying now. And then  
16 the standalone bill was if they were separated out, they  
17 would have to pay that standalone bill.

18 A Yes. If the rates were calculated exclusively  
19 for current rate band 4, for example, their bill would  
20 be \$90.53.

21 Q Okay. Now when you're calculating the subsidy  
22 they receive, you're comparing the standalone bill with  
23 what they would pay under the proposed Aqua requested  
24 uniform rate.

25 A Correct.

1 Q Which is that line for consolidated bill.

2 A Correct.

3 Q So the subsidy they would receive would be  
4 \$37?

5 A I have \$33.24.

6 Q I'm looking at Breeze Hill. I'm sorry.

7 A Oh, I'm sorry. Breeze Hill, yes, would be  
8 37.73.

9 Q In the paragraph just below that table in the  
10 first sentence, you say, "The standalone bills are  
11 significantly greater than the approved rate cap  
12 threshold."

13 A Yes.

14 Q That's a correct statement?

15 A Yes.

16 Q And those two systems, Breeze Hill and Peace  
17 River, do not fit within the current rate bands. They  
18 wouldn't meet the rate cap threshold for the current  
19 rate band.

20 A No. They were not included in the case that  
21 created the four rate bands. That's correct.

22 Q But they would -- if you tried to insert them  
23 into that current rate band, they wouldn't fit. They  
24 wouldn't meet the threshold, based on --

25 A Current rate band 4 is a capped rate band. So

1 if they were to be included inside that rate band, their  
2 rates would be reduced to the \$65.

3 Q But continuing in that paragraph, you say that  
4 the subsidies that would have to be paid by the other  
5 rate bands were greater than the \$12.50. So isn't  
6 that -- I'm trying to get to the point that these two  
7 systems, Breeze Hill and Peace River, do not fit into  
8 that four rate band structure, and that's why you -- is  
9 that why you went to the two band that you propose in  
10 this order?

11 A No, that's not the reason for going to the two  
12 bands. If we look at this table, just to kind of give  
13 you an idea of how the rate bands are formed, to my eye,  
14 current band four, Breeze Hill and Peace River are all  
15 relatively expensive systems for customers on a  
16 standalone basis. They would therefore, inside the  
17 cap-band rate consolidation method, be candidates for  
18 inclusion in what we call the capped band, where we  
19 reduce rates somewhat artificially, if you will, for  
20 those customers to try and make the bills more  
21 reasonable.

22 The downside of capping those customer bills  
23 for the expensive systems is that you then have to  
24 reallocate revenue recovery to the uncapped systems, and  
25 that's where the subsidies come into play.

1 Q All right. So if you -- for the more  
2 expensive systems like Breeze Hill and Peace River, the  
3 other customers have to subsidize them.

4 A Correct.

5 MR. RICHARDS: Okay. I have no further  
6 questions.

7 CHAIRMAN GRAHAM: YES?

8 MR. CURTIN: Just quickly.

9 EXAMINATION

10 BY MR. CURTIN:

11 Q Talking about the Peace River system, you  
12 said, is an expensive standalone system. And looking at  
13 your testimony on Exhibit 310 in the prior rate case,  
14 Peace Hill -- Peace River was not part of the prior rate  
15 case; correct?

16 A That's correct.

17 Q They -- Aqua purchased that after the prior  
18 rate case and before this rate case.

19 A Correct.

20 Q Okay. And do you know how many residents are  
21 at Peace River?

22 A I do. Approximately 90.

23 Q A relatively small system.

24 A Yes.

25 Q Do you know if there's any room for growth in

1 that system, or is that basically maxed out?

2 A I don't know.

3 Q And you're aware that that system needs  
4 infrastructure improvements?

5 A I'm not aware of that.

6 Q You're not aware if it needs a radium removal  
7 treatment, rather infrastructure improvements?

8 A I'm not aware of that.

9 Q But you agree with me it's an expensive  
10 system.

11 A Yes.

12 Q For a standalone, for a standalone system.

13 A Yes.

14 Q Do you believe it was a prudent business  
15 decision of Aqua for their current customers in 2008 to  
16 purchase a system which was an expensive system, which  
17 needed infrastructure improvements, for their current  
18 customers back in 2008, and then to move for a rate  
19 increase on that, using partially the expense for Peace  
20 River?

21 A I have no opinion on that.

22 **MR. CURTIN:** Okay. No further questions.

23 **CHAIRMAN GRAHAM:** Aqua?

24 Commissioners?

25 Staff?



1           **MR. HARRIS:** May I have just a second?

2           **CHAIRMAN GRAHAM:** Sure.

3           (Pause.)

4           **MR. HARRIS:** We have no redirect. Thank you.

5           **CHAIRMAN GRAHAM:** Okay.

6           Mr. Stallcup, thank you.

7           **THE WITNESS:** Thank you.

8           **CHAIRMAN GRAHAM:** Do we have any exhibits to  
9 enter, or we've done that already?

10          **MR. HARRIS:** Mr. Stallcup did not have any  
11 exhibits to his testimony.

12          **CHAIRMAN GRAHAM:** Okay. So that brings us to  
13 rebuttal?

14          **MR. HARRIS:** Yes, Mr. Chairman. And I believe  
15 the first rebuttal witness was OPC's Vandiver, and I  
16 believe she may have been stipulated.

17          **MS. CHRISTENSEN:** Yes. I believe my two  
18 witnesses with rebuttal, Ms. Vandiver with rebuttal, and  
19 Mr. Poucher with rebuttal and supplemental direct, were  
20 both stipulated. And I would ask to have Ms. Vandiver's  
21 testimony moved into the record as though read. And I  
22 would move to admit her supplemental -- or the exhibits  
23 attached to her rebuttal testimony. I'm not sure if  
24 they were listed separately on this list. I assume they  
25 were.

1                   **CHAIRMAN GRAHAM:** I have hearing ID -- or  
2 Exhibit Number 201.

3                   **MS. CHRISTENSEN:** No. I think that's the  
4 deposition exhibit, although I would actually ask to  
5 have that moved into the record as well, since that was  
6 part of the stipulated agreement.

7                   **CHAIRMAN GRAHAM:** Okay. So we're moving 201  
8 into the record. We're moving her rebuttal testimony  
9 into the record as though read.

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1 **REBUTTAL TESTIMONY**

2 **Of**

3 **DENISE N. VANDIVER, CPA**

4 On Behalf of the Office of Public Counsel

5 Before the

6 Florida Public Service Commission

7 Docket No. 100330-WS

8

9 **INTRODUCTION**

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

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

13

14 **Q. ARE YOU THE SAME DENISE N. VANDIVER WHO FILED DIRECT**  
15 **TESTIMONY IN THIS PROCEEDING?**

16 A. Yes, I am.

17

18 **Q. WHAT IS THE PURPOSE OF YOUR REBUTTAL TESTIMONY?**

19 A. The purpose of my rebuttal testimony is to respond to the testimony provided by the  
20 19 staff witnesses addressing quality of service. I also respond to the testimony  
21 provided by staff witness Paul Stallcup.

22

23 **QUALITY OF SERVICE**

24 **Q. HAVE YOU REVIEWED THE DIRECT TESTIMONY OF THE STAFF**  
25 **WITNESSES ADDRESSING QUALITY OF SERVICE IN THIS**  
26 **DOCKET?**

- 1 A. Yes. Staff sponsored witnesses from the following entities to provide testimony  
2 regarding the quality of service provided by Aqua Utilities Florida, Inc. (AUF).
- 3 • Department of Environmental Regulation (DEP),
  - 4 • Lake County Health Department (LCHD),
  - 5 • Palm Beach County Health Department (PBCHD),
  - 6 • Polk County Health Department (PCHD),
  - 7 • Volusia County Health Department (VCHD),
  - 8 • Northwest Florida Water Management district (NFWWMD),
  - 9 • St. Johns River Water Management District (SJRWMD), and
  - 10 • Southwest Florida Water Management District (SWFWMD).

11 I reviewed the direct testimony provided by these witnesses and evaluated the  
12 statements they made regarding the condition of the physical plants, the status of  
13 Aqua Utilities Florida's (AUF's) reporting requirements, and the implications in this  
14 rate case.

15

16 **Q. DO YOU HAVE ANY COMMENTS WITH RESPECT TO THIS**  
17 **TESTIMONY?**

18 A. Yes. Twelve of these witnesses are asked the question: is the overall operation and  
19 maintenance of the treatment plant and distribution system satisfactory? Ten of these  
20 witnesses answer yes; one answers that the overall operation and maintenance meets  
21 the minimum requirements of the Florida Department of Environmental Protection  
22 (FDEP); and one provides comments but does not answer the question directly. In  
23 addition, I reviewed the PAA Order statement that the "...quality of the treated water  
24 and wastewater and the operational condition of AUF's plants and facilities, including

1 the Chuluota system, shall be considered satisfactory.”<sup>1</sup> Considering this statement  
2 and the subsequent testimony of these staff sponsored witnesses, the implication is  
3 that this testimony supports the statement that the quality of service is satisfactory.  
4

5 **Q. DO YOU BELIEVE THAT THE TESTIMONY OF THESE WITNESSES**  
6 **SUPPORTS A STATEMENT THE QUALITY OF SERVICE PROVIDED**  
7 **BY AUF IS STAISFACTORY?**

8 A. No, I do not. Fourteen of these witnesses identified quality issues in 28 of the 62  
9 systems. This shows that 45% of the systems have issues affecting the quality of  
10 service provided by AUF. (I have prepared Exhibit DNV-9 to summarize the systems  
11 that these witnesses addressed.) I believe that their testimony, whether taken  
12 individually or as a whole, is persuasive in determining that the quality of service is  
13 unsatisfactory.  
14

15 **Q. CAN YOU SUMMARIZE THE STATEMENTS MADE IN THIS**  
16 **TESTIMONY?**

17 A. Yes. I have prepared a summary of the quality issues for the past three years  
18 that are detailed in the testimony and it is attached to my testimony as Exhibit  
19 DNV-10. This schedule lists the individual events by system that are identified  
20 by the witnesses. In this list, there are 13 witnesses that addressed 78 quality  
21 issues. These issues include three systems operating without a permit,<sup>2</sup> multiple  
22 systems exceeding Maximum Contaminant Levels (MCL), failure to notify the  
23 public and DEP of positive e-coli test results,<sup>3</sup> sanitary sewage overflows,<sup>4</sup>

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<sup>1</sup> PSC-11-0256-PAA-WS, issued June 13, 2011, page 33.

<sup>2</sup> Witness Miller, Fairways system, page 2; Witness Greenwell, Rosalie Oaks and Village Water systems, page 5.

<sup>3</sup> Witness Montoya testimony, Interlachen Estates, page 2.

<sup>4</sup> Witness Rauth testimony, Arredondo Farms, page 1.

1 plant maintenance issues, and numerous failures to submit timely reports.

2

3 **Q. HOW MANY OF THESE ISSUES RESULTED IN CONSENT ORDERS?**

4 A. Nine of the witnesses listed 23 issues that were included in consent orders  
5 issued by the FDEP, County Health Departments, and Water Management  
6 Districts against AUF. In addition, eight of the witnesses identified 34 issues  
7 that were included in warning letters or non-compliance letters issued by these  
8 entities.

9

10 **Q. WHAT ARE SOME OF THE OTHER COMMENTS THAT YOU FIND**  
11 **TROUBLING IN THE TESTIMONY?**

12 A. First, I find troubling the fact that these witnesses identify pages of violations,  
13 non-compliances, and other deficiencies, and yet they deem the overall quality  
14 of the plant operations is satisfactory. Moreover, I find that the overall picture  
15 painted by this testimony is of a company that routinely fails to follow the rules  
16 that are put in place to protect the customers. While some may consider  
17 reporting requirements inconsequential in a general sense, it is these reporting  
18 requirements that allow regulatory authorities to monitor the level of the quality  
19 and safety of the plant operations. Witness Walker states in her testimony that  
20 "In general, Aqua does not submit compliance submittals in a timely manner,  
21 but once the data is requested, the utility is able to provide it."<sup>5</sup> Six witnesses  
22 list 19 occasions where the utility has failed to provide required information or  
23 has filed it in an untimely manner. The importance of timely reports is  
24 indicated by the fact that six witnesses describe 20 instances of Aqua exceeding  
25 the MCLs and twelve witnesses address 39 plant issues from poor plant

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<sup>5</sup> Witness Walker testimony, page 2.

1 maintenance to operating the plant with an expired permit to leaking equipment  
2 to sewage overflows.

3  
4 **Q. DID YOU REVIEW THE COMMENTS IN THIS TESTIMONY**  
5 **REGARDING PRECAUTIONARY BOIL WATER NOTICES (BWN)?**

6 A. Yes. I have prepared a summary of the testimony addressing boil water notices  
7 and it is attached to my testimony as Exhibit DNV-11. In this list, there are  
8 eight witnesses that addressed 183 instances where boil water notices were  
9 provided. One witness did not identify how many instances, but referenced  
10 "...various occasions since 2009."<sup>6</sup> In fact, this witness continues by stating  
11 that sometimes DEP has been "...notified various days after the interruption of  
12 service by the utility. Complaints about the interruption of service due to water  
13 main breaks or other problems (power failure, repairs) have been received by  
14 the local Health Department, and they have forwarded the complaints to us."

15  
16 My exhibit also shows that of the 183 listed boil water notice situations, 70  
17 appear to be for planned outages and 111 appear to be for unplanned outages.<sup>7</sup>  
18 Except for Witness Rodriguez, the witnesses make statements that they have  
19 been notified timely and that Aqua has timely notified the customers. However,  
20 these statements appear to be based on self-reporting by Aqua as described by  
21 Witness Carrico who states that her "...office was properly notified of each of  
22 these BWNs in a timely manner and the utility documents submitted to our  
23 office indicate that BWNs were issued to their customers. I have not been made  
24 aware of any incident when BWNs were not issued."<sup>8</sup> However, none of these

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<sup>6</sup> Witness Rodriguez testimony, page 2.

<sup>7</sup> Two were not identified by the witness.

<sup>8</sup> Witness Carrico testimony, page 4

1 witnesses testifies that they spoke with any customers or confirmed that the  
2 BWN's were in fact distributed and received timely.

3  
4 **Q. CAN YOU SUMMARIZE YOUR COMMENTS ON THE QUALITY OF**  
5 **SERVICE?**

6 A. Yes, I can. I reviewed the customer comments at the Service hearings held  
7 August through October of this year. A summary of the comments made at  
8 these meetings is included as Exhibit DNV-12. There were 174 speakers at  
9 these ten meetings and 96 of these speakers addressed the poor quality of the  
10 water, 28 addressed the poor condition of the plant and facilities, and 16  
11 addressed the issue of whether they received adequate boil water notices. When  
12 I compare the magnitude of the customer testimony as well as the number of  
13 quality issues listed by the staff witnesses, I find that they frequently address  
14 the same issues. While these staff witnesses may state that overall, in their  
15 particular realm, the systems may meet the minimum standards, or at a  
16 particular point in time, there are no outstanding violations, I believe that these  
17 issues should be looked at in their totality. The customers are the ones who live  
18 with these poor conditions, every day of every week. The customers are the  
19 ones who are harmed if the utility fails to report instances where it exceeds  
20 MCLs. The customers are the ones who are harmed when poorly maintained  
21 facilities result in sewage spills or main breaks. And the customers are  
22 subjected to potential health risks when the company fails to adequately and  
23 properly issue BWN's. I believe that an analysis of the testimony in its totality  
24 indicates the quality of service is clearly unsatisfactory.

25



1 **AFFORDABILITY**

2 **Q. YOU ALSO SAID YOU WOULD LIKE TO RESPOND TO THE**  
3 **TESTIMONY PROVIDED BY STAFF WITNESS PAUL STALLCUP.**  
4 **WHAT ISSUE DO YOU WANT TO ADDRESS?**

5 A. I would like to address the issue of affordability. Witness Stallcup states that  
6 he believes that "...the rates approved by the Commission are as low, or  
7 affordable, as they can be given the requirements of Section 367.081, Florida  
8 Statutes."<sup>9</sup> Based on my review of the customer testimony at the service  
9 hearings (Exhibit DNV-12), I do not believe that the rates are affordable. The  
10 Merriam Webster dictionary defines affordable as "to manage to bear without  
11 serious detriment." Not only did 111 of the 174 speakers at the service hearings  
12 specifically identify high rates as an issue, at least 50 of the speakers  
13 specifically identified affordability as an issue. Trying to keep rates "as low as  
14 possible" does not make them affordable. Based on the dictionary definition, if  
15 the rates are unaffordable, the customers cannot manage without serious  
16 detriment.

17

18 **Q. CAN YOU GIVE SOME SPECIFIC EXAMPLES GIVEN AT THE**  
19 **SERVICE HEARINGS TO DEMONSTRATE THE NEGATIVE**  
20 **IMPACT OF THE RATES?**

21 A. Yes, there were many comments made about the burden the rates have put on  
22 these customers and the changes to their standard of living that they have had to  
23 make. Jeremy Gray, District Manager for YES Communities, testified at the  
24 Gainesville Service Hearing that:

25

26 52% of our residents who move out tell us that it's due to

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<sup>9</sup> Witness Stallcup testimony, pages 6-7.

1 the water bills. Since January of this year, we count  
2 approximately four residents per month. To date, that  
3 would average 32 residents that Arredondo has had to  
4 move out. It costs us \$1,998 each month – each time we  
5 have to refurb, remarket, and relist that home. That's nearly  
6 \$64,000 we've incurred in expense to year this date.<sup>10</sup>

7 For people who own their homes, it is not so easy to move out. Donna Ricketts  
8 testified at the Eustis Service Hearing that she and her husband tried to sell  
9 their house and:

10  
11 No one wants to buy the house. They come around the  
12 neighborhood, they talk to the neighbors. They find out  
13 about the water bill. I have a neighbor behind me, the water  
14 bill was \$240. People come and look at the house and they  
15 say, sorry, we can't do it.<sup>11</sup>

16 At the New Port Richey Service Hearing, several customers testified regarding  
17 the affordability issue. Robert Provost said that there are 250 homes out of  
18 1,200 in his community that are vacant because of the rates Aqua charges.  
19 Wendy Rath testified that she has two neighbors moving because they cannot  
20 afford the rates. Tammie Charles testified that Realtors cannot rent in the area  
21 because the rates are too high. And, Gerald Novak testified that he has three  
22 friends trying to sell their homes, but the realtors say no one will buy because  
23 of Aqua.

24 The Lakeland Service Hearing also had several people testify to the  
25 affordability issue. Wayne Miles testified that a Realtor told him his house is no  
26 longer a good investment because his water is from Aqua. Jim Bowers testified  
27 that he owns 18 homes and the value of these homes has declined and it is more  
28 difficult to rent them because of Aqua. Theresa Robinson testified that she tried  
29 to rent her house but people said no when they found out that Aqua was the  
30 utility provider.

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<sup>10</sup> Transcript of Gainesville Service Hearing, page 119.

<sup>11</sup> Transcript of Eustis Service Hearing, page 116.

1

2 **Q. ARE THERE OTHER EXAMPLES OF HOW THE RATES HAVE**  
3 **IMPACTED CUSTOMERS?**

4 A. Yes, there are numerous customers who have testified to extreme  
5 measures that customers have gone to in order to pay their water and  
6 wastewater bill. Hazel DeBoard testified at the Lakeland Service Hearing that  
7 she cannot have her family come visit because her water bill goes up too much.  
8 Witness Johnson at the Eustis Service Hearing was one of many customers who  
9 testified that they no longer flush their toilets.<sup>12</sup> Also, at the Eustis service  
10 Hearing, Witness Denmark testified

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I have to go to the gym after work or before work to take a  
shower because it's cheaper for me to pay a gym  
membership and go there and use their facilities. Not a very  
comfortable way of life. My son, if he does not have PE at  
school, I don't make him take a shower.<sup>13</sup>

17

18 **Q. WHAT IMPACT SHOULD THIS CUSTOMER TESTIMONY HAVE ON**  
19 **THE COMMISSION'S DETERMINATION OF AFFORDABLE RATES?**

20 A. I believe that the customers have provided testimony supporting the fact that  
21 the level of the rates is burdensome and that these rates have caused customers  
22 to move, abandon their homes, and change their standard of living. In addition,  
23 many customers testified at the service hearings that these rates have caused a  
24 decline in the value of the customer's homes. While I agree that Section  
25 367.081, Florida Statutes, requires the Commission to set rates that are just,  
26 reasonable, compensatory, and not unfairly discriminatory, I do not believe that  
27 the statute prohibits the Commission from evaluating the affordability of the

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<sup>12</sup> Transcript of Eustis Service Hearing, page 105.

<sup>13</sup> Transcript of Eustis Service Hearing, page 110.

1 rates. The affordability of the rates should be a critical component of the  
2 Commission's determination of the prudence of the utility's costs. The  
3 Commission has always looked at the prudence of costs. In a 1990 order, the  
4 Commission discussed a similar issue.

5  
6 ... there is a school of thought that considers rate base  
7 regulation to be inherently flawed. These critics contend  
8 that it does not provide the incentives for the regulated  
9 company to be efficient, innovative, or to introduce new  
10 services. They argue that because the regulated company's  
11 profit is constrained by a rate of return set by the regulatory  
12 body, there is no incentive for the regulated company to  
13 increase its profits beyond the authorized return. Should the  
14 regulated company begin to experience excess profits in  
15 one area, it will be forced to reduce rates of other services  
16 to keep overall profits within the authorized ceiling.  
17 Confronted with this penalty for efficiency, regulated  
18 companies have the perverse incentive to engage in  
19 inefficient activities such as inflating the rate base by  
20 purchasing unnecessarily expensive or extravagant items, a  
21 practice known as "gold plating". Under traditional rate  
22 base regulation such behavior would be rewarded because  
23 the company would receive both a return on its investment  
24 and reimbursement of expenses.<sup>14</sup>

25 While this case is in a different industry, the issue of the regulatory framework  
26 providing a disincentive to keep costs low is a valid concern in this case. I  
27 believe that the Commission should consider evaluating the utility's operations  
28 to determine that the utility does not have just such a perverse incentive to  
29 continue to raise expenses so that it may continue to increase its corporate  
30 revenues. Even Witness Stallcup recognizes that the rates approved in the PAA  
31 order are higher than "...most people, including myself, would expect water  
32 and wastewater rates to be, ..." <sup>15</sup>

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<sup>14</sup> In Re: Petition of AT&T Communications of the Southern States for Commission Forbearance from Rules 25-4.495(a) and 25-24.480(1)(b), F.A.C., for a Trial Period; Docket No. 870347-TL; Order No. 23186; July 13, 1990.

<sup>15</sup> Witness Stallcup testimony, page 6.

1 I recommend that, at a minimum, the Commission should make the  
2 adjustments the OPC witnesses have advocated because the increases that the  
3 utility has requested are not justified by the quality of service provided to the  
4 customer or by sound regulatory policy.

5

6 **Q. PLEASE SUMMARIZE YOUR REBUTTAL TESTIMONY.**

7 A. In summary, I believe that the conclusions drawn by the staff witnesses that the  
8 quality of service is satisfactory is not supported by the content of their  
9 testimony, nor is it supported by the customer testimony at the customer  
10 Service Hearings. I also disagree with Witness Stallcup that the commission  
11 has done all it can with regards to the affordability issue.

