

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.

PROCEEDINGS: COMMISSION CONFERENCE AGENDA
ITEM NO. 8

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

DATE: Tuesday, February 14, 2012

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

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P R O C E E D I N G S

1
2 **CHAIRMAN BRISÉ:** We are going to move into the
3 agenda as prescribed. But before that, there are a few
4 people who are in the audience I think we want to
5 recognize.

6 We have from the -- let me see what's the
7 right way to say this -- from the Office of the Pro Tem
8 from the Florida House, Representative John Legg, we
9 have the Legislative Aide to District 46, Mr. Rich Roy.

10 (Applause.)

11 And we have from the office of Representative
12 Weatherford, the Speaker Designate, Ralph Lair.

13 (Applause.)

14 We also have from Pasco County Commissioner
15 Jack Mariano.

16 (Applause.)

17 So we wanted to take this time to thank all of
18 the public officials who are interested in what's going
19 on. And their interest is obviously important to their
20 constituents and all the constituency in the State of
21 Florida. So we want to thank them for their presence
22 here.

23 So at this time we're going to go ahead and
24 move forward. And this is Item Number 8, and it is
25 Docket No. 100330-WS. And at this time I'm going, I'm

1 going to ask Andrew to go ahead and take us through.

2 **MR. MAUREY:** Good afternoon, Chairman,
3 Commissioners. I'm Andrew Maurey, Commission Staff. I
4 will be introducing this item.

5 Before we begin with Issue 1, I would like to
6 bring the Commission's attention to two oral
7 modifications. They do not change the recommendation
8 that staff has made before you, but they are part of the
9 vote you will be taking, and so we want to have those
10 corrected.

11 On page 84 in Issue 5, you'll see
12 Table 5-1. The very last column, the system involving
13 Wootens, those percentages of 68 in the second and
14 fourth column should both be 66.

15 The next oral modification involves Issue
16 31 on page 190. In the recommendation statement at the
17 top of page 190 it refers to Schedules 4-A and 4-B.
18 That should read Schedules 5-A and 5-B.

19 At this time, staff is prepared to go issue by
20 issue or at your direction.

21 **CHAIRMAN BRISÉ:** All right. Thank you. I
22 think that we can probably start off with issue by issue
23 I think with Issue 1 and Issue 2, and then maybe we can
24 start looking at blocks of issues that relate to each
25 other.

1 **MR. MAUREY:** Yes.

2 **MR. RIEGER:** Very good, Commissioners. Hello.
3 I'm Stan Rieger with Commission Staff.

4 Issue 1 is the quality of service issue.
5 Staff is ready to respond to any questions that you
6 might have at this time.

7 **CHAIRMAN BRISÉ:** All right. Thank you.

8 Commissioner Brown.

9 **COMMISSIONER BROWN:** Thank you. I love
10 starting off the questions, so I'll just start with you,
11 Stan.

12 While I have the utmost respect for staff, for
13 our professional and technical staff, I'm somewhat
14 confused by Staff's quality of service analysis. How
15 can we have our own staff witness for DEP testify that a
16 system, for example, Village Water Wastewater Treatment
17 Plant, is significantly out of compliance and then staff
18 deems it to be satisfactory?

19 Furthermore, just two other examples, the
20 utility failed to test for nitrates and then thereafter
21 lead and copper monitoring, as was the case for Village
22 Water, Water Treatment Plant.

23 Additionally, the utility failed to notify DEP
24 repeatedly of the sampling and issue public notices
25 within 24 hours of knowledge of an e.coli positive

1 result at Interlachen Lake Resort -- Lake Estates. I'm
2 kind of struggling here with how these significant
3 compliance issues, as our own staff witness testified
4 that they were, that the first one particularly was a
5 significant compliance issue, may have been somewhat
6 overlooked when staff made a recommendation for quality
7 of service being satisfactory.

8 **MR. RIEGER:** Very good, Commissioner.
9 Basically we also rely on the staff witnesses, in this
10 case, the DEP and Health Department and Water Management
11 District witnesses, that were discussing these items.

12 As you know, these, these items basically
13 are -- have some kind of a compliance issue related to
14 that.

15 Staff normally reviews these compliance issues
16 in respect to actually what the problem was, how it got
17 created, and how the utility is responding to the
18 problem. Basically all of these systems, all of these
19 problems that you referred to, there is communication
20 between the agency that has issued these warning letters
21 or consent orders and the utility.

22 We look at the progress that the utility is
23 doing in order to achieve these situations. Of course,
24 it's unfortunate that they occurred in the first place,
25 we realize that and we're conscious of that, but we're

1 also -- we also consider how well, once the problem gets
2 out there and they're cited for the problem, how well
3 does the utility respond? And we treat, we treat the
4 review of that type of situation the same with all of
5 our utilities in these situations. How, how is the
6 utility responding? Are they achieving compliance?
7 What are they doing to maintain compliance? And in
8 these situations where, like, the testing occurs and
9 some time frame gets exceeded, is it, is the utility
10 unique in a situation where it sets them apart with
11 other utilities that we review? In this case, we don't
12 believe the utility is, is, is running a deficit in
13 that, in that area. Therefore, they're achieving these
14 goals, and most of these issues either have been
15 achieved or there's a guideline or a time frame for
16 compliance to happen. As long as DEP appears to be
17 satisfied as, as far as the utility is meeting the goal,
18 well, it's in their court, frankly, as far as
19 compliance.

20 **COMMISSIONER BROWN:** And as a follow-up. I
21 appreciate that the utility is working with DEP to
22 remedy some of these issues, but it appears that there
23 is a significant reporting requirement issue that the
24 company is facing. And I believe that reporting
25 requirements are an essential tool to monitor the

1 safety, the quality of the utility. It is obvious, I
2 think as the staff recommendation noted in the
3 precautionary -- with regard to the precautionary boil
4 water notices, that there seems to be some discrepancy
5 or inconsistency going on. And I believe the utility
6 has continuously failed to show some deference to the
7 reporting process on multiple levels.

8 Customers are ultimately the ones who are
9 subjected to potential health risks when the company
10 fails to report adequately or comply with the reporting
11 requirements, and I believe that this must be a priority
12 requirement for the company moving forward.

13 This may be a question for Mr. Willis, but
14 what can we, as a Commission, do to ensure that there's
15 accurate -- adequate and responsible compliance with the
16 reporting requirements with DEP, with the Water
17 Management Districts, other than what staff is
18 recommending?

19 **MR. WILLIS:** Commissioner, to go to your
20 concerns, staff, in Issue 2, addresses what we have
21 recommended. For two -- well, one of those concerns is
22 boil water notices. The other is to go along with the
23 aesthetic improvements.

24 But as far what you're concerned with, with
25 the actual paperwork that's being filed with DEP, we can

1 require the utility to report on a quarterly basis also
2 any instances that they need to report to DEP and any
3 instances where DEP comes to them and says, "You have
4 failed to do something," either with a warning letter --
5 we could require that the company report all of the DEP
6 notices to them, whether it be a letter, notice of
7 violation, or a consent order of any sort.

8 Also, you might even want to ask for the
9 letters that DEP might issue upon an inspection.

10 **COMMISSIONER BROWN:** And, Commissioners, this
11 is something that I'd like to explore more in Issue
12 2 after we've had a chance to fully vet this issue. So
13 I'll save some comments for later for the rest of the
14 Commissioners.

15 **CHAIRMAN BRISÉ:** Commissioner Balbis.

16 **COMMISSIONER BALBIS:** Thank you, Mr. Chairman.

17 You know, Issue 1 is obviously a critical
18 issue, and it's something that us as a Commission, we
19 look at primarily two things, and that is the quality of
20 the product that's being delivered and customer service
21 issues when determining quality of service.

22 And concerning quality of the product,
23 according to DEP and other witnesses, water quality for
24 the most part, with the exceptions that Commissioner
25 Brown has mentioned, meet the regulatory requirements.

1 And most of the complaints about quality of the product
2 from the customers have been secondary water quality
3 characteristics, which are not specifically regulated,
4 and the company has moved forward with water quality
5 improvement projects and discussions with that. So I
6 see a lot of, a lot of positive direction from the
7 company on quality of the water.

8 And so the next part is really the quality of
9 the service and customer satisfaction, which is more
10 difficult to address.

11 At the customer meetings, we heard several
12 complaints repeatedly, and staff summarized the number
13 of complaints and categorized those. And if you take
14 out the complaints about rates or affordability, the
15 leading complaints were dealing with billing and
16 customer service issues, along with quality of the
17 product that I, that I already discussed.

18 So we have an issue, and I believe and I
19 believe the utility believes is a problem, and that is
20 improving their customer service. And I think they've
21 taken steps to improve it. Even in the Staff's
22 recommendation there are repeated examples of words such
23 as "taken steps to improve." We've seen calls related
24 to line breaks and service issues decrease from 12.6% to
25 10.5%, which, again, is an improvement. But I don't

1 believe we've had enough time to see the full effect of
2 these, these measures that they've taken to improve the
3 customer service.

4 In fact, staff, on page 35 of the
5 recommendation, recommends that modifications, further
6 modifications be made to improve customer service. So I
7 don't think we're, we're there yet.

8 I'm encouraged by what Aqua is trying to do.
9 Unfortunately, with having a rate case filed so soon
10 after the last one, we haven't seen the full effect of
11 these measures. One of the measures they implemented
12 was in November of 2011 dealing with back billing. I
13 mean, obviously we don't, we haven't had enough time to
14 see the effect of that.

15 So I see a lot of promise. I see the company
16 recognizing it. We've seen the customers complain about
17 it. But unfortunately I don't think we're there, so I
18 would like to see us to continue to encourage the
19 company to make those strides to improve customer
20 service. And I believe that if we assign a satisfactory
21 quality of service to this company, that it may reduce
22 any incentive to continue the good work that they're
23 doing.

24 **CHAIRMAN BRISÉ:** All right. Any other
25 Commissioners, at this time?

1 (No response.)

2 All right. Okay. Commissioner Balbis.

3 **COMMISSIONER BALBIS:** Well, if we're in a
4 position to make a motion on this issue, and for the
5 reasons that I've previously stated, I disagree with
6 Staff's recommendation, and I move that we find the
7 quality of service for Aqua to be marginal and to move
8 on to the next issue.

9 **CHAIRMAN BRISÉ:** All right. Is there a
10 second?

11 (Microphone off. Motion seconded by
12 Commissioner.)

13 **CHAIRMAN BRISÉ:** Second. All right. Very
14 good. Is there a discussion?

15 Commissioner Edgar.

16 **COMMISSIONER EDGAR:** Thank you, Mr. Chairman.
17 As has been pointed out, we have heard many,
18 many, many concerns about, on this specific issue, this
19 specific piece of the rate case, and not just in this
20 docket, but in recent years. I know that this is the
21 fourth time in the last three to five years that an
22 issue has come before this Commission to make a finding
23 on quality of service for this company.

24 As Commissioner Balbis has stated, I do
25 believe that the evidence in the record is clear that

1 significant improvements have been made. I do believe
2 that the company management and its employees have heard
3 the concerns of many of the consumers and also of this
4 Commission and individual Commissioners over time that
5 we have stated.

6 I also note and recognize, as Commissioner
7 Balbis has pointed out, that many of the issues of
8 concern fall into that secondary classification, and/or
9 aesthetic is another term that is used, and I continue
10 to be very, very, very concerned about that, but yet
11 recognize that it is not in that first tier of DEP or
12 Department of Health violations, which ties our hands a
13 little bit.

14 I also recognize that treatment, further
15 treatment for aesthetic issues can be costly, and I know
16 we will have further discussion on that point. And I
17 would reiterate comments I've made in the past that
18 those issues need to be addressed, but they need to be
19 addressed in a cost-effective, reasonable, and prudent
20 manner. And I do expect that we will have probably some
21 more discussion on those points this afternoon.

22 Commissioner Balbis had made a motion that we
23 make a finding of marginal on this issue. I would point
24 out that that is the finding that we made when this
25 issue came before us earlier this year in a PAA

1 procedural posture. At that time, one of the questions
2 that I asked of our staff was did we have the
3 information, if we were interested, so that we could
4 parse out some of the individual systems from others,
5 recognizing that we have over 60 individual systems as
6 part of this much larger rate case before us, and that
7 in at least some of the systems we did not have concerns
8 expressed by customers. And the record in my mind was
9 different on some systems than some of the amount of
10 complaints and concerns for some of the other systems.

11 My understanding from staff at that time was
12 that that would be difficult to do based on the
13 information that we have in the record. And, Mr.
14 Chairman, I would just like to pose that to our staff
15 again to make sure I have an accurate understanding.

16 Mr. Willis, can you speak to that? And if you
17 need me to restate the question, I can do that.

18 **MR. WILLIS:** No, I, I have the question.

19 Commissioner, you're certainly correct about
20 your recollection. The Commission did make that
21 finding. The Commission did recommend and did adopt a
22 25-basis point penalty in the proposed agency action
23 order.

24 The problem we had in the PAA rate case is the
25 ability to go in and actually make a 25-basis point

1 penalty for each -- those systems only that, that had a
2 problem. That still exists here. That's just the way
3 this, the utility is put together as far as its
4 structure and the banding of the systems. It's still
5 going to be quite difficult to do that, and that
6 condition still exists.

7 **COMMISSIONER EDGAR:** Thank you, Mr. Willis.

8 Again, I recognize that, realizing we have
9 many, many, many individual systems that are under the
10 more umbrella component as to how this business and
11 service provider is organized, that some of our concerns
12 may be targeted at some of the systems more so than
13 others, but my understanding from the record before us
14 is that would be difficult to differentiate at this
15 point in time.

16 I support Commissioner Balbis's motion,
17 recognizing that some months ago we made a finding of
18 marginal, and I believe that that was, that was a sound
19 decision based on the information that was before us and
20 did absolutely take into account the consumer concerns
21 that we had expressed to us, and also concerns raised by
22 our staff. And recognizing that, that no decision is
23 probably perfect for over 60 systems, I think that's
24 probably the best approach today as well.

25 **CHAIRMAN BRISÉ:** Thank you.

1 Commissioner Brown.

2 **COMMISSIONER BROWN:** Thank you, Mr. Chairman.

3 And I wanted to acknowledge that I do think
4 that certain individual systems have definitely shown
5 improvement, and definitely the utility's attempt to
6 address customer service satisfaction has -- I think
7 they've made very valiant, valiant attempts and have
8 implemented a lot of good procedures as a result of the
9 monitoring programs that this Commission implemented.

10 But taken as a whole, I believe that the
11 evidence is clear that the utility still continues to
12 have quality of service that is subpar and it's just not
13 satisfactory. There are significant compliance issues
14 that I pointed out earlier in my questions that continue
15 to persist that concern me, and a finding of
16 satisfactory would definitely be a disincentive for the
17 utility to continue to address those issues that we
18 heard at the numerous service hearings.

19 I would support the motion. I do support the
20 motion as marginal, and I would encourage the utility to
21 make certain improvements that we'll go into as we
22 address the various issues down the road.

23 **CHAIRMAN BRISÉ:** Commissioner Balbis.

24 **COMMISSIONER BALBIS:** Thank you, Mr. Chairman.

25 And just a follow-up point on Commissioner

1 Edgar's discussion on parsing out individual utilities.
2 And I, and I understand the issues associated with, with
3 having the 25-basis point penalty, if you will, but the
4 other issue I look at that makes me lean towards
5 applying it to all of their systems is that their
6 customer service, their billing, all of that is
7 centralized. And so -- and we had a lot of discussions
8 during the hearing as that why is it that a certain area
9 did not have those types of complaints, and there really
10 wasn't a satisfactory answer to that. So I think
11 because their billing is centralized, because their
12 customer service, their phone systems are centralized,
13 it's appropriate to apply it throughout their system, on
14 top of the reasons that Commissioner Edgar mentioned,
15 so.

16 **CHAIRMAN BRISÉ:** Any further comment from any
17 other Commissioners?

18 All right. Just before we vote, I guess I'll
19 put in my comment.

20 I do think that the, the utility has made some
21 efforts to, to move the ball forward, but I don't think
22 it has gotten to where it needs to be. So, therefore, I
23 am concerned, as expressed by my fellow Commissioners,
24 that if we provide a, sort of a stamp of satisfactory,
25 then that could potentially retard the progress forward.