12

13 **Q. DOES THIS CONCLUDE YOUR REBUTTAL TESTIMONY?**

14 A. Yes, it does.

15

16

17

1           **MS. CHRISTENSEN:** Yeah. If you can give me a  
2 moment, I'm not sure that I'm seeing in here where in  
3 the Composite Exhibit List Ms. Vandiver or Mr. Poucher's  
4 -- oh, no, here we go. OPC rebuttal, 204 through 207.  
5 I would also move those exhibits in as well.

6           **CHAIRMAN GRAHAM:** 204, 205, 206, and 207.

7           **MS. CHRISTENSEN:** Correct.

8           **CHAIRMAN GRAHAM:** We'll move those into the  
9 record as well, as long as there's no objections.

10          **MR. HARRIS:** None.

11                   (Exhibits 201, 204, 205, 206, and 207 admitted  
12 into the record.)

13          **CHAIRMAN GRAHAM:** Okay.

14          **MR. HARRIS:** And then, Mr. Chairman, we have  
15 just handed out, Staff has just handed out two  
16 additional composite exhibits we would like to have  
17 marked for the record, and these consist of the  
18 deposition exhibits, including late-filed.

19          **CHAIRMAN GRAHAM:** Hold on just a second.

20          **MR. HARRIS:** Okay.

21          **CHAIRMAN GRAHAM:** Is that all for  
22 Ms. Vandiver?

23          **MS. CHRISTENSEN:** For her rebuttal testimony  
24 including exhibits, yes. And then the deposition, the  
25 deposition itself was Exhibit 201. And I'm assuming,

1 since Staff is handing out the late-filed exhibits, it's  
2 a separate -- are you asking those to be included in  
3 201?

4 **MR. JAEGER:** Chairman, me and Larry are sort  
5 of tag teaming. Witness Vandiver is his and Mr. Poucher  
6 is mine. And because of the way the Bates stamp works,  
7 and we had the depositions as 201 and 202, but it messes  
8 it up to try to insert the late-filed exhibits into  
9 that, into the deposition exhibits. So we were wanting  
10 to identify Ms. Vandiver's as Exhibit 333, and that's  
11 deposition Exhibits 1 through 8. And we want  
12 Mr. Poucher's deposition Exhibits 2 through 6 and 8 and  
13 9 as 334, and have them moved pursuant to the  
14 stipulation.

15 **CHAIRMAN GRAHAM:** OPC, you okay with that?

16 **MS. CHRISTENSEN:** Yes. I think that's  
17 probably as clean a way.

18 (Exhibit 333 marked for identification and  
19 admitted into the record.)

20 And since we're on to Mr. Poucher, I would ask  
21 to have his supplemental direct and rebuttal inserted  
22 into the record as though read. He doesn't have any  
23 exhibits to his supplemental rebuttal testimony. And  
24 then I guess we could -- I think the deposition has  
25 already been moved with the late-filed exhibits, and

1 that would take care of Mr. Poucher.

2 **MR. MAY:** Mr. Chair, just to reflect back on  
3 the deposition of Mr. Poucher, in the, in the exhibit  
4 that was just passed out, it looks like it's Exhibit  
5 334, it was my understanding that Exhibit 7 would not be  
6 part of the late-filed exhibits. But I'm curious as to  
7 why Exhibit No. 1, Late-Filed Exhibit No. 1 was not part  
8 of that deposition.

9 **MR. JAEGER:** Chairman, that was in a previous  
10 exhibit where we admitted 1, 10, and 11, and I don't  
11 have that number handy, but it's definitely Poucher's 1,  
12 10, and 11. We didn't know that they were going to do  
13 all the exhibits.

14 **MR. MAY:** Very good. That helps out. I  
15 appreciate that.

16 **CHAIRMAN GRAHAM:** Okay. So we're entering  
17 Exhibit 202 into the record, is that correct, for  
18 Mr. Poucher?

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

20 (Exhibit 202 admitted into the record.)

21 **CHAIRMAN GRAHAM:** And we're entering his  
22 redirect -- I'm sorry -- his rebuttal into the record as  
23 though it were read?

24 **MS. CHRISTENSEN:** Correct.

25 **CHAIRMAN GRAHAM:** And we're entering No. 334



1 into the record.

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

3           (Exhibit 334 marked for identification and  
4 admitted into the record.)

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1 **REBUTTAL & SUPPLEMENTAL TESTIMONY**

2 **OF**

3 **EARL POUCHER**

4

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

6 A. My name is Earl Poucher. My business address is 111 W. Madison Street, Room  
7 812, Tallahassee, FL 32399-1400.

8

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

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

13

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

15 A. I am presenting rebuttal testimony to the testimony filed by staff witnesses  
16 Stallcup and Hicks in this docket. In addition, I am presenting supplemental  
17 testimony on behalf of the Office of Public Counsel in order to incorporate the  
18 customer input received during the customer service hearings that concluded after  
19 Intervenors' direct testimony was filed on September 22, 2011, in this docket.

20

21 **Q. DID YOU HAVE AN OPPORTUNITY TO REVIEW THE CUSTOMER**  
22 **SERVICE HEARING TRANSCRIPTS AND ATTEND SOME OF THE**  
23 **CUSTOMER SERVICE HEARINGS?**

24 A. Yes. As I stated I would in my direct testimony, I have reviewed the transcripts  
25 from the Service Hearings held in August, September, and October 2011. I was

1 also able to attend the Service Hearings held in New Port Richey and Lakeland,  
2 Florida. Based on my review of the service hearing transcripts and attending the  
3 October service hearings, I have been able to further clarify my opinions and draw  
4 some final conclusions regarding Aqua's quality of service and the affordability of  
5 rates. Further, my review of the customer testimony and the testimony filed on  
6 behalf of Commission staff requires that I rebut some of the assumptions made in  
7 Commission staff's testimony.

8  
9 **Q. PLEASE SUMMARIZE THE CUSTOMER INPUT AT THE SERVICE**  
10 **HEARINGS BASED ON YOUR REVIEW.**

11 A. The customer hearing phase of this docket resulted in sworn testimony from 174  
12 witnesses. Despite receiving testimony from this many witnesses, the  
13 Commission should take note of several factors. First, the number of witnesses  
14 who chose to testify represented only a fraction of the total attendance at the  
15 hearings. For example, there were at least 113 people who attended the New Port  
16 Richey hearing with direct testimony coming from 36 witnesses. There were  
17 several hearings similar to New Port Richey. Second, during the course of the  
18 testimony, the Commission received ample evidence that the hearing dates in this  
19 docket excluded many customers from being able to attend and participate  
20 because many of the Aqua systems serve a majority of snowbirds who are not in  
21 Florida during the summer and early fall months. Finally, the Commission should  
22 also consider the fact that the times for many of the hearings were inconvenient  
23 for many working members of the various communities, and numerous witnesses  
24 stated they were representing themselves as well as others who could not attend  
25 because of work, disability, child care or parental care responsibilities.

1 In my initial testimony, I noted that the PSC complaints filed by customers  
2 represented the tip of the iceberg of the overall customer complaints received by  
3 Aqua. I would reemphasize the point that the witnesses who physically attended  
4 and testified at the customer hearings presented evidence that is reflective of the  
5 larger total customer base.

6  
7 **Q. DID ANY OF THE CUSTOMER TESTIMONY PROVIDED AT THE**  
8 **OCTOBER HEARINGS CHANGE THE RECOMMENDATIONS YOU**  
9 **MADE IN YOUR INITIAL TESTIMONY?**

10 A. No. These October customer service hearings reinforce my primary  
11 recommendation that the Commission should reach a finding Aqua's service is  
12 unsatisfactory. The customers also provide ample evidence to support a conclusion  
13 that Aqua's proposed rates are not fair, reasonable or affordable.

14  
15 **Q. DID THE LATEST ROUND OF CUSTOMER HEARINGS PROVIDE**  
16 **ADDITIONAL EVIDENCE THAT AQUA'S SERVICE IS**  
17 **UNSATISFACTORY AND ITS RATES ARE NOT FAIR, REASONABLE**  
18 **AND AFFORDABLE?**

19 A. Yes. Based on my review of the record, the overwhelming majority of the  
20 customers who testified regarding Aqua service quality found it to be  
21 unacceptable or unsatisfactory. The Commission should not ignore the strong  
22 testimony that was submitted during the course of these most recent customer  
23 service hearings. During customer meetings and the hearings held in this docket  
24 as well as the hearings held in the last rate case, much of the testimony was  
25 directed toward poor water quality and operational deficiencies. In addition to the

1 negative service quality that customers continue to complain about, many Aqua  
2 customers testified in the recent hearings that they would not be able to keep their  
3 homes if the proposed rates were approved and that the existing as well as  
4 proposed rates are unaffordable.

5  
6 The major difference I perceive from the last rate case in reviewing the transcripts  
7 is that the rate increases from Docket No. 080121 have now been imposed on  
8 customers, along with the interim rate increases from the current Docket No.  
9 100330. During the recent customer service hearings, customers testified  
10 extensively about the adverse impacts that these combined rate increases are  
11 already having upon their lives and the economic fabric of their communities.  
12 The conclusion I reach is that the evidence shows that Aqua's service is  
13 unsatisfactory and that its rates are not fair, they are not reasonable and they are  
14 not affordable.

### 15 16 AFFORDABILITY

17 **Q. COMMISSION STAFF WITNESS STALLCUP STATES THAT THE**  
18 **COMMISSION HAS TAKEN APPROPRIATE ACTION TO ACHIEVE**  
19 **AFFORDABLE RATES IN PAA ORDER. DO YOU AGREE?**

20 **A.** I disagree with Mr. Stallcup's conclusions and the customer testimony received in  
21 the hearings specifically contradicts his testimony as it relates to affordability. I  
22 disagree with Mr. Stallcup's testimony with regard to the affordability of Aqua  
23 rates as well as his interpretation of compensatory rates.

24

1 Q. WHAT IS THE COMMISSION'S STANDARD AS IT RELATES TO  
2 RATES?

3 A. I am not a lawyer, so I will not address the legal issues surrounding fair and  
4 reasonable rates. My 30 years experiences in the telecom industry, my work as a  
5 staff member of the State/Federal Joint Board for Universal Service and my 20  
6 years with the Office of Public Counsel provide me with a working definition of  
7 the relevant terms that I believe should be applied since the Florida Statutes do  
8 not define these terms.

9  
10 Section 367.081(2)(a)1, Florida Statutes, states that rates must be just, reasonable,  
11 compensatory and not unfairly discriminatory. This section also provides that the  
12 Commission shall consider the cost of providing service, including a fair rate of  
13 return on the utility's investment. The Florida Statutes relating to rates is similar  
14 to those in other state and federal statutes that go back to the earliest days of  
15 regulation of public utilities. Aqua provides a monopoly service within its  
16 certified service areas that must be regulated by the Commission in the public  
17 interest because customers have no choice as to their service provider. The  
18 Statutes provide direction as to the Commission's obligations to require fair, just  
19 and reasonable rates.

20  
21 The conventional definition of fair, or just, is that rates must be set so as to be fair  
22 to the companies and fair to customers. "Reasonable" is self explanatory and this  
23 term is commonly described in terms of affordability or affordable rates such as in  
24 the Telecommunications Act of 1996 where there is a clear mandate that the rates  
25 for basic services shall be affordable in order to achieve the goals of universal

1 service. See, 47 USC 254. Fair or affordable rates to me means that the service  
2 should be provided at affordable levels within the means of the customer body;  
3 without having to sacrifice basic essentials such as food and medicine or having  
4 to endure unusual sacrifice or hardship. Any indications that rates are not  
5 affordable should trigger an assumption that the rates are not reasonable. So the  
6 Commission's obligation under Florida Statutes is to ensure that the rates they  
7 approve are fair, just and reasonable, which would also include the concept that  
8 rates must be affordable. The Commission's own mission statement as of  
9 November 2010 states ". . . making sure that Florida's consumers receive some of  
10 their most essential service - electric, natural gas, telephone, water, and  
11 wastewater - in a safe, affordable, and reliable manner."

12  
13 **Q. DO YOU HAVE PERSONAL EXPERIENCE IN DEALING WITH THE**  
14 **CONCEPTS OF FAIR, JUST, REASONABLE AND AFFORDABLE**  
15 **RATES?**

16 A. Yes, I do. As a 12 year veteran as a Staff Member of the State/Federal Joint  
17 Board for Universal Service, I have worked extensively with consumer groups,  
18 the National Association of State Utility Advocates, NARUC and the FCC in  
19 assisting the Joint Board in fulfilling its obligations under the  
20 Telecommunications Act of 1996. In addition, our goal when I worked with  
21 BellSouth was to produce fair, just, reasonable and affordable rates for quality  
22 services.

1 **Q. IN YOUR OPINION, IS THE CONCEPT OF AFFORDABILITY**  
2 **ENCOMPASSED IN THE TERMS "FAIR AND REASONABLE" AS USED**  
3 **IN FLORIDA STATUTES?**

4 A. Yes. The Telecommunications Act of 1996 which dealt with the issues of fair and  
5 reasonable rates in a more expansive manner than the Florida Statutes sheds light  
6 on this issue. In 1995, when faced with a bill that attempted to rewrite the  
7 telecommunications landscape for the entire country, Congress included specific  
8 language in that Act to define the full concept of "fair and reasonable" rates in the  
9 federal law by including a mandate that "Quality services at rates that are just,  
10 reasonable, and affordable should be available." See, 47 U.S.C. 254.

11

12 When we speak of the mandates of the Telecommunications Act, the preceding  
13 definition captures the goals of the Act and the goals of fair (or just) and  
14 reasonable rates as my fellow Joint Board Staff members have viewed it over the  
15 past 15 years. The mandates of the Telecommunications Act of 1996 are a  
16 clarification of the fair, just and reasonable concepts that public utility regulators,  
17 including those in Florida, have followed for decades. While the Florida Statutes  
18 fail to use the term affordable, it would be consistent to assume that in the setting  
19 of rates that reasonable rates would also be affordable.

20

21 **Q. AS YOU HAVE NOTED, THE FLORIDA STATUTES ALSO MAKE**  
22 **REFERENCE TO COMPENSATORY RATES THAT MUST NOT BE**  
23 **UNFAIRLY DISCRIMINATORY. HOW DOES THAT PART OF THE**  
24 **FLORIDA STATUTES SQUARE WITH THE REQUIREMENT TO SET**  
25 **FAIR, JUST, REASONABLE AND AFFORDABLE RATES?**



1 A. I start with the observation that simply because a company shows proof that it has  
2 spent dollars for a specific purpose does not mean that the Commission should  
3 automatically provide cost recovery without regard to the other requirements of  
4 the Florida Statutes. The Florida Statutes should not be interpreted narrowly, nor  
5 should one requirement receive greater priority than the other requirements. The  
6 end result of the Commission's decision in this docket should reflect a balancing  
7 of all of the requirements included in the Florida Statutes, and it is my opinion  
8 that the decision should demonstrate a sincere effort to achieve such balance. For  
9 that reason, I differ with Staff Witness Stallcup's testimony in this regard.

10

11 **Q. DO YOU AGREE WITH WITNESS STALLCUP'S APPLICATION OF**  
12 **THE TERM COMPENSATORY IN SECTION 367.081, FLORIDA**  
13 **STATUTES?**

14 A. No. As I stated before, Section 367.081, Florida Statutes, reads that rates must be  
15 just, reasonable, compensatory and not unfairly discriminatory. The issue of  
16 compensatory is just one element in the statute that must be considered by the  
17 Commission. Witness Stallcup appears to suggest the Commission must  
18 compensate AUF for whatever it spends and the Commission's hands are tied.  
19 However, the statutes also require those same rates must be fair and reasonable.  
20 The point is that the Commission must exercise latitude to apply sometimes  
21 conflicting provisions in the statutes that must be balanced to include the  
22 Commission's role as the consumer protector from a monopoly service provider  
23 who is not subject to market pressures. The Commission must also consider the  
24 substantial testimony from customers that the existing and proposed Aqua rates  
25 are not reasonable and are not affordable.

1

2 **Q. ISN'T STAFF SIMPLY FOLLOWING THE FLORIDA STATUTES WHEN**  
3 **IT INSISTS THAT IT MUST APPROVE COMPENSATORY RATES?**

4 A. The first question is what the statutes mean by "compensatory." Webster's New  
5 Collegiate Dictionary, defines compensatory "to supply an equivalent" and  
6 compensation to mean "payment and remuneration." ("compensatory" and  
7 "compensate" Webster's New Collegiate Dictionary, 5<sup>th</sup> ed. 1977.) The word  
8 payment which is the act of paying includes the definition "to make due return for  
9 services rendered or property delivered." ("pay" Def. 1a, Webster's New  
10 Collegiate Dictionary, 5<sup>th</sup> ed. 1977.) Compensatory also includes the concept of  
11 equilibrium between a payment for value received, services rendered or damages  
12 incurred. (See "recompense" Webster's New Collegiate Dictionary, 5<sup>th</sup> ed. 1977.)  
13 Thus, the dictionary definitions include the concept of providing payment  
14 equivalent to the value of the service or product sold. For purposes of this docket,  
15 the determination should be to set rates that are fair, just, reasonable, affordable  
16 and compensatory to customers based upon the value of the product and services  
17 they are receiving from Aqua.

18

19 While I specifically take issue with Mr. Stallcup's testimony in this case as it  
20 relates to compensatory rates, I also take issue with what appears to be staff's  
21 assumptions that the rate of return should be set at the same level as other  
22 regulated companies who meet their obligations of the Florida Statutes to provide  
23 satisfactory product and service at fair, just, reasonable and affordable rates.  
24 When the statutes refer to compensatory rates, it should not be assumed that,  
25 simply because the company spent the money, the ratepayers should be charged

1 for the expense. The Commission should look deeper when there is evidence that  
2 a utility's business plan may produce excessively high rates that may be  
3 unaffordable to customers or that are not comparable to the rates charged by  
4 similar providers with like circumstances.

5

6 **Q. STAFF HAS ALSO PROPOSED TIERED RATES AND CONSERVATION**  
7 **GALLONAGE CHARGES THAT WERE INCLUDED IN THE PAA**  
8 **ORDER. DO YOU AGREE THAT THE STAFF PROPOSED RATES ARE**  
9 **FAIR AND REASONABLE?**

10 A. Normally, Public Counsel does not take issue with rate structures once the  
11 revenue requirement is determined by the Commission because a reduction in  
12 rates for one group of customers must then be made up by increases imposed on  
13 other customers. Public Counsel represents all customers and does not take sides  
14 in the rate structure issues of a docket. However, Staff witness Stallcup's  
15 testimony that the Commission has done all it can do fails to deal with  
16 affordability issues that have arisen due to the overall rate structure.

17

18 **Q. WHY DOES AQUA'S RATE STRUCTURE HAVE AN IMPACT ON**  
19 **AFFORDABILITY?**

20 A. If you will recall from the hearings and my direct testimony that dealt with billing  
21 and complaints about high bills, there were numerous customers that complained  
22 about the devastating financial impacts they encountered when suddenly and  
23 without warning, they were billed for thousands of dollars by Aqua. Many of  
24 these customers were then threatened with disconnection if they did not pay for  
25 these exceptional bills on a timely basis. Many of those same customers were

1 forced by Aqua to agree to payments plans amounting to thousands of dollars in  
2 order to avoid disconnection.

3  
4 While the conservation gallonage charges included in the PAA Order No. PSC-11-  
5 0256-PAA-WS undoubtedly represented staff's best efforts; the Commission  
6 should take another look at these issues as they relate to affordability. While  
7 water conservation is a worthy and important goal for the State of Florida, it is  
8 obviously not the intent of the Water Management Districts to impose financially  
9 destructive conservation rates on Florida citizens. For instance, the gallonage  
10 differential included in the PAA Order for Rate Band 1 is as follows:

- 11
- |    |   |                                             |                |
|----|---|---------------------------------------------|----------------|
| 12 | • | <b>0-6,000 gal., per thousand gal.</b>      | <b>\$3.59</b>  |
| 13 | • | <b>6,001-12,000 gal., per thousand gal.</b> | <b>\$6.70</b>  |
| 14 | • | <b>Over 12,001 gal., per thousand gal.</b>  | <b>\$10.04</b> |

15  
16 The first step in the inclining rate structure is almost double the lowest gallonage  
17 charge and the third step up is almost triple the rate at the first step.

18  
19 All other Aqua customers fall into the Rate Band 2 and the conservation rates for  
20 those customers are as follows:

- 21
- |    |   |                                            |                |
|----|---|--------------------------------------------|----------------|
| 22 | • | <b>0-6,000 gal., per thousand gal.</b>     | <b>\$6.20</b>  |
| 23 | • | <b>6,001-12,000 gal, per thousand gal.</b> | <b>\$9.30</b>  |
| 24 | • | <b>Over 12,001 gal, per 1000 gal.</b>      | <b>\$12.39</b> |

1 For Rate Band 2 customers, the gallonage charge increases by 50% at the  
2 first step and is doubled at the second step above 12,001 gallons.

3

4 **Q. HOW DO THE AQUA CONSERVATION RATES COMPARE TO**  
5 **FLORIDA'S CURRENT ELECTRIC CONSERVATION RATES?**

6 A. The typical conservation rates for Florida major electric companies involves a two  
7 cent differential between usage bands which represents approximately a 25%  
8 increase in the per kwh rate that is applicable to the Energy Charge. That  
9 compares to the Aqua conservation differential of almost 300% for Rate Band 1  
10 customers and 100% for Rate Band 2 customers, for the gallonage charges that  
11 appear on Aqua customer bills.

12

13 **Q. WHAT IS THE REASON FOR THE DIFFERENCES BETWEEN THE**  
14 **AQUA CONSERVATION RATES AND THE FLORIDA ELECTRIC**  
15 **CONSERVATION RATES?**

16 A. I do not know. I have seen no explanation why there is such a significant usage  
17 penalty for Aqua customers' water usage as opposed to the conservation rates paid  
18 by Florida electric consumers.

19

20 **Q. DO THE AQUA CONSERVATION RATES IMPACT CUSTOMERS FROM**  
21 **AN AFFORDABILITY STANDPOINT?**

22 A. Later in my testimony, I provide an overview of customer service hearing input  
23 regarding affordability issues. I believe there is significant evidentiary support  
24 that suggests Aqua's current rates have created undue hardships on many Aqua  
25 customers who are forced to take extreme measures to limit their usage and hold

1 their bills to affordable levels. I define affordable rates as rates that do not impose  
2 undue hardship or sacrifice on customers. It is up to the Commission, as it  
3 considers the issue of fair, just, reasonable and affordable rates, to make the  
4 difficult decisions needed to achieve the proper balance between conservation  
5 goals and affordability.

6  
7 **Q. DO THE CONSERVATION RATES IMPACT REVENUES AND**  
8 **EARNINGS?**

9 A. There is no doubt the conservation rates currently imposed on Aqua customers are  
10 reflective of significant elasticity of demand. Inclining rate structures are  
11 designed to achieve that purpose, and less demand due to inclining rates for usage  
12 can produce less revenue for the company. As rates increase, demand decreases  
13 accordingly and, in the case of Aqua, customers have testified that they are forced  
14 to make difficult lifestyle choices or move out of their homes to a non-Aqua  
15 territory. The impact customers have described in the customer service hearings  
16 is a downward spiral where both the customers, the communities they live in, and  
17 the company end up in worse shape at the end of the day. When customers are  
18 forced to make lifestyle changes in order to use less water to lower their bills, or  
19 move out of their homes, then both the company and its remaining customers are  
20 harmed. As Kim Dismukes describes in her testimony, Aqua customers failed to  
21 use as much water as the Aqua model had projected under the 2009 rates and  
22 there was a revenue shortfall.

23  
24 **Q. ARE YOU SUGGESTING THAT THE CONSERVATION RATES BE**  
25 **REDUCED?**

1 A. I am suggesting the Commission take a close look at this issue and consider the  
2 possibility that a reduction in the most severe rates in the Aqua rate structure  
3 might produce higher revenues and earnings in their authorized range for the  
4 company while at the same time achieving more affordable rates for customers.

5

6 **Q. HOW CAN A RATE REDUCTION PRODUCE HIGHER EARNINGS?**

7 A. Elasticity of demand works both ways. While a rate increase can reduce demand  
8 (while increasing customer hardship), a rate decrease for the usage component  
9 could increase demand, reduce customer hardships and increase earnings. The  
10 elasticity models used by Commission Staff and Aqua can provide insight into the  
11 demand/revenue/cost/ factors that are all at work in the model.

12

13 **Q. IF CUSTOMERS USE MORE WATER AND RATES GO DOWN, WON'T**  
14 **AQUA'S EARNINGS ALSO GO DOWN?**

15 A. Not necessarily. If the company's fixed infrastructure costs, O&M, administrative  
16 and return costs have been recovered by the base charge and the average usage  
17 rates, then the incremental cost for the next gallon of water is insignificant. The  
18 inclining rate structure is based on conservation goals and is not cost-based. For  
19 purposes of the current docket, it is worthy to note that the conservation rates  
20 imposed by the Commission in the 2009 docket produced less revenue than  
21 forecast by the model.

22

23 **Q. DO YOU AGREE THAT THE TERM COMPENSATORY REQUIRE THAT**  
24 **THE COMMISSION ESTABLISH THE CURRENT BILLING**

1           **DETERMINANTS AT THE LEVEL THAT WOULD ADJUST THE**  
2           **REVENUE DUE TO THE 2009 SHORTFALL?**

3    A.    No. I agree with OPC witness Dismukes that the billing determinants should be  
4           increased to correct for the reduction in usages below the amount of repression  
5           accounted for in the consumption calculation from the last rate case. For the  
6           reasons I provided previously, I do not believe the term compensatory should be  
7           used in isolation to justify increasing the revenue requirement which leads to  
8           higher rates. This is especially true when the increased reduction in consumption  
9           has been caused by the direct action of the Company as a result of its high rates  
10          and poor customer service.

11  
12   **Q.    PLEASE DESCRIBE THE CUSTOMER SERVICE HEARING**  
13          **TESTIMONY YOU HAVE REFERRED TO AS IT RELATES TO FAIR,**  
14          **JUST, REASONABLE AND AFFORDABLE RATES.**

15   A.    The full testimony taken at the customer service hearings is a part of the record in  
16          this docket and each of the Commissioners attended some of those hearings.  
17          Since the Commissioners have already heard much of that testimony, I will not  
18          repeat each and every customer statement regarding either affordability issues or  
19          service quality issues. The substantial record submitted by Aqua's customers  
20          regarding these issues stands on its own. The testimony was far reaching and  
21          compelling as to the undue hardships created by Aqua rates that are not currently  
22          affordable. The affordability complaints entered into the record by customers  
23          time and time again include the following categories that I am highlighting for  
24          you:

25          **UNDUE HARDSHIPS**



- 1 • Stopped watering lawns,
- 2 • Forced to sink a well,
- 3 • Showers every other day or once a week,
- 4 • Do not flush toilets every time,
- 5 • Wash clothes at Laundromat,
- 6 • Use dishwasher once a week,
- 7 • Use bricks in bathtub to save water,
- 8 • Food versus water, and
- 9 • Choice between eating and watering grass;

#### 10 **NEIGHBORHOOD BLIGHT**

- 11 • Cannot water their lawns,
- 12 • Neighborhood blight,
- 13 • People are moving out,
- 14 • Foreclosures,
- 15 • Yards have become weed farms, and
- 16 • Taking out lawns;

#### 17 **HOME RESALE IMPACTS**

- 18 • Home sales impacted,
- 19 • Cannot sell their home,
- 20 • People have stopped moving there. Don't want to deal with Aqua,
- 21 • Selling house, can't afford, and
- 22 • Driving neighbors from neighborhood;

#### 23 **AFFORDABILITY/UNABLE TO PAY THE BILL**

- 24 • Can't pay the bill,

- 1 • People getting billed for \$1,000, \$1,500,
- 2 • First bill \$1,500,
- 3 • 223% rate increase,
- 4 • 384% rate increase,
- 5 • 250% rate increase,
- 6 • 230% rate increase, and
- 7 • Not billed for 1 ½ years. Then billed \$58,000,

#### 8 **COMPARABLE RATES**

- 9 • Aqua bill for 1,500 gallons = \$63.91, increased from \$28.43,
- 10 Orange County, 4,000 gallons = \$11.92,
- 11 • Double the rates in Palatka that includes garbage pickup, and
- 12 • Aqua rate \$65, Pasco rate \$40.

13

14

#### SERVICE QUALITY

15 **Q. YOU HAVE ALSO STATED YOU ARE REBUTTING STAFF WITNESS**  
16 **HICKS IN THIS TESTIMONY. PLEASE EXPLAIN.**

17 **A.** Ms. Hicks testimony serves solely to place into the record all of the FPSC  
18 complaints received from Aqua customers since 2009. She is the only staff  
19 witness dealing with customer service issues. The testimony submitted in this  
20 docket by Public Counsel Witnesses Dismukes, Vandiver and Poucher fully  
21 characterizes the broader view of the full record before this Commission as it  
22 relates to the customer service issues. Public Counsel would take exception to any  
23 conclusions that may be drawn from the input of Ms. Hicks based solely on the  
24 FPSC complaints that have been received and I would point out that Ms. Hicks

1 draws no conclusions as to the overall quality of service provided by Aqua in her  
2 testimony.

3  
4 **Q. WHAT ARE YOUR SPECIFIC EXCEPTIONS YOU TAKE TO MS.  
5 HICKS' TESTIMONY?**

6 A. Ms. Hicks' testimony is only 4 pages in length that serves to place into the record  
7 the customer complaints filed with the Commission against Aqua received since  
8 2009. Ms. Hicks' testimony with regard to the number of complaints is consistent  
9 with my direct testimony on PSC complaints except that it covers a longer period  
10 of time. However, I take issue with her discussion regarding rule violations. The  
11 Consumer Services staff's main job is resolution of the customer problems. The  
12 Commission technical staff generally determines whether a rule violation has  
13 occurred or not after a full and complete review of the Complaint. So whether  
14 Consumer Services staff checked off a rule violation or not was not relevant in my  
15 review of Commission complaints. That is why in my direct testimony I ignored  
16 the issue of rules violations in the review of Commission complaints.

17  
18 Second, due to the small number of rules that apply to water companies, a  
19 determination as to the quality of service for a water company should not be  
20 conditioned on any specific number of perceived rule violations. For instance,  
21 numerous customers have complained that they were suddenly billed for  
22 thousands of dollars due to faulty meters that were not timely repaired. Yet, the  
23 Consumer Services staff generally found these were not rule violations, except for  
24 three cases. While the Consumer Services staff found only three cases of failure  
25 to read the meter at regular intervals since 2009, I found 37 cases involving

1 "backbilling" complaints against in Aqua during the past year in the  
2 Commission's complaint files. Whether or not these particular complaints  
3 involve a specific rule violation is not the issue. Backbilling complaints are  
4 evidence of bad service by Aqua when the company fails to bill for usage over an  
5 extended period of time. Therefore, I take issue with bad customer service  
6 provided by Aqua to its customers whether that is a rule violation or not.

7  
8 **Q. WHAT ARE YOUR CONCLUSIONS TAKEN FROM THE CUSTOMER  
9 SERVICE HEARINGS?**

10 A. The testimony from the most recent customer hearings simply reinforces the  
11 testimony already in the record that demonstrates Aqua's business plan is  
12 producing an unacceptable quality of service for a product that is not drinkable at  
13 rates that are unaffordable.

14  
15 **Q. PLEASE SUMMARIZE THE CUSTOMER SERVICE COMPLAINTS  
16 THAT WERE MADE DURING THE CUSTOMER SERVICE HEARINGS.**

17 A. The customer complaints received during the customer service hearings from 174  
18 customers was simply a repeat of prior testimony, customer letters and PSC  
19 complaints that have already been received by this Commission about Aqua  
20 service and included in the direct testimony of OPC witnesses Dismukes,  
21 Vandiver and Poucher. New issues have risen regarding AMR (automatic meter  
22 reading) activities that are generating serious complaints about inaccurate,  
23 inconsistent and non-existent monthly billing for usage. The complaints that  
24 Aqua is now receiving relating to high bills (billing spikes) and backbilling for  
25 unbilled usage are serious issues that have replaced the numerous complaints we

1 used to receive about the company's failure to read customer meters on a  
2 consistent and timely basis.

3

4 **Q. HOW HAVE THE MOST RECENT CUSTOMER HEARINGS CHANGED**  
5 **THE SERVICE QUALITY TESTIMONY YOU FILED IN YOUR DIRECT**  
6 **TESTIMONY?**

7 A. None whatsoever. The most recent customer hearings simply reinforce my prior  
8 testimony and recommendations. More importantly, I waited until all of the  
9 customers had been heard by this Commission regarding Aqua service, and I have  
10 yet to see any measure of support for the company's rates or service coming out  
11 of the most recent hearings. I can remember only a couple of customers stating  
12 that their service was satisfactory, their water quality was good or that their rates  
13 were fair and reasonable during any of the hearings. The closest endorsement for  
14 the company that I heard came from Lake Osborne customers who said they had  
15 good water. However, Lake Osborne customers were also quick to add that their  
16 water came straight from Lake Wales and that Aqua had no wells or storage tanks,  
17 and Aqua provided only the water lines and meters.

18

19 **Q. DID YOU EXPECT TO SEE IMPROVED CUSTOMER RESPONSES**  
20 **DURING THE MOST RECENT CUSTOMER HEARINGS?**

21 A. I certainly did. Following the 2009 docket, Aqua was put on notice that it needed  
22 to improve its service and was given what has turned out to be over a year to do  
23 so. The company was fully aware that its efforts were being monitored. It is  
24 reasonable to expect that the latest round of hearings would produce customer  
25 support on behalf of the company. That did not happen.

1 Q. **HAVE YOU HIGHLIGHTED THE CUSTOMER COMPLAINTS?**

2 A. Yes. The full transcripts are in the record in this docket. The Commissioners  
3 attended most of the hearings and have already heard most of the customer input.  
4 I have, therefore, highlighted the issues presented during those hearings as  
5 follows:

6 **BACKBILLING AND BILLING ISSUES**

- 7 • Went from 3,000 to 200,000 gallons and nobody came to check,
- 8 • Backbilled for sewer for \$700. Service disconnected,
- 9 • Bill went from \$56 to \$456 in one month,
- 10 • Bill went from \$40 something to \$900, and
- 11 • Customer service issues;

12 **WATER QUALITY ISSUES**

- 13 • Water looks like urine,
- 14 • Water is great,
- 15 • Water smells like sulfur. Told that nothing they could do,
- 16 • Water quality adequate. Don't smell as much as it used to,
- 17 • Had water leak. Had to pay \$600,
- 18 • Won't or can't drink the water,
- 19 • Nobody drinks my water....not even my dog.
- 20 • Quality of water is garbage,
- 21 • TTHMs getting worse,
- 22 • Water still smells,
- 23 • Water is nasty,
- 24 • Sludge coming out of shower,

- 1 • No improvement,
- 2 • Water gets brown when they flush lines,
- 3 • Water quality extremely poor,
- 4 • Sediment in water,
- 5 • Water quality is deplorable, and
- 6 • Can't wash your clothes there.

7 **BOIL WATER NOTICE ISSUES**

- 8 • Failed to receive boil water notices, and
- 9 • Multiple boil water notices;

10 **OPERATIONAL ISSUES**

- 11 • Customer critical of repair activities,
- 12 • Water pressure problems,
- 13 • Water main break – took 5.5 hours to arrive at Lake Gibson. No alarm.
- 14 • Unable to reach Aqua,
- 15 • Workers could not locate shutoff valves, and
- 16 • Slow to respond to break in line;

17 **GENERAL**

- 18 • Customer service - Rude service representatives,
- 19 • Takes 2-3 days to get in touch with Aqua, and
- 20 • 50% of PSC complaints come from Aqua.

21

22 **Q. IS AQUA SERVICE QUALITY STILL UNSATISFACTORY?**

23 A. Yes it is. The evidence is conclusive and compelling that Aqua's quality of  
24 service is unsatisfactory. Moreover, Aqua needs continuing service improvement

1 incentives to improve the quality of its product and its service. Closing this  
2 docket without an effective service improvement incentive as recommended by  
3 the Office of Public Counsel would put Aqua's entire Florida customer base at  
4 risk of abuse from a company that continues to fail to measure up to the  
5 expectations of its customer and the requirements of the Florida Statutes.

6  
7 **Q. DO YOU HAVE ANY FURTHER RECOMMENDATIONS FOR THE**  
8 **COMMISSION RELATING TO AFFORDABLE RATES?**

9 A. The Commission should take extra steps to ensure that they have fully explored  
10 any and all options available to deliver on the Commission's statutory obligations  
11 to achieve affordable water rates for Florida Citizens.

12  
13 **Q. DOES THIS CONCLUDE YOUR TESTIMONY?**

14 A. Yes, it does



1           **CHAIRMAN GRAHAM:** Okay. So does that handle  
2 OPC's two rebuttal witnesses?

3           **MS. CHRISTENSEN:** Yes.

4           **CHAIRMAN GRAHAM:** Okay. I don't see anybody  
5 shaking their head no, so let's move on.

6           That brings us to Aqua's witness.

7           **MR. MAY:** Mr. Chair, could I, could we have  
8 five minutes to get some boxes opened and move some  
9 witnesses up to the front of the room?

10          **CHAIRMAN GRAHAM:** Sure.

11          **MR. MAY:** Thank you, sir.

12          **CHAIRMAN GRAHAM:** Let's take a five-minute  
13 break.

14          (Recess taken.)

15          Okay. Mr. May, when you are ready.

16          **MR. MAY:** Mr. Chairman, I apologize for my  
17 delay.

18          **CHAIRMAN GRAHAM:** Sure.

19          **MR. MAY:** Good afternoon, Mr. Szczygiel.

20          **THE WITNESS:** Good afternoon.

21          **MR. MAY:** With the Chair's and the  
22 Commission's permission, Aqua would call Mr. Stanley  
23 Szczygiel to the stand.

24                               **STAN F. SZCZYGIEL**

25 was called as a witness on behalf of Aqua Utilities

1 Florida and, having been duly sworn, testified as  
2 follows:

3 **EXAMINATION**

4 **BY MR. MAY:**

5 Q Mr. Szczygiel, have you previously been sworn  
6 in this proceeding?

7 A Yes, I have.

8 Q And would you please state again your name and  
9 business address for the record.

10 A My name is Stan Szczygiel. My business  
11 address is 762 West Lancaster Avenue, Bryn Mawr,  
12 Pennsylvania 19010.

13 Q Did you prepare and cause to be filed in this  
14 case 61 pages of rebuttal testimony?

15 A Yes, I did.

16 Q Do you have that rebuttal testimony before you  
17 today?

18 A I do.

19 Q Do you have any corrections or revisions to  
20 your rebuttal testimony?

21 A I do have one correction to make. On page 52,  
22 dealing with rate case expense, the Staff asked us to  
23 provide them with a, perhaps now the final update of our  
24 rate case expense. So on page 62, starting at line 2 --

25 Q You mean page 52?

1           A     I'm sorry. Page 52, on line 2, the second  
2 line, the rate case expense is now projected to be  
3 \$1,584,791. The next line, the cost to date is  
4 \$1,381,623. And then the fourth line down, the  
5 projected costs are now \$203,168. And finally, just as  
6 a note, Exhibit SS-11 was the previous update. This is  
7 now being updated with Late-Filed Exhibit No. 12.

8           Q     Thank you, Mr. Szczygiel. With those  
9 corrections noted, if I were to ask you the questions  
10 that are contained in your rebuttal testimony today,  
11 would your answers be the same?

12          A     Yes, they would.

13               **MR. MAY:** Mr. Chairman, I would ask that the  
14 rebuttal testimony of Mr. Szczygiel be inserted into the  
15 record as though read.

16               **CHAIRMAN GRAHAM:** We will insert  
17 Mr. Szczygiel's rebuttal testimony into the record.

18 **BY MR. MAY:**

19           Q     Mr. Szczygiel, have you attached any exhibits  
20 to your rebuttal testimony?

21          A     Yes, I have attached Exhibits 1 through 11,  
22 and, again, No. 11 being the rate case expense has been  
23 updated now with Late-Filed Exhibit 12.

24           Q     Sir, did you, are you referring to Exhibits  
25 SS-4 through SS-11?

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A I'm sorry. SS-4 through SS-11 in rebuttal.

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**AQUA UTILITIES FLORIDA, INC.**

**REBUTTAL TESTIMONY OF STAN SZCZYGIEL**

**DOCKET NO. 100330-WS**

**Q. What is your name and business address?**

A. My name is Stan Szczygiel. My business address is 762 W. Lancaster Avenue, Bryn Mawr, Pennsylvania 19010.

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

A. Yes. I filed direct testimony on August 10, 2011, in this rate case, and sponsored Exhibits SS-1, SS-2, and SS-3.

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

A. The purpose of my rebuttal testimony is to address issues raised by Kimberly Dismukes, Denise Vandiver, and Earl Poucher, who filed testimony on behalf of the Office of Public Counsel ("OPC").

**Q. Are you sponsoring any exhibits with your rebuttal testimony?**

A. Yes. I am sponsoring Exhibits SS-4 through SS-11.

**Q. Have you reviewed the direct testimony of Ms. Dismukes in this docket?**

A. Yes.

1 **Q. Do you have any concerns with respect to Ms. Dismukes' testimony?**

2 A. Yes. I have general concerns with the overall purpose and analytical approach of Ms.  
3 Dismukes' testimony. I also have specific concerns regarding technical and legal flaws  
4 in her analysis that, if adopted by the Commission, would result in confiscatory rates.  
5

6 **Q. What are your general concerns with Ms. Dismukes' testimony?**

7 A. Ms. Dismukes attempts to advance arguments about return on equity ("ROE") penalties,  
8 affiliated transactions, bad debt expense, billing determinants, and rate case expense,  
9 which she has previously raised and which have been previously rejected by the  
10 Commission. In a purely academic setting, it may be enticing to continue to argue  
11 previously rejected regulatory theories. However, Ms. Dismukes' cavalier attitude  
12 toward regulatory precedent has serious repercussions. Her testimony fundamentally  
13 threatens the doctrine of regulatory certainty, increases regulatory risks, and causes  
14 utilities to re-litigate settled issues, which ultimately drive up rate case expense to  
15 customers.  
16

17 **Q. Please explain your specific concerns with Ms. Dismukes' testimony.**

18 A. My specific concerns are addressed in detail below, by heading.  
19

20 **QUALITY OF SERVICE**

21 **Q. Ms. Dismukes devotes a significant portion of her testimony urging the Commission**  
22 **to impose a 100 basis point penalty on the Company's ROE for what she claims to**  
23 **be insufficient quality of service. Do you agree with her recommendation?**

24 A. No. The testimony of AUF witnesses Luitweiler and Chambers, along with various

1 witnesses proffered by the Florida Department of Environmental Protection (“FDEP”)  
2 and the water management districts, demonstrate that AUF’s quality of service is good  
3 and has significantly improved since the last rate case. Ms. Dismukes’ recommendation  
4 to penalize AUF with an ROE reduction of 100 basis points is unwarranted and, if  
5 adopted, would result in confiscatory rates. Ms. Dismukes’ argued for similar draconian  
6 ROE penalties in the last rate case, which the Commission rejected.

### 8 AFFILIATED TRANSACTIONS

#### 9 Overview

10 **Q. Do you have overall comments on Ms. Dismukes’ testimony regarding affiliated**  
11 **transactions?**

12 A. Yes. Ms. Dismukes presents what are essentially three alternative recommendations to  
13 reduce AUF’s test year expenses based on her so-called “review” of affiliated  
14 transactions. First, she recommends that the Commission make a “blanket” adjustment to  
15 test year water and wastewater expenses based on her claim that AUF’s relationship with  
16 its parent and affiliates is not efficient. In support of her primary recommendation, Ms.  
17 Dismukes erroneously argues that AUF’s affiliate costs have risen significantly since the  
18 last case, and points to a superficial and legally flawed comparative analysis that she  
19 prepared. In her secondary recommendation, Ms. Dismukes alternatively asks the  
20 Commission to reduce test year expenses by \$79,968, for what she deems as  
21 “management fees,” based on arbitrary “adjustments” she makes to AUF’s market study.  
22 In her tertiary recommendation, Ms. Dismukes again requests a “blanket” adjustment to  
23 reduce the water expense by \$882,388 and wastewater expense by \$348,674 in order to  
24 “hold” affiliate costs to 2007 levels. This recommendation is disingenuous and

1           confiscatory. As I will discuss in my testimony, her adjustment would actually cut out over  
2           \$1.2 million in affiliate expenses that the Commission approved in the last case.

3  
4           I will address Ms. Dismukes' primary, secondary, and tertiary recommendations below.

5  
6           **Ms. Dismukes' Primary Recommendation**

7           **Q.     What is the basis for Ms. Dismukes' primary recommended adjustment regarding**  
8           **affiliate transactions?**

9           A.     Ms. Dismukes recommends the Commission reduce water expenses by \$664,023 and  
10           wastewater expenses by \$312,822. In support of her primary recommendation, Ms.  
11           Dismukes falsely claims that there has been a significant increase in AUF's affiliate costs  
12           since the last case. She also relies on a superficial and legally flawed analysis that  
13           purports to compare various regulated water and wastewater utilities within Florida. I  
14           fundamentally disagree with Ms. Dismukes' primary recommendation and her underlying  
15           analysis.

16  
17           **Q.     Has AUF made available to OPC and Staff all documentation regarding affiliate**  
18           **transactions in this case?**

19           A.     Yes. AUF has made all documentation relating to affiliate transactions available to the  
20           OPC and to Staff as part of the audit and discovery phases of this rate case. I would point  
21           out that Staff Auditors have extensively audited the Company's affiliate transactions,  
22           including affiliate costs and charges, and nothing in Staff's Audit Report remotely  
23           suggests that those allocated costs and charges were not reasonable or necessary.



1 **Q. Please describe the degree and amount of discovery that OPC served on AUF in**  
2 **regard to affiliate transactions.**

3 A. I personally participated in the discovery phase of this case and can attest that, thus far,  
4 AUF has received and has responded, or is in the process of responding, to over 991  
5 interrogatories and 347 production of document requests in this case. The amount of  
6 discovery was extremely comprehensive in regard to affiliate transactions. Affiliate  
7 information that AUF provided to OPC included thousands of pages of documents  
8 concerning such things as organizational charts on employees and positions for Aqua  
9 Services, compensation, benefits, wage increases, types of services for allocations, time  
10 assignments, and detailed analyses of the logs of the direct and allocated costs for AUF.  
11 AUF also provided OPC with a granular listing of all Service Company employees that  
12 allocate time to AUF, along with their salary and benefit information. In addition, AUF's  
13 discovery responses explained in detail the components of the service and sundry charges  
14 as those components relate to corporate allocations.