1 And, you know, based upon my interaction at
2 the various customer hearings, I think, as I said in the
3 last, in the last time we looked at this, that there was
4 a certain disconnect between the customers and the
5 company. I think that that gap is beginning to get
6 bridged a little bit, but from my vantage point, it's
7 not where it needs to be. So, therefore, I will be
8 supporting the motion as well.

9 So at this time, all in favor of the Balbis
10 motion, say aye.

11 (Vote taken.)

12 Any opposed?

13 (No response.)

14 Very good.

15 Now we're moving on to Issue 2.

16 **MS. GOLDEN:** Commissioners, in Issue 2 staff
17 is recommending that the company should be required to
18 provide quarterly reports for a period of one year
19 following issuance of the Commission's order. Those
20 reports should cover boiled water notices and aesthetic
21 improvements. At this time we can answer questions.

22 **CHAIRMAN BRISÉ:** Okay. Who would like to go
23 first?

24 Commissioner Brown.

25 **COMMISSIONER BROWN:** I don't have questions

1 but I have some suggestions, if the Chair would be --
2 accommodate me here.

3 **CHAIRMAN BRISÉ:** Before you do that, let me
4 ask staff a question, and then maybe that'll help us get
5 into that posture.

6 Since we found that, on Issue 1, it's
7 marginal, what are the options that are there to deal
8 with that? And then after that, we'll begin to take
9 those suggestions.

10 **MR. WILLIS:** Commissioner, at this point,
11 since you did find that it was marginal in Issue 1,
12 Issue 2 would be where you would consider any penalty as
13 far as basis points and the return on equity. And also
14 if you desire to go down the road of monitoring, which
15 is what Commissioner Brown was talking about, certain
16 aspects, as well as Commissioner Balbis and the other
17 Commissioners, this would be the point in which you
18 would indicate the things that you would like us to
19 monitor. We can help you with that, if you'd, if you'd
20 like.

21 **CHAIRMAN BRISÉ:** Okay. So then this is the
22 point that if we were going to address any ROE issues,
23 we would address that here. And if there would be any
24 plans, surveillance plans and so forth, that would be
25 looked at, this would be the time for us to do so.

1 Commissioner Brown, I think you had indicated
2 that you wanted to address this issue.

3 **COMMISSIONER BROWN:** Thank you. And actually
4 I think I may have a question now, now that you raised
5 the ROE question.

6 I know previously staff has provided us the
7 different basis points and what that would -- how that
8 would change the ROE in terms of dollars. Staff
9 provided us with the 25 basis points, the approximate
10 amount of \$82,000. I was wondering what the 50-basis
11 points reduction would be in terms of dollars? Do we
12 have that information at this time?

13 **MR. MAUREY:** Yes. At this point in time it
14 would be double the 82.

15 **COMMISSIONER BROWN:** Oh, okay.

16 **MR. MAUREY:** Okay. But that number will
17 change based on other adjustments in following issues.

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

19 And, Commissioners, I have a few
20 recommendations. First, when there's been a notice of
21 any violation with DEP or the Water Management
22 Districts, whether it's a consent order, a warning
23 letter, or otherwise, I believe the utility should be
24 required to provide this information to the Commission
25 in order to monitor the progress of the utility.

1 I understand that typically when a rate case
2 occurs we get this information right before the rate
3 case. Given the company's history of some significant
4 noncompliance issues with DEP and the reporting
5 requirements with the Water Management District, I think
6 it would benefit us to be up-to-date on where they are
7 with regard to compliance issues with DEP, and
8 particularly St. Johns Water Management District.

9 With regard to the precautionary boil water
10 notices, I have two suggestions. And, again, this is
11 all just for consideration and discussion purposes for
12 us.

13 The staff has made a recommendation to have
14 reports, quarterly reports regarding the precautionary
15 boil water notices. I feel it would be important to
16 include with those any customer responses that the
17 utility receives that are in writing for our
18 consideration. Additionally, with regard to the
19 precautionary boil water notices, I would recommend that
20 as a result of the large inconsistencies that we've --
21 that staff found, the utility should also use every
22 means possible. It appears that the utility sometimes
23 uses telephone, given the circumstances and the customer
24 base of those that are affected, sometimes they also
25 post it on the website, sometimes they mail it, they put

1 it on the door.

2 I think that the utility -- it would benefit
3 the, not only the customers, but the utility, because
4 there's this perception of unsafe, unpotable water out
5 there, if the utility could make every effort possible,
6 that would be a suggestion. I know they're not legally
7 required to, but I would suggest that they try to make
8 every effort.

9 Additionally, and this is my last one, when
10 Aqua decides to purchase future systems in the future,
11 whether they're new or existing, I would recommend that
12 it reevaluates its, how it assesses the due diligence it
13 conducts in the acquisition process. Purchasing the
14 smaller utility systems ultimately has become the cost
15 causer that's borne by all the ratepayers. We've seen
16 it in some of the utilities, the smaller utilities that
17 they've purchased, that the utility may not have
18 conducted enough due diligence to know the current state
19 of the, of the facilities. And I am not making a
20 recommendation to require them to do anything; I just
21 would make a suggestion that they reassess how it
22 evaluates its acquisition -- acquiring smaller systems.

23 **CHAIRMAN BRISÉ:** Commissioner Balbis.

24 **COMMISSIONER BALBIS:** Thank you, Mr. Chairman.

25 And I have a question for staff. Previously

1 this Commission has required a monitoring program. What
2 are the costs associated with the monitoring programs
3 that have been in place?

4 **MR. MAUREY:** Commissioner, that, that will
5 vary. It is our understanding that the Phase I and
6 Phase II monitoring plans ran over \$200,000. \$75,000 of
7 that were reflected in this case. So it will depend on
8 what's required. That will, that will drive the cost.

9 **COMMISSIONER BALBIS:** Okay. What my concern
10 is is that, you know, when a utility comes in and
11 submits for a rate case, that is the time where the
12 burden is placed on the utility to prove that their
13 quality of service is satisfactory or not, and that's
14 when we determine it is. And, and I think that
15 requiring a monitoring program which is, which has been
16 in place in the past which has worked but at a very high
17 cost, that again is passed along to the ratepayers, that
18 I think that maybe a better way to do it is not to
19 require a monitoring program, but, you know, have the
20 marginal quality of service in place until which time
21 the utility can prove its case that it is, has a
22 satisfactory quality of service or otherwise.

23 So we're kind of dancing around the, the ROE
24 issue, but I certainly feel that, you know, Aqua, during
25 the hearing, indicated examples of how they use

1 incentive, incentive pay to motivate employees. And I
2 certainly think that a finding of marginal quality of
3 service without some sort of financial impact does not
4 provide an incentive to, to improve the quality of
5 service. So I would hope that this Commission does move
6 forward with a reduction in ROE based on the finding of
7 marginal, and I would open up to the other Commissioners
8 as to what number that would -- that is appropriate.

9 **CHAIRMAN BRISÉ:** Commissioner Graham.

10 **COMMISSIONER GRAHAM:** Thank you, Mr. Chairman.

11 Staff, if we -- we've already decided we're
12 going to rate them as being marginal. If we come back
13 with a number for -- the last time we said 25 basis
14 points. Do we come back with a number of reduction in
15 basis points and we start -- let me back up before I ask
16 this question.

17 DEP does the testing to make sure that they
18 hit the potable water standard; is that correct?

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

20 **COMMISSIONER GRAHAM:** And there is other
21 secondary standards out there. Does DEP measure those
22 or are those reported by the company?

23 **MR. WILLIS:** They're actually reported by the
24 company. The company actually measures those, reports
25 those, just like they do a lot of their bacteriological

1 samples testing results. It's just the way DEP requires
2 it to be done by independent laboratories. But they are
3 reported. But, yes, sir, they --

4 **COMMISSIONER GRAHAM:** Now some of those
5 secondary standards are, like, taste and odor and that
6 kind of stuff?

7 **MR. WILLIS:** Taste, odor, and color.

8 **COMMISSIONER GRAHAM:** Now is there a -- I take
9 it there's a window within that standard. If they're
10 outside of that window either one way or the other, that
11 gets reported as well?

12 **MR. WILLIS:** Yes, it does.

13 **COMMISSIONER GRAHAM:** So rather than us
14 setting up some sort of monitoring program, we can just
15 basically look at the data that somebody is already
16 collecting. So there really is no cost associated with
17 that other than staff time of looking over that stuff.

18 **MR. WILLIS:** Anything that's already being
19 filed with DEP doesn't really cost the company any more
20 to give to the Commission except copying costs and
21 mailing. So when you're talking about just them
22 supplying information that either DEP sends them as far
23 as notice violations, letters of violations, that's just
24 a matter of copying it and sending it in to the, to the
25 Commission Staff. That's not going to be real material

1 when it comes to cost as far as notifying the
2 Commission, if that answers your question.

3 **COMMISSIONER GRAHAM:** Yeah. Well, we're
4 looking for something, as some of the Commissioners have
5 said, as some sort of incentive or decentive (phonetic),
6 or whichever way you want to look at it. Is it
7 possible, once we set and finish this rate case here,
8 can you still adjust, you know, 50 basis points at a
9 time one way or the other every time these tests come
10 through if they're not hitting the standard that they
11 need to, and that way you can be more specific about
12 where you're dinking it and where you're not dinking it?
13 I mean, rather than doing all the systems, you know, you
14 have one that's just continually bad, and continue
15 increasing that until you hit the max, which is
16 100 basis points.

17 **MR. WILLIS:** Sure. I understand your
18 question. I would say that you can't do that. Once the
19 Commission makes a determination of satisfactory,
20 unsatisfactory, marginal, and once you come up with an
21 ROE penalty, that would stay in place until the company
22 proves up otherwise, which is normally its next rate
23 case. The law really doesn't have a meeting or a place
24 for the Commission to adjust that up and down as you go
25 along, unless you actually had a proceeding before you.

1 And that, to do that would probably require staff to
2 come back to you with another recommendation every time
3 something like that happens to adjust up or down,
4 whether the company resolved a lot of problems, you
5 know, to take some of it away, or likewise. To me,
6 that's going to be a costly approach.

7 **COMMISSIONER GRAHAM:** See, it just -- we're
8 looking at this and we're talking about this -- I don't
9 mean to put words in anybody's mouth -- as being some
10 sort of incentivizing device. And rather than have to
11 put it off for two years to change one way or the other,
12 or three years, or whenever they decide to come back
13 with another rate case, you know, if it's something, if
14 this testing, the primary, secondary testing is done
15 quarterly, then, you know, we get to look at those
16 numbers every quarter. And you can say you guys are
17 doing better and you start, you know, changing that,
18 changing the basis point because, you know, that money
19 is a reward for them. If they're going the other
20 direction, you start changing the other direction. But,
21 you know, so you'll have some sort of a flow there so we
22 can control and not have to go back through a full-blown
23 rate case.

24 **MR. RIEGER:** Commissioner, if I may, as far as
25 the testing results, the primary and secondaries, it's

1 the timing and the frequency of these required tests.
2 And I believe these type of tests, they come every three
3 years. So it's not like it's a quarterly test.

4 **COMMISSIONER GRAHAM:** It's every three years?

5 **MR. RIEGER:** These primary and secondaries,
6 unless there's some deficiency or they're exceeding
7 something, you know, they will only be required like
8 three years.

9 Now there are other tests, like the coliform
10 bacterias, which may be a monthly or quarterly
11 requirement. But these, these tests are not inexpensive
12 to do, so that's the reason they're, they're not that
13 frequent. And typically the water quality does not
14 change as frequent as one, one might think. They're
15 pretty steady from, from testing to testing. So unless
16 there's some specific requirements placed on these
17 utilities to do additional testing, you might not get
18 the criteria or the results that you're looking for
19 basing it on what you're talking with.

20 **COMMISSIONER GRAHAM:** See, and I was just
21 looking for some sort of a tool.

22 **MR. RIEGER:** Right.

23 **COMMISSIONER GRAHAM:** Because we want for the
24 utility to do better. And when they come back and their
25 numbers look better, you want to be able to reward them

1 because they're looking better. And the same way, going
2 the other direction, if they're not doing as good and
3 they're dropping down --

4 **MR. RIEGER:** That's understandable. Yes.

5 **COMMISSIONER GRAHAM:** So I guess the question
6 to staff, is there anything, is there any sort of tool
7 in our toolbox that we can use to accomplish that and
8 not have to do all this again?

9 **MR. WILLIS:** Mr. Rieger raised a good point
10 there about the testing being so far apart, it's going
11 to make it difficult for us to come back to you at some
12 point within a year, unless you require additional
13 testing. And I can tell you Mr. Rieger is right, some
14 of this testing is pretty expensive, and that would add
15 to the cost of the, of the actual monitoring plan.

16 The, the only thing we, we have to work with
17 in our toolbox right now would be consent orders, notice
18 of violations, letters of violations, and any kind of
19 boil water notice event we might have during a certain
20 time period. Now we could, we could monitor those, and
21 if we believe that they're, the company is going
22 downhill and not improving, we could come back to the
23 Commission with that result.

24 I don't know that you'd want to put a time
25 certain on it. I'm not sure how you feel about that.

1 It, it just raises the level of monitoring to that point
2 where we would have to be constantly looking at the
3 level they are, whether they're good or bad. If they're
4 getting better, then we would have to bring something
5 down. And it's kind of subjective on our part at that
6 point as to how better we think they're getting or how
7 worse we think they're getting before we bring something
8 back to the Commission. Just some points I'd like to
9 throw out there as far as --

10 **COMMISSIONER GRAHAM:** Okay. That's all I have
11 for now.

12 **CHAIRMAN BRISÉ:** Commissioner Balbis.

13 **COMMISSIONER BALBIS:** Thank you.

14 And following up on that same line of
15 questions, you discussed different options that the
16 Commission had. Are there any options -- let's say this
17 Commission finds that ROE will be reduced 50 basis
18 points until such time that the company can prove that
19 the quality of service has improved. Is there anything
20 other than a full-blown rate case that the company can
21 submit or apply for us to reassess the quality of
22 service issue? Is there a limited proceeding?

23 **MR. WILLIS:** Well, I fully believe the company
24 could come forward with a petition. You could -- any
25 time they feel that they have, they could demonstrate

1 that they have met the objectives for satisfactory, they
2 could come forward with a limited proceeding and prove
3 that up. I would suggest that at that point it would
4 require the Commission to again go out to the service
5 hearings to get additional testimony from customers to
6 find out whether or not they have achieved that point,
7 but that is an option. They can file a petition at any
8 point just to look at that one avenue requesting the
9 Commission to, to find them now satisfactory and to take
10 away the ROE penalty.

11 **COMMISSIONER BALBIS:** See, I think that may be
12 a better option, rather than a costly monitoring program
13 that can cost hundreds of thousands of dollars. If, you
14 know, after two, three years the company feels that, you
15 know, they've addressed a lot of these billing issues,
16 addressed a lot of the customer service issues, and
17 they're comfortable with submitting a petition for a
18 limited proceeding on just this issue, I would be
19 comfortable with that option rather than an expensive
20 monitoring program or testing program where, you know,
21 there aren't any quantitative numbers to meet for the
22 secondary water quality standards and so now we're
23 delving into perhaps a regulatory authority that we may
24 not have or is covered by another agency.

25 So I would be comfortable with not requiring a

1 monitoring plan, and at which time the company would
2 like to submit a petition to prove their case, that we
3 would address it at that time.

4 **CHAIRMAN BRISÉ:** Thank you, Commissioner
5 Balbis.

6 I'm coming to you in a few minutes.

7 With respect to the notion of a petition by
8 the utility, let's say we were to go down a path of a
9 reduction in ROE, they could petition on their own. We
10 wouldn't have to do anything to that effect.

11 **MR. WILLIS:** Absolutely. The company can
12 petition the Commission at any point in time.

13 **CHAIRMAN BRISÉ:** Okay. Now let's talk a
14 little bit about the monitoring plan that we had in
15 place. How well did it work? What were the flaws with
16 it? If there were participants that were supposed to
17 play a role in that, how well did everyone who was a
18 participant play their role in that so that if we were
19 to decide to go down that path again for some reason or
20 the other, that we know how to set it up if we wanted to
21 go that route again?

22 **MR. WILLIS:** Okay. I think -- Martha, would
23 you like to address that?

24 **MS. GOLDEN:** Commissioners, we believe that,
25 as has been discussed, we do believe there were positive

1 results that came out of both the Phase I and Phase II
2 monitoring plans.

3 Phase I was very extensive in terms of we had
4 tapes from, from AAI's call center that PSC staff
5 listened to to address the issue of rudeness and so
6 forth. Staff determined at that time there was only one
7 call out of that group that was monitored that they
8 believe that the customer service representative was
9 actually rude. They also did some surveys of, of the
10 customers who were involved in those calls. The next
11 step in Phase II, we looked at a lot of data from the
12 call center.

13 And what we've seen through the course of the
14 two monitoring plans and discovery at the hearing -- we
15 have almost five years of data. And it shows that over
16 the last three years the company has shown some steady
17 improvement in their call center. We've seen that when
18 they add additional customer service representatives,
19 all of the statistics improve. And we had a lot of
20 testimony at the hearing regarding their procedures for
21 managing their call center that show that they are
22 paying attention to the details, such as they monitor
23 busy, busy signals.

24 Unfortunately, I think it would be very
25 difficult for any company to staff a call center to the

1 point that you could guarantee that a customer would
2 never get a busy signal or would never have to be on
3 hold. The evidence does show there are some months when
4 they have increases in calls; you will get some busy
5 signals. Sometimes there's a spike in calls; some
6 customers will be on hold longer than they want to be.

7 But when you look at the five years of data,
8 overall we have seen improvement over the last three
9 years, and there was additional improvement during 2011,
10 after the Phase II program ended.

11 As Commissioner Balbis mentioned, there has
12 been a decrease in the number of calls from Florida
13 customers and a decrease in the percentage of those
14 calls that are related to service issues such as line
15 breaks, water quality, and so forth.

16 The failure in the program, again, a lot of
17 that is statistical information. It doesn't really take
18 into account how a customer feels. There was a lot of
19 discussion about perception. So even though those
20 numbers do show improvement, we still have customers who
21 feel that they didn't get the service they wanted, they
22 didn't get the answer they wanted, didn't feel that they
23 got the help that they were looking for when they
24 called. So that, that's the difficulty. We can look at
25 all those numbers, you know, all day, but that doesn't

1 really address that.

2 The other problem, which was disappointing to
3 staff, is that we found out that the Office of Public
4 Counsel, who had requested a great deal of that
5 information, really didn't follow through and use the
6 information like they could have. They did not listen
7 to any of those tapes that Commission Staff listened to.
8 So we feel that there were some shortcomings in how the
9 process was handled, but overall we do think that it has
10 shown some improvement.

11 **CHAIRMAN BRISÉ:** Okay. Follow-up to that.

12 How much was -- if you could remind me of how
13 much the cost was for our involvement in that as a
14 Commission.

15 **MS. GOLDEN:** I'm not sure if we, if we have a
16 number on our costs specifically. But the two phases
17 together, Aqua has reported, were \$230. But we've spent
18 extensive hours of staff time working on both Phase I
19 and Phase II.

20 **CHAIRMAN BRISÉ:** Okay. And so part of, part
21 of what you stated, that one of the failures was that
22 some of the entities pushed for, for that, didn't take
23 advantage of the -- particularly OPC didn't take
24 advantage of the information that was available through
25 that process.

1 **MS. GOLDEN:** Yes. That's correct. And
2 another shortcoming was that during Phase II the
3 parties, OPC and the company particularly, worked
4 together to develop Phase II. And they brought it back
5 to the Commission and said this is the plan that we want
6 to follow. But then after everything was finished, then
7 they decided that it wasn't the information that they
8 wanted or that they felt that the goals weren't good
9 enough, the information was not good enough, said that
10 they did not get historical information, that they did
11 not get enough state-specific information. We disagree
12 with that, as I've told you. We've got five years of
13 data that we can look at. There was historical
14 information provided. And out of the seven different
15 monitoring reports, five of them include information
16 that is specific to Florida. It's not perfect. There
17 may be some particular questions someone has that's not
18 answered by that data. But we believe that if you look
19 at all of it together, it does give you a very good
20 picture of how they're running their call center.

21 **CHAIRMAN BRISE:** So a final question before I
22 go to Commissioner Brown, so if we were to go down a
23 path of establishing a monitoring system similar to what
24 we had in Phase II, you would probably suggest that that
25 would be handled primarily, designed and handled

1 primarily by the Commission and the utility and no other
2 external parties. Would that be your suggestion?

3 MS. GOLDEN: Yes.

4 CHAIRMAN BRISÉ: I'm sort of reading that into
5 what you were saying.

6 MS. GOLDEN: Yes. We believe that that would
7 help reduce some of the expense. We believe the
8 information should be made available to any parties who
9 want to see it. But as far as requiring their
10 involvement in the review of that and requiring the
11 company to provide copies to everybody, that would help
12 to reduce the expense if we could just perhaps have it
13 in the docket file and have it available to everyone.

14 Another thing I would add is that as far as
15 the reports that were provided in Phase II, several of
16 those reports are just one-page reports that include a
17 lot of information. So I think there may be some
18 reports, if you want to go into that level of detail,
19 there's some of those reports we could probably
20 eliminate and perhaps pick up some other pieces of
21 information. It might not have to be a whole report.
22 For example, they could give us the blocked call rate
23 when they monitor the busy signals to see if that's, if
24 that is becoming a problem. Right now it's not. But
25 that would just be one piece of information. There's

1 several things like that that perhaps the company could
2 give us the information without it being an extensive
3 reporting requirement.

4 **CHAIRMAN BRISÉ:** Thank you very much.
5 Commissioner Brown.

6 **COMMISSIONER BROWN:** Thank you.

7 And along that same path, can you identify
8 what type of information would -- could be included in
9 the quarterly reports that staff is suggesting that
10 would be cost-effective? Is there, are there --

11 **MS. GOLDEN:** In terms of the call center piece
12 of the monitoring?

13 **COMMISSIONER BROWN:** Yes.

14 **MS. GOLDEN:** Yes. They have -- do you want
15 the specific reports?

16 **COMMISSIONER BROWN:** Definitely. If we're, if
17 we're going to continue down some type of monitoring
18 with the utility, I think it's beneficial for us to hear
19 what would be cost-effective.

20 **MS. GOLDEN:** Okay. There's one that's called
21 call center monitoring statistics report. That's the
22 report that gives you the statistics for AAI's three
23 national call centers. That's a one-page report.

24 And as far as a quarterly report, they can
25 include three months of information on one page. So we

1 believe that would be cost-effective.

2 And that's information that they're already
3 producing. I won't say that there's no cost, because
4 some of this information, they have it in-house, and
5 then they may have to do a little work to put it into a
6 report format for us, but they would not be gathering
7 data that they're not already getting. So that would be
8 one.

9 There's management quality performance report,
10 which is a report that gives the number of Florida calls
11 ranked by the top 20 types of calls each month. Again,
12 that's a one-page report, and that's information that
13 the company is already gathering.

14 There's a Florida complaint support
15 information report. That one was rather lengthy, but if
16 they could give us just the bottom line total, and
17 that's the number of calls where a customer actually did
18 talk to a customer service representative. And that
19 information helps us to see that a large percentage of
20 their calls that are being handled through the
21 interactive voice response system, things like checking
22 your balance, paying your bills, so forth, that they
23 don't have to talk to a customer service representative.
24 But if we get that other little piece of information,
25 then we can see -- if we suddenly started to see that a

1 lot more customers needed to talk to a customer service
2 rep, that would be an indication that maybe things are
3 not going the direction that they should. Again, that
4 would be just one number.

5 Florida score card report, that's one that
6 gives information on estimation rates, number of
7 accounts that are not billed, active accounts not
8 billed, so forth. That's a one-page report.

9 **COMMISSIONER BROWN:** Okay. You see the path
10 that I'm going down though. I think it would be helpful
11 for the Commission to have this type of information in
12 the quarterly reports. I, I kind of agree with staff; I
13 think that the evidence in the record support that the
14 monitoring programs aren't necessarily, while there has
15 been improvement as a result of Phase I and Phase II,
16 they may not be as cost-effective, which the customers
17 ultimately bear the burden to pay for those. So I think
18 if we modify and kind of taper down the intensive
19 monitoring reports that we've required in the past,
20 while still keeping a vigilant eye on the progress of
21 the utility, we could be in a good position without
22 putting, shifting those costs onto the customers, which
23 goes in line with my earlier suggestion of those four
24 ideas of how to improve the quality of service for the
25 utility that I believe are necessarily cost-effective.

1 But we can monitor what they're doing so that when the
2 utility comes back in for another rate case, we can see
3 whether we want to adjust that ROE again.

4 And getting to the ROE discussion, which I
5 think we kind of circumvented, I would propose an ROE
6 reduction of 50 basis points in the amount of \$164,000
7 as part of this issue. And I don't know if I should do
8 that in a motion format. What is the appropriate
9 procedural -- or, pardon me, if the Commission would
10 like further discussion on the 50 basis points, I would
11 entertain that. But at this juncture, I think the 25 --
12 from the evidence in the record, we previously
13 recommended a 25-basis points reduction. I felt
14 comfortable at that time with the 25 basis points.
15 Looking at the other evidence in the record based on the
16 service hearings, the technical hearing, I think there
17 is ample evidence to support a further reduction of 50
18 basis points at this juncture.

19 **CHAIRMAN BRISÉ:** Okay. I'm going to take a
20 bite at the procedure, and then I'm going to go to
21 Commissioner Balbis, and then Commissioner Edgar.

22 Obviously you can put forth a motion and we
23 can discuss, and it gets a second and we can discuss the
24 motion, or we can not go to the motion yet, have some
25 discussion, and then, you know, at a later time a motion

1 can be taken up based upon the discussion that has
2 occurred. But that would be completely up to you.

3 **COMMISSIONER BROWN:** I would, I would like to
4 hear from my fellow Commissioners.

5 **CHAIRMAN BRISÉ:** All right. Commissioner
6 Balbis.

7 **COMMISSIONER BALBIS:** Thank you, Mr. Chairman.
8 And unfortunately I think each issue is
9 intertwined on this. I like the fact that -- and
10 perhaps we can come up with a monitoring plan that's
11 more cost-effective. You know, obviously the last thing
12 we would want to do is implement a 25-basis point
13 reduction, which is \$82,000, and implement a monitoring
14 plan that costs \$100,000. I mean, obviously that I
15 don't think would result in what is wanted.

16 So if, and I'm just throwing this out, but if
17 staff can maybe estimate the monitoring plan or those
18 reports that you mentioned what you feel the annual cost
19 to the company, which is ultimately the ratepayers,
20 would be so we can kind of do a cost benefit analysis of
21 that, or maybe the Commission can cap, you know, come up
22 with a \$25,000 monitoring plan, knowing that we spent
23 230,000 on Phase I and II combined.

24 **MR. MAUREY:** Commissioner, yes. If we
25 required the type of reports that were recently

1. discussed, that cost would be nominal. The company is
2. already preparing those reports. It would only be a
3. matter of them filing with us.

4. **COMMISSIONER BALBIS:** Okay. So nominal as in
5. very close to zero, I would assume.

6. **MR. MAUREY:** Copying costs, mailing costs.
7. Yes.

8. **COMMISSIONER BALBIS:** Okay. With that, I
9. would support the implementation of a monitoring plan as
10. described by Ms. Golden, being comfortable that whatever
11. ROE penalty that we assess will continue to motivate the
12. company to move forward with the improvements to
13. customer service and quality of service.

14. **CHAIRMAN BRISÉ:** Commissioner Edgar.

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

16. A lot of time and energy and effort went into
17. the processes and the review of the results of the
18. stages and phases of the monitoring plans that we have
19. had to date, and that is time, energy, and resources of
20. our staff, of the company, and of every interested party
21. and participant stakeholder. If we are going to include
22. in our order that will be issued from the results of our
23. decisions today a next round monitoring plan, I would
24. just ask that we think about and try to the best of our
25. ability give clear direction to the staff, to our staff

1 and to the company as to what the purpose and what the
2 ultimate use of the information collected and reported
3 would be.

4 On the second point, as to the ROE discussion
5 that we are having today, when the PAA was before us, we
6 had a discussion that kind of centered around, after the
7 finding of marginal, a reduction to the leverage formula
8 amount of 25 to 50 or somewhere in between. And so I
9 think we're in a similar position today.

10 I can support the suggestion that has been
11 made of a 50-basis point reduction, recognizing that
12 since that point in time we have gone through the
13 full-blown hearing process. I would have a little bit
14 of concern about attaching a dollar amount to that, to
15 whatever basis point decision we make, recognizing that
16 the actual dollar amount will ultimately potentially
17 change a little bit based on the allowances and
18 disallowances we make in the other issues that are
19 before us today.

20 **CHAIRMAN BRISÉ:** Commissioner Graham.

21 **COMMISSIONER GRAHAM:** Thank you, Mr. Chairman.

22 I guess I completely agree with Commissioner
23 Edgar. Her point with the monitoring program is what is
24 the net outcome you're looking for? So the next rate
25 case when we're sitting here going through the same

1 conversation, we say on this date you were supposed to
2 be here, and you've either exceeded or have not got to
3 that point. So then there is definitely -- you've got
4 to let people know where you want for them to be, and so
5 I think that needs to be clearly articulated.

6 The other thing is do we anticipate some sort
7 of a water quality monitoring when we're talking about a
8 monitoring program, or are we just talking strictly
9 about customer service? Because there are some -- the
10 tests that are currently being done and, you know, some
11 of these things like an iron test, a dissolved solids
12 test, and a color test, those are very inexpensive tests
13 to run and those are all part of the secondary
14 standards. You know, are we going to look at that on a,
15 you know, yearly, monthly, quarterly, whatever basis, or
16 is that going to be part of the monitoring program, or
17 are we just going to strictly stick with customer
18 service? I throw that out just for discussion, because
19 if we're talking about it -- and I completely agree with
20 Commissioner Balbis. We don't need to be adding any
21 costs to anything. I mean, anything that you can get
22 done for \$5,000 a year will probably be well worth
23 within the window of, you know, following those numbers.

24 I'm not looking for any additional test, but
25 if there's something that DEP or anybody else that's

1 doing testing out there can get back to us with, or
2 water management groups, or I don't know who's doing
3 these testing, but I would imagine that a lot of that
4 stuff that we're looking for exists. It's just a matter
5 of it being reported to us or us going to find it.

6 **MR. WILLIS:** Commissioner Graham, I think
7 Commissioner Brown hit on it a while ago, that she was
8 wanting to get copies from DEP on any letters of
9 violation, notices of violation, consent orders, which
10 would be nothing more than the company forwarding that
11 information to us.

12 If there is a problem detected by DEP as far
13 as bacteriological samples, any problem like that, it's
14 going to be part of a letter of violation or a notice of
15 violation or a consent order. It'll be contained in
16 that.

17 I don't know if you want to go all the way
18 down to requiring the company to file their test results
19 with the Commission. I mean, the point that I think
20 Andrew was getting at, anything that the company already
21 has in hand, they've already done, if it's a document,
22 it's just a matter of copying that and sending it to the
23 Commission. They just need to know what they have to do
24 and what they have to send.

25 We can get down to the actual test results.

1 But the only problem there is you may not have a
2 secondary standard test result until three years from
3 now. For those they've already done last year, it's
4 going to be more than two years before they get around
5 to doing those tests again for that one system. So some
6 systems you may have it for, some systems you won't.
7 It's just the, the frequency of test results that DEP
8 requires.

9 **COMMISSIONER GRAHAM:** Well, I'll defer to the
10 staff, as, just as Commissioner Brown asked earlier,
11 where do you suggest we get some of this testing and
12 what should we be looking at? Because, I mean, you went
13 to as many of these meetings that I have and you know
14 what the concerns are of the general public out there.
15 What should we be looking at that will keep us apprised
16 of where the, where the quality, water quality is going?

17 **MR. WILLIS:** Sure, Commissioner Graham. And
18 personally what I would be looking for would be looking
19 for these letters of violation because that means to me
20 there's a problem. It's not just a, just a matter of a
21 routine something that the DEP came across in a, in an
22 actual review of the system and they found something, a
23 bolt untightened or something, and they told the utility
24 to fix it. They fixed it. That's not a big deal.

25 But when you get down to a water quality

1 problem, there's going to be a letter of violation
2 somewhere in there. That's the starting point. So you
3 would definitely want this correspondence from DEP on
4 any kind of letter, a notice, or a consent order.

5 **COMMISSIONER GRAHAM:** All right. Now the next
6 question is, back to Commissioner Edgar again, is where
7 is that level that they have to do better or do worse
8 than?