15  
16 **Q. Do you agree with Ms. Dismukes' claim that AUF's affiliate charges have increased**  
17 **significantly since the last rate case?**

18 A. No, Ms. Dismukes is wrong. Total affiliated charges from ASI and other subsidiaries  
19 have decreased for those systems in the last rate case. This information has been provided  
20 to OPC during the discovery phase of this proceeding. Ms. Dismukes' refusal to  
21 acknowledge this is simply a smokescreen to bolster her position.

22  
23 In response, I have prepared Exhibit SS-4, which shows the amount of affiliated costs per  
24 book in AUF's last rate case compared to the affiliated costs per book included in the

1 current rate case. My exhibit demonstrates that the total charges from ASI and other  
2 subsidiaries to AUF have actually decreased since the last rate case.

3  
4 **Q. Please explain Exhibit SS-4 in detail.**

5 A. As helpful background to understanding the exhibit, there are four basic types of charges  
6 which are allocated by ASI or other Aqua subsidiaries to AUF: (1) Management Fees  
7 Corporate (Service and Sundry); (2) Direct Accounts Payable ("DAP") charges; (3)  
8 Regional Management Fees; and, (4) Customer Billing and Call Center Expenses  
9 ("ACO"). In addition, Aqua America, Inc. ("AAI"), provides insurance coverage for  
10 AUF's Florida operations, which is not included in this exhibit. I will explain insurance  
11 coverage later in my testimony. I note that these allocations were accurately summarized  
12 by Staff witness Welch on pages 2 and 3 of her direct testimony.

13  
14 Exhibit SS-4 provides a clear comparison of the four categories of affiliated charges  
15 which are allocated to AUF. Exhibit SS-4 shows the per book amounts of affiliate  
16 charges for the historical test year in the last rate case (2007) and the per book amounts of  
17 affiliated charges for the test year in this current rate case with respect to: (1) the total  
18 state of Florida; (2) the AUF systems previously included in AUF's last rate case; and (3)  
19 the six new systems not included in the last rate case. Again, this comparison is drawn  
20 from the per book affiliated charges in the test year for the last case and those affiliated  
21 charges in the test year for this case.

22  
23 For the AUF systems in the prior rate case, Exhibit SS-4 shows that:

24 1) Management Fees Corporate (Service and Sundry) has decreased from the last rate

1 case by \$54,224.

2 2) DAP Charges have increased over the test year by \$12,782; due mainly to increases in  
3 IT related operating expenses.

4 3) Regional Management Charges increased by \$16,287. This item has already been  
5 adjusted downward by the Commission in its Order No. PSC-11-0256-PAA-WS, issued  
6 on June 13, 2011 ("PAA Order"), as a result of Staff's Affiliate Audit Finding No. 4. This  
7 adjustment relates to a then-employee of AUF whose salary was allocated to states  
8 outside of Florida where a portion of the employee's work was performed. AUF is not  
9 objecting to this adjustment which is reflected in the PAA Order.

10 4) ACO expenses have decreased by \$18,886.

11  
12 In summary, Exhibit SS-4 demonstrates that the total charges from affiliates to the AUF  
13 systems included in the last rate case have actually gone down from \$795,266 in the last  
14 case to \$751,225 in the current case, for a total decrease of \$44,041. Exhibit SS-4 also  
15 shows that, by including the six new systems that are part of the current rate case, there  
16 was still a decrease of \$17,612 in allocated charges compared to AUF's last rate case.

17  
18 It is unfortunate that, after the extensive discovery responses which AUF provided to  
19 OPC on this issue, Ms. Dismukes still fails to understand that allocated affiliated charges  
20 have gone down.

21  
22 **Q. Do you have any idea why Ms. Dismukes is unable to comprehend that affiliate**  
23 **charges have gone down?**

24 **A.** I don't know for certain, but I suspect that her confusion is related to the way the

1 Company now records "in-state administrative costs," which I want to emphasize are  
2 costs that AUF incurs directly within the state, and are in no way related to affiliate costs.  
3

4 **Q. Please explain.**

5 A. In the last rate case, the Commission ordered AUF to transition to a new approved  
6 capband rate structure. During that transition, AUF modified the manner in which it  
7 recorded "in-state administrative costs." (As stated earlier, these are not affiliated  
8 charges, but rather costs that AUF itself incurs directly.) As a result of this modification,  
9 AUF's accounting system now breaks out what had been larger buckets of line-item  
10 expenses into more granular units. This allows AUF to more clearly identify charges so  
11 that AUF's management can better track expenses.  
12

13 **Q. Please provide an example of how AUF modified the manner in which it recorded**  
14 **in-state administrative costs.**

15 A. Prior to 2009, AUF distributed its in-state legal expenses among its Florida jurisdictional  
16 and Florida non-jurisdictional systems based on customer counts of those systems. Those  
17 in-state legal expenses were distributed to Expense line Accounts 675.863 Miscellaneous  
18 (Intraco Clearing) for water and 775.863 (Miscellaneous Intraco Clearing) for sewer on  
19 the individual system's financials based on the prior fiscal year's customer counts for  
20 each system.  
21

22 For 2009 and years forward, AUF began **directly charging** legal expenses to a specific  
23 system in the Legal Expense Account if the system could be identified in the legal  
24 invoice. Invoices that indicated a shared legal expense among AUF's jurisdictional and

1 non-jurisdictional systems were still allocated based on customer account, but were  
2 appropriately reflected in the Legal Expense account instead of the Miscellaneous  
3 Expense, as previously recorded. As I mentioned earlier, this was done to enable AUF's  
4 management to better track expenses on a more granular basis. Again, recording of in-  
5 state charges have nothing to do with affiliate charges.

6  
7 **Q. Can you provide another example of how AUF modified the manner in which it**  
8 **recorded in-state expenses?**

9 A. Yes. For the In-State Miscellaneous Expense (again, not an affiliate charge), AUF  
10 distributes on a monthly basis O&M charges from the In-State Administrative accounting  
11 units to Florida jurisdictional and non-jurisdictional systems (accounting units) based on  
12 customer count and percentage (%) of labor. Just as I mentioned earlier, these O&M  
13 charges are not affiliated costs, but rather are costs that AUF itself incurs. Prior to 2009,  
14 all of these costs were previously booked to expense line Accounts 675.863  
15 Miscellaneous (Intraco Clearing) for water and 775.863 Miscellaneous (Intraco Clearing)  
16 for sewer on the individual systems financials based on the prior fiscal year's customer  
17 counts for each system. Beginning in 2009 and forward, all of these costs are now  
18 booked appropriately to expense line Accounts 634.800 (Management Fees - States) for  
19 water and 734.800 (Management Fees - States) for sewer on the individual systems  
20 financials based on the prior fiscal year's customer count for each system. Also in 2009,  
21 AUF also began including Payroll Taxes in Management Fees-States, which was not  
22 done in 2008 and prior years. Again, this was done to enable AUF's management to  
23 better track expenses on a more granular basis.

1 Q. If “in-state administrative costs” are not affiliate costs, then why would changes in  
2 the way AUF recorded “in-state administrative costs” confuse OPC about affiliate  
3 charges?

4 A. Apparently OPC has failed to understand that its claimed “shift” in distribution  
5 methodology was simply an accounting change in recording in-state administrative costs.  
6 Where the in-state management and legal expenses were previously recorded in the  
7 Miscellaneous Expense lines for water and sewer in the past (*i.e.*, in last rate case), they  
8 are now appropriately reflected in either the Legal Expense, or the Management Expense  
9 lines in compliance with NARUC Uniform System of Accounts. In review of the Staff  
10 spreadsheets and the PAA Order, this concept was fully understood and comprehended  
11 by the Commission Staff.

12  
13 Q. Did OPC protest in-state administrative expenses?

14 A. No. Based on my review of the relevant pleadings, OPC did not protest any of these “in-  
15 state administrative expenses.”

16  
17 **Non-Regulated Affiliates**

18 Q. Ms. Dismukes alleges that Aqua America fails to consistently allocate costs to its  
19 non-regulated affiliates. Do you agree?

20 A. No. After reviewing Ms. Dismukes’ assertions regarding certain non-regulated  
21 affiliates not being allocated and affiliate charges allocation, I would like to explain how  
22 each of these non-regulated businesses are handled in Aqua’s allocation process:

- 23  
24 1) Aqua Georgia was acquired at the beginning of 2010, midway into the test year. In  
25 2010, there was no allocation of ASI costs to Georgia. Going forward Aqua will

1 charge Georgia a portion of ASI based on imputed customer count (entity assets to  
2 total assets). The imputed customer count for Aqua Georgia is 408 customers or  
3 0.0445% of Aqua America. For purposes of this rate case, the impact to AUF would  
4 result in an annual reduction of allocated ASI and regional expenses of \$244.44 if  
5 Aqua Georgia were in the full test year.

- 6
- 7 2) Suburban Environmental Service Company falls under Aqua Resources. Like Aqua  
8 Resources, Suburban has no “utility” customers. However, Aqua calculates imputed  
9 customers for Aqua Resources to absorb its portion of the ASI costs. The assets of  
10 Suburban as well as Aqua Resources result in an imputed customer count of 2,695  
11 and, therefore, are receiving a portion of ASI allocated costs.
- 12
- 13 3) Utility & Municipal Services, Inc. is owned by Aqua PA and receives passive income  
14 similar to other forms of passive income in many of our states (for example, passive  
15 income from antenna leases). These operations with passive revenues do not have  
16 customers or assets therefore they receive no allocation. Additionally, many of the  
17 passive revenues of Aqua serve to reduce the revenue requirement of the relevant  
18 state operating company.

19

20 Aqua Operations is a legal entity that holds and administers Operation and  
21 Maintenance contracts at the applicable state level.

- 22
- 23 4) Aqua does not allocate costs to all of its contract operators because not all of its  
24 contract operators require and receive services that are provided by the Service  
25 Company. As I explained in the last rate case (on page 14 of my rebuttal testimony),  
26 the majority of the contract operator services provided in Ms. Dismukes’ Schedules 8  
27 and 9 are locally driven. This means that the contract operator services for these  
28 various entities do not receive cost allocations from the Service Company because the  
29 local affiliate listed in the contract does not receive services from the Service Company.  
30 Instead, the local affiliate creates, processes, and bills the non-affiliate entities in  
31 accordance with the terms of the contract. Revenues are derived from completion of  
32 the services outlined in the contract and are recorded on the books of the relevant  
33 affiliate named in the contract. I would note that Aqua America, Inc., Aqua Services,  
34 Inc., and AUF currently are not a party to any contracts to provide operator services  
35 for non-affiliate companies. Consequently, no revenue for contractor services is  
36 recorded on their books. Finally, let me point out that the references on Ms.  
37 Dismukes’ Schedule 9 to “description of services provided” refer to the services that  
38 the local affiliate is providing as a contract operator for these entities, and does not  
39 refer to services from the Service Company.

40 **Q. Do you believe that Ms. Dismukes understands the issue of contract operator**  
41 **services?**

1 A. She should. The issue of contract operator services was explained in detail to Ms.  
2 Dismukes and to OPC in the last rate case, and also in response to OPC's discovery in  
3 this case. As Ms. Dismukes acknowledges on page 47 of the vast majority of the  
4 municipal contracts, there are no corporate services provided to these affiliates; therefore,  
5 there are no charges from Aqua America, ASI or ACO. Such costs are generally incurred  
6 in the individual states. To the extent any services are provided to non-regulated  
7 affiliates, costs are allocated from affiliates using the existing affiliate interest agreement  
8 and the underlying allocation methodology consistent with the last rate case. This is  
9 explained on Schedule 8 of Ms. Dismukes' Exhibit KHD-1. Furthermore, for the  
10 contract operations related to Aqua Resources, Ms. Dismukes has acknowledged on page  
11 46 of her testimony that Aqua Services has allocated costs to Aqua Resources.

12

13 **Q. Ms. Dismukes claims that AUF has failed to explain how its allocation methodology**  
14 **for contract services takes into account the "complexity" of contract service**  
15 **operations. Do you agree?**

16 A. Again, Ms. Dismukes is rearguing issues that she raised but were rejected in the last rate  
17 case by this Commission. Just as I testified in the last rate case, Ms. Dismukes has made no  
18 showing that she has the experience or knowledge to substantively comment on the  
19 complexity and size of the in-state operations of our other state operations. However, I do  
20 note that her claim appears to contradict her later statements on page 72, where she  
21 observes, "I do not believe operating characteristics have as much of an impact on  
22 customer and administrative expenses as the Company does," and then again on page 74,  
23 where she states, "I do not believe operating characteristics would have a significant impact  
24 on customer and administrative expenses." It strikes me as inconsistent for her to advocate



1 greater allocations to account for added “complexities and size differentials” of certain  
2 systems, but later argue in her comparative analysis that the operating characteristics of a  
3 utility do not have an impact on administrative expenses.  
4

5 **Q. Ms. Dismukes claims that because some of Aqua’s non-regulated affiliates have**  
6 **common officers and directors with regulated affiliates, Aqua may have failed to**  
7 **properly allocate their salaries and benefits to the non-regulated affiliates. Is Ms.**  
8 **Dismukes correct?**

9 A. No. The fact that there are some common officers among regulated and non-regulated  
10 affiliates should not dictate whether or not to allocate officer salaries. All legal entities  
11 require assigned officers and directors. Aqua, as in the case of most businesses that have  
12 multiple legal entities, does not conduct business generally through these officers or  
13 directors. For example, in the case of Aqua Operations, which covers multi-state non-  
14 regulated contracts, the contracts are handled at the state level and are generally signed  
15 by the state president.  
16

17 **Q. Does Aqua America have a formal policy governing how it allocates costs to its**  
18 **unregulated affiliates?**

19 A. Yes. Aqua America’s allocations policy to regulated and unregulated affiliates is set  
20 forth in and governed by the Corporate Allocation Manual and the affiliated interest  
21 agreement among and between ASI and the state operating company. This information  
22 was provided to OPC during discovery in this case.

23 **Q. Did Ms. Dismukes identify any instances where Aqua was not following its allocation**  
24 **policy?**

1 A. Yes. As I outlined above, if Aqua Georgia had been in existence for the entire test year and  
2 received its full allocation, the full year impact would reduce the corporate expense  
3 allocation in this rate case by \$244.44.  
4

5 **Q. Did Ms. Dismukes recommend any specific adjustments based on her claim that**  
6 **Aqua America failed to properly allocate costs to its non-regulated affiliates.**

7 A. No.  
8

9 **Q. You mentioned previously that insurance costs are allocated by Aqua America to**  
10 **AUF. Can you explain how insurance is allocated to Aqua's subsidiaries?**

11 A. Aqua obtains insurance coverage for the entire company for insurances such as Worker  
12 Compensation, Vehicle, and General Liability (this excludes medical insurance which is  
13 direct cost by subsidiary in Account 604/704). The cost of this insurance coverage is  
14 comprised of two elements: 1) premiums for base coverage, and 2) claims experience for  
15 the deductible portion of these policies. For the premium portion of this cost, Aqua  
16 allocates each type of coverage based on a factor that mirrors the driver of that given  
17 cost. For example, Vehicle Insurance premiums are based on the number of vehicles in  
18 each operating unit, and Workman Compensation premiums are based on payroll dollars.  
19 For the claims portion of these costs, Aqua takes a five-year average of each entity's  
20 claim experience and it is weighted to all other entities to determine the current year's  
21 claim expense.  
22

23 **AUF - Florida Study**

24 **Q. In your direct testimony, you presented the Commission with a Florida Study--**

1 **Exhibit SS-2--which shows that AUF's customers benefit by having centralized**  
2 **services provided to it by AAI. How do you respond to Ms. Dismukes' criticisms of**  
3 **this study?**

4 A. First, I think it is important to note that Ms. Dismukes does not present any testimony  
5 which shows that any specific affiliate charge to AUF is above market or is otherwise  
6 inherently unfair. In fact, she does not even attempt to challenge a specific affiliate charge  
7 as being above market. Instead, Ms. Dismukes makes a series of unsupported claims that  
8 AUF's affiliate study understates the value of the services ASI provides to AUF, and  
9 erroneously overstates the costs of outside vendors to make it appear that AUF saves  
10 money by using ASI services rather than retaining those services from outside sources.

11  
12 For example, Ms. Dismukes generally asserts that AUF has understated the hourly rates for  
13 ASI for in-house engineering, legal, accounting and management service employees by  
14 assuming that 100 percent of those ASI employees' hours would be billable. Again, Ms.  
15 Dismukes is wrong. In calculating the internal hourly rate for ASI employees for purpose  
16 of the market study, AUF appropriately recognized that ASI employees in fact bill out  
17 approximately 1,838 hours per year, not the 2,080 hours per year as claimed by Ms.  
18 Dismukes. This is because ASI employees only bill out time they actually work, not  
19 unproductive time like vacation, holidays, and sick days.

20  
21 **Q. Ms. Dismukes suggests that the study overstates the costs of outside services because it**  
22 **fails to take into account potential discounts from outside firms. Do you agree?**

23 A. No, I do not. Ms. Dismukes offers no suggested discounts in her testimony; she merely  
24 speculates that some discounts "may" be potentially available. Based on my experience as

1 an outside contractor, I know that discounts are not a certainty in the market. Some clients  
2 may receive a discount, while others will not. Furthermore, if a discount is available, the  
3 amount of the discount will likely differ from client to client. Thus, even assuming that a  
4 discount may be given, the resulting rates could very well still be higher than ASI's internal  
5 rates. Ms. Dismukes' speculation as to discounts is not credible and is not supported by  
6 any facts.

7  
8 **Q. Do you agree with Ms. Dismukes' claim that the study, by excluding travel expenses,**  
9 **understates the hourly rates of ASI employees?**

10 A. No, I do not. In Exhibit SS-2, I specifically excluded travel because consultants would bill  
11 the clients separately for travel. My analysis compared ASI's rate to what a typical  
12 consultant would charge for similar functions. This analysis was not meant to normalize  
13 expenses to appropriate rate case levels. Furthermore, to get a true apples-to-apples  
14 comparison, it does not make sense to normalize ASI's rate and not normalize an outsider  
15 contractor's rate as well. To arrive at the ASI hourly rates in the original study, I added  
16 both Service and Sundry allocations, and then I excluded items that would be billed out  
17 separately.

18  
19 **Q. Ms. Dismukes criticizes the market study's analysis regarding the costs of engineering**  
20 **services from outside sources. Do you agree?**

21 A. No. Ms. Dismukes claims that the market rate analysis for engineering firms is deficient  
22 because only two engineering firms were considered. Ms. Dismukes is wrong. One need  
23 only look to OPC's outside engineering services to see that AUF's study is reasonable.  
24 OPC has retained the engineering services of Mr. Andrew Woodcock, who charges OPC at

1 a rate of \$185 per hour, which is higher than both ASI's rate and the market rate that AUF  
2 has analyzed.

3  
4 I also disagree with Ms. Dismukes' suggestion that ASI's engineers do not have the  
5 education and expertise comparable to outside engineers in the study. As shown in AUF's  
6 response OPC Request for Production of Documents No. 175, AUF's study included all  
7 levels of engineers with various degrees of education and expertise, similar to ASI  
8 engineers.

9  
10 Ms. Dismukes' claim that AUF failed to explain that the \$82/ hour engineering costs  
11 included "overhead" is equally baseless. As AUF stated in its response to OPC  
12 Interrogatory No. 250, all overhead to run the business is included in ASI's hourly rates.  
13 ASI, however, does not charge a profit margin to its affiliates.

14  
15 **Q. Ms. Dismukes criticizes the study's analysis regarding the costs of legal services from**  
16 **outside sources. Are her criticisms valid?**

17 A. No. Ms. Dismukes improperly attempts to distort the data in The Florida Bar's 2010  
18 *Economic & Law Office Management Survey*. For example Ms. Dismukes erroneously  
19 suggests that the *Survey* shows that the average hourly rate for lawyers is in the range of  
20 \$220-\$245. To get to that number, she appears to manipulate the data to support her point  
21 of view. For instance, where the *Survey* states the hourly rate for some lawyers is "\$100 or  
22 less" or "over \$350," Ms. Dismukes' calculation arbitrarily uses \$90/hour for the low rate  
23 and \$400/hour for the high rate, thus shifting the average in her favor. Ms. Dismukes has  
24 not presented any evidence which shows the highest rate charged by any Florida lawyer is

1 \$400/hour, nor can she.

2 **Q. How did you obtain the \$247/hour rate for lawyers that is included in the market**  
3 **study?**

4 A. From the Director of Research, Planning & Evaluation for The Florida Bar.

5  
6 **Q. Do you understand Ms. Dismukes' statement that the hourly rates for ASI lawyers**  
7 **could increase from \$140/hour to \$364/hour?**

8 A. No. Ms. Dismukes provides no explanation on why she believes that ASI legal rates could  
9 increase to \$364/hour. I suspect that Ms. Dismukes is manipulating the hourly rate by  
10 making unilateral changes to the number of hours that an ASI attorney would work in a  
11 year. As I mentioned earlier, Ms. Dismukes has erroneously assumed that the hourly rate  
12 in the study was based on each ASI attorney billing out all 2,080 hours per year.

13  
14 **Q. Ms. Dismukes also criticizes AUF's analysis regarding the cost of outside accounting**  
15 **services. Are her criticisms valid?**

16 A. No. Ms. Dismukes essentially is arguing that any accountant in ASI would not be able to  
17 charge the rate as someone working at an outside accountant. That simply is incorrect.  
18 Many accountants in ASI have a CPA and come from a public accounting background.  
19 Moreover, there are several outside accountants who never obtain their CPA. There are  
20 ASI employees who are Vice Presidents, Directors, and Senior Managers whose hourly rate  
21 would be comparable to the rate of Directors in public accounting, if not even higher  
22 positions.

23  
24 **Q. Ms. Dismukes criticizes AUF's analysis regarding the hourly rates for management**

1           **consultants. Are her criticisms valid?**

2    A.    No. Ms. Dismukes claims that the hourly rate for management consultants used in AUF's  
3           analysis is overstated because, according to her, the highest hourly rate included in the  
4           survey—\$468—would result in “annual compensation of \$973,440.” What Ms. Dismukes  
5           has done is to equate a professional's hourly rate with a professional's total compensation.  
6           That is absurd. As a consultant, Ms. Dismukes knows very well that an hourly rate is what  
7           is billed out to clients, which includes overhead, not just compensation.

8  
9           In another obvious attempt to arbitrarily manipulate the data, Ms. Dismukes recommends  
10          that if the Commission accepts AUF's market analysis then it should only use the “lowest  
11          hourly rates of the management firms shown.” However, if the lowest hourly rates are used  
12          in the calculation, then it could not be considered a true mathematical average of all  
13          consultants. This is another example where Ms. Dismukes has cherry-picked the numbers  
14          so that the data supports her position.

15  
16    **Q.    Does Ms. Dismukes make adjustments to AUF's affiliate study?**

17    A.    Yes. Based on her claims summarized above, Ms. Dismukes makes a series of arbitrary  
18          and self-serving adjustments to increase the hourly rate of ASI employees. For example,  
19          Ms. Dismukes arbitrarily increases by 40 percent the hourly rate of each ASI category in  
20          the market study based upon the erroneous premise that, in calculating ASI hourly rates,  
21          AUF assumed that ASI employees would bill 100 percent of their time. As I have  
22          previously testified, Ms. Dismukes is absolutely wrong. ASI employees only bill for time  
23          worked. Ms. Dismukes' arbitrary “hourly rate” adjustments are designed simply to  
24          manipulate data to support her position. Ms. Dismukes also made similar arbitrary

1 adjustments to include travel, computer hardware/software and other costs to inflate the  
2 hourly rate of ASI employees included in the market study. *See* Schedule 13 of Exhibit  
3 No. KHD-1. Even if you assume that all of Ms. Dismukes' adjustments are legitimate  
4 (which I strongly assert they are not), Ms. Dismukes' Schedule 14 shows that the only  
5 affiliate charges that exceed the market rate are \$79,968 in "management charges." As I  
6 will discuss later, this appears to form the basis for Ms. Dismukes' secondary  
7 recommended adjustment.