9 **MR. WILLIS:** That they have to do better or
10 worse than? What I'm gathering is --

11 **COMMISSIONER GRAHAM:** I mean, because I don't
12 want to be sitting here in the same position two years
13 from now and saying, well, okay, before they had three
14 letters, this time they had four letters; therefore,
15 that's worse. I mean, because those letters can be, as
16 you said, just as simple as somebody hit it with a
17 backhoe, no fault of their own, but yet a letter went
18 out because it's their job to fix it. Or it could be
19 that, you know, their pumps are going out and their
20 water is not being chlorinated the way it should be and
21 it's therefore not hitting some of the bacteria
22 standards.

23 I mean, even though you're getting those
24 letters and there's, there's got to be a standard or a
25 line or, you know, so they know and we all know that,

1 you know, you did, you did, you did what we asked you to
2 or you did not. And I'm not putting you on the spot
3 saying you have to answer that question now, but I think
4 this needs to be part of the order.

5 **MR. WILLIS:** Well, and I understand where
6 you're coming from, Commissioner Graham, and it's a
7 question that has to be answered at some point. I don't
8 know that I, I can answer that question for you because
9 it's really in your minds where you want the company to
10 be. Do you want them to be to a point where you never
11 see a consent order, which may be an impossibility
12 because you may have something that happens at a plant
13 that's going to take a lot of engineering design and a
14 lot of thinking on how to solve a problem where it's
15 going to have to get to a consent order at that point,
16 not to the fault of the company, but just because of the
17 problematic nature of what's happening, whatever the
18 occurrence is. That's why it's such a problem for me to
19 tell you at what point do you consider it satisfactory.

20 I mean, I would not like to see consent
21 orders, but I do understand at times they have to
22 happen. You certainly wouldn't want to see it get
23 beyond that and actually end up in a court proceeding.
24 But I don't think anything to date has ended up in a
25 court proceeding. We've had some consent orders, but

1 that's the point we've gotten to, and they've been
2 resolved. It's a difficult question for me to sit here
3 and answer for you, unfortunately.

4 **CHAIRMAN BRISÉ:** Commissioner Balbis.

5 **COMMISSIONER BALBIS:** Thank you, Mr. Chairman.

6 And, again, a follow up on Commissioner
7 Graham. I think, you know, obviously this Commission is
8 concerned about water quality and the condition of a
9 system. And Commissioner Brown indicated the consent
10 orders and notice of violations on some of their
11 systems.

12 And I agree with staff. I think that if we
13 require as part of the monitoring plan to be copied on
14 any warning letters, any notices of violations, or any
15 consent orders from the regulatory agencies that look at
16 these samples on a day-to-day basis, because you may
17 have a test result that requires follow-up testing, so
18 you have a violation, but the follow-up testing does not
19 require further action, and so, therefore, wouldn't
20 trigger a notice of violation or warning letter. And
21 yet if we're asked to review all of these sample
22 results, I think it would overburden staff.

23 But I think we can accomplish our closer
24 scrutiny on water quality by asking to be copied on
25 warning letters, notices of violations, or consent

1 orders. And at which point, you know, what do we do
2 once we have the results? And I think that's a very
3 good question.

4 And I think if you look at all of the
5 information that we had to review in order to come to a
6 conclusion on Issue 1, it was the results of the
7 monitoring plan, along with other information. So I
8 think it can be used as a, as a tool for us to determine
9 when we readdress this.

10 And, and as far as the 50-basis point
11 reduction, I believe the range that was given during the
12 PAA process by Mr. Willis was that, you know, a zero to
13 100-point reduction; was that correct?

14 **MR. WILLIS:** It's from a zero to 100-basis
15 point reduction. That's as far as we, we can go.

16 **COMMISSIONER BALBIS:** Okay. And the three
17 different quality of service descriptions would be
18 unsatisfactory, marginal, or satisfactory.

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

20 **COMMISSIONER BALBIS:** Okay. So, you know, I
21 think a 50-basis point reduction is at the midpoint of
22 it, which I think is consistent for this case with a
23 determination of marginal quality of service. And I
24 think with the monitoring plan of nominal costs with the
25 added water quality monitoring that, you know, being

1 copied on those reports, I think will allow us to
2 closely watch the quality of water as well as the
3 quality of service and achieve the goal of everyone.

4 So with that, I'd move that we, we move
5 forward with the 50-basis point reduction in the ROE and
6 put together a monitoring program as described by staff,
7 with the additional correspondence, warning letters,
8 notices of violation, and consent orders.

9 **CHAIRMAN BRISÉ:** Is there a second?

10 (Microphone off. Motion seconded by
11 Commissioner.)

12 All right.

13 **MR. JAEGER:** Excuse me, Chairman. I just want
14 to make sure, I think when Ms. Golden was talking about
15 those four reports, she said some of those are monthly
16 and some of them are -- I mean, you wanted them
17 quarterly or is that -- how did you want those?

18 **MS. GOLDEN:** The information is monthly, but I
19 believe a quarterly report would be fine. That's
20 consistent with what we've asked for for the boil water
21 notices.

22 **MR. JAEGER:** That's all.

23 **CHAIRMAN BRISÉ:** Thank you.

24 Commissioner Brown.

25 **COMMISSIONER BROWN:** And thank you,

1 Mr. Chairman.

2 I was going to make that reference to make
3 sure that we include that as part of the monitoring
4 plan, in addition to the suggestion of monitoring any
5 compliance issues with DEP and the Water Management
6 Districts. Just for clarity for the record, also as
7 part of those quarterly reports, as I stated earlier,
8 for the precautionary boil water notices, I want to make
9 sure we get all correspondence from the customers that
10 are provided to the utility in writing. So that's also
11 an attachment to the report.

12 So I don't know if that needs to be part of
13 the motion, but I just wanted to clarify that I think
14 that would be beneficial as part of our report, the
15 monitoring reports.

16 **CHAIRMAN BRISÉ:** Commissioner Balbis.

17 **COMMISSIONER BALBIS:** I just want to point out
18 as, having the unfortunate experience of running a large
19 water system, that the number of precautionary boil
20 water notices, line breaks, things that happen all time,
21 and, you know, it may -- I don't want to flood the staff
22 with, with this information. But if staff feels that
23 looking at the number of boil water notices that they've
24 had, if it's something that wouldn't be a problem. But
25 I agree, major line breaks that deal with potential

1 health issues are important, and those might be covered
2 by the DEP notices that are required. But, you know,
3 certainly, if you would like -- I just -- we used to
4 send out hundreds of those on a regular basis, so.

5 **COMMISSIONER BROWN:** Just for clarity, it's
6 the customer responses to -- when the customer provides
7 the utility with a written response, I think it would be
8 beneficial to hear both sides of the story. So that's
9 what I was referring to, not in addition to the
10 quarterly reports.

11 **COMMISSIONER BALBIS:** Okay. Well, I would, I
12 would add that to my motion then.

13 **COMMISSIONER BROWN:** Okay.

14 **CHAIRMAN BRISÉ:** Okay. All right.
15 Mr. Willis, it seemed like you wanted to say something.

16 **MR. WILLIS:** I did at the moment.

17 I was just going to suggest that the question
18 is what were we going to do with the information we get
19 from DEP as far as consent orders, notice of violation,
20 I was just going to let you know that we certainly, as
21 staff, would use that information to determine if the
22 company is going in the wrong direction. If they are
23 going in the wrong direction, staff can bring a
24 recommendation to the Commission in the midst of that
25 and say we perceive a problem and it needs to be

1 addressed now instead of later. So I just wanted to
2 throw that out.

3 **CHAIRMAN BRISÉ:** Okay. Thank you.

4 And I think, based upon the motion the way it
5 was stated, I think it provides direction as to what the
6 Commission would like to see moving forward and how we
7 would like the information to be used moving forward.

8 Now there was an amendment to the motion by
9 Commissioner Balbis with the amendment from Commissioner
10 Brown. I just want to make sure that we're clear on
11 what that amendment says so that, so that we have
12 complete clarity for the record. So if you could
13 restate your amendment, and then we will take up the
14 amendment so that it could be part of the motion.

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

16 And as part of the quarterly reports for
17 precautionary boil water notices, any customer responses
18 that are provided to the utility in writing shall also
19 be attached to those quarterly reports.

20 **CHAIRMAN BRISÉ:** All right.

21 **COMMISSIONER BALBIS:** And I agree to add that
22 amendment.

23 **CHAIRMAN BRISÉ:** All right. Commissioner
24 Graham.

25 **COMMISSIONER GRAHAM:** The only question I have

1 is do we have an idea of how many customer letters we're
2 talking about?

3 **MR. WILLIS:** No, sir, we don't. We have, we
4 have no idea how many -- are you talking about the ones
5 associated with boil water notices? We don't. We have
6 no idea. I can't imagine it would be that many.

7 **COMMISSIONER GRAHAM:** I guess my question to
8 Commission -- my question to --

9 (Audience interruption.)

10 **CHAIRMAN BRISÉ:** Hello. We certainly
11 appreciate your participation and your engagement and
12 involvement, but -- we recognize that the signs are up,
13 but we'd certainly like to keep the volume down. So
14 thank you, and we appreciate your respecting the
15 process.

16 **COMMISSIONER GRAHAM:** Thank you, Mr. Chairman.
17 I guess my question is, specific to
18 Commissioner Brown's question, is is she just looking to
19 responses to boil water notices or just letters that
20 come in from the customers?

21 **COMMISSIONER BROWN:** My response is the
22 precautionary boil water notices.

23 **COMMISSIONER GRAHAM:** Okay. Thank you.

24 **CHAIRMAN BRISÉ:** All right. I think we have
25 clarity on the motion. Do we have clarity on the

1 amendment? I think we have clarity on the amendment.

2 All right. So the original motion has been
3 amended and, with that, we are ready for a vote. I was
4 trying to make sure we got this right. The amendment
5 was taken up. It was accepted by the original maker of
6 the motion. All right. So with that, we are ready for
7 a vote on the motion as amended.

8 All in favor, say aye.

9 (Vote taken.)

10 All right. Any opposed?

11 (No response.)

12 All right. Very good.

13 Now we are moving on to Issue 3. I think
14 we're doing pretty good on time here.

15 We're going to take up Issue 3. I think
16 Issues 4 through 10 sort of begin to flow out of
17 Issue 3. So if we could tee up Issue 3, deal with Issue
18 3, and then see if we can then move and take the block
19 of the other issues from Issue 4 through Issue 10.

20 **MR. WILLIS:** We can do that.

21 **CHAIRMAN BRISÉ:** Thank you.

22 **MR. WILLIS:** Mr. Fletcher.

23 **MR. FLETCHER:** Commissioner, Bart Fletcher
24 with Commission Staff.

25 Issue 3 addresses Staff's recommendation to

1 approve six pro forma plant projects, as well as
2 corresponding adjustments related to depreciation and
3 property taxes.

4 **CHAIRMAN BRISÉ:** All right. Issue 3. I don't
5 see any lights yet.

6 Commissioner Balbis.

7 **COMMISSIONER BALBIS:** Thank you. And I just
8 have a few comments on this issue.

9 It's clear that there are many improvements
10 that are required for Aqua's facilities, and I'd like to
11 see investment in the infrastructure and make those
12 improvements which will provide a better quality of
13 water and a better quality of service. You know,
14 unfortunately those improvements do cost money, and a
15 large portion of this rate increase are associated with
16 the capital costs for these improvements. And they
17 should be made after a proper cost benefit analysis.

18 There was a lot of discussion during the
19 hearing about that. I was glad to see that at first
20 there was some indication that least one of the projects
21 didn't go through that process, but afterwards there was
22 evidence provided that it was. So I want to continue to
23 encourage the utility in making improvements to the
24 system, investing in infrastructure which benefits
25 customers.

1 You know, one of the things that I found
2 interesting is that our rules and statutes require us
3 only to look at pro forma plant increases or plant
4 improvements for 24 months, which is contrary to
5 municipal utilities, which frequently approve 5-year
6 capital improvements plans so that utilities don't have
7 to come in every two years when they have systems that
8 require a lot of improvements.

9 I know the Legislature has looked at this in
10 the past. Hopefully with any future laws that go into
11 effect, that they'll look at giving us some flexibility
12 where we look at longer term improvements that we can
13 approve on an annual basis through a limited proceeding
14 that allows utilities to invest in the infrastructures
15 that are a benefit to both the customers and the
16 utility.

17 So I don't have any further comments. I
18 support Staff's recommendation on this issue.

19 **CHAIRMAN BRISÉ:** All right. Commissioner
20 Graham. I mean, I'm sorry, Commissioner Brown.

21 **COMMISSIONER BROWN:** I knew what you meant.

22 During the hearing, OPC -- this is a question
23 for staff -- OPC asserted that there was some
24 uncertainty with these pro forma plants coming online
25 and within the 24 months. I think they asserted 18

1 months, but the statute says 24 months. Can staff
2 address those concerns?

3 **MR. FLETCHER:** Yes, Commissioner Brown.

4 In Section 367.081(2) there is a 24-month time
5 period from the historical base year. So that 24-month
6 period ends April 30th of this year. So all the
7 evidence in the record as far as signing contracts and
8 awarding bidders that has taken place for -- there's
9 been three projects already completed and the remaining
10 ones will be completed by the end of this month, well
11 within the 24-month period envisioned in the statute.

12 **COMMISSIONER BROWN:** How do we know when
13 projects come online? If we're relying on the
14 information that's in the record about these projected
15 dates, how do we know when those projects actually come
16 online after this rate case ends?

17 **MR. FLETCHER:** Usually the utility will give
18 us a courtesy copy of the DEP certification that has
19 been completed.

20 **COMMISSIONER BROWN:** So is there anything we
21 can do to possibly confirm that the pro forma plants are
22 online?

23 **MR. FLETCHER:** We can require that in the
24 order that the utility provide proof that DEP has
25 certified the completion of the project.

1 **COMMISSIONER BROWN:** Okay. I think that would
2 be a good idea.

3 **CHAIRMAN BRISÉ:** All right. Any further
4 comments? So would you like to amend the motion?

5 **COMMISSIONER BROWN:** I would --

6 **CHAIRMAN BRISÉ:** Or make a motion?

7 **COMMISSIONER BROWN:** Thank you, Mr. Chairman.
8 I would move Staff's recommendation with the
9 caveat that when the pro forma plant projects provided
10 in Issue 3 come online, that they notify staff to
11 confirm, or certify it to staff.

12 (Microphone off. Motion seconded by
13 Commissioner.)

14 All right. There's a second to that motion.
15 Commissioner Edgar.

16 **COMMISSIONER EDGAR:** I was going to say
17 exactly what Commissioner Brown said.

18 **CHAIRMAN BRISÉ:** All right. Very good.

19 **COMMISSIONER EDGAR:** So I can support the
20 motion.

21 **CHAIRMAN BRISÉ:** All right. So we have a
22 motion and a second. All in favor, say aye.

23 (Vote taken.)

24 All right. Any opposed?

25 (Response.)

1 None. Very good.

2 So now we're moving on to 4 through 10.

3 **MR. WILLIS:** Commissioners, I would suggest
4 that you might want to take up 4 through 7 right now
5 because they all, all deal with used and useful, and you
6 might be able to vote this out in a block.

7 **CHAIRMAN BRISÉ:** You're absolutely right on
8 that.

9 You said 4 through 7; right?

10 **MR. WILLIS:** Yes, sir. 4 through 7.

11 **CHAIRMAN BRISÉ:** Okay.

12 **MR. WALDEN:** Commissioners, Issues 4, 5, 6,
13 and 7 address the used and useful portions of water
14 plant, water distribution systems, the wastewater
15 plants, and the wastewater collection systems.

16 **CHAIRMAN BRISÉ:** All right. Commissioner
17 Graham.

18 **COMMISSIONER GRAHAM:** I move staff
19 recommendations on Issues 4 through 7.

20 **COMMISSIONER EDGAR:** Second.

21 **CHAIRMAN BRISÉ:** All right. Moved and
22 properly seconded. All right. Any further comments?
23 Seeing none, all in favor, say aye.

24 (Vote taken.)

25 All right. Very good.

1 Now we're on Issue 8.

2 **MR. FLETCHER:** Commissioners, Issue 8 is a
3 fallout issue that addresses Staff's recommended
4 deferred rate case expense for the utility's 2008 rate
5 case and the instant case.