8  
9 **Q. Can you comment on Schedule 12 to Ms. Dismukes' testimony?**

10 A. Yes. Ms. Dismukes continues to manipulate the data to support her argument. Specifically,  
11 she attempts to lower the hourly rate of the outside consultants in the study by arbitrarily  
12 shifting a greater percentage of time spent to lower level employes. She provides no credible  
13 support for this adjustment.

14  
15 **Q. On pages 50 and 51 of her testimony, Ms. Dismukes questions why a company would**  
16 **outsource these services where it cannot demonstrate that it would be less costly than**  
17 **providing the service in-house. Ms. Dismukes also states the Commission would likely**  
18 **frown on the high costs of outside consultants being passed onto ratepayers. Do you**  
19 **agree?**

20 A. AUF has demonstrated that it is much less costly to provide these services "in-house."  
21

22 **Q. Has anything in Ms. Dismukes' testimony caused you to question the study set forth**  
23 **in Exhibit SS-2?**

24 A. Absolutely not. I strongly disagree with Ms. Dismukes' claims that there are



1 “shortcomings” with the market study. However, I have updated the study to address her  
2 purported concerns, which is attached to my rebuttal testimony as Exhibit SS-5.

3  
4 **Q. Please explain your updated study.**

5 A. First, I have revised the analysis to exclude all ASI employees that hold less than a  
6 Bachelors’ degree in the categories of accountants and management professionals.  
7 Although I disagree with Ms. Dismukes, I did this to address her claims that combining  
8 various accounting functions and management functions into one accounting rate and one  
9 management rate “hides” the differences in education and experience needed to perform  
10 the function. Second, although I believe Ms. Dismukes is incorrect, I have also included  
11 travel expense, and computer hardware and software maintenance costs in the hourly rate  
12 of each type of employee to address Ms. Dismukes’ purported concerns. I have also  
13 obtained three additional engineer proposals and adjusted my hourly rate for outside  
14 engineers to include this additional rate information. AUF typically uses six engineering  
15 firms a year; therefore, I believe that using five proposals is an appropriate market level  
16 sample for AUF.

17  
18 **Q. Please summarize what your updated study shows.**

19 A. As was demonstrated by the original study, the updated study also clearly indicates that  
20 charges for ASI services are still well below market rates in each and every category.

21  
22 **Q. Should the Commission accept Ms. Dismukes’ recommendation and reject AUF’s**  
23 **analysis?**

24 A. No. The Company has demonstrated that affiliate charges from ASI do not exceed the

1 going market rate. In fact, both the original study in SS-2 and the updated study in SS-5  
2 demonstrate that AUF's affiliate costs are below market. If AUF was a stand-alone  
3 company, it would be required to obtain tax, accounts payable, accounts receivable,  
4 payroll, rate making, human resources, engineering, legal, and other services that it  
5 currently obtains from ASI. Thus, the analyses in Exhibits SS-2 and SS-5 are the most  
6 comprehensive comparison that could be shown to address what AUF would actually be  
7 charged if it had to go to outsiders and obtain similar services.

8  
9 In summary, I continue to believe that the Commission got it right in the PAA order, when  
10 it stated, "we find the Utility has met its burden of proof by demonstrating that AUF's  
11 requested affiliated charges are reasonable and that customers are benefitting from the  
12 remaining allocated affiliate charges." OPC's witness has offered no evidence that the  
13 Commission's objective analysis was incorrect.

14  
15 **OPC Comparative Analysis**

16 **Q. After criticizing AUF's market study, does Ms. Dismukes make any specific**  
17 **adjustments to affiliated charges?**

18 A. No. Ms. Dismukes simply resorts to the argument she made in the last case, which is to  
19 recommend a "blanket adjustment" to affiliated charges that would reduce water expenses  
20 by \$664,023 and wastewater expenses by \$312,822. She bases her "blanket adjustment"  
21 not on the specific affiliate charges, but rather on her "comparing" AUF to various  
22 regulated water and wastewater utilities within the state of Florida. In my opinion, Ms.  
23 Dismukes' comparative analysis and her "blanket adjustment" suffer from the same flaws  
24 embedded in her analysis and recommendations in the last rate case. The Commission

1 should reject her proposals, just as it did in the last case.

2  
3 **Q. Do you have specific concerns regarding Ms. Dismukes' comparison of AUF's**  
4 **allocated overhead and rates to other utilities?**

5 A. Yes. In effect, Ms. Dismukes is asking the Commission to set AUF's rates based on the  
6 costs, investments, and rates of other "peer group" utilities, and not on AUF's own costs  
7 and investments. Ms. Dismukes' "peer group" rate-setting theory violates the Florida  
8 Statutes, the Commission's rules, and long-standing Commission precedent, all of which  
9 require that the rates of a water and wastewater utility be established to allow the utility  
10 the opportunity to recover its prudently incurred expenses and to earn a fair return on its  
11 investments. Ms. Dismukes' "blanket adjustment" to AUF's expenses would also be  
12 confiscatory. The Commission's PAA Order expressly recognized the legal flaws  
13 embedded in Ms. Dismukes' "peer group" adjustment:

14 To disallow affiliate charges solely based on the purported cost structures  
15 of other utilities would ignore the actual costs incurred by AUF and  
16 violate fundamental principles of cost-of-service regulation . . . . As set  
17 forth in Section 367.081(1), F.S., we shall fix rates which are just,  
18 reasonable, compensatory, and not unfairly discriminatory.

19  
20 Rates should be established to allow a utility the opportunity to recover its  
21 prudently incurred expenses and to earn a fair return on its investments,  
22 not to guarantee that it will do so. However, in determining a utility's  
23 rates by use of a prudent investments theory or original cost basis, we  
24 must consider whether rates are confiscatory and deprive a utility of a fair  
25 return. In rate cases, we are free to follow such methods as we may  
26 choose so long as the "end result" of such methods is the establishment of  
27 just and reasonable rates, and so long as such methods do not go so far  
28 astray that they violate Florida Statutes or run afoul of constitutional  
29 guarantees.

30  
31 Given the above, we believe that the Utility could make a compelling  
32 argument that the rates resulting from an approval of OPC's proposed  
33 allocated overhead adjustment would be confiscatory. To this point, the  
34 U.S. Supreme Court has addressed utility claims of unconstitutional

1 takings in the rate of return regulation environment on several occasions.  
2 The Court has held in those cases that rates set so low as to deny an  
3 adequate rate of return are confiscatory. (Citations omitted.)  
4

5 **Q. You point out that the PAA Order states that there is a compelling argument that**  
6 **Ms. Dismukes' recommended "peer group" adjustments to AUF's allocated**  
7 **overhead expenses would be confiscatory. Does Ms. Dismukes try to evade the issue**  
8 **of confiscatory rates in her testimony?**

9 A. Yes. On page 75 of her testimony, Ms. Dismukes states, "if affiliate costs are not  
10 prudently incurred, disallowing recovery of such costs is not confiscatory." This is  
11 circular reasoning. Ms. Dismukes is suggesting that AUF has imprudently incurred  
12 affiliate costs. However, nowhere in her testimony does she come close to identifying a  
13 single affiliate costs that AUF imprudently incurred.  
14

15 **Q. Has the Commission previously addressed a similar argument by Ms. Dismukes?**

16 A. Yes. As recognized in the PAA Order, the Commission rejected essentially the same  
17 argument by Ms. Dismukes made in a 1992 rate case. In that case, the Commission  
18 found it was inappropriate to make the reduction recommended by Ms. Dismukes when  
19 the record did not support an argument that any specific affiliate charge was  
20 unreasonable. *In re: Application for Rate Increase by South Fort Myers Division of*  
21 *Florida Cities Water Company in Lee County*, Docket No. 920808-SU, Order No. PSC-  
22 93-1288-FOF-SU (Sept. 9, 1993).  
23

24 **Q. Do you have other concerns with Ms. Dismukes' recommended "peer group"**  
25 **adjustment to AUF's allocated overhead expenses?**

1 A. Yes, I do. From a purely analytical perspective, I fundamentally disagree with using this  
2 type of “peer group” comparison to make financial adjustments to any business entity,  
3 much less a utility like AUF that is subject to cost-of-service regulation. The source data  
4 relied on by Ms. Dismukes does not permit an “apples to apples” comparison with AUF.  
5 The limitation on the use of the data stems from the varying levels of services provided  
6 by the service companies to their individual affiliates (if there are service companies), the  
7 different allocation methodologies, and the lack of detail in the data submitted which  
8 prevents a clear determination of the amount of costs charged or the prudence of those  
9 charges. Furthermore, there is no indication that Ms. Dismukes has audited the source  
10 documents of the “peer group” companies, nor is there any indication that she has a  
11 baseline understanding of the condition of their facilities. There is also no showing of  
12 whether the companies are in need of rate relief, whether they are operating at a loss, or  
13 whether they have a service company. Moreover, those companies’ corporate structures,  
14 expenses, operating standards, and environmental compliance records are not considered.

15  
16 I also take issue with the fact that Ms. Dismukes is ignoring data provided by AUF in the  
17 discovery process, and also manipulating data that AUF provided to make her point.

18  
19 **Q. Why do you say that Ms. Dismukes ignored and manipulated data that AUF**  
20 **provided to OPC in discovery?**

21 A. In response to OPC Production of Documents Request No. 143, AUF provided OPC with  
22 a spreadsheet (file POD\_143 Allocated Chg.xlsx) which contains the documentation for  
23 all allocated charges from Aqua affiliates to AUF. That spreadsheet shows that \$487,392  
24 in actual Management fees were charged from Aqua affiliates to AUF, with \$352,903

1 charged to AUF water systems and \$134,489 charged to AUF wastewater systems. Ms.  
2 Dismukes ignored these allocated charges that were provided in the spreadsheet. Instead,  
3 she arbitrarily selected amounts in specific expense accounts which, significantly and  
4 erroneously, overstated the administrative expenses when compared to the actual  
5 amounts charged to AUF by Aqua Affiliates as shown in the spreadsheet provided in  
6 response to Request No. 143.

7  
8 **Q. Can you provide a more granular explanation of Ms. Dismukes' incorrect use of**  
9 **AUF's data?**

10 A. Yes. This can be readily seen by reviewing Schedule 21 of Ms. Dismukes' Exhibit No.  
11 KHD-1. As I just stated above, the actual Contractual Services – Mgt Fees charged to  
12 AUF's water systems by Aqua affiliates is \$352,903 which is \$946,767 less than the  
13 \$1,299,669 shown on Schedule 21 (Page 1 of 6) under AUF Contractual Services – Mgt.  
14 Fees. Similarly, the actual Contractual Services – Mgt Fees charged to AUF wastewater  
15 systems by Aqua affiliates is \$134,489, which is \$352,216 less than the \$486,705 shown  
16 on Schedule 21 (Page 4 of 6) under AUF Contractual Services – Mgt. Fees. Therefore,  
17 by ignoring the data provided to OPC through discovery, Ms. Dismukes' comparison  
18 schedules overstate affiliate charges for AUF's water systems by \$946,767 for AUF  
19 water systems, and overstate affiliate charges for wastewater systems by \$352,216.

20  
21 **Q. Where does this overstatement appear in Ms. Dismukes' Administrative & General**  
22 **("A&G") Comparative Analysis schedules?**

23 A. The overstated amounts are shown in total and by rate band in Ms. Dismukes' Schedule  
24 21, on pages 1 through 6. The erroneous amounts are included in the AUF line under the

1 Contractual Services-Mgt Fees column.

2  
3 **Q. If the overstated amounts are not administrative expenses that are charged to AUF**  
4 **by Aqua affiliates, then what are they?**

5 A. The overstated amounts represent the In-State Administrative Expenses shown in Exhibit  
6 SS-4, which are not affiliate allocated charges, and were not protested by OPC or any  
7 other party in this rate case. Ms. Dismukes' overstatement appears to stem from her  
8 misinterpretation of the way the Company now records the "In-State Administrative  
9 Costs," and is not related in any way to the allocated affiliate charges to AUF by Aqua  
10 Affiliates. These direct In-State Administrative expenses are incurred within AUF and  
11 recorded to Accounts 634.8 and 734.8, Contractual Services – Mgt Fees. The amounts in  
12 these accounts should appropriately be excluded from Ms. Dismukes' Schedule 21, pages  
13 1 through 6, because they do not represent amounts charged to AUF by Aqua affiliates.

14  
15 **Q. If these direct In-State Administrative expenses are excluded from Schedule 21,**  
16 **what would Ms. Dismukes' comparative analysis show?**

17 A. Replacing Ms. Dismukes' overstated AUF Contractual Services-Mgt Fees amounts with  
18 the actual amounts shows that AUF's administrative expenses are considerably lower  
19 than the comparison group. This correction would indicate that Florida customers do, in  
20 fact, benefit from the economies of scale of Aqua America. The accurately stated  
21 comparison schedules are provided in Exhibit No. SS-6 to my rebuttal testimony.

22  
23 **Q. Does Ms. Dismukes' analysis demonstrate that AUF's customer service expenses are**  
24 **unreasonably high?**

1 A. No. In fact, a review of Ms. Dismukes' underlying analysis and schedules reveal that  
2 AUF's customer services expenses are considerably lower than the comparison group.  
3 Again, this demonstrates that Florida customers do in fact, benefit from the economies of  
4 scale of Aqua America's customer service operations.

5  
6 Indeed, Ms. Dismukes confirms this beneficial effect to Florida customers in stating on  
7 page 78 that, "In all instances the cost per customer services related expenses were less  
8 than the comparison group."

9  
10 Interestingly, Ms. Dismukes did not attach any customer service analysis schedules in her  
11 testimony, presumably because those schedules would have contradicted her other  
12 claims. A review of Ms. Dismukes' underlying customer service expense analysis  
13 schedules reveals that the peer group's customer service expenses per ERC for water is  
14 \$30, compared to Aqua's \$22, which amounts to a \$137,835 beneficial impact to Florida  
15 customers. Likewise, the peer group's customer service expenses for wastewater is \$22  
16 compared to Aqua's \$14, which amounts to \$55,796 that benefits Florida customers. The  
17 unpublished customer service analysis schedules, which Ms. Dismukes also did not  
18 submit with her testimony, are included in my rebuttal testimony as Exhibit No. SS-7.

19  
20 **Q. Do have any other analytical concerns with her comparative analysis?**

21 A. Yes. Even assuming that it were proper to adjust expenses in a rate case (which it is not),  
22 I have found several errors in her comparison. For example, Ms. Dismukes states on  
23 page 73 that she "excluded companies that did not report any expenses under Salaries &  
24 Wages." That is not entirely accurate. Ms. Dismukes' comparative analysis includes



1 Tradewinds Utilities, Inc., on Exhibit No. KHD-1, Schedule 21, page 4 of 6, though this  
2 wastewater company did not report any A&G Salaries & Wages. Furthermore, the  
3 Tradewinds' Annual Report shows this Company has a President and Vice President that  
4 spend 100 percent of their time as officers; however, these officers have zero  
5 compensation. This type of anomaly is similar to the concerns raised during the PAA  
6 process as to the validity and accuracy of the comparative analysis. This was also  
7 explained in AUF's Second Supplemental Response to Citizen's Preliminary Areas of  
8 Concern filed on May 3, 2011, which I have included as Exhibit SS-8 to my rebuttal  
9 testimony.

10  
11 A more detailed review of the Tradewinds' Wastewater 2009 Annual Report further  
12 reveals that Salary & Wages and Miscellaneous expenses are arbitrarily allocated equally  
13 to four accounts that are not included in the specific accounts used in Ms. Dismukes'  
14 comparative analysis. Tradewinds wastewater is the only company in the comparison  
15 group with absolutely no A&G Salary & Wages. The arbitrary allocation of salary  
16 expenses to accounts (other than A&G) causes Tradewinds wastewater to be the lowest  
17 cost peer Group Company (at \$6 per ERC). The resulting understatement of Tradewinds'  
18 A&G expenses provides a valid reason to remove this system from the comparison group.  
19 The removal of Tradewinds wastewater from the comparative analysis would cause the  
20 overall peer group's cost per ERC to increase by \$3.

21  
22 **Q. Do you have concerns with any company that Ms. Dismukes has included in her**  
23 **comparative analysis?**

24 **A. Yes. Inclusion of Four Points Utility Corporation Water and Sewer Companies in Ms.**

1 Dismukes' comparative analysis is problematic because the management and viability of  
2 that utility is currently under intense review by regulators. In fact, a June 2011  
3 Commission management audit concluded that, "As evidenced throughout this report,  
4 management audit staff has found sufficient cause to believe that Four Points and Bimini  
5 Bay lack effective managerial controls. Just as significant, both utilities frequently  
6 disregard Commission rules in their current operations." Docket No. 110254-WS. In  
7 light of these developments, I seriously question Ms. Dismukes' inclusion of this utility  
8 in her "peer group."

9  
10 **Q. Do have any other concerns with Ms. Dismukes' comparative analysis of A&G**  
11 **expenses?**

12 A. Yes. I have concerns with Ms. Dismukes' fabrication of a newly developed weighting  
13 methodology to make up her own Class C A&G expenses in the absence of real data.  
14 This new weighting method is explained in her testimony, starting on page 68, line 20,  
15 and ending on page 69, line 4. There is no disputing the fact that Ms. Dismukes' analysis  
16 contains amounts from portions of select expense accounts taken from Class B Annual  
17 Reports, Schedules W-10(a) and S-10(a). However, the Annual Reports of Class C  
18 Companies do not contain these expense account matrix schedules; therefore, there is no  
19 specific expense data available to obtain comparable data for the Class C Companies.  
20 The absence of specific comparable Class C expense data presents a significant problem  
21 that Ms. Dismukes attempts to solve by contriving a weighting process, which is based  
22 upon the total Class B Company expenses. This erroneous weighting process is a  
23 mathematical exercise that creates an illusion of comparable Class C expenses, when  
24 there is no real data available.

1 **Q. Do you have other concerns with the underlying data used in Ms. Dismukes' A&G**  
2 **analysis?**

3 A. Yes. Ms. Dismukes' analysis schedules contain expense information from 11 Class B  
4 Water Companies and 10 Class B Sewer Companies. As discussed above, the source of  
5 the expense information is the 2009 Annual Report expense matrix schedules W-10(a)  
6 and S-10(a). A more detailed review of these Annual Report schedules revealed that  
7 Contractual Services - Other and Miscellaneous Expenses are arbitrarily allocated in 3 of  
8 the 11 Class B Water Companies and in 4 of the 10 Class B Sewer Companies. These 7  
9 Class B Companies reported their Contractual Services - Other and Miscellaneous  
10 expenses equally to each of the 8 accounts in the expense matrix schedules.

11  
12 Account accuracy is an essential element of any reliable analysis; therefore, these  
13 arbitrary allocations create distortions in the results. Because the expenses of Class B  
14 Companies also form the basis for making up the Class C Company expenses in Ms.  
15 Dismukes' comparative analysis of A&G expenses, any distortions will be exacerbated.  
16 The inaccuracies in Class B expenses will cause Class C allocated expenses to become  
17 flawed as well.

18  
19 **Q. Do you agree with Ms. Dismukes' "peer group" rate comparison in Schedule 22 of**  
20 **Exhibit No. KHD-1?**

21 A. No. Aside from the blatant legal defects which I have already discussed, her "peer group"  
22 rate comparison schedule suffers from the same analytical deficiencies as her other  
23 comparison schedules. For example, in reviewing Ms. Dismukes' analysis, she fails to  
24 evaluate the last time any of these utilities have processed a rate case before the

1 Commission. This omission is not immaterial. Fifty-two of the 120 utilities listed in her  
2 “peer group” have never had a rate case increase processed before this Commission. Of  
3 the remaining utilities listed by Ms. Dismukes that have had rate cases, 14 of those have  
4 not processed a case since the year 2000.

5  
6 Ms. Dismukes has also failed to provide any analysis of the financial operating status of  
7 the utilities listed in her “peer group.” I can find no analysis performed that shows that  
8 Ms. Dismukes attempted to determine whether these utility companies were operating at  
9 a loss or had achieved its authorized rate of return.

10  
11 **Q. Are there other flaws in Ms. Dismukes’ Schedule 22?**

12 A. Yes. Ms. Dismukes lists the utility company Service Management Systems, Inc., in  
13 Brevard County. However, Ms. Dismukes fails to inform the Commission that, due to  
14 financial and environmental problems, this utility went into receivership in 2010. She  
15 also she lists Farnton Water Resources (which is also located in Brevard County), but  
16 fails to explain that this company only provides bulk raw water to very limited number of  
17 customers. Regarding Highland County, Ms. Dismukes fails to inform the Commission  
18 that Highlands Utilities Corporation was recently sold to the Town of Lake Placid.  
19 Likewise, in Lee County, Ms. Dismukes fails to advise that Hunter’s Ridge Utility  
20 Company was sold to a non-jurisdictional non-profit organization and, in Sumter County,  
21 North Sumter Utility Company was sold to a county District. These utilities have been  
22 sold, possibly due to financial difficulties, are no longer regulated, and are not compatible  
23 with AUF.

1 Ms. Dismukes also appears to include Kincaid Hills Water Company in her "peer group."  
2 However, the Commission has previously found that this utility had a documented history  
3 of repeated reporting and payment deficiencies; thus, it has no legitimate place in any  
4 "peer group" comparison.

5  
6 Ms. Dismukes' "rate comparison" is also flawed because she uses 2010 rates and does  
7 not inform the Commission that three companies in her peer group recently completed  
8 rate cases and have new rates.

9  
10 Attached to my testimony is Exhibit SS-9, which illustrates my findings with respect to Ms.  
11 Dismukes' "peer group" rate comparison.

12  
13 **Q. What is your final observation related to Ms. Dismukes' analysis?**

14 A. I have no way of verifying that the group used to compare expenses and calculate affiliate  
15 charges is an accurate test group. The operations of the companies on the list are most  
16 likely very different from the operations of AUF and its relationship with Aqua America,  
17 Inc. In addition, Utilities Inc. of Florida and other subsidiaries of Utilities Inc. (such as  
18 Sanlando) have been omitted from Ms. Dismukes' analysis due to these systems being  
19 considered Class A utilities. Utilities Inc. and its subsidiaries utilize allocated  
20 management services similar to Aqua.

21  
22 **Q. In your opinion, has Ms. Dismukes provided any information that would justify the**  
23 **Commission rejecting AUF's market analysis and accepting her recommendation to**  
24 **reduce test year expenses by approximately \$976,845?**

1 A. No. Ms. Dismukes' analysis points to no specific affiliate charge that is unreasonable.  
2 Her "comparative analysis" approach is fundamentally flawed and, as recognized in the  
3 PAA Order, would result in confiscatory rates. While the PAA Order has been protested,  
4 Florida law has not changed. To that end, I agree with the statement in the PAA Order  
5 that "Florida courts have made it clear that it would be improper to rely solely on OPC's  
6 comparative analysis of Class C utilities to test the reasonableness and the necessity of  
7 AUF's affiliated charges."