6 **CHAIRMAN BRISÉ:** All right. For those who are
7 in the audience who may be trying to keep along with us,
8 we're on page 97 of the, of the recommendation.

9 Any comments?

10 Okay. Commissioner Balbis.

11 **COMMISSIONER BALBIS:** Thank you.

12 I just have one quick question for staff. The
13 Office of Public Counsel, in their post-hearing brief,
14 recommended that the Commission follow the methodology
15 used during the PAA process. Did we follow that
16 methodology or use a different one?

17 **MR. FLETCHER:** We followed the same
18 methodology. As far as the 2008 rate case, we used the
19 13-month average up until the time we believe rates will
20 become effective and used one-half of that. And for the
21 current instant case we used a half based on Commission
22 practice to include in deferred rate case expense.

23 **COMMISSIONER BALBIS:** Okay. Thank you. And
24 with that, I move Staff's recommendation on this issue.

25 **CHAIRMAN BRISÉ:** Okay. Is there a second?

1 (Microphone off. Motion seconded by
2 Commissioner.)

3 All right. It's moved and properly seconded.

4 I have a question with respect to rate case
5 expense, and obviously there's discussion about rate
6 case expense and, you know, how it can be deferred and
7 all of that. If somebody on staff can walk me through
8 the effect of potentially not pancaking this one and
9 saying we would go out four years and then put it on,
10 put the rate case expense four years out from where it
11 is now, what effect would that have on customers in
12 terms of interest rates and all of that?

13 **MR. FLETCHER:** Well, the effect of deferring,
14 if you will, the current rate case expense and waiting
15 'til the 2008 rate case has expired, staff has
16 calculated that the four-year -- if you look at each of
17 your Schedule 5-A and 5-Bs for the respective water
18 bands and standalone systems, basically you would delay
19 the implementation of basically what's in the staff
20 recommended rate column less the four-year rate
21 reduction. That would be your initial rates that would
22 go in now. And then once the 2008 rate case has
23 expired, the effect of that, we've calculated, staff has
24 calculated would be approximately 13 months, or, excuse
25 me, \$13,000 impact in revenues by delaying it a year and

1 waiting until the subsequent rate case has expired.

2 **CHAIRMAN BRISÉ:** Okay. Would, would there
3 potentially be any adverse effects on the consumer or
4 the customer with respect to pursuing that track?

5 **MR. FLETCHER:** There's -- it is a de minimis
6 effect. What we have identified is the one-year
7 carrying charge would have the \$13,000 impact. I would
8 envision that as a de minimis impact as far as that
9 one-year delay.

10 **CHAIRMAN BRISÉ:** Okay. Thank you. So we have
11 a -- Commissioner Brown.

12 **COMMISSIONER BROWN:** Thank you, Mr. Chairman.

13 As a follow-up to your question, and this is a
14 question for legal, Ralph or Lisa, regarding -- I know
15 this falls under Issue 37, and this is really talking
16 about a fallout issue that will probably be adjusted
17 once we get to Issue 22. Rate case expenses nonetheless
18 I think, Mr. Chairman, raise some issues that I just
19 wanted to go into regarding identifying any law or rule
20 prohibiting this Commission from deferring the
21 amortization of rate case expenses in the current case
22 that one year.

23 **MS. BENNETT:** The statute governs the recovery
24 of rate case expense. The statute sets forth that there
25 has to be a four-year amortization, at which point rate

1 case expense drops off from rates. What it doesn't
2 expressly state is when that starts. And so that would
3 be a statutory interpretation issue that you must
4 decide.

5 I will note that the accounting staff believes
6 that that starts when the rates start, and that is how
7 they have interpreted it. It is also a precedential
8 issue. The Commission has for the past, as long as I
9 have found in the Lexis search, at least 20 years,
10 applied the rate case expense, the statute, on the date
11 that the rates go into effect. So to overcome a
12 precedent, the case law says that you have to have a
13 strong support in the record to change your
14 long-standing policy.

15 So you've got a statutory interpretation
16 problem and you've got a precedential problem to address
17 if you were to change how you were to approach rate case
18 expense and not pancake.

19 **COMMISSIONER BROWN:** Thank you.

20 **CHAIRMAN BRISÉ:** Thank you.

21 Commissioner Graham?

22 Okay. So to follow the logic, so if we wanted
23 to address the pancaking issue, then we would have to go
24 opposite what the Commission has traditionally done and
25 I guess derive some legislative intent, which would be

1 opposite of what has traditionally held the course up to
2 now.

3 **MS. BENNETT:** Sort of, yes. The statutory
4 interpretation is, "What did the statute mean?" And if
5 you believe that you have the authority -- and it does
6 not expressly say you have to start the day that the
7 rates start. So if you have that authority, then your
8 next step is what facts in the record support the
9 precedent, a change in precedent?

10 Now there -- Witness Dismukes did suggest that
11 the Commission could do this, and there is some
12 testimony in the record from Witness Dismukes that talks
13 about changing your policy.

14 **CHAIRMAN BRISÉ:** Okay. Commissioner Edgar.

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

16 If -- I agree with the comments that our
17 General Counsel's Office representative, Counsel
18 Bennett, has shared with us, and I did have the
19 opportunity in our briefings to ask, I think, some very
20 similar questions as to what do the statutes say and how
21 have we as a Commission interpreted them in the past.
22 And I would note, as has been pointed out to us, that my
23 read of the statute does not expressly give us the
24 authority to alter the timing of when that four-year
25 time period would begin and end, nor does it expressly

1 deny us the authority to do so.

2 I also think that if we were to make a change
3 in the timing of the rate case expense that is under
4 consideration in Issue 8, that some might consider it a
5 major policy change.

6 But I would note, more importantly, that the
7 item as it is written before us, Issue 8, and I quote,
8 should any adjustments be made to deferred rate case
9 expense, is more specifically about the amount that we
10 are going to allow or disallow and does not, does not
11 really speak to the issue of the timing. Now if that is
12 something that we wanted to consider, I certainly think
13 it's a good discussion. But I note that the issue
14 before us specifically is as to the amount, and that
15 before us we have a motion to approve the amount
16 recommended by staff.

17 **CHAIRMAN BRISE:** Commissioner Balbis.

18 **COMMISSIONER BALBIS:** Thank you, Mr. Chairman.

19 And I agree with Commissioner Edgar. The
20 point of my motion was to approve the amount and not how
21 those are applied. And my main question was that we
22 followed the same methodology that we did in the past,
23 which is consistent. And to not just kick the can down
24 the curb a little bit, I was prepared to discuss how we
25 treat the new rate case expense in Issue 22. So just to

1 clarify, my motion is on the amount and, and that is
2 all.

3 **CHAIRMAN BRISÉ:** Thank you, Commissioner. I
4 think I understood the motion. I just wanted to have
5 the discussion a little before we got there, sort of tee
6 it up.

7 **MR. FLETCHER:** If I may -- I'm sorry,
8 Chairman. If I may, if there is a vote, to give staff
9 administrative authority, given that Issue 22, there may
10 be potential adjustments to that that would fall out to
11 this issue, that we be given that administrative
12 authority. Sorry.

13 **CHAIRMAN BRISÉ:** Okay. All right. So we do
14 have a motion on the floor and it has been seconded.

15 All in favor, say aye.

16 (Vote taken.)

17 All right. Any opposed?

18 (No response.)

19 Seeing none, motion carries. Okay. Thank
20 you.

21 I guess we're moving on to 9 and 10.

22 **MR. WILLIS:** Yes, Commissioner. 9 and 10 are
23 fallout issues.

24 **CHAIRMAN BRISÉ:** All right. Commissioner
25 Graham.

1 **COMMISSIONER GRAHAM:** Move staff
2 recommendation on Issues 9 and 10.

3 (Microphone off. Motion seconded by
4 Commissioner.)

5 **CHAIRMAN BRISÉ:** All right. Maybe I'll cause
6 some trouble here, too. No. (Laughter.)

7 We have a motion and a second. All in favor,
8 say aye.

9 (Vote taken.)

10 All right. Very good.

11 Any opposed?

12 (No response.)

13 Seeing none, now we're moving to Issue Number
14 11. And let me ask the Commission, are you comfortable
15 going to 3:00 before we take a break, or would you
16 prefer to take a break right now? All right. All
17 right. So we'll try to forge on 'til 3:00, and at
18 3:00 we'll take a break.

19 All right. Number 11.

20 **MR. MAUREY:** Issue 11 deals with the
21 appropriate amount of accumulated deferred income tax.
22 This is generally a fallout issue. In this instance,
23 staff is recommending the deferred taxes associated with
24 the pro forma investment and with the deferred taxes
25 created after the passage of the Small Business Jobs Act

1 was enacted be incorporated in this case.

2 **CHAIRMAN BRISÉ:** All right. Any comments,
3 discussion, or motion?

4 Commissioner Edgar.

5 **COMMISSIONER EDGAR:** I'd move the staff
6 recommendation, if there are no questions at this point.

7 **CHAIRMAN BRISÉ:** All right. It's been moved.

8 (Microphone off. Motion seconded by
9 Commissioner.)

10 Moved and properly seconded. All in favor,
11 say aye.

12 (Vote taken.)

13 All right. Issue Number 12.

14 **MR. MAUREY:** Issue 12 is a Type B stipulation
15 that was approved at the hearing.

16 **CHAIRMAN BRISÉ:** All right.

17 **MR. MAUREY:** To use the Commission-approved
18 leverage formula at the time of the Commission vote.

19 Issue 13 is the overall cost of capital based
20 on various cost rates. Now in this issue, staff
21 recommended 7.47. That was based on an ROE of 9.76.
22 Based on the vote in Issue 2, the ROE will now be 9.26.
23 We'll have to recalculate what the 7.47 is. But with
24 that administrative authority, we will recommend the
25 fallout overall cost of capital.

1 **CHAIRMAN BRISE:** All right. Is there a motion
2 to that effect?

3 **COMMISSIONER EDGAR:** Mr. Chairman, I would
4 move that we approve the staff recommendation in
5 Item 12, recognizing the leverage formula and our
6 earlier decision on Issue 2, and direct our staff to
7 move forward with their recommendation on Issue 13 with
8 the appropriate adjustments.

9 **CHAIRMAN BRISE:** All right. Is there a
10 second?

11 (Microphone off. Motion seconded by
12 Commissioner.)

13 All right. It's moved and properly seconded.
14 All in favor, say aye.

15 (Vote taken.)

16 All right. Any opposed?

17 (No response.)

18 Seeing none, moving on to Issue 14.

19 **MS. LINGO:** Commissioners, good afternoon.
20 Jennie Lingo with staff.

21 Issue 14 deals with the appropriate billing
22 determinants to use after this fully litigated issue.
23 Looking at the evidence in the record, staff recommends
24 that the billing determinants as reflected in Aqua's MFR
25 systems E-2 and E-14 are appropriate and should be

1 approved.

2 **CHAIRMAN BRISÉ:** All right. Issue 14.

3 Commissioner Graham.

4 **COMMISSIONER GRAHAM:** I will go on a limb and
5 move staff recommendations on 14, 15, and 16.

6 **CHAIRMAN BRISÉ:** All right. Is there a
7 second?

8 (Microphone off. Motion seconded by
9 Commissioner.)

10 Okay. There is a second.

11 Commissioner Balbis.

12 **COMMISSIONER BALBIS:** Yes. I just have one
13 question, and I'm not sure if it falls under Issue 16.
14 It's for staff. Would -- I want to have a discussion on
15 the rate bands and associated systems within each rate
16 band. Would that be appropriate to discuss in Issue 16
17 or in another issue?

18 **MR. MAUREY:** The individual systems within
19 each rate band?

20 **COMMISSIONER BALBIS:** Correct. Or is this
21 just the affiliated charges on 16?

22 **MR. MAUREY:** We can do it in 16, 17 -- or 17.

23 **COMMISSIONER BALBIS:** Okay. Then I'll hold
24 that discussion until Issue 17 and support the motion.

25 **CHAIRMAN BRISÉ:** All right. All in favor of

1 the motion encompassing Issues 14, 15, and 16, say aye.

2 (Vote taken.)

3 All right. Any opposed?

4 (No response.)

5 Seeing none, motion carries.

6 We're on to Issue 17, and Commissioner Balbis
7 will be up to bat.

8 **MR. MAUREY:** Issue 17 deals with the
9 allocation of affiliate revenue costs and charges.
10 Staff is recommending that O&M expense be reduced by
11 \$281,954 principally on three adjustments that are
12 outlined in this issue. Staff's available for any
13 questions.

14 **CHAIRMAN BRISÉ:** All right. Commissioner
15 Balbis.

16 **COMMISSIONER BALBIS:** Mr. Chairman, I know I
17 agreed a few minutes ago that I could go 'til 3:00, but
18 if I could request a break. I think going in that block
19 threw me for a little bit, so.

20 **COMMISSIONER EDGAR:** I echo that.

21 **CHAIRMAN BRISÉ:** All right. Very good. So
22 we're going to take a ten-minute break, so we're going
23 to go to 2:46. So please be back by 2:46. Thank you.

24 (Recess taken.)

25 We're going to go ahead and reconvene and give

1 everyone 30 seconds to go ahead and find a seat, get
2 situated.

3 (Pause.)

4 Okay. We were just about to begin Issue 17.
5 So, Mr. Maurey.

6 **MR. MAUREY:** Yes. Issue 17 deals with the
7 allocation of affiliate charges. Staff has recommended
8 an adjustment to O&M expense of approximately \$282,000.

9 **CHAIRMAN BRISÉ:** All right. Thank you.
10 Commissioners?

11 Commissioner Balbis.

12 **COMMISSIONER BALBIS:** Thank you, Mr. Chairman.
13 I have several questions and comments
14 concerning this important issue. We've heard extensive
15 testimony into the record concerning high water and
16 wastewater bills for Aqua customers. In fact, there
17 should be no question that Aqua customers are paying
18 some of the highest bills in the state. So in reviewing
19 Aqua's costs, I've looked at the cost associated with
20 constructing the improvements, paying their employees
21 that are actually working in the field, as well as costs
22 for chemicals and electricity. These costs, for the
23 most part, seem reasonable.

24 However, a large portion of Aqua's O&M costs
25 are their affiliated charges, which are passed on to

1 Aqua Florida from its parent company. We've heard
2 testimony concerning the statutes and rules associated
3 with the additional scrutiny that these charges must
4 face. The burden of proof of the utilities is even
5 greater with the affiliated charges. The utility's main
6 tool that they provided during the hearing to prove that
7 its costs are reasonable are comparing their hourly
8 rates of the employees to outside consultants. There
9 was no adequate comparison of the total cost to perform
10 a service, just the cost per hour. In my opinion, this
11 was not adequate evidence to prove that these costs are
12 reasonable.

13 On the other side, the Office of Public
14 Counsel expert witness performed a detailed peer group
15 analysis that showed companies treating similar water in
16 similar locations of a similar size and comparing the
17 affiliated charges to Aqua's costs. The OPC witness
18 analysis concluded that Aqua's Florida expenses were 62%
19 higher than their peer group, but there are flaws in
20 this assessment as well.

21 So now we find ourselves in a situation where
22 we have two different analysis, analyses and a
23 determination of which one is a more accurate
24 determination as to what is a prudently incurred cost or
25 not.

1 So a question for staff. You know, here we
2 have one side that, that did not provide a cost of
3 service analysis or a true rate analysis and another
4 side that provided a peer analysis that has some flaws.
5 What options do we have, other than Staff's
6 recommendation, on these affiliated charges?

7 **MR. FLETCHER:** Commissioner, Bart Fletcher
8 with Commission Staff.

9 With regard to what's in the record as far as
10 to determine a fair market value for the services, it's
11 lacking in that regard. I do agree that the -- it was
12 an extensive peer group study that was put forth by OPC
13 Witness Dismukes, but I -- in reviewing that peer group,
14 I don't believe it comports to the Sunshine Utilities,
15 Inc. of Central Florida, which was one of the flaws you
16 mentioned, is comparing the duties and responsibilities
17 of those other utilities in the peer group with that of
18 Aqua Utilities.

19 As far as another -- I think the record
20 really -- I don't know of another option in the record
21 as far as to determine a fair market value for those
22 affiliated services. So in the absence of that, we put
23 forth that indexing factor.

24 **COMMISSIONER BALBIS:** So then, to summarize,
25 you looked at the 2008 affiliated costs and then applied

1 the appropriate index per year that the utility would
2 have been -- would have received that they applied?

3 **MR. FLETCHER:** That is correct. We looked at
4 the 2008 level that was -- to compare apples and apples.
5 We looked at the water bands that was established in the
6 last rate case, and we looked at the 2008 levels that
7 were approved for affiliated costs, and indexed them
8 forward using the Commission's 2008 through 2011 price
9 indexes.

10 **COMMISSIONER BALBIS:** Now has Aqua applied for
11 an index increase from 2008 -- since 2008?

12 **MR. FLETCHER:** Yes, they have. They have
13 consistently applied for those. I think it was just in
14 2011. It was because of the timing of this case where
15 you're not -- you're prohibited from filing an index
16 within one year of the official filing date of a rate
17 case. So, but they, with the exception of 2011, they
18 have filed for the 2008 through 2010.

19 **COMMISSIONER BALBIS:** So if this Commission
20 were to decide that the last time the affiliated charges
21 were deemed prudent was in 2008 and simply returned --
22 or reduced that amount back to the 2008 amount, it would
23 effectively remove what the Commission has already
24 approved in 2009 and 2010 for index increase?

25 **MR. FLETCHER:** That is correct, Commissioner.

1 **COMMISSIONER BALBIS:** And does that -- is that
2 one of the reasons why your recommendation is to add
3 those back in?

4 **MR. FLETCHER:** That is, is that they're
5 entitled by statute to receive those, and they have
6 already been granted those and met the statutory
7 requirements to be granted those indexes in 2008 through
8 2010. And, in essence, if -- and that was one of the
9 reasons why staff recommended indexing those, because
10 you would -- if you don't, you would basically be
11 denying what's already been granted.

12 **COMMISSIONER BALBIS:** Okay. Thank you.
13 That's all the questions I have at this time.

14 **CHAIRMAN BRISÉ:** Thank you, Commissioner.

15 Commissioner Brown.

16 **COMMISSIONER BROWN:** Thank you, Mr. Chairman.
17 I have a few questions as well.

18 Going back to the O&M expense ratio for the
19 parent company versus the AUF Florida, Aqua Florida,
20 there's such a disparity. The Aqua Florida has a ratio
21 of greater than 50%, the parent company has a ratio of
22 38%. Can you explain in detail, Mr. Fletcher, why
23 there's that disparity, in addition to the huge increase
24 of 281% since the last 2008 rate case for management
25 fees?

1 **MR. FLETCHER:** Yes, Commissioner Brown. The
2 50% operating ratio method expense ratio is for AUF here
3 in Florida. The only thing I can say about the
4 difference without having the detail from the parent is
5 I would suspect that the other systems of AAI in the
6 other states may be newer systems and not requiring as
7 great of maintenance as it would for the older systems
8 that we do know of here in Florida that was acquired
9 from Florida Water Service Corporation. That may be a
10 reason for the distinction there from the parent level
11 to this one. It may be that the newer systems that
12 they've acquired through AAI's growth, growth through
13 acquisition is that they're newer systems, that would
14 explain that, as compared to the maintenance that you
15 would have for an older system.

16 The 281% that you mentioned that was set forth
17 or put forth by OPC Witness Dismukes, I cannot reconcile
18 that percentage of the 281. I'm thinking that what's
19 included in there is non-affiliate costs in the
20 contractual services, management and contractual
21 services other that's related to that. Whenever I
22 looked at the Staff's recommended expenses for transfer
23 services management fee and transfer services other,
24 which basically was where ASI costs flowed through 634
25 and 734, and ACO flows through the contractual services

1 other is -- with Staff's other recommended adjustments
2 prior to this point, it was about 66% is what, the
3 calculation that I came to.

4 **COMMISSIONER BROWN:** I appreciate you
5 providing that information to us and as a follow-up to
6 Commissioner Balbis's questions, and thank you for
7 summarizing how we evaluate affiliate transactions. I
8 think you summarized really the staff recommendation
9 very well, but I did want to go into a little more
10 detail why staff believes that the peer group analysis
11 proposed by OPC Witness Dismukes is inappropriate for
12 providing an accurate comparison. I thought during the
13 technical hearing that her proposal was much more in
14 line than what AUF was proposing to use.

15 **MR. FLETCHER:** Yes, Commissioner Brown. On
16 page 125 of Staff's recommendation, one of the foregoing
17 reasons why it could not be used to establish the fair
18 market value for the affiliate service was -- the last
19 sentence of the second paragraph is that the peer group
20 put forth by OPC Witness Dismukes doesn't adequately
21 compare the duties and activities and responsibilities
22 associated with all those employees that are carrying
23 out those affiliate services, be it engineering, legal,
24 or accounting, or other rate -- the rate department.
25 That was the foregoing reason.

1 But there are some others that wasn't clearly
2 articulated in Staff's recommendation in that OPC
3 Witness Dismukes had set forth in the record, or made
4 statements that you don't have to look at the
5 operational characteristics of the systems, of her peer
6 group with that of Aqua. I would tend to disagree with
7 that because one of the components in her, what you call
8 administrative and general expenses in her peer group
9 compared with Aqua was the salaries. I believe the
10 employees that's going into that salary account would be
11 operators, and the level of treatment of those in her
12 peer group versus Aqua, without having that clear
13 distinction, whether there's an apples-to-apples
14 comparison, one may be in a reverse osmosis comparing it
15 with just a pump and chlorinate system for water. We
16 don't have those facts before us of those in her peer
17 group.

18 Also, it was brought out by AUF Witness
19 Szczygiel was the fact that those in her peer group,
20 some of those utilities had not had a rate case before
21 the Commission. That is, I think, I believe is
22 imperative to know that in order to make an
23 apples-to-apples comparison. The reason why is some of
24 those smaller Class C systems will -- if they haven't
25 had a rate case, they don't necessarily report certain

1 expenses like salaries and other expenses.

2 Case in point, there was an Orangeland
3 Utility, a small Class C, had never had a rate case, it
4 had been 40 years since it had come in, came in under
5 our jurisdiction, and there were numerous costs that
6 wasn't reported.

7 So given that light -- and we feel that those
8 other reasons are one that that would not, it would fail
9 to give an accurate market value in order to test AUF's
10 costs.

11 **COMMISSIONER BROWN:** Thank you. And I know
12 that OPC in the last rate case proposed a similar
13 analysis. And I just wanted to understand for the
14 record, because I don't think the staff recommendation
15 went into that much detail, about why Dismukes'
16 recommendation was passed over.

17 My next question goes, if you don't mind,
18 Mr. Chairman, goes hand in hand with Issue 20 regarding
19 salaries and wages on page 131 of the recommendation.

20 Under this issue staff is recommending a 1.18%
21 cost of living increase for non-Aqua Florida employees
22 in this issue. And the same cost of living increase is
23 also recommended in Issue 20 for Aqua Florida employees.
24 If we remove the cost of living increase from Staff's
25 recommendation, what is that dollar impact?

1 **MR. FLETCHER:** For Issue 17, you find that on
2 page 130 of the recommendation, it is right above the
3 footnote 90. It's \$36,736 for the adjustment related to
4 the normalization pro forma adjustments for the ASI and
5 ACO in Issue 17.

6 **COMMISSIONER BROWN:** Okay. Thank you.

7 And, Commissioners, if this is a good time to
8 talk about that, I think, given the recent Commission
9 decisions that we've had as recently as November, I
10 think testimony from the customers about the lack of
11 cost of living increases, we heard a lot of testimony
12 about how Social Security, nobody is getting cost of
13 living increases, and coupled with the current state of
14 the economy and unemployment rate, I think it's
15 completely inappropriate to approve any cost of living
16 increases, particularly for employees that are out of
17 the State of Florida. But I think across the board
18 ratepayers shouldn't have to bear the burden of any cost
19 of living increases. So I would recommend that we
20 remove that 1.18% from the staff recommendation, and
21 that would be my motion.

22 **CHAIRMAN BRISÉ:** All right. Is there a
23 second?

24 (Microphone off. Motion seconded by
25 Commissioner.)

1 All right. It's been moved and seconded.
2 Discussion.

3 **COMMISSIONER BALBIS:** Thank you, Mr. Chairman.
4 Just one question.

5 Just on the increases, those being removed, we
6 could still have discussion on the other costs and how
7 they're allocated. Just to be clear, we still have that
8 opportunity. Or is this closing the door on the issue?

9 **CHAIRMAN BRISÉ:** No. I think that the motion
10 is very specific to the 1.18 percentage increase for
11 non-Florida Aqua employees.

12 **COMMISSIONER BALBIS:** Okay. Then I support
13 the motion.

14 **CHAIRMAN BRISÉ:** Okay. Commissioner Edgar.

15 **COMMISSIONER EDGAR:** Thank you, Mr. Chairman.
16 Just a question so I'm clear.

17 The discussion that has been pointed, that
18 we've been pointed to by staff there towards the bottom
19 of page 130, the motion as it has been made, how would
20 that or would it not impact the recommended disallowance
21 of \$36,736?

22 **MR. FLETCHER:** How that impacts it is
23 basically you would, you would take the entire amount of
24 the 2.9 that they have requested. And as far as what we
25 have established is -- I thought that was the 36,000.

1 That's the amount of the revenue impact associated with
2 taking out the 1.18%.

3 **COMMISSIONER EDGAR:** Okay. Now I'm really
4 confused. I'm sorry.

5 If the -- so how does the motion impact the
6 amount of disallowance?

7 **MR. FLETCHER:** Well, I beg your pardon. This
8 is what -- on further reflection, that is the amount of
9 the reduction from what they requested for the 2.9%. It
10 would be somewhat less than the 36. I apologize for
11 that calculation error. It would be probably somewhere
12 in the nature of, because of 1.6 versus 2.9, probably
13 about \$20,000. But what we can do is be given
14 administrative authority to remove the effect of the
15 1.18%, if that would go along with --

16 **COMMISSIONER EDGAR:** And that's approximately
17 20,000.

18 **MR. FLETCHER:** About 20,000.

19 **COMMISSIONER EDGAR:** And I'm not going to hold
20 you to that. That would be on top of the 36.

21 **MR. FLETCHER:** Correct.

22 **COMMISSIONER EDGAR:** And that's what I wanted
23 to make sure I understood correctly. All right. Thank
24 you.

25 **MR. FLETCHER:** I apologize for the error.

1 **CHAIRMAN BRISÉ:** All right. Thank you.

2 I think I'm going to support the motion. I
3 just want to, for my perspective for the record, I think
4 that each time we look at salary and so forth, each one
5 is in its instant case. And I know that the economic
6 situation affects all, but different circumstances
7 affect different entities differently. So I just want
8 to reflect that from my personal perspective on this
9 issue. But I do support the motion on this.

10 All right. It's been moved and seconded. I
11 think there was good discussion on the motion. All in
12 favor, say aye.

13 (Vote taken.)

14 All right. Any opposed?

15 (No response.)

16 Seeing none.

17 Now we're back on the other issues pertaining
18 to Issue 17, the broader issues of Issue 17.

19 Okay. Commissioner -- oh, Commissioner
20 Balbis.

21 **COMMISSIONER BALBIS:** Thank you, Mr. Chairman.

22 You know, again, I find myself in a difficult
23 position. I don't feel that either side has provided a
24 perfect solution as to what is the appropriate
25 affiliated charges. And I have to, in this case, in

1 this issue, refer back to when the last time the
2 affiliated charges were deemed prudent, which was in
3 2008. At first glance I questioned why staff was
4 recommending any percentage increase or indexing to
5 that, but based on the information that Aqua has already
6 applied, and statutorily we are required to allow the
7 formula increase, that we would be taking that from them
8 if we reverted back to 2008. And I'm comfortable from a
9 legal standpoint of that, of that scenario.

10 And to be honest, I'm not sure, on the motion
11 that we just agreed to, would that affect the -- so the
12 recommendations go back to 2008, applying the
13 appropriate indices or indexes now and then remove --
14 included in that was raises and increases; is that
15 correct? So now those would be removed?

16 **MR. FLETCHER:** Well, actually on page 32 --
17 132 of our recommendation, we did include in the
18 indexing factor a 5.93%. It did include the 2011 index.
19 The one we just spoke about was the increases regarding
20 the normalization pro forma adjusted to remove the 1.18.
21 If -- does that answer, clear up the question between
22 the previous adjustment and this one, what was in the
23 index factor?

24 **COMMISSIONER BALBIS:** I believe it does. As
25 long -- my concern was that if we vote to approve

1 Staff's recommendation, that inadvertently we would add
2 back in the raises and increases that we just took out.
3 So I just wanted to be clear that that would not happen.

4 **MR. FLETCHER:** It wouldn't add that one back.
5 It would -- if, if we were to not approve the indexing
6 factor, it would disallow the previous indexes that were
7 granted in 2008 to 2010.

8 **COMMISSIONER BALBIS:** Okay. Let me try one
9 more time.

10 If we approve Staff's recommendation, which
11 was to go to 2008 and applying the 5.9%, which is the
12 cumulative total of the indexes, that amount, the
13 adjustments that are recommended on page 132, are we
14 reducing that by the amount that had the increases for
15 salary that our previous motion approved or --

16 **MR. FLETCHER:** No, we are not. That is, that
17 is beyond the test year. I'm sorry. I didn't
18 understand the question.

19 **COMMISSIONER BALBIS:** Okay.

20 **MR. FLETCHER:** It is not -- those that are a
21 previous adjustment are pro forma in nature.

22 **COMMISSIONER BALBIS:** Okay. So I just want to
23 make a statement. I mean, obviously what the utility
24 provided was inadequate, and I think that we need to
25 move in a direction of peer group analysis and try to

1 make that as accurate as possible. I think that, you
2 know, that gives a better assessment on how utilities
3 are performing. And hopefully the utilities, Aqua,
4 along with all the utilities, move forward with using
5 that method rather than just an hourly rate, which I
6 think is one part of the process. But, you know,
7 obviously if you're paying someone less, if it takes
8 them twice as long to do it, that isn't exactly
9 cost-effective. So I'm, I'm comfortable moving forward
10 with Staff's recommendation on this issue.

11 **CHAIRMAN BRISÉ:** Okay. Is that a motion?

12 **COMMISSIONER BALBIS:** That is a motion.

13 (Microphone off. Motion seconded by
14 Commissioner.)

15 Okay. There's a motion and a second. Any
16 further discussion?

17 Commissioner Edgar.

18 **COMMISSIONER EDGAR:** Sorry again. Just so
19 I'm -- so that I -- for my benefit so I understand what
20 we're doing, and if I do understand it, I do agree, that
21 the result of the motion for Issue 17 would be to
22 approve the staff recommendation on all parts, except
23 for the motion that we approved just a few moments ago
24 regarding the normalization of pro forma adjustments for
25 ASI and ACO.

1 **MR. FLETCHER:** That is correct.

2 **COMMISSIONER EDGAR:** Okay.

3 **COMMISSIONER BALBIS:** That is correct. I'm
4 sorry, Commissioner Edgar. That is correct. And it
5 would result in a reduction in O&M expense of \$281,954.

6 **COMMISSIONER EDGAR:** Thank you. Thank you. I
7 appreciate the opportunity ask questions.

8 **CHAIRMAN BRISÉ:** Sure. I think we're clear on
9 that.

10 **MR. MAUREY:** Excuse me. Because of the 1.18%
11 salary decrease, the adjustment to O&M expense will be
12 greater than the \$282,000. We can't tell you that exact
13 amount right now.

14 **CHAIRMAN BRISÉ:** All right. Thank you very
15 much for that clarification.

16 All right. At this time we are ready for a
17 vote. All in favor, say aye.

18 (Vote taken.)

19 All right. Any opposed, same sign. No.

20 (No response.)

21 So at this time that motion carries.

22 We are now moving on to Issue 18.

23 **MR. FLETCHER:** Commissioners, 18 addresses
24 Staff's recommended adjustment related to the corporate
25 information technology charges allocated to AUF.

1 **CHAIRMAN BRISÉ:** Thank you.

2 Commissioner Graham.

3 **COMMISSIONER GRAHAM:** Move staff

4 recommendation on Issue 18.

5 **CHAIRMAN BRISÉ:** Is there a second?

6 (Microphone off. Motion seconded by

7 Commissioner.)

8 We got a second. All in -- any questions or

9 discussion? All right. All in favor, say aye.