8  
9 **Q. Do you agree with Ms. Dismukes' assertion on page 75 that "it is not necessary to**  
10 **compare the duties, activities, and responsibilities of employees to determine that,**  
11 **under the Florida Supreme Court's standard, the affiliate costs charged to AUF are**  
12 **otherwise inherently unfair"?**

13 A. I am not a lawyer, and I do not believe Ms. Dismukes is either. But it certainly sounds to  
14 me that she is thumbing her nose at what Florida's courts have said. Again, I think the  
15 Commission got it right in the PAA Order when it stated: "To disallow affiliate charges  
16 solely based on the purported cost structures of other entities, would ignore the actual  
17 cost incurred by AUF and violate fundamental principles of cost-of-service regulation."

18  
19 **Q. Do you have any other observations regarding Ms. Dismukes' "peer group"**  
20 **arguments?**

21 A. Yes. I believe Ms. Dismukes' and OPC's attempts to use "peer group" comparisons to set  
22 AUF's rates have unnecessarily driven up rate case expense. I fail to comprehend why  
23 OPC propounded excessive discovery on the Company regarding its affiliated costs, then  
24 ignored that data altogether and, instead, had its expert perform the same "peer group"

1 comparison that the Commission rejected in the last case. AUF went to great lengths to  
2 provide a comprehensive and detailed appendix in the MFRs so that OPC and other  
3 parties could follow Service Company charges to the state subsidiaries. See Volume 1  
4 Appendix 1 of the MFRs. Aqua fully supported its filing, and OPC has not challenged  
5 any of these costs other than alleging that they are higher than those found in Ms.  
6 Dismukes' comparison.

7  
8 **Ms. Dismukes' Secondary Recommendation**

9 **Q. What is the basis for Ms. Dismukes' secondary recommended adjustment regarding**  
10 **affiliate transactions?**

11 A. According to Ms. Dismukes, if the Commission accepts AUF's market analysis, she  
12 recommends that the Commission "reduce test year expenses by \$79,968 for management  
13 fees," which, according to Schedule 14 of Exhibit KHD-1, are the only affiliate charges  
14 that exceed her adjusted market rate. As I have previously explained, her secondary  
15 recommendation is based on arbitrary "adjustments" that she makes to AUF'S market  
16 study. For those same reasons, her secondary recommendation should be rejected.

17  
18 **Ms. Dismukes' Tertiary Recommendation**

19 **Q. What is the basis for Ms. Dismukes' tertiary recommended adjustment regarding**  
20 **affiliate transactions?**

21 A. Instead of recommending an adjustment based on her review of the reasonableness of  
22 specific affiliated charges, Ms. Dismukes again recommends a "blanket" adjustment to  
23 reduce the water expense by \$882,388 and wastewater by \$348,674. Ms. Dismukes claims  
24 that this reduction in test year expenses of \$1,231,062 is needed to "hold" affiliated charges

1 to the level approved by the Commission in the last rate case. This recommendation is  
2 disingenuous and misleads the Commission. As shown on Exhibit SS-4, in the last rate  
3 case the Commission approved Management Fees from the corporate level for Services  
4 and Sundry in the amount of \$823,966, and allocated ACO expenses in the amount of  
5 \$397,648. Ms. Dismukes' recommended adjustment would not preserve the status quo;  
6 rather, it would actually cut affiliate expenses approved in the last case by over \$1.2  
7 million. The remaining amount of which Ms. Dismukes is recommending disallowance  
8 is the In-State Administrative costs, which were not protested in this rate case. These are  
9 the direct in-state administrative management expenses incurred by AUF and which are  
10 distributed to Accounts No. 634 and 734, Contractual Services – Management.

11  
12 **Bad Debt Expense**

13 **Q. What is Ms. Dismukes' recommended adjustment for bad debt expense?**

14 A. \$310,816.

15  
16 **Q. Do you agree with how she reaches this recommended adjustment?**

17 A. No. The Commission's long-standing precedent is to establish bad debt expense based  
18 on a three-year average. Ms. Dismukes completely ignores this precedent.

19  
20 **Q. Can you provide a listing of cases used by the Commission in establishing this  
21 precedent?**

22 A. Yes, the list below has been previously cited by the Commission when making this  
23 finding:

24 *In re: Application for rate increase by Florida Public Utilities Company, Docket*



1 No. 040216-GU, Order No. PSC-04-1110-PAA-GU, at 22 (Nov. 8, 2004);

2  
3 *In Re: Application for a Rate Increase for Marianna electric operations by*  
4 *Florida Public Utilities Company*, Docket No. 930400-EI, Order No. PSC-94-  
5 0170-FOF-EI, at 20 (Feb. 10, 1994);

6  
7 *In Re: application for a rate increase by Tampa Electric Company*, Docket No.  
8 920324-EI, Order No. PSC-93-0165-FOF-EI, at 69-70 (Feb. 2, 1993);

9  
10 *In Re: Petition for a rate increase by Florida Power Corporation*, Docket No.  
11 910890-EI, Order No. PSC-92-1197-FOF-EI, at 48 (Oct. 22, 1992);

12  
13 *In re: Application for a rate increase by Peoples Gas System, Inc.*, Docket No.  
14 911150-GU, Order No. PSC-92-0924-FOF-GU, at 6 (Sept. 3, 1992);

15  
16 *In Re: Petition for a rate increase by West Florida Natural Gas Company*, Docket  
17 No. 910778-GU, Order No. PSC-92-0580-FOF-GU, at 30-31 (June 29, 1992);

18  
19 *In re: Application for increase in water and wastewater rates in Marion, Orange,*  
20 *Pasco, Pinellas, and Seminole Counties by Utilities, Inc. of Florida*, Docket No.  
21 060253-WS, Order No. PSC-07-0505-SC-WS, at 41-42 (June 13, 2007);

22  
23 *In re: Application for increase in water and wastewater rates in Marion, Orange,*  
24 *Pasco, Pinellas and Seminole Counties by Utilities, Inc. of Florida*, Docket No.  
25 090462-WS, Order Nos. PSC-10-0585-PAA-WS, at 30-31 (Sept. 22, 2010);

26  
27 *In re: Application for increase in water and wastewater rates in Seminole County*  
28 *by Sanlando Utilities Corporation*, Docket No. 090402-WS, Order No. PSC-10-  
29 0423-PAA-WS, at 23-24 (July 1, 2010);

30  
31 *In re: Application for increase in wastewater rates in Seminole County by*  
32 *Utilities Inc. of Longwood*, Docket No. 090381, Order No. PSC-10-0407-PAA-  
33 SU, at 18 (June 21, 2010);

34  
35 *In re: Petition for rate increase by Florida Public Utilities Company*, Docket No.  
36 070304-EI, Order No. PSC-08-0327-FOF-EI, at 59-60 (May 19, 2008);

37  
38 *In re: Application for rate increase by City Gas Company of Florida*, Docket No.  
39 030569-GU, Order No. PSC-04-0128-PAA-GU, at 34-35 (Feb. 9, 2004);

40  
41 *In re: Application for rate increase by City Gas Company of Florida*, Docket No.  
42 030569-GU, Order No. PSC-01-0316-PAA-GU, at 20 (Oct. 27, 2003);

43  
44 *In re: Petition for rate increase by Peoples Gas System*, Docket No. 020384-GU,  
45 Order No. PSC- 03-0038-FOF-GU, at 8 (Jan. 6, 2003).

46  
47 *In re: Application for rate increase in Bay County by Bayside Utility Services,*

1 *Inc.*, Docket No. 030444-WS, Order No. PSC-04-0820-PAA-WS, at 13 (Aug. 23,  
2 2004);

3  
4 *In re: Application for rate increase by Florida Public Utilities Company*, Docket  
5 No. 040216-GU, Order No. PSC-04-1110-PAA-GU, at 22 (Nov. 8, 2004).  
6

7 **Q. Has the Commission and OPC just recently addressed the Commission's practice of**  
8 **using a three-year average?**

9 A. Yes. At the October 4, 2011, Agenda Conference, the Commission addressed and  
10 ultimately approved the use of a three-year average with Lake Utilities Service, Inc., in  
11 Docket No. 100426-WS. The OPC stated on the record that it specifically supported  
12 Staff on this issue.  
13

14 **Q. Why do you believe that bad debt expense should be set using a three-year historical**  
15 **average?**

16 A. Bad debt expense will fluctuate on a variety of factors, including rate increases. The  
17 Commission has recognized this and, therefore, has utilized averages. I have analyzed  
18 the monthly write offs processed, net of recoveries, for the systems included in this rate  
19 case for the period of October 2008 through August 2011, representing a 35-month  
20 period. Based on my analysis, the average monthly write off is \$31,341 per month or a  
21 total of \$376,092 for an average twelve-month period over this period.  
22

23 The increase in bad debt expense from the last rate case to present would be naturally  
24 expected to increase due to the rate increase AUF received in 2008. These water and  
25 wastewater systems had not received a full rate increase in 13 years or longer. In  
26 addition, this current rate case also includes six additional systems, water and wastewater,

1 that were not included in the last rate case.

2 Due to the recent unfavorable individual economic conditions that may have worsened  
3 overall for customers, the percentage of delinquent accounts has risen. While the bad  
4 debt expense for the period October 2008 through August 2011 has somewhat stabilized,  
5 it is expected that bad debt will naturally increase as a result of the rate increase approved  
6 by the Commission. Therefore, it is expected that, on a prospective basis, bad debt  
7 expenses will be even greater than the amount approved in the Commission's PAA Order  
8 in this case.

9  
10 **Q. How does Ms. Dismukes recommend that the Commission set bad debt expense for**  
11 **AUF in this rate case?**

12 A. Instead of utilizing a three-year average of AUF's actual bad debt and experience, Ms.  
13 Dismukes relies on a "peer group" comparison of other utilities similar to the one that she  
14 recommended and was rejected in the last case. This so-called analysis is found in  
15 Schedule 24 of Exhibit KHD-1. While her "peer group" comparison would support her  
16 ultimate goal of making a larger bad debt adjustment than that made in the PAA Order,  
17 her approach is legally and analytically flawed, as well as contradicted by the facts. Her  
18 "peer group" comparison should be rejected, as it was in AUF's last rate case.

19  
20 **Q. Can you elaborate on why Ms. Dismukes' comparison should be disregarded?**

21 A. First, Ms. Dismukes is essentially asking the Commission to set AUF's rates based the  
22 alleged bad debt expense of other "peer group" utilities and not on AUF's bad debt  
23 expense. As I stated earlier in my testimony Ms. Dismukes' "peer group" rate-setting  
24 theory violates Florida law and long-standing Commission precedent. Her "peer group"

1 comparison of bad debt expense also has serious analytical problems. Just as in AUF's  
2 last rate case, Ms. Dismukes has not provided any analysis on the policies and business  
3 practices for these "peer group" water companies. For example, when do the other  
4 utilities in her "peer group" issue shut off notices? When do they write off their bad  
5 debt? In addition, she fails to consider any unique customer profiles, including the credit  
6 worthiness of AUF's customers compared to other systems.

7  
8 Furthermore, Ms. Dismukes performs no analysis of whether any of these companies in  
9 the "peer group" have recently received a rate increase through a rate case before the  
10 Commission. Increases in rates have long been considered a factor that increases bad  
11 debt expense. The Commission has consistently recognized this fact by including a bad  
12 debt expense multiplier as part of the expansion factor applied to rate increases granted to  
13 other regulated industries. *See, e.g., In re: Application for rate increase by City Gas*  
14 *Company of Florida*, Docket No. 030569-GU, Order No. PSC-04-0128-PAA-GU (Feb. 9,  
15 2004); *In re: Request for rate increase by City Gas Company of Florida*, Docket No.  
16 000768-GU, Order No. PSC-01-0316-PAA-GU (Feb. 5, 2001).

17  
18 **Q. Has the Commission previously addressed Ms. Dismukes' comparative analysis**  
19 **approach to bad debt expense?**

20 A. Yes. In AUF's last rate case, Ms. Dismukes recommended that the Commission adjust  
21 AUF's bad debt expense using virtually the same comparative analysis that she advocates  
22 in this case. The Commission flatly rejected Ms. Dismukes' comparative analysis in  
23 Order No. PSC-09-0385-FOF-WS, stating:

1 We disagree with the use of the comparison group that witness Dismukes  
2 developed in this instant case. First, in the 1991 rate case by Florida Cities  
3 Water Company, the Class A utilities in the comparison group were  
4 similar. With respect to the current case, the utilities in witness Dismukes'  
5 comparison group are located in nine counties: Broward, Lake, Lee,  
6 Marion, Martin, Orange, Pasco, Pinellas, and Seminole Counties. We  
7 believe that there are varying socioeconomic factors, such as the cost of  
8 living, that might affect the bad debt expense of a given utility. For  
9 instance, the cost of living in Washington County would be significantly  
10 lower than Broward County, a county associated with Ms. Dismukes'  
11 comparison group, but not one of AUF's jurisdictional counties. When  
12 selecting the utilities in her comparison group, witness Dismukes admitted  
13 that she did not consider any socioeconomic factors for the comparison  
14 group customer bases, nor the customer bases of AUF's jurisdictional  
15 system customer bases.

16 Also, it is unclear which "comparable" utilities were used by Ms. Dismukes in her  
17 Schedule 24; therefore, no further analysis could be made.

18  
19 **Q. On page 86, Ms. Dismukes states that AUF's bad debt expense is unusually high**  
20 **during the test year. Do you agree?**

21 A. AUF's bad debt expense is not unusually high. As I previously stated, and as further  
22 demonstrated in AUF's answer to OPC Interrogatory No. 281, the bad debt amount in the  
23 test year is analogous to the average bad debt experienced over the past thirty-five month  
24 period. Again, the amount of bad debt expense in the test year is reflective of the recent  
25 rate increase implemented by AUF.

26  
27 **Q. Do you agree with Ms. Dismukes' assertion that AUF is not entitled to use a three-**  
28 **year average to establish bad debt expense because the Company has experienced**  
29 **"billing, customer service and meter reading problems in the past"?**

30 A. No. There is absolutely no showing that the level of AUF's bad debt expense is to be  
31 attributed to billing, customer service, or meter reading problems. As AUF has

1 documented in response to Staff's Interrogatory No. 8, the Company has adopted sound  
2 and accepted policies regarding delinquency processes, final billing and collection  
3 agency assignments that have been consistently applied by the Company. With respect to  
4 allegations of meter reading issues, Ms. Dismukes is equally wrong. The Commission  
5 has audited AUF's meters and meter reading practices and found both to be acceptable.

6  
7 **Q. Do you have any other observations regarding Ms. Dismukes' arguments for an**  
8 **adjustment to bad debt expense?**

9 A. Yes. I believe that Ms. Dismukes' and OPC's continued insistence on re-litigating this  
10 settled issue on bad debt expense has unnecessarily driven up rate case expense.

11  
12 **Revenue / Billing Determinants**

13 **Q. OPC Witness Dismukes proposes an adjustment to add back the lost consumption**  
14 **due to irrigation wells, do you agree?**

15 A. No. Ms. Dismukes' proposed adjustment, if adopted, would be confiscatory and contrary  
16 to long-standing policy. A utility company should not be penalized when the  
17 consumption by customers is reduced for factors beyond the utility's control. Ms.  
18 Dismukes' proposal would essentially have the Commission impute revenues for factors  
19 beyond the utility's control which, in turn, would strand investment.

20  
21 As part of AUF's last rate case, the Commission (at the direction of the water  
22 management districts) imposed a three-tiered inclined block conservation rate structure  
23 which was expressly designed to reduce customer consumption. It would be unlawful for  
24 the Commission to penalize AUF for complying with its Order.

1 Second, the drop in consumption is due in part to customers installing irrigation wells,  
2 which was a factor beyond the Company's control.

3  
4 **Q. Please explain.**

5 A. Drops in consumption due to the installation of irrigation wells is not an anomaly unique  
6 to AUF. Indeed, the Commission has been faced with this dilemma in several rate cases.  
7 For example, in Commission Order No. PSC-02-1114-WU, issued August 14, 2002, the  
8 Commission examined the loss of consumption due to both private irrigation wells and a  
9 drop due to inclining rate structure. In that Order, the Commission found:

10 Since the utility's last SARC [staff assisted rate case], a number of  
11 customers have sunk private wells to provide for their outdoor water  
12 needs.... The proliferation of wells subsequent to the most recent SARC  
13 has greatly reduced the number of gallons sold by the utility. Ultimately,  
14 this resulted in the utility not achieving its approved rate of return for its  
15 water system, which led to the utility filing the instant case.

16  
17 Breeze Hill is located in Polk County, within the South Florida Water  
18 Management District (District). As a result of our Memorandums of  
19 Understanding (MOU) with the State's five Water Management Districts  
20 and the Governor's stated water conservation policy that inclining-block  
21 rate structures be implemented whenever possible, we originally  
22 contemplated an inclining-block rate structure (IBRS). In fact, we  
23 designed an IBRS and our staff discussed the rate structure in their  
24 preliminary staff report that was presented and discussed during the  
25 customer meeting held on April 25, 2002. The IBRS was met with  
26 considerable opposition, with many customers threatening to install wells  
27 for their outdoor water needs as a way to avoid the higher gallonage  
28 charge in the second usage block.

29  
30 Since the customer meeting, we have been notified that 12 additional  
31 customers have sunk private wells, allowing a total of 16 customers access  
32 to those wells to provide water for their outdoor needs. The ease of  
33 installation of wells, coupled with their relatively low cost, presents us  
34 with a unique situation from a rate setting perspective. We must account  
35 for the anticipated loss of gallonage sales attributable to those 16  
36 customers who now have access to newly-sunk wells before a rate  
37 structure may be designed and the appropriate rates set . . . .  
38

1 We have no customer-specific information regarding the 16 customers  
2 who now take advantage of private wells, nor do we know what each of  
3 these customers' usage was during the test year. Absent this information,  
4 it is reasonable to assume that the 16 customers who now have access to  
5 newly-sunk wells have the greatest amount to gain in terms of avoided  
6 gallonage charges; that is, those customers have the highest individual  
7 levels of gallons sold during the test year. Therefore, we believe a  
8 reasonable basis for calculating the anticipated gallons lost would be that  
9 those 16 customers accounted for the 134 highest levels of billed gallons  
10 during the test year (134 highest bills) . . . .

11  
12 Due to the loss of gallons attributable to new wells, the highly seasonal  
13 customer base and repression of consumption associated with the price  
14 increase, we are concerned that without some shift in cost recovery from  
15 the gallonage charge to the fixed charge (negative or reverse conservation  
16 adjustment), the utility's ability to pay its bills during the months of May  
17 through December may be compromised.

18 In a more recent rate case, in Order No. PSC-11-0010-SC-WU, issued January 3, 2011,  
19 the Commission also expressly recognized a decrease in consumption due to the  
20 installation of irrigation wells in setting rates. Unlike in the present case, OPC did not  
21 object to the utility taking into account drops in consumption due to the sinking of  
22 irrigation wells. In that Order, the Commission found:

23 In 1991, we entered into a MOU with the five WMDs. The purpose of the  
24 MOU was to commemorate that the agencies recognized that it is in the  
25 public interest to engage in a joint goal to ensure the efficient and  
26 conservative utilization of water resources in Florida, and that a joint  
27 cooperative effort is necessary to implement an effective, state-wide water  
28 conservation policy. In keeping with this MOU, we have, whenever  
29 practicable, implemented water conserving rate structures which limit the  
30 BFC allocation to no more than 40 percent and to adopt inclining block  
31 rate structures that provide an economic incentive to consumers to reduce  
32 excessive consumption. Over the last several years, it has been our  
33 practice to implement these rate design parameters whenever applicable.<sup>1</sup>  
34 In the instant case, staff witness Chelette testified that the Northwest  
35 Florida Water Management District (NFWMD or District) believes that

---

<sup>1</sup> See *In re: Application for rate increase in Martin County by Hobe Sound Water Company*, Docket No. 940475-WU, Order No. PSC-94-1452-FOF-WU (Nov. 28, 1994); *In re: Application for increase in water rates in Highlands County by Placid Lakes Utilities, Inc.*, Docket No. 000295-WU, Order No. PSC-01-0327-PAA-WU (Feb. 6, 2001); *In re: Application for staff-assisted rate case in Putnam County by Buffalo Bluff Utilities, Inc.*, Docket No. 000327-WS, Order No. PSC-00-2500-PAA-WS (Dec. 26, 2000); *In re: Application for increase in water rates for Seven Springs system in Pasco County by Aloha Utilities, Inc.*, Docket No. 010503-WU, Order No. PSC-02-0593-FOF-WS (Apr. 30, 2002).



1 an inclining block rate structure is appropriate for WMSI. Such a water  
2 conserving rate structure, along with the District's policy on shallow  
3 wells, is intended to relieve withdrawal rates on the Floridian aquifer and  
4 prevent salt water intrusion into the aquifer in coastal counties.

5 Since the Utility's rates were last set in 2006, the number of gallons sold  
6 by the Utility has declined by 32 percent. According to WMSI witness  
7 Brown, three factors have contributed to this decline: a general  
8 deterioration in the level of economic activity over the last few years;  
9 business closures caused by the lack of adequate sewage treatment; and  
10 the proliferation of shallow wells by property owners on St. George  
11 Island. Furthermore, WMSI witness Brown testified that the current BFC  
12 allocation of 50 percent makes it difficult for the Utility to cover fixed cost  
13 during the off-season. Staff witness Chelette testified that a recent rule  
14 change by the NFWFMD encourages the use of shallow wells for  
15 irrigation purposes on St. George Island to relieve withdrawals from the  
16 Floridian aquifer . . . .

17  
18 Our staff reviewed the aggregate billing determinants contained in MFR  
19 Schedule E-2 and the detailed billing determinants contained in MFR  
20 Schedules E-14. In this review, our staff verified that the aggregate billing  
21 determinants in MFR Schedule E-2 represent the sum of the detailed  
22 billing determinants contained in MFR Schedule E-14. Furthermore, our  
23 staff verified that the aggregate billing determinants contained in MFR  
24 Schedule E-2, page 1 of 2, column 5, produce test year revenues that are  
25 not materially different than the revenues recorded by the Utility for the  
26 2009 test year.

27  
28 At the hearing, WMSI witness Seidman testified that the billing  
29 determinants contained in MFR Schedule E-2, page 1 of 2, column 5, are  
30 the actual number of bills rendered and gallons sold during the 2009 test  
31 year. In its brief, OPC took no position on the test year billing  
32 determinants. Therefore, we find that the billing determinants contained  
33 in MFR Schedule E-2, page 1 of 2, column 5, are appropriate for rate-  
34 setting purposes. (emphasis added.)

35 **Q. Have you prepared an exhibit that addresses the drop in consumption for AUF?**

36 A. Yes. Exhibit SS-10 demonstrates the actual drop in consumption experienced by AUF  
37 for the past four years. Based on the trailing 12-month periods from 2008 through 2011,  
38 the Residential consumption has dropped by 20.8 percent over the past four years. The  
39 overall consumption has decreased by 24.2 percent. Exhibit SS-10 shows that this drop  
40 in consumption was not an anomaly which was exclusive experienced during the test year

1 in this case. Indeed, the consumption continued to drop from 2009 through 2010 for the  
2 same 12-month period. My exhibit also shows that this consumption has now stabilized  
3 for the 2011, subsequent to the historic test year in this case. Exhibit SS-10 refutes Ms.  
4 Dismukes' recommendation that the consumption should artificially be increased for the  
5 loss in consumption. The consumption for the subsequent period is analogous to the  
6 historic test period and is representative of the consumption on a prospective basis, absent  
7 any repression adjustment for the increase in rates as a result of this rate case. I would  
8 also like to point out that the average residential consumption for the new Water Rate  
9 Band 1 has declined from an average of 8,446 in 2008 (prior to the last rate increase) to  
10 an average of 6,764 for 2011. For the new Water Rate Band 2, the average residential  
11 consumption has declined from 4,430 in 2008 to an average of 3,654 for 2011. In my  
12 opinion, if the Commission were to accept Ms. Dismukes' recommended adjustment, this  
13 would represent a confiscatory unconstitutional taking because it would deny an adequate  
14 rate of return.