10 (Vote taken.)

11 All right. Any opposed?

12 (No response.)

13 None, seeing none, now we're moving on to

14 Issue 19.

15 **MS. BROWN:** Commissioners, I'm Monica Brown

16 with Commission Staff.

17 Issue 19 addresses Staff's recommendation to

18 remove executive incentive compensation from O&M

19 expenses. Staff is prepared to answer any questions the

20 Commission might have.

21 **CHAIRMAN BRISÉ:** All right. Commissioners?

22 **MR. FLETCHER:** Commissioners, if I -- I would

23 elaborate further that staff believes that the bonus and

24 dividend compensation of the executives provides them an

25 incentive to achieve financial performance measures that

1 increase shareholders' value. And because this type of
2 executive compensation aligns the interest of the
3 executives with that of the shareholders, staff believes
4 that the bonus and dividend compensation should be borne
5 by the shareholders.

6 **CHAIRMAN BRISÉ:** All right. Commissioner
7 Edgar.

8 **COMMISSIONER EDGAR:** Thank you, Mr. Chairman.
9 If this is the appropriate time, I would move the staff
10 recommendation.

11 (Microphone off. Motion seconded by
12 Commissioner.)

13 **CHAIRMAN BRISÉ:** Okay. It's been moved and
14 seconded.

15 Commissioner Balbis.

16 **COMMISSIONER BALBIS:** I just have one question
17 for staff. And I do support the motion, but I need a
18 clarification that the, when looking at the overall
19 compensation of the employees, some of which have this
20 incentive pay, is that compensation, have you deemed
21 that reasonable?

22 **MR. FLETCHER:** We have, just through the audit
23 process and looking at making sure that that identifies
24 back. And just through the other arenas of Issue 17,
25 because that's kind of a global going into the

1 management fee and the contractual services management
2 and other, we believe that the remaining part is prudent
3 and reasonable, given the Commission's previous approval
4 of the prior issues.

5 **COMMISSIONER BALBIS:** Okay. And then just to
6 be clear, that approving Staff's recommendation removes
7 the incremental amount associated with executive
8 incentive pay; correct?

9 **MR. FLETCHER:** Yes. And that would be only
10 for the four top executives of AAI that allocate their
11 salary down to AUF.

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

13 **CHAIRMAN BRISÉ:** All right. Any further
14 comments?

15 Okay. I think I will make my disclaimer here
16 again that with respect to incentive compensation,
17 hopefully that seems like we will move in the direction
18 of removing a portion of the incentive compensation, and
19 from my perspective, I think incentive compensation
20 plays a positive role in many cases, but I think it
21 should be addressed per the instant case and I think
22 we're doing that here today.

23 And from my perspective, incentive
24 compensation should be a reward for efficiency,
25 providing your service at a low cost, while being

1 efficient, having a certain measure of customer
2 satisfaction. And when you achieve those things, then
3 it's a benefit not only for your shareholders, but for
4 your customers. So it's on that premise that I am
5 supporting the motion that is before us at this time.

6 All right. All in favor, say aye.

7 (Vote taken.)

8 Any opposed?

9 (No response.)

10 All right. Very good.

11 Now moving on to Issue 20.

12 **MS. BROWN:** Commissioners, again, my name is
13 Monica Brown with Commission Staff.

14 Issue 20 addresses Staff's recommendation of
15 specific adjustments to O&M expenses for salaries and
16 wages, employees expense, and related payroll taxes.
17 Staff is prepared to answer any questions the Commission
18 might have.

19 **CHAIRMAN BRISÉ:** Commissioner Brown.

20 **COMMISSIONER BROWN:** This is going to be
21 similar to the Issue 17 that we just had the discussion.
22 Our -- again, going back to our most recent decision in
23 Lucie, we found -- I'm going to quote this order that we
24 found. "Given the tumultuous state of the economy, we
25 find that any pay increase at this time shall not be

1 borne by the ratepayers."

2 That being said, the evidence in the record
3 really, really leads me to believe that there should not
4 be any cost of living increases borne by the ratepayers
5 at this juncture. I'm not persuaded by AUF's arguments
6 that these increases are necessary to attract and retain
7 employees, given this current economy that we live in
8 and the high unemployment rate that exists today,
9 continues to exist today.

10 That being said, I would make a motion, upon
11 due course, that we subtract that cost of living
12 increase from the overall calculation.

13 (Microphone off. Motion seconded by
14 Commissioner.)

15 **CHAIRMAN BRISÉ:** All right. It's been moved
16 and properly seconded.

17 Commissioner Balbis.

18 **COMMISSIONER BALBIS:** Thank you. And I fully
19 support the motion. And just to clarify our previous
20 decision, not only was it the state of the economy, but
21 it was a utility that was recently in for an increase,
22 and that the -- that's something that we take into
23 consideration if someone hasn't come in in 15, 20 years,
24 you know, that's, that's a separate issue. But here
25 when you have a company that has just come in and

1 specifically for this case with the state of the
2 economy, then I don't feel that any increase is
3 justified.

4 **CHAIRMAN BRISÉ:** Commissioner Graham.

5 **COMMISSIONER GRAHAM:** Thank you, Mr. Chairman.

6 I -- Commissioner Balbis about took the words
7 right out of my mouth. I want to make sure that we are
8 clear that we have at least once or twice in the past
9 six months given increases to other companies, but they
10 had not been in for a period of time, 10, 15 years,
11 whatever it was. It was in this case just three years
12 ago where not a whole lot of things have changed between
13 now and then.

14 **CHAIRMAN BRISÉ:** Thank you, Commissioners, for
15 that clarification. I, I wholeheartedly agree with
16 that, particularly considering that these are boots on
17 the ground and not necessarily the executives that we're
18 talking about.

19 And -- but considering, you know, the fact
20 that this is a back-to-back type of situation, I think
21 that the motion is, is appropriate and I am going to
22 support the motion. It has been moved and seconded.

23 **MR. FLETCHER:** Commissioners, if I could ask
24 for a clarification. Does that motion encompass only
25 removing the 1.18% index factor, or does that also

1 include the removal of the \$60,000 for the market-based
2 study? There's two components to this issue, and I --
3 in the other issue, in Issue 17, it addressed the 1.18,
4 and in this adjustment we are in essence with our
5 recommendations, we're basically approving an \$86,000
6 adjustment for salaries. Of that 87,000, 27,000 is
7 basically for the 1.18% factor, the index factor, and
8 the remaining is the \$60,000 relating to a market-based
9 study related to 19 operators and 17 utility tech
10 positions where a market-based study was performed to
11 get them up to the market salary. I just wanted to ask
12 for clarification purposes.

13 **CHAIRMAN BRISÉ:** All right. I will allow the
14 maker of the motion to, to address that issue.

15 **COMMISSIONER BROWN:** Thank you so much.

16 Was the market-based study mandated by the
17 Commission?

18 **MR. FLETCHER:** It was not mandated. It was
19 done -- it was put forth by AUF in support of the file
20 and rank employees for the operators -- 17 operators and
21 19 utility tech positions.

22 **COMMISSIONER BROWN:** Was it in support of the
23 proposed increase, cost of living increase?

24 **MR. FLETCHER:** No. It was not related to the
25 proposed cost of living increase. It was outside of

1 that to basically bring them what they were being paid
2 up to the market value in their study put forth in
3 evidence.

4 **COMMISSIONER BROWN:** Originally my motion was
5 focused on the cost of living. So I would appreciate
6 hearing some input from the rest of the Commission on
7 this market-based.

8 **CHAIRMAN BRISÉ:** I have a question. So
9 basically what the market study was looking at was
10 whether their employees or technicians and operators
11 were being paid equivalently to other folk who are doing
12 similar type of work, and I guess it was found that it
13 might have been below that. So what that does with the
14 market study basically is reflecting that to bring them
15 up, this is what is required. And then on another issue
16 that's contained within this issue is the 1.18% cost of
17 living increase.

18 **MR. FLETCHER:** You have encapsulated it
19 correctly. That is the nature of that. The
20 market-based study has nothing to do with the cost of
21 living increase.

22 **CHAIRMAN BRISÉ:** Okay. So then I think the
23 motion was primarily driven by the cost of living
24 increase, if I understood that properly.

25 **COMMISSIONER BROWN:** That's correct.

1 **CHAIRMAN BRISÉ:** Okay. At this time we
2 will -- Commissioner Edgar and then Commissioner Balbis.

3 **COMMISSIONER EDGAR:** Thank you, Mr. Chairman.

4 I was going to say that my understanding when
5 the motion was made that, as similar to the issue a few
6 issues ago, that we were -- that what was being proposed
7 in the motion was to not approve the 1.18, and that is
8 something that I am comfortable with. We have just had
9 some discussion about peer review studies, and I think a
10 market-based study falls in line with that. I did -- am
11 not aware of anything in the record that indicates that
12 this market-based study was unreliable or of disrepute
13 for some other reason. So I would support at this time
14 the elimination of the 1.18, but would from my
15 standpoint leave in the other adjustments, recognizing
16 that it is somewhat de minimis and it is to those
17 operators who are out there actually making sure that
18 things work as they should.

19 **CHAIRMAN BRISÉ:** Commissioner Balbis.

20 **COMMISSIONER BALBIS:** Thank you, Mr. Chairman.
21 And I concur that I supported the motion and that it was
22 a 1.18% cost of living increase that we were denying,
23 and I, and I still support that. And although having
24 twice in the same proceeding agreed with Commissioner
25 Edgar is dangerous -- but all joking aside --

1 **COMMISSIONER EDGAR:** I'm keeping count.

2 **COMMISSIONER BALBIS:** All joking aside, I
3 think that this may be the case, whereas, before when
4 they're looking at affiliated charges where they tried
5 to use the hourly rate when it was inappropriate, I
6 think this is a case or a situation where looking at the
7 hourly rates for their employees again that are out
8 there in the field, that are working to improve the
9 system, and that I think it is more appropriate to use a
10 rate analysis or an hourly rate analysis to determine
11 what is the appropriate pay. So I would support keeping
12 the normalization for their employees in and removing
13 any cost of living increase.

14 **CHAIRMAN BRISÉ:** Commissioner Graham.

15 **COMMISSIONER GRAHAM:** It sounds like we're all
16 up here singing Kumbaya. I agree. I think that
17 market-based study basically cuts both ways. If they
18 came in and they're paying their employees an excessive
19 amount, we do the market-based study, we'd only allow
20 for the amount that the market-based -- the amount --
21 excuse me -- the market-based study would say that the
22 ratepayers should have to, have to pay. So I think,
23 once again, it cuts both ways. This time it says that
24 they're being underpaid, so we're bringing them up to
25 where the market is.

1 **CHAIRMAN BRISÉ:** Thank you very much. And I'm
2 not sure if there's anything that we need to do to
3 clarify what the motion was. I think we're clear on
4 what the motion was.

5 Okay. So with that, we are going to go ahead
6 and move to Issue 21.

7 **MR. FLETCHER:** Commissioners, Issue
8 21 addresses Staff's recommended adjustment to bad debt
9 expense requested in the utility's filing.

10 **COMMISSIONER EDGAR:** Mr. Chairman, I'm sorry
11 to interrupt. And maybe it's my over-40 moment, but I
12 am not 100% clear that we actually voted on the motion
13 to resolve that last issue, and maybe just in an
14 abundance of caution --

15 **CHAIRMAN BRISÉ:** Okay. All right. So let's
16 do that. There was a motion on Issue 20 addressing the
17 1.18% cost of living increase. I thought we had a vote
18 and then Mr. Fletcher asked for a clarification. But if
19 that wasn't the case, in an abundance of caution, we had
20 a motion and the motion was by Commissioner Brown and it
21 was seconded by Commissioner Graham.

22 So for the vote, all in favor, say aye.

23 (Vote taken.)

24 All right. Any opposed?

25 (No response.)

1 None. Very good.

2 So now we're moving on to Issue 20 -- 21.

3 That was Issue 20 that we were dealing with.

4 **MR. FLETCHER:** Issue 21 addresses Staff's
5 recommended adjustment related to the utility's bad debt
6 expense requested in its filing.

7 **CHAIRMAN BRISÉ:** Commissioner Graham.

8 **COMMISSIONER GRAHAM:** Move staff
9 recommendation on Issue 21.

10 (Microphone off. Motion seconded by
11 Commissioner.)

12 **CHAIRMAN BRISÉ:** All right. It's been moved
13 and properly seconded.

14 All in favor, say aye.

15 (Vote taken.)

16 All right. Any opposed?

17 (No response.)

18 Seeing none. Okay. Item carries.

19 And we're moving on to Issue Number 22.

20 **MS. SMITH:** Commissioners, Avy Smith on behalf
21 of Commission Staff.

22 Issue 22 is Staff's recommendation to decrease
23 the utility's requested rate case expense by \$142,514.
24 Staff is available to answer any questions you may have.

25 **CHAIRMAN BRISÉ:** All right. This is the big

1 rate case expense issue. So at this time, Commissioner
2 Brown.

3 **COMMISSIONER BROWN:** Thank you so much,
4 Mr. Chairman. Sorry. I have a few questions.

5 I think OPC developed an interesting proposal
6 during the technical hearing regarding the 50/50 split
7 of rate case expenses. But I'm hesitant -- I wanted to
8 ask legal what authority do we have even to explore this
9 concept under the current statutes that govern, govern
10 us?

11 **MS. BENNETT:** In my reading of the statutes,
12 in order to deny rate case expense, you must find those
13 expenses to be unreasonable. And so that 50% that would
14 be borne by the shareholders would have to be
15 unreasonable rate case expenses.

16 **COMMISSIONER BROWN:** Is there anything in the
17 record to support this proposition so it's not arbitrary
18 and capricious?

19 **MS. BENNETT:** I don't believe that OPC argued
20 that the costs were unreasonable. I believe that their
21 whole proposition was that the shareholders benefit 50%
22 from rate case expense and so they should bear those
23 costs. Not that they were unreasonable costs, but that
24 the shareholders bear those costs.

25 **COMMISSIONER BROWN:** And that was my

1 recollection too. And I think Witness Dismukes went
2 along the lines and addressed several states that have
3 embraced the 50/50 rate case expenses. But was that by
4 statutory authority or order, decree?

5 **MS. BENNETT:** They were done by order,
6 according to her testimony. I am not aware of the
7 statute, statutory scheme in those states, so I don't
8 know if they have the same legislative mandate that you
9 have where you must decide that those costs are
10 unreasonable before you deny those costs.

11 **COMMISSIONER BROWN:** And, again,
12 Commissioners, I have pause -- I think the proposal is
13 interesting, but I have pause. I don't think there's
14 enough evidence in the record to support just an
15 arbitrary 50/50 split without any justification that the
16 rate case expenses were unreasonable, which I don't
17 think the evidence supports that.

18 Staff, I've asked you to provide a comparison
19 of the legal fees from the 2008 rate case to the instant
20 case, which was provided to all the Commissioners'
21 offices. For the benefit of the Commission -- and it's
22 this chart. For the benefit of the Commission, can you
23 please walk us through the handout you prepared.

24 **MR. FLETCHER:** Yes, Commissioner. If you'd
25 look, the first ones that you see is for consultant

1 fees. And what we've listed is the hourly rates for the
2 two, two consultants from the '08 case, the hourly rate,
3 and then this case, and provided the annual percentage
4 change and then the total change over the, since the
5 last rate case. And what we -- what you'll see on the
6 last three columns is basically the rate difference, on
7 the third to the last column. The total number of hours
8 you see is in the instant case that those consultants
9 work. And if the Commission -- or if there was a
10 decision to hold the hourly rate but apply the hours
11 that were worked by the consultants in this case, that
12 is reflected in the last column. And so that's -- and
13 it basically follows the same pattern for -- in the
14 middle of the table, this would be for the ASI employees
15 that had performed work in the last case versus this
16 case, the same type of comparison and use.

17 The last column basically will dictate for the
18 ASI employees what that effect is if you take the hours
19 worked in this case but applied the 2008 rate case
20 hourly rate. And then the same as for legal services
21 provided by the partner, the, the associate partner --
22 associate counsel, and as, as well as the paralegal in
23 the last column. And the total would reflect for all
24 three of those about a \$71,227 adjustment.

25 **COMMISSIONER BROWN:** Thank you, Mr. Fletcher.

1 I appreciate you taking the time to, to do this. And
2 for the benefit of the public here who doesn't, they
3 don't have this handout, it indicates that there have
4 been increases in the salaries of the legal, the CPA,
5 consultant, or ASI, pardon me, since the last 2008 rate
6 case; correct?

7 **MR. FLETCHER:** That is correct.

8 **COMMISSIONER BROWN:** Okay. They range from
9 anywhere from 2% to 36% in increase, in the incremental
10 increase.

11 **MR. FLETCHER:** That is correct on the hourly
12 rates for each of those consultants.

13 **COMMISSIONER BROWN:** So if we were to decide,
14 similar to the issues that we just talked about with
15 regard to cost of living increases in the previous
16 issues, if we were to decide to deny those increases and
17 hold the line, the total dollar amount of disallowance
18 would be -- I think staff is recommending a rate case
19 disallowance of 142,514. Now that -- would the total
20 amount, would you include the \$71,000 in that?

21 **MR. FLETCHER:** If you were to go under this
22 proposal, it would be an additional \$71,227 on top of
23 Staff's recommended reduction presently of \$142,514.

24 **COMMISSIONER BROWN:** Again, Commissioners,
25 that's not to say that Mr. May or any of these

1 professionals that have worked on this rate case
2 shouldn't be compensated for their time. It's just to
3 say that these incremental salary increases shouldn't be
4 borne by the ratepayers, in line with what we just
5 previously approved.

6 (Microphone off. Motion seconded by
7 Commissioner.)

8 **CHAIRMAN BRISÉ:** Commissioner Balbis.

9 **COMMISSIONER BALBIS:** Thank you, Mr. Chairman.

10 I was actually going to discuss another part of rate
11 case expense. So if you would like to discuss
12 Commissioner Brown's issue before that, I would be more
13 than happy to do it procedurally, or we can just move on
14 to the other side of the rate case expense that I'd like
15 to discuss.

16 **CHAIRMAN BRISÉ:** Okay. We could do it one or
17 two ways where we can have a running motion where you
18 have a motion that's created and then it's amended, or
19 we could address this issue as a single motion, vote on
20 it, and then take up a second motion and vote that and
21 make that, you know, the second issue in that
22 particular -- with respect to addressing Issue 22. I'm
23 sort of looking to you all to see what your preference
24 would be.

25 **COMMISSIONER BALBIS:** Mr. Chairman, if I can

1 offer a recommendation. I, I'm going to focus on the
2 rate case expense that was incurred by Aqua's affiliate
3 company, not on the legal cost. So I think separating
4 it out and voting on the legal cost motion that
5 Commissioner Brown made is appropriate, and then go to
6 the other costs.

7 **CHAIRMAN BRISÉ:** Okay. I think that I can
8 concur with that.

9 Commissioner Brown.

10 **COMMISSIONER BROWN:** Actually, and just for
11 clarification, Commissioner Balbis, it's legal costs --
12 it's the incremental salary adjustments for consultant
13 fees, ASI employees hourly rate, and the legal fees,
14 which is what the spreadsheet provides. All those three
15 areas have had incremental increases, as I mentioned,
16 ranging from 2 percent to 36 percent in the past three
17 years.

18 So I would move, if we wanted to just separate
19 it, to disallow those incremental increases from the
20 previous rate case or, in other words, hold the line in
21 terms of the incremental hourly rate. That would be my
22 motion.

23 **CHAIRMAN BRISÉ:** All right. That has been
24 moved and seconded. Discussion on the motion?

25 Commissioner Edgar.

1 **COMMISSIONER EDGAR:** Thank you. I think I
2 understand, but, if I may, to our legal staff.

3 If the motion as made were to carry, would
4 that in a de facto sense be a finding of imprudence or
5 unreasonableness?

6 **MS. BENNETT:** I believe that, yes, it would be
7 a finding of unreasonableness that the expenses
8 incurred -- you need to find that they are unreasonable
9 to exclude rate case expense.

10 **COMMISSIONER EDGAR:** With that, are there any
11 other legal ramifications that you can think of right
12 now? I realize I'm putting you on the spot, but that
13 you can think of right now that could flow from that?

14 **MS. BENNETT:** My question to Mr. Fletcher was
15 to make sure that the information that you are relying
16 on was part of the prior order so that we are not going
17 outside of the record of this docket to make sure
18 that -- to gather other information. So you would be
19 relying on your prior order and what you approved in
20 that prior order to compare to the costs that are being
21 asked for by Aqua in this docket. Those are the two
22 areas that I know from a legal standpoint you'll need to
23 address is that these costs you consider unreasonable,
24 and that you are not going outside of the record.

25 **COMMISSIONER EDGAR:** And if I may, and I mean

1 this as a friendly question, again, just so I understand
2 the impact, if any. If I may, Commissioner Brown, with
3 the intent of your motion are you intending a finding of
4 unreasonableness, or is there some other analysis that
5 is very specific to the record at hand?

6 **COMMISSIONER BROWN:** I really appreciate your
7 question and for pointing that out for clarification for
8 the record, for all purposes here. And based on the
9 substantial incremental increase in the hourly rate, I
10 think that the total number of rate case expenses for
11 these three different professionals are excessive and
12 unreasonable and inflated, and so I would definitely
13 qualify them as unreasonable and to hold the line to
14 what the previous hourly rates were.

15 **COMMISSIONER EDGAR:** Thank you.

16 **CHAIRMAN BRISÉ:** All right. Commissioner
17 Graham.

18 **COMMISSIONER GRAHAM:** You had to go right to
19 Commissioner Brown had said, I think as we spoke earlier
20 this Commission has made a policy that salary increases
21 right now, especially in the past two or three years are
22 unreasonable because the citizens or the ratepayers in
23 the State of Florida are not getting those salary
24 increases. So if that is what OGC is looking for to
25 make sure it goes on the record, I think that we are

1 just being consistent. And I see Mary Anne over there
2 nodding her yes, so I think we have done that.

3 **CHAIRMAN BRISE:** All right.

4 Commissioner Balbis.

5 **COMMISSIONER BALBIS:** Thank you, Mr. Chairman.

6 I'm just going to provide a few comments maybe
7 on the other side of the coin. I was focusing on ASI
8 employees' charges, because those employees are
9 performing very similar tasks in the same company
10 setting and the same organizational structure as 2008.
11 And I have questions on the documentation of the work
12 performed by the ASI employees which I'll reserve for a
13 little later.

14 I have a little bit of hesitation in outside
15 consultants, because for the past four years now, since
16 the 2008 case, we don't have information on the type
17 of work that the individual consultants for those
18 companies are doing. It could be that they have been
19 working on other issues and gained additional experience
20 that warranted their promotion within the ranks and,
21 therefore, they are providing that additional expertise
22 to the company that the company would be paying more for
23 based on the individual's position within the company.

24 I don't know if we have that level of
25 information for the consultants. I do know that the

1 costs associated -- for example, Holland and Knight, the
2 level of detail provided in their time sheets was at the
3 level that I would expect to determine if they are
4 prudently incurred or not. So I am comfortable with the
5 work that was performed. And I'm a little bit hesitant
6 on addressing the salaries of those employees because
7 we're not -- we don't have the information on how they
8 have risen in the corporate structure, are they now
9 involved in other issues that are a benefit to the
10 client, which in this case would be Aqua Florida, and,
11 again, warranted their promotion. So I'm a little
12 uncomfortable on focusing on the outside consultants at
13 this time. I look forward to any additional comments
14 from the Commission.

15 **CHAIRMAN BRISE:** All right. We do have a
16 motion, and it has been seconded. Obviously there is
17 some concerns, so I don't know if anyone has any further
18 comments on the motion. All right.

19 Ms. Bennett.

20 **MS. BENNETT:** I know I'm not part of the panel
21 up there, but one of my concerns was that the
22 information was outside of the record. We wanted --
23 staff wanted just a few minutes to verify that the
24 numbers that you were relying on were in the prior
25 record, prior order. So if we could have some time

1 before you voted.

2 **CHAIRMAN BRISÉ:** Sure. How much time do you
3 need?

4 **MS. BENNETT:** 15 minutes.

5 **CHAIRMAN BRISÉ:** Okay. I think we can
6 accommodate that. And I think that that will put us in
7 a good place for a break. So we will come back at 55.
8 All right. So we will recess at this time.

9 (Recess.)

10 **CHAIRMAN BRISÉ:** All right. I think we're
11 about ready. It's 4:05. Let me see where we were. We
12 were dealing with an issue about a document. So, staff,
13 if you can provide us -- Ms. Bennett, if you can provide
14 us with an update as to where we are and how we should
15 proceed.

16 **MS. BENNETT:** Commissioner Brown and
17 Commissioner Edgar raised a question about what concerns
18 legal staff might have with using the comparison from
19 the 2008 rate case to this current rate case to reduce
20 rate case expenses. We, as a Commission, may take
21 judicial notice, the courts have recognized that, of our
22 prior orders. And so as long as there is information in
23 a prior order, we can compare that to today's request
24 and use those facts that are in the order as a basis.

25 My concern with the information was perhaps

1 not all of that information was in -- could be found in
2 the order itself. And so we spent the last few minutes
3 looking at the prior order. The good news is we found
4 most of the information, but we did not find all of that
5 information from the table. And I will let Mr. Fletcher
6 talk with you about what is and is not in the prior
7 order.

8 **CHAIRMAN BRISÉ:** Okay. Mr. Fletcher.

9 **MR. FLETCHER:** First, I would like to start
10 off by apologizing for making this schedule in haste.
11 What we did is went to a prior invoice that was in the
12 record of the 2008 rate case to come up with this
13 without verifying what hourly rates were encapsulated in
14 the prior Commission order. But what we have found is
15 basically nothing on the rate case consultants for the
16 first table, but we have found all the hourly rates for
17 the 2008 rate case for the ASI employees. Those are
18 specifically mentioned on Page 102 of the prior order in
19 the 2008 case. And with regard to the legal, the third
20 schedule, we did find the hourly rate for the lead
21 attorney. That was on Page 100 in the last case. So we
22 did not find the remaining two for legal in the last
23 order.

24 So basically what this would mean is the
25 61,152 that's related to the ASI employees, their

1 support -- or, excuse me, \$6,152 for the ASI employees
2 hourly rate, the adjustment stated there, and then the
3 one for the lead counsel, the adjustment that is
4 \$27,083, for a total of 33,235. If the Commission were
5 to go this route as far as making this adjustment, that
6 would be, I guess, supported by the hourly rates that
7 are listed in the prior order for the 2008 case.

8 **CHAIRMAN BRISE:** Thank you.

9 Commissioner Brown.

10 **COMMISSIONER BROWN:** Thank you.

11 And I appreciate you all going back and making
12 sure that this information that we are relying on is
13 verified. And it's important that our decisions -- that
14 the decisions that we make is based on evidence in the
15 record. We can't go outside those bounds.

16 So I want to reiterate that my concern is with
17 the incremental increase and the hourly rates for these
18 particular individuals. They are excessive and should
19 not be paid for by the ratepayers. If the utility,
20 however, wants to pay for these raises, these
21 cost-of-living adjustments, then I think the
22 shareholders are the ones that can do that. So I would,
23 again, go with my motion based on the evidence that is
24 in the record to disallow the \$33,235 in incremental
25 hourly increases under this issue.

1 **CHAIRMAN BRISÉ:** Commissioner Balbis.

2 **COMMISSIONER BALBIS:** Thank you, Mr. Chairman.

3 And I have a few questions for staff. Looking
4 at the ASI employees starting with -- and I apologize
5 for mispronouncing their names, if I do -- Brian Devine,
6 in 2008 what was his job title as compared to the 2010?
7 Was it similar work being performed?

8 **MR. FLETCHER:** We don't have that information
9 regarding the job title. It is not delineated in the
10 last order. We do have the hourly rate. He was still
11 in the rate department because only the individuals --
12 there is about six of them. There is -- only the
13 individuals that are in the rate department is what the
14 utility is requesting to be recovered in the rate case
15 expense. I do not have the information regarding the
16 job title in the last case.

17 **COMMISSIONER BALBIS:** Okay. Then maybe we can
18 get to this in a different way. In the 2008 case were
19 there other ASI employees that billed to the rate case?

20 **MR. FLETCHER:** There were, but those employees
21 are not here now. So in order to just make that
22 apples-to-apples comparison, we just looked at who are
23 the rate people that were working on the last case
24 versus the same ones that are working on this case. But
25 there were others, but they are not there now, and we

1 don't have those job titles to match up. The specific
2 job titles of the -- I think there was approximately
3 six in the last case and there is about six in this
4 case, but they were -- what we have identified is four
5 are the same. So we kind of concentrated on them, but
6 without knowing the job titles we did not take those
7 into consideration in this table. But we do not have
8 that information. That is not, I guess, stated in the
9 Commission's last order.

10 **COMMISSIONER BALBIS:** Okay. Then in the 2008
11 case, since we are using that as comparison, the
12 legal -- outside legal fees, which according to your
13 Table 22-1 is 786,870 corrected; what was it in 2008?

14 **MR. FLETCHER:** I think Ms. Smith can answer
15 that, what was in the total in the last case versus this
16 case or legal.

17 **MS. SMITH:** I'm sorry, I didn't understand the
18 question. Can you repeat it?

19 **COMMISSIONER BALBIS:** Yes. In Table 22-1 of
20 the staff recommendation it lists that the corrected
21 Exhibit 340 for legal fees is 786,870. What was the
22 amount, the legal fees in the 2008 case, what were the
23 fees?

24 **MS. SMITH:** The total legal fees in the 2008
25 rate case were 252,130.

1 **COMMISSIONER BALBIS:** And in moving down the
2 line, what were the total consultants fees?

3 **MS. SMITH:** The total consultant fees were
4 \$733,794.

5 **COMMISSIONER BALBIS:** And the ASI service
6 company fees?

7 **MS. SMITH:** \$234,084.

8 **COMMISSIONER BALBIS:** I want to make sure that
9 I heard you correctly. So you're saying that the legal
10 fees in 2008 were \$252,000. And in this case in 2010 it
11 is \$786,000?

12 **MS. SMITH:** That's correct.

13 **COMMISSIONER BALBIS:** And just so I understand
14 the motion that's on the table, your motion is to adjust
15 the ASI hourly rate and the hourly rate just for the
16 lead attorney back to 2008 levels?

17 **COMMISSIONER BROWN:** Mr. Chairman, may I
18 answer that?

19 **CHAIRMAN BRISÉ:** Sure.

20 **COMMISSIONER BROWN:** Thank you. Based on the
21 only evidence that we can rely on right now in the
22 record, I have modified my motion in support of the
23 prior order documentation, which includes just those ASI
24 employees and the lead attorney. So according to Mr.
25 Fletcher, only Mr. Devine, Ms. Joyce, Ms. Burns, and

1 Ms. Hopper were included in the documentation that we
2 can rely on, as well as Mr. May. So those are the only
3 ones that I am able to -- is that correct?

4 **MR. FLETCHER:** That is correct. And if I
5 could just make a clarification. On Page 162 of staff's
6 recommendation on Table 22-6, the effect of that \$33,235
7 adjustment, 6,152 would be coming from the ASI, so you
8 see on that table, the last column, the \$2,409
9 adjustment, if this adjustment that's proposed by
10 Commissioner Brown were approved, it would be a
11 reduction of 6,152. So that would be taking it to
12 194,257 for ASI, and then for the legal that staff
13 recommended of 717,254, that would be adjusted downward
14 do you know \$27,083, giving a new recommended total of
15 690,171. That is the effect of, I believe, the proposed
16 adjustment.

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

18 **CHAIRMAN BRISÉ:** Commissioner Edgar.

19 **COMMISSIONER EDGAR:** Thank you, Mr. Chairman.
20 I'm trying to think this through. If you will bear with
21 me for just a few moments, although I know it is getting
22 to be kind of a long afternoon.

23 If I may, Commissioner Brown, my understanding
24 as we kind of started our discussion on this issue was
25 that you were proposing that we allow the total rate

1 case for the categories of consultants, ASI employees,
2 and legal, but with a rollback to the approved 2008
3 hourly rates.

4 COMMISSIONER BROWN: For only -- yes.

5 COMMISSIONER EDGAR: Initially.

6 COMMISSIONER BROWN: Right.

7 COMMISSIONER EDGAR: Okay. And then because
8 we had had some discussion, and I asked some of those
9 questions, and probably others did, too, wanting to have
10 a strong legal foundation to try to do that, we are
11 discussing having the rollback