15  
16 **Q. Has Commission Staff addressed Ms. Dismukes' arguments regarding the billing**  
17 **determinants in this rate case?**

18 A. Yes. In this case, Commission Staff witness Paul Stallcup specifically addressed Ms.  
19 Dismukes' recommendation to increase AUF's test year revenues by \$372,925 in order to  
20 remove some of the revenue impact of reduced sales since the last rate case. Mr. Stallcup  
21 stated:

22 Just because AUF underestimated the extent of customers' response to  
23 increased prices from the utility's last rate case does not mean that the  
24 reduced sales observed during the test year are transitory and not reflective  
25 of the period when AUF's new rates will go into effect. In fact, of the  
26 56,722,489 gallon reduction cited in Ms. Dismukes' testimony,

1 approximately 80 percent of those gallons are attributable to the Scottish  
2 Highlands area of the Silver Lakes Estates system. This is significant  
3 because as AUF states in its Budget Variance Reports, the customers of  
4 this area have installed shallow irrigation wells to replace AUF as their  
5 source for irrigable water. I believe that once customers have invested in  
6 installing shallow wells, they will not return to AUF for their irrigation  
7 demands. Thus, these lost gallons and their associated revenues are a  
8 permanent reduction in AUF's sales and should not be artificially adjusted  
9 back into the test year.

10 Mr. Stallcup's analysis is right on point. I also agree with Mr. Stallcup's testimony that if  
11 the number of gallons sold were to be increased as recommended by Ms. Dismukes,  
12 AUF's rates would fall short of generating the utility's revenue requirement and would  
13 not be "compensatory" as required by Florida law.

14  
15 **Affordability**

16 **Q. On page 19 of his testimony, Mr. Poucher questions what he deems to be the**  
17 **"affordability" of the AUF's rates. Do you agree with his argument?**

18 **A.** No. At the outset I want to be clear that AUF is sensitive to the impact its rates have on  
19 its customers. AUF intends to continue its efforts to keep rates as low as possible to stave  
20 off the need to seek additional rate relief any time soon following this rate case.

21  
22 However, Mr. Poucher's testimony regarding "affordability" appears to be a back-door  
23 attempt to reduce AUF's revenue requirement based upon "affordability" standards found  
24 nowhere in Florida law. I am advised by counsel that the OPC cannot use affordability as  
25 a basis to adjust the Company's revenue requirement. Furthermore, I believe that sound  
26 ratemaking practices do not contemplate setting rates based on individual financial  
27 circumstances.

1 This rate case is driven in large part by AUF's efforts to improve water quality and its  
2 investments in water and wastewater plants for environmental compliance. No party has  
3 questioned the prudence of any of AUF's capital investments. To now deny AUF the  
4 recovery of the costs of those capital improvements based on a novel, undefined, and  
5 unsupported criteria of "affordability" would constitute an unconstitutional taking and a  
6 gross betrayal of the regulatory bargain. There simply is nothing in Florida law which  
7 would support Mr. Poucher's allegation that "affordability" is a factor in determining a  
8 utility's revenue requirement.

9  
10 **Q. Do you agree with Mr. Poucher's claim that he is an expert regarding affordability?**

11 A. No, I do not. Mr. Poucher is not a statistician or an economist. I have no idea what his  
12 definition of "affordability" is. I also do not agree that Mr. Poucher is qualified to  
13 comment on the financial status of each AUF customer, as he presents no evidence on  
14 income, poverty levels, etc. In addition, I do not believe that he has provided testimony  
15 on what individual customers can and cannot afford. I agree that he may have experience  
16 with the Universal Service Fund in the telecommunications arena, which is a nationally  
17 and state legislated fund that subsidizes telephone rates. However, there is no parallel  
18 federal or state subsidy mechanism for water and wastewater utilities.

19  
20 **Rate Case Expense**

21 **Q. Ms. Dismukes and Ms. Vandiver both claim that AUF's rate case expense is**  
22 **excessive. Do you agree with those claims?**

23 A. No, I do not. At the outset I note that while they claim that rate case expense is  
24 excessive, they point to no specifics.

1 Our Company filed this rate case under the Commission's PAA procedures in an effort to  
2 minimize rate case expense. When the Commission voted to approve the PAA Order at  
3 the May 24, 2011 Agenda Conference, several Commissioners reminded the parties that a  
4 protest could cause rate case expense to escalate to the detriment of the rate payers.  
5 While I understand that OPC has a duty to represent the ratepayers, as warned, its  
6 decision to protest the rate case has caused rate case expense to substantially increase. I  
7 find OPC's decision to protest this case perplexing and, from a cost perspective to the  
8 ratepayer, very disturbing. For example, I am baffled by OPC's desire to litigate the issue  
9 of pro forma adjustments for projects that address secondary water issues that OPC  
10 alleged were a basis for a reduction in ROE in the last case. I am likewise confused as to  
11 why OPC witnesses are making the same arguments regarding comparative "peer group"  
12 rate setting that they have raised and have been rejected by the Commission countless  
13 times. Equally unsettling are OPC's efforts to re-litigate used and useful arguments that  
14 contradict the Commission's rules and that have never been accepted by the Commission.  
15 This has necessitated the Company's hiring an outside used and useful consultant, Frank  
16 Seidman, to rebut OPC's used and useful arguments, which again has increased rate case  
17 expense.

18  
19 For all of these and other reasons, I have a difficult time understanding how OPC can  
20 now argue that AUF's rate case expense is excessive. This is an intensely contested rate  
21 case, in no small part because of OPC's approach taken in this rate case. Records  
22 produced by OPC confirm that OPC has closely coordinated with intervenors YES and  
23 Pasco County, as well as with non-party special interest groups such as FlowFlorida and  
24 Food & Water Watch, to escalate this \$2.6 million dollar rate case into full-blown, multi-

1 party litigation. To date, AUF has responded, or is in the process of responding, to over  
2 991 interrogatories and 347 requests for production of documents, the vast majority of  
3 which was propounded by OPC. Two individual customers, one vocal member of  
4 FlowFlorida, with assistance from OPC, have formally intervened in the case and were  
5 granted party status. Both suspiciously withdrew from the case when presented with  
6 discovery that called for information concerning their motivation for participating in the  
7 proceeding.

8  
9 **Q. Are there other factors that have caused rate case to increase?**

10 A. While each rate case has its own issues, this case has a very different dynamic which has  
11 also caused AUF to incur additional rate case expense. This dynamic relates to the  
12 intervention of YES Communities, a large, multi-state, for-profit owner of mobile home  
13 parks, and Pasco County. Both of these entities are in the water and wastewater business,  
14 and both have made it clear that they intend to utilize this rate case as leverage to force  
15 AUF to sell its system to them.

16  
17 **Q. Why do you state that Pasco County intends to use the regulatory process as  
18 leverage to force a sale of the utility?**

19 A. Pasco County's motivation is apparent from Pasco County witness Mariano's statements  
20 at the May 24, 2011 Agenda Conference prior to the Commission's vote on the PAA  
21 Order. Mr. Mariano showed his cards when he advised the Commission that if it were to  
22 reduce AUF's ROE in this case (as advocated by OPC and Pasco County), it would force  
23 AUF to "come to the table" and sell its facilities. Mr. Mariano urged the Commission  
24 that if it:

1           took that [ROE] number down, you would dramatically affect their rates,  
2           and I guarantee you they would come to the table quicker with not only  
3           myself, but everyone else as well. But when you keep the rates up at 10,  
4           12, 11 percent, it is tough to get them to the table.  
5

6   **Q.    Could you please explain your assertion that YES has attempted to use the**  
7           **regulatory process in its efforts to force the utility to sell its system in Alachua**  
8           **County?**

9    A.    In addition to aggressively participating in this rate case, YES has mounted a full-scale  
10           attack against AUF by filing a lawsuit against the Company in circuit court in Alachua  
11           County, Florida. This has required AUF to hire litigation counsel. YES's litigation  
12           counsel has advised AUF's litigation counsel that YES's "end-game" in protesting the  
13           rate case and suing our Company is to force AUF to sell its Arredondo Farms systems to  
14           YES. YES's efforts to create a regulatory firestorm to force AUF to sell its systems is  
15           also illustrated by YES employee testimony at the Gainesville service hearing. That  
16           testimony confirmed that, prior to the hearing, YES had invited Arredondo Farms  
17           customers to a luncheon where YES encouraged them to complain against the utility and  
18           then transported many of the customers to the hearing.

19  
20   **Q.    Do you agree with Ms. Dismukes' wholesale disallowance of rate case expense?**

21    A.    No. As I have explained above, the vast majority of the rate case expense in this case has  
22           been directly driven by OPC's decision to protest the PAA Order and its litigation  
23           strategies.

24  
25   **Q.    Have you prepared a revised schedule of requested rate case expense?**

1 A. Yes. I have prepared a revised schedule, which is attached as composite Exhibit SS-11.  
 2 AUF is revising its requested rate case expense to \$<sup>1,584,791</sup>~~1,422,607~~. This includes all actual  
 3 costs to date of \$<sup>1,381,623</sup>~~1,217,135~~, as well as projected costs through the conclusion of this rate  
 4 case of \$<sup>203,168</sup>~~205,472~~. I have also attached all support documentation in composite Exhibit  
 5 SS-11.

6  
 7 **Q. Ms. Dismukes is also recommending that the costs of bringing AUF employees to the**  
 8 **Commission service hearings should be disallowed. Do you agree?**

9 A. No. As mentioned, it was the OPC, not AUF, which protested the PAA Order requiring  
 10 the additional cost of the service hearings. Furthermore, Ms. Dismukes spends thirty-  
 11 eight pages of her testimony addressing quality of service hearings. AUF does not control  
 12 the number of service hearings that are required per the Florida regulations. I am  
 13 perplexed that she now objects to AUF's staff attending the hearings. I believe that is  
 14 important for employees to attend service hearings. It would be irresponsible not to have  
 15 employees present who could assist customers.

16  
 17 **Q. Ms. Dismukes recommends that rate case expense should be shared 50/50 between**  
 18 **the shareholders and the ratepayers similar to the last rate case, do you agree?**

19 A. No, I do not. Ms. Dismukes raised this precise issue in AUF's last rate case and it was  
 20 rejected by the Commission. In fact, for over 25 years the Commission has repeatedly  
 21 rejected OPC's requests to have rate case expense shared by the utility and the customers.  
 22 In so ruling, the Commission has consistently recognized a water or wastewater utility's  
 23 rate case expense as part of the utility's operating expenses and, thus, must be treated as a  
 24 part of the utility's cost of providing service. Ms. Vandiver provides no credible basis for



1 the Commission to disregard that long-standing precedent. Her efforts to have the  
2 Commission copy the policy of New Jersey is not credible. The Commission rejected this  
3 same argument in AUF's last rate case. New Jersey is not Florida, and Florida's  
4 regulatory laws and policies do not replicate New Jersey's. Furthermore, to treat AUF  
5 differently from other Florida water and wastewater utilities, as Ms. Vandiver suggests,  
6 would be discriminatory and place AUF at an unfair advantage in the utility industry.

7  
8 **Q. Ms. Dismukes is also recommending a disallowance of the costs due to what she  
9 considers a "pancaking" of rate cases. Do you agree with her disallowance?**

10 A. No. Again, Ms. Dismukes is advancing a theory that she has presented in the past and  
11 which has been rejected by the Commission. Ms. Dismukes would have the Commission  
12 believe that in applying for rate relief AUF somehow acted improperly. Her claim is  
13 completely without merit. Since AUF's last rate case was filed in 2008, AUF has  
14 invested over \$11 million in additional capital to improve the quality of water and  
15 wastewater services and comply with environmental regulations. Under Florida law, AUF  
16 has no mechanism other than a rate case to recover those significant capital investments.

17  
18 **Q. With respect to Ms. Dismukes' argument on "pancaking" of rate cases, has the  
19 Commission recently addressed this same issue?**

20 A. Yes. At the October 4, 2011 Agenda Conference in Docket No. 100426-WS, the  
21 Commission addressed and ultimately approved this same situation where Lake Utilities  
22 Service, Inc., filed a rate case prior to the previous rate case expense being fully  
23 amortized. The Staff's recommendation, which the Commission approved, allowed the  
24 recovery of rate case expense prior to full amortization of previous rate case expense and

1 made none of the adjustments which Ms. Dismukes proposes in this case. OPC was an  
2 active participant in that proceeding, and addressed the Commission on three issues,  
3 none of which relate to this situation.  
4

5 **Q. Do you agree with Ms. Dismukes' statement regarding AUF and rate expense**  
6 **related to the cost of producing unnecessary copy of hard copies of documents that**  
7 **are allowable electronically?**

8 A. No, I do not. My understanding from counsel is that our Company has strictly adhered to  
9 the discovery protocols required by the Florida Rules of Civil Procedure and the  
10 Commission's Order on Prehearing Procedure in this case. Her allegations that counsel or  
11 the Company frustrated the discovery process are baseless. I would also note that Ms.  
12 Dismukes' claims about what is and what is not permitted with respect to how documents  
13 are produced in the discovery process were rejected by the Commission in Order No.  
14 PSC-09-0239-PCO-EI (recognizing it is permissible and customary to make responsive  
15 documents available at a utility's premises for inspection and copying, and denying  
16 intervenor's request that the utility "provide the requesting parties with hard copies or  
17 electronic copies of documents responsive to discovery requests"). While it is certainly  
18 customary to make responsive documents available at the responding party's premises for  
19 inspection and copying, contrary to Ms. Dismukes' allegations, AUF has provided OPC  
20 with electronic versions of non-confidential responsive documents. Moreover, AUF has  
21 provided voluminous documents to OPC without charging OPC, even though under  
22 Florida law the cost of producing documents is typically to be borne by the requesting  
23 party. In light of the accommodations AUF has made to OPC in this case, I frankly have  
24 a difficult time understanding what Ms. Dismukes is complaining about.

1 **Q. Did AUF proactively try to control the cost of rate case expense related to**  
2 **discovery?**

3 A. Yes. I find the OPC's assertions on this point to be disingenuous. OPC actually  
4 requested permission to expand the discovery limits set in the case, just as in the last rate  
5 case. In response to that motion, AUF proactively challenged OPC attempt to expand the  
6 discovery parameters in effort to control rate case expense. Ultimately, the Commission  
7 granted OPC's request to expand the discovery limits. As the Commission predicted in  
8 the last case, expanding discovery limits has had the ultimate effect of driving-up rate  
9 case expense.

10  
11 **Q. How many discovery questions were propounded upon the Company?**

12 A. By AUF's conservative count, AUF has responded or is in the process of responding to  
13 over 991 interrogatories and 347 requests for production of documents. Of that  
14 discovery, OPC propounded 796 interrogatories and 299 requests for production of  
15 documents. Responding to this massive discovery has required and continues to require  
16 tremendous amount of time and effort by in-house employees as well as outside counsel  
17 and consultants. As I mentioned, OPC's massive discovery caused AUF to incur a  
18 significant amount of rate case expense.

19  
20 **Q. Ms. Dismukes also refers to specific adjustments to rate case expense recommended**  
21 **by OPC witness Ms. Vandiver. Would you also like to address Ms. Vandiver's**  
22 **recommended adjustments?**

23 A. Yes.

24

1 **Q. Ms. Vandiver recommends specific adjustments related to what she considers out of**  
2 **state record keeping. Do you agree?**

3 A. No. First, I would like to dispel the concept of "out of state" record keeping. That  
4 concept may have been appropriate years ago due to the limitation of technology.  
5 However, in today's world of computers and virtual storage, this concept no longer  
6 applies. Aqua's records are kept in this virtual world of computers and storage.  
7 Therefore, Aqua's records are not actually kept in an out of state environment. These  
8 records are accessible by any Aqua employees located in any of the states we operate in.  
9 The travel expenses that Ms. Dismukes is referring to are directly related to the  
10 compilation of the actual Minimum Filing Requirements (MFRs) which are required by  
11 Commission rule; as well as, working on responses to the OPC's discovery. These  
12 expenses were also in the last rate case, and were thoroughly reviewed by the  
13 Commission at that time. The Commission allowed the recovery of these travel expenses  
14 in the last rate case, in order to compile and finalize the MFRs, as well as to respond to  
15 OPC's expanded discovery. There were also travel expenses related to Aqua witnesses  
16 and employees attending the Commission agenda in May 2011. I believe these are  
17 necessary and required rate case expenses for the processing and defending AUF's rate  
18 case before the Commission. If the Commission accepts Ms. Vandiver's recommended  
19 adjustment, this could have the perverse effect of considering these expenses as operating  
20 expenses which would be allowed to be recovered on a dollar for dollar basis. These  
21 expenses are directly related to the processing of a rate increase requests, which the  
22 Florida Legislature has mandated a four year amortization period and a subsequent  
23 reduction to rates. Ms. Vandiver's recommendation would circumvent this mandate and  
24 would allow recovery on an ongoing basis. The same would be true for the disallowance

1 of any FedEx postage costs. These costs, again, relate to the shipping of the required  
2 MFRs and responses to OPC discovery to the parties. There is no difference if the MFRs  
3 and responses were shipped from an in state corporate office or an out of state corporate  
4 office.

5  
6 **Q. Do you agree with Ms. Vandiver's adjustment related to AUF's response to**  
7 **deficiencies?**

8 A. Yes. I agree with Ms. Vandiver's reduction in the amount of \$3,313 related to MFR  
9 deficiencies.

10  
11 **Q. Ms. Vandiver recommends disallowance of Aqua's corporate employees for the time**  
12 **spent on the rate case. Do you agree?**

13 A. No, I do not. Ms. Vandiver is misinformed. There is absolutely no "double dipping" of  
14 salary as she suggests. These Aqua corporate employees work in the rates department.  
15 As such, the employees charge out their time spent working on various rate cases for the  
16 states in which Aqua operate in. Therefore, if an employee works on a rate case for  
17 another Aqua state, the time is charged in that state. These employees charge very  
18 minimal salaries to the states, the vast majority of time are directly related to rate cases,  
19 which is charged to a deferred rate case account. Ms. Vandiver's allegation of "double  
20 dipping" is inaccurate and false. There is no such double recovery of their salary  
21 expenses. For the in-house Aqua employees identified by Ms. Vandiver, only 1.25  
22 percent of their collective time was charged to Florida on non rate case related items.

23

1 It should also be noted that, if the Commission accepts Ms. Vandiver's recommendation,  
2 this could have the perverse effect of considering these expenses as operating expenses  
3 which would be allowed to be recovered on a dollar for dollar basis. These expenses are  
4 directly related to the processing of a rate increase requests, which the Florida Legislature  
5 has mandated a four year amortization period and a subsequent reduction to rates. Ms.  
6 Vandiver's recommendation would circumvent this mandate and would allow recovery  
7 on an ongoing basis, thus increasing the operating expenses. I would point out that this  
8 was previously approved not only in AUF's last rate case, but also in all of the Utilities,  
9 Inc. rate cases. Again, Ms. Vandiver's proposal would be an radical change to long-  
10 standing Commission practice. This change in practice could be viewed as an  
11 impermissible shift in Commission policy not supported by a change in either existing  
12 rules or statutes. Rate case assistance by ASI employees was recognized and allowed by  
13 the Commission in AUF's last case. This is yet another area where OPC attempts to re-  
14 litigate an issue that was previously decided in a prior rate case.

15  
16 **Q. Has the Commission recently addressed the issue of in-house employees included in**  
17 **rate case expense?**

18 A. Yes, at the October 4, 2011 Agenda Conference, the Commission addressed and  
19 ultimately approved this same issue with Lake Utilities Service, Inc., in Docket No.  
20 100426-WS. The Staff's recommendation addressed the in-house employees of the WSC  
21 affiliate company. Again, as I previously indicated, OPC was an active participant in that  
22 proceeding and addressed the Commission on three issues, of which none were related to  
23 in-house employees. Thus, in that docket, OPC did not take issue with Staff's  
24 recommendation, or the Commission's approval of the recovery of in-house employees in

1 rate case expense. This has been the Commission's past practice in all of the rate cases in  
2 which Utilities, Inc. subsidiaries were processed over numerous years.

3  
4 **Q. Ms. Vandiver also addresses recovery of expenses related to quality of service,**  
5 **specifically related to Docket No. 080121-WS. Do you agree that these expenses**  
6 **should not be recovered?**

7 A. No, I do not. The quality monitoring was requested and negotiated by the OPC, and later  
8 ordered by the Commission in Docket No. 080121-WS, which was AUF's last rate case  
9 proceeding. I believe it is appropriate for these costs to be included as part of rate case  
10 expense. Absent a rate case, there is no other mechanism allowed by Florida law for  
11 AUF to recover these costs which were directly incurred by AUF as part of the  
12 monitoring program ordered by the Commission. The Commission has previously found  
13 that the quality of service has improved since the last rate case, and this monitoring  
14 program will be a integral part of the analysis of quality of service in the instant rate  
15 case. Pursuant to Section 367.081(2)(a), Florida Statutes, the Commission shall consider  
16 the quality of the service in every rate case. Again, these costs are directly related to  
17 providing the Commission and parties with the information related to quality of service.  
18 The Commission combined the previous Docket No. 080121-WS with the current Docket  
19 No. 100330-WS, when making a determination of the quality of service. In the absence  
20 of including these costs in the rate case expense to be amortized over a four year period,  
21 the alternative would be to include these costs in the operating expenses and allowing for  
22 full recovery. The same is true for the environmental related expenses. Again, these are  
23 directly related to the quality of service issue which will be decided in this rate case. Ms.  
24 Vandiver incorrectly alleges that the cost of the Commission ordered monitoring program

1 should be considered a “fine or penalty.” This is incorrect—this monitoring program was  
2 not implemented as either a fine or penalty. Just as it is doing in this rate case, OPC has  
3 consistently recommended an ongoing monitoring program for AUF. OPC would have  
4 the Commission believe that any costs associated with a required monitoring program is  
5 not recoverable. This simply is not correct.

6  
7 Specifically, in Order No. PSC-10-0128-PAA-WS, issued April 6, 2010, the Commission  
8 stated that, “we find that, while preliminary monitoring results show substantial  
9 improvements in AUF’s performance, additional monitoring is required to ultimately  
10 render a decision as to the adequacy of AUF’s quality of service.”

11  
12 The Commission acknowledged that, “the Utility states that the six-month monitoring  
13 plan that we implemented in the Final Order has cost approximately \$100,000, and many  
14 hours of both Utility staff and Commission staff time.” In recognition of this, the parties  
15 met and developed an agreed upon plan. As the Order states, “Our staff met with  
16 representatives from AUF, OPC, and the AG’s Office in noticed meetings on March 25  
17 and April 5, 2010, to discuss the specifics of a cost-effective monitoring plan consistent  
18 with our direction. At the April 5, 2010, meeting, AUF and OPC agreed to a joint  
19 proposed Phase II Monitoring Plan.” The Commission ultimately stated, “the Phase II  
20 Monitoring plan submitted by AUF and OPC outlines an efficient, cost-effective means  
21 of monitoring AUF’s quality of service.” It is disingenuous for OPC to now recommend  
22 disallowance of these costs, when they agreed to the proposed plan.

23



1 **Q. Do you agree with Ms. Vandiver's recommendation to reduce the legal expenses to a**  
2 **level comparable to a study?**

3 A. No, I do not. The Public Utility Law area of practice with a focus on rate case litigation  
4 is a unique specialty area that requires a certain set of skills and knowledge. The study  
5 upon which Ms. Vandiver relies is survey of all attorneys, not just Public Utility Law rate  
6 case specialists. The averages derived from that study do not come close to reflecting the  
7 unique specialty practices that are involved in utility regulatory litigation. The law firm  
8 used by AUF in this rate case is the exact same as in the previous rate case. Neither OPC  
9 nor any other party in the last rate case raised an issue with the hourly rate, and the  
10 Commission did not make any adjustments to reduce the hourly rate of AUF's attorney.  
11 Moreover, the Commission has recently approved an hourly rate of \$400 for a lawyers'  
12 work in a water utility rate case, which rate is higher than AUF's hourly rate in this case.  
13 *See In re: Application for increase in water rates in Franklin County by Water*  
14 *Management Services, Inc.*, Docket No. 100104-WU, Order No. PSC-11-0010-SC-WU,  
15 at 32 (Jan. 3, 2011).

16

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

18 A. Yes.

19

20

21

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1 BY MR. MAY:

2 Q Mr. Szczygiel, have you prepared a summary of  
3 your rebuttal testimony?

4 A Yes, I have.

5 Q And would you please provide that summary at  
6 this time?

7 A I will.

8 Good afternoon, Chairman and Commissioners.  
9 Again, my name is Stan Szczygiel, and I'm the Manager of  
10 Rates and Planning for the Southern and Midwest region.

11 My rebuttal testimony was filed in response to  
12 portions of the direct testimony of OPC witnesses  
13 Kimberly Dismukes, Denise Vandiver, and Earl Poucher.

14 With respect to the testimony of Ms. Dismukes,  
15 my rebuttal and Exhibit SS-4 shows that affiliate  
16 charges to AUF have decreased, not increased, since the  
17 last rate case. My rebuttal testimony and my Exhibit  
18 SS-5 updates the company's Florida market study to  
19 address Ms. Dismukes' concerns and show that the  
20 engineering, managerial, accounting, and legal services  
21 of AUF -- that AUF receives from its affiliates actually  
22 cost less than if AUF secured those services from  
23 outside sources.

24 My rebuttal testimony also shows that  
25 Ms. Dismukes' recommended adjustments to bad debt

1 expense and billing determinants are based on radical  
2 departure from long-standing Commission practice and  
3 precedent.

4 My rebuttal testimony and Exhibit SS-11, as  
5 well as Late-Filed Exhibit No. 12 now, demonstrate that  
6 AUF's rate case expense in this proceeding is reasonable  
7 and has been documented in great detail. Furthermore,  
8 it shows that Ms. Vandiver's recommended adjustments to  
9 rate case expense ignore precedent and fail to recognize  
10 the substantial cost savings from the AIS rate  
11 department, which were recognized by the Commission in  
12 the last rate case.

13 Finally, my testimony rebuts Mr. Poucher's  
14 testimony on affordability and demonstrates that  
15 Mr. Poucher bases his analysis on a federal  
16 telecommunications statute and federal subsidies, which  
17 unfortunately are not available in the Florida water and  
18 wastewater industry.

19 Finally, when I testified last week, several  
20 Commissioners asked that I follow up on several issues,  
21 which I am now prepared to do. More specifically, I am  
22 prepared to provide the number of workdays required to  
23 perform all of AUF's Florida meter readings, AUF's cost  
24 benefit analysis of the installation of electronic meter  
25 reading devices, and a listing of the CPAs and employees

1 with advanced degrees who work in the accounting group  
2 of Aqua's services company.

3 That concludes my summary. Thank you.

4 **MR. MAY:** Mr. Chairman, Aqua would tender  
5 Mr. Szczygiel for cross-examination.

6 **CHAIRMAN GRAHAM:** Okay.

7 OPC.

8 **MS. CHRISTENSEN:** Thank you.

9 **EXAMINATION**

10 **BY MS. CHRISTENSEN:**

11 Q Good afternoon, Mr. Szczygiel.

12 A Good afternoon.

13 Q Let me take you to your rebuttal testimony,  
14 page 13.

15 **MS. CHRISTENSEN:** Oh, and before I start, we  
16 have a few exhibits. So if we can take a minute to hand  
17 those out.

18 **CHAIRMAN GRAHAM:** Sure.

19 (Pause.)

20 Ms. Christensen, to let you know, we'll be  
21 stopping for lunch in the next 20, 30 minutes, so if  
22 there is a stopping point somewhere in there, pausing  
23 point, so to speak.

24 **MS. CHRISTENSEN:** I'm hoping to get done.

25 **CHAIRMAN GRAHAM:** Okay. If we have to go a

1 little longer past that for continuity, we'll try as  
2 best as we can.

3 (Pause.)

4 **MS. CHRISTENSEN:** Commissioner, I would ask to  
5 mark these for identification.

6 **CHAIRMAN GRAHAM:** I'm sorry?

7 **MS. CHRISTENSEN:** I would ask to have these  
8 marked for identification. The first one being Aqua  
9 Responses to OPC Interrogatories 275, 276 as 335. The  
10 Hidden Cove Order as 336. Late-Filed Exhibit No. 19 as  
11 337. And exhibit -- the packet of Companies with Price  
12 Indexes and Pass-Throughs as 338.

13 **CHAIRMAN GRAHAM:** I have one last one.

14 **MS. CHRISTENSEN:** I'm sorry. What?

15 **CHAIRMAN GRAHAM:** One more.

16 **MS. CHRISTENSEN:** I'm sorry. I didn't hear  
17 the --

18 **CHAIRMAN GRAHAM:** There is a PSC --

19 **MS. CHRISTENSEN:** Oh, I'm sorry. I missed one  
20 then. Then it's 339.

21 **CHAIRMAN GRAHAM:** Okay. I do appreciate you  
22 passing these all out at one time. Thank you.

23 (Exhibits 335, 336, 337, 338, and 339 marked  
24 for identification.)

25 **MS. CHRISTENSEN:** With that, I'm ready to

1 begin.

2 CHAIRMAN GRAHAM: Please continue.

3 BY MS. CHRISTENSEN:

4 Q Mr. Szczygiel, let me take to you page 13 of  
5 your rebuttal testimony.

6 A Yes, I'm there.

7 Q Line 9. You state that there are some common  
8 officers among the regulated and nonregulated  
9 affiliates; is that correct?

10 A Yes, it is.

11 Q Okay. Do these nonregulated affiliates issue  
12 their own debt?

13 A No.

14 Q Do these nonregulated affiliates issue their  
15 own common stock?

16 A They have common stock that's issued, but the  
17 owner of that common stock is another Aqua entity.

18 Q Okay. Do these nonregulated affiliates issue  
19 their own annual reports or SEC statements?

20 A No. Most of these nonregulated affiliates may  
21 be nothing more than just contracts.

22 Q Okay. And you do not allocate cost for these  
23 nonregulated companies for the, for the common officers;  
24 is that correct?

25 A Not based on common officers.

1 Q Okay. Let me --

2 A We do allocate costs to some of these  
3 entities.

4 Q Let me take -- change subjects a little bit.  
5 Do you recall in your rebuttal testimony where you talk  
6 about Ms. Dismukes' statement that she does not believe  
7 the operating characteristics have as much of an impact  
8 on customer and administrative costs as the company  
9 does, and that she does not believe operating  
10 characteristics would have a significant impact on  
11 customer and administrative expenses?

12 A That was in Ms. Dismukes'?

13 Q Do you recall discussing that in your rebuttal  
14 testimony as a criticism of Ms. Dismukes?

15 A In my rebuttal --

16 MR. MAY: Can you -- could you please --  
17 excuse me. I'd like to object and ask the counsel if  
18 she would just direct him to the rebuttal testimony, I  
19 think we could move through this pretty quickly.

20 THE WITNESS: Sure.

21 BY MS. CHRISTENSEN:

22 Q Well, I believe your discussion or criticism  
23 of Ms. Dismukes' testimony starts on page 15, and you  
24 have a discussion of your criticisms of her testimony.

25 A That's dealing with the market study. We were

1 just talking about --

2 Q Through pages 20.

3 A Yeah. But a second ago we were just talking  
4 about the nonregulated entities. I'm just confused.  
5 Which subject are we on?

6 Q Yes. We changed topics.

7 A We changed topics. Okay.

8 Q Yes.

9 A So we're now on page 15.

10 Q Well, and those are the pages where you  
11 disagree with Ms. Dismukes regarding her analysis, and a  
12 portion of that disagreement was regarding the impact of  
13 the administrative and general costs on the company's  
14 expenses. Is that correct -- would that be a correct  
15 summary of your state -- criticisms of Ms. Dismukes?

16 A Would you please restate that?

17 Q Would it be, would it be correct to say that  
18 you had a disagreement with Ms. Dismukes regarding the  
19 impact of administrative and general costs on, in the,  
20 related to the operating characteristics of the company?

21 A Okay. Unfortunately if I may just get myself  
22 centered again. You've asked me to look at the market  
23 study, which has nothing to do with the administrative  
24 costs or operating characteristics of the company. What  
25 the market study does is it attempts to answer the



1 question: Are our service company affiliate costs at  
2 market or below?

3 Q Well, let me ask you this. Without reference  
4 to -- to that, do you, do you believe that the operating  
5 characteristics of a company impact the administrative  
6 and general costs?

7 A It could.

8 Q Okay. Let me direct your attention to Exhibit  
9 335.

10 A Okay. I am there.

11 Q At page -- in response to whether or not -- in  
12 response to interrogatory -- or, I'm sorry. Is it  
13 interrogatories? Numbers 275 and 276, let's go through  
14 275. Would you agree that the response that the company  
15 provided, when asked to describe the relationships  
16 between administrative and general expenses and the  
17 method used to treat water, the company said, without  
18 waiving its objection, that based on your understanding  
19 of the interrogatory, AUF agreed that there was no  
20 relationship?

21 MR. MAY: Objection. She's parsing through  
22 the response. The company said AUF objects because this  
23 interrogatory is vague, and then he went on to attempt  
24 to answer the question.

25

1 BY MS. CHRISTENSEN:

2 Q Which I believe I acknowledged. But to the  
3 extent that -- is that a correct statement of what the  
4 interrogatory response was?

5 A I believe the question is vague.

6 Q Did you --

7 A And I believe the way that we attempted to  
8 answer this was that if somebody has chlorine and they  
9 have to add caustic to the water treatment, that does  
10 not affect the general and administrative expenses. If  
11 there are certain chemicals that are used in the  
12 wastewater treatment process, and, again, I'm looking  
13 specifically at the process that is used, in that narrow  
14 definition, I don't see it affecting it.

15 Q Well, let me ask you, in response to  
16 Interrogatory No. 276, allocation, "Please describe all  
17 relationships between administrative and general  
18 expenses and the methodology used to treat and dispose  
19 of wastewater," is it not correct that the answer was,  
20 "With the caveat, the general objections stated above  
21 are incorporated herein by reference, and AUF further  
22 objects that this interrogatory is extremely vague.  
23 Without waiving said objections, based on AUF's  
24 understanding of the interrogatory, AUF states that  
25 there is no relationship"? Is that a correct reading of

1 the response?

2 A That is a correct reading.

3 Q Thank you. Now moving to a different topic,  
4 let me take you to page 32 of your testimony, lines 1  
5 through 4. And on lines 1 through 4, you comment that  
6 52 of the 120 utilities that --

7 A Page 32.

8 Q -- used in the peer group --

9 A Yes.

10 Q -- have not had a rate increase processed by  
11 the Commission, and that 14 of the utilities had not a  
12 rate increase since 2000; correct?

13 A Correct.

14 Q Now we've also handed you, as part of the  
15 packets, Exhibit No. 336. That's a -- take a look at  
16 it. Would you agree that that is a rate order issued in  
17 this case for Hidden Cove Utility in 2008?

18 A It appears to me to be that.

19 Q And on pages 38 of the order and 39 of the  
20 order, do you see where the Commission had granted a  
21 rate increase of 115% for water on page, on page 38?

22 A Yes, I see that.

23 Q And do you also see where the Commission had  
24 granted a rate increase of 157% for the wastewater  
25 company?

1           A     Yes, I do see that.

2           Q     Okay. Now regarding your testimony on page  
3 32, lines 1 through 4, isn't it correct that you were  
4 asked to provide a list of the utilities as a late-filed  
5 to your deposition, Exhibit 19, where you were supposed  
6 to identify the companies in the peer group that had  
7 never had a rate increase before the Commission?

8           A     Yes.

9           Q     Okay. Now referring to Exhibit 337, that was  
10 the late-filed deposition exhibit that you provided;  
11 correct?

12          A     Yes. LEF 19?

13          Q     Correct. And it would be correct to state  
14 that there are no list of companies in there, and at  
15 this point in the late-filed exhibit you testify, or you  
16 provided as part of the late-filed exhibit that index  
17 and/or pass-through filing information was unattainable  
18 from the PSC's website; is that correct?

19          A     That is correct.

20          Q     Okay. Now let's take a look at Exhibit 338.  
21 This is a -- would you agree that this is an exhibit  
22 that contains pass-through and indexes that have been,  
23 that have been requested and have been approved for  
24 these companies that were part of the peer group?

25                **MR. MAY:** I object. I don't see anything in

1 this exhibit that you just handed out that listed any  
2 companies.

3           **CHAIRMAN GRAHAM:** On 338?

4           **MR. MAY:** 339.

5           **CHAIRMAN GRAHAM:** 338.

6           **MR. MAY:** Oh, she's talking --

7           **MS. CHRISTENSEN:** It was for his -- it was  
8 SS-9 was his exhibit that was attached to his rebuttal  
9 testimony, which lists the companies, and this exhibit  
10 shows those companies and the pass-through and indexes  
11 for those companies that have been had for some of the  
12 companies that have been had in, I guess, the last five  
13 years -- or last three years. Excuse me.

14 **BY MS. CHRISTENSEN:**

15           Q Are you familiar with the companies in the  
16 peer group?

17           A Am I familiar with the companies in the peer  
18 group? No, I'm not.

19           Q I'm sorry. With SS-9.

20           A I am familiar with SS-9.

21           Q Okay. And are those companies the companies  
22 that are listed on the front of the description packet?

23           A Well, again, I think what we said in SS-9 --  
24 if I can turn to it. I do see Oak Springs in here.

25           Q Okay. Do you see Sun Communities'

1 acquisition?

2 A I will look that up right now. I see Sun  
3 Communities, operating limited partnership.

4 Q All right. Well, let's do --

5 A I don't know if that's the acquisitions,  
6 but -- I'm not really sure.

7 Q All right. Well, let's take a look at -- you  
8 said you saw Oak Springs in there?

9 A Yes, I did see Oak Springs in there.

10 Q Okay. Okay. Next to Oak Springs where it  
11 says, "Last rate case processed," you said, "Never"?

12 A Never.

13 Q Okay. Now in here, in the packet, you see the  
14 first exhibit talks about Oak Springs; correct?

15 A Correct. The -- when you say the packet,  
16 the --

17 Q The first --

18 A -- the memo dated July 16th, 2010?

19 Q The memo dated May 19th, 2011.

20 A For Oak Springs?

21 Q The first page. Maybe it's out of order.

22 A I'm looking at Oak Springs, LLC. I have the  
23 first page dated July 16th, 2010. It's from Bart  
24 Fletcher to the Commission.

25 Q Okay. Well, let's go backwards then. Do you

1 see that it's, it indicates in there that that's a  
2 pass-through and index for that company?

3 A Everything I see here deals with index and  
4 pass-through.

5 Q Okay. And do you see those companies listed  
6 on your Exhibit SS-9?

7 A I see that company listed on my SS-9.

8 Q And do you see the Sun River Utility, Inc.,  
9 listed on SS-9 under DeSoto County? Oh, I'm sorry.

10 A Unfortunately I don't.

11 Q Highlands County.

12 A Highlands County?

13 Q Yeah. It says, "Sun Community acquisitions"  
14 under No. 6.

15 A And I'm under Highlands County. Which one did  
16 you ask me to look at, Sun Communities?

17 Q Sun Communities' acquisition. Do you see that  
18 listed there?

19 A Yes, I do.

20 Q Okay. And then Country Club Utilities is also  
21 listed under Highlands County?

22 A Right. And as I've noted in here, the ones  
23 that I've listed, last rate case processed, and as we  
24 noted, never, and what I'm looking at here are  
25 pass-throughs.

1 Q Okay. So you would agree that your SS-9 does  
2 not address any pass-throughs or indexes that were  
3 granted to these companies; correct?

4 A Yes. We were just addressing the last rate  
5 case.

6 Q Okay.

7 A And then I believe in the LEF that you  
8 provided me here, LEF No. 19, we simply said when we  
9 tried to attempt to discover which companies had  
10 pass-throughs, it was not available on the website.

11 Q Okay. Okay. Let me take you to Exhibit 339.

12 A Yes.

13 Q Okay. And there's a highlighted portion of  
14 that. This is a PSC brochure; is that correct?

15 A I believe so.

16 Q Okay. And would you agree that the  
17 highlighted section states that utilities that regularly  
18 take advantage of these two options, referring back to  
19 indexes and pass-throughs, are often able to delay  
20 applying for a full rate review?

21 A That's what it says.

22 Q Okay. And then changing topics, we've heard  
23 testimony on back billing and the measures taken to  
24 apply the proper credits so the back bill doesn't exceed  
25 12 months. Would it be true that if there's a credit



1 applied to a back bill because it's beyond 12 months,  
2 that that credit would be applied to bad debt expense?

3 A Absolutely not. It is applied as a reduction  
4 of revenue.

5 MS. CHRISTENSEN: Okay. All right. We have  
6 no further questions. Thank you.

7 CHAIRMAN GRAHAM: Ms. Bradley.

8 EXAMINATION

9 BY MS. BRADLEY:

10 Q In talking about your rate case expenses, did  
11 your company do anything to try and negotiate down the  
12 prices for your outside experts, your accountants, your  
13 attorneys, those folks?

14 A Yes. We have conversations with -- first of  
15 all, we have very few consultants. We've reduced the  
16 number of consultants in this case, specifically in the  
17 PAA portion. But, yes, we had negotiations with our  
18 attorney, we had negotiations with the consultant that  
19 handles the creation of the bill analysis, and the  
20 consultant that handles the creation of the MFRs.

21 Q Did you try to negotiate down the prices  
22 charged?

23 A Yes. We tried to get to a fair price, and we  
24 felt that we got reductions from some of those  
25 employees, or some of those consultants.

1 Q Do you know what kind of reductions or --

2 A I, I don't have the exact numbers.

3 Q In making decisions about that, did you look  
4 at their qualifications, such as whether an accountant  
5 had any special expertise in this area, or an attorney  
6 was board certified or things of that type, that would  
7 justify a higher rate?

8 A I mean, the answer is, is that when we're  
9 going to deal with basically the, the outside  
10 consultants and the attorney, the attorney we  
11 interviewed, our attorney, with other attorney firms,  
12 comparing price, quality of service, knowledge of the  
13 company and the industry. When it came to our  
14 consultants, again, the same criteria was used.

15 In this particular case, we were able to use  
16 the same attorney, the same bill analysis and MFR  
17 consultants, and we were able to leverage a great deal  
18 of efficiency through their previous knowledge of the  
19 process.

20 Q Did you compare them, when you were doing this  
21 comparison, did you compare them with other attorneys  
22 and accountants in Florida or outside of Florida?

23 A Well, definitely in Florida for our attorney.  
24 And accountants, we would have compared them with people  
25 in Bryn Mawr, which is where the work is performed.

1           Q     About -- do you have any idea, I mean, how,  
2 how much effort did you all do in that? I mean, how  
3 many people, how many firms, how many accounting and  
4 attorney firms did you compare?

5           A     I, I don't, I don't know exactly. I would say  
6 it was several attorney firms here in Florida. And  
7 consultants, as we said in the last case for bill  
8 analysis, we used a gentleman by the name of Gary  
9 Prettyman from AUS. I believe his rate was somewhere in  
10 the range of \$165 an hour. The current consultant that  
11 did this work for us is a gentleman by the name of Dan  
12 Franceschi, and I think his billing rate's approximately  
13 \$90 an hour. That's a substantial reduction.

14           **MS. BRADLEY:** No further questions.

15           **CHAIRMAN GRAHAM:** Mr. Richards?

16           **MR. RICHARDS:** Thank you. I have a few  
17 questions.

18                                                           **EXAMINATION**

19           **BY MR. RICHARDS:**

20           Q     You heard the discussion with Mr. Stallcup  
21 regarding Breeze Hill and Peace River systems?

22           A     I heard some of it.

23           Q     Can you tell me whether Aqua Utilities  
24 examined the standalone rates of those systems prior to  
25 that purchase?

1           A     First of all, let's take the two of them  
2 separately. Peace River was acquired in the Aqua Source  
3 transaction in 2003. So I've heard some reference here  
4 about we acquired it since the last rate case. We  
5 didn't acquire it since the last rate case. We've owned  
6 it since 2003. It used to be under the county  
7 regulatory rules. When we had a, had a discussion with  
8 them about filing a rate case, they wanted to understand  
9 what their alternatives were, and one of the  
10 alternatives was to petition to come under the PSC, and  
11 they, in fact, elected to do that.

12           Q     Who is they?

13           A     They is Peace River. The county of Peace  
14 River, or whatever county it's in.

15           Q     The county made that choice, not the  
16 customers?

17           A     The county, yes, the county made -- because  
18 the county was previously regulating the system. It, it  
19 did not go to the customers.

20           Q     Okay. So Breeze Hill then was purchased since  
21 the last --

22           A     Breeze Hill was an acquisition. And, yes, we  
23 did look at the standalone rates of Breeze Hill at that  
24 time. We recognized that they were lower, yes.

25           Q     Well, Mr. Stallcup testified that those were

1 expensive systems that had to be subsidized by the other  
2 customers.

3 A They are now. We had to do a lot of work.

4 Q Okay. Let me ask you about the purchase of  
5 the systems in Pasco County. Do you recall -- were you  
6 with Aqua when they were purchased in 2003?

7 A I was not. I didn't start 'til 2006. And  
8 Pasco County -- I don't, I don't recollect if it came  
9 through the Florida Water transaction or the Aqua Source  
10 transaction. But the Aqua Source transaction was in  
11 2003, the Florida Water was in 2004.

12 Q So do you know whether those three systems in  
13 Pasco County were part of a package deal that included  
14 other systems in other counties?

15 A Well, both transactions, Aqua Source and  
16 Florida Water, were multicounty acquisitions.

17 Q Thank you.

18 **MR. RICHARDS:** No further questions.

19 **CHAIRMAN GRAHAM:** YES?

20 **MR. CURTIN:** I do have about 15 or 20 minutes'  
21 worth of questions. I don't know if we want to break  
22 for lunch or you want me to just go?

23 **CHAIRMAN GRAHAM:** I think we should break for  
24 lunch.

25 **MR. CURTIN:** Thank you very much.

1                   **CHAIRMAN GRAHAM:** That being said, I have  
2 about 10 minutes after 1:00. Let's start back here at  
3 2:00.

4                   (Recess taken.)

5                   (Transcript continues in sequence in Volume  
6 9.)

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1 STATE OF FLORIDA )  
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CERTIFICATE OF REPORTER

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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 6<sup>th</sup> day of December, 2011.

Linda Boles  
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FPSC Official Commission Reporter  
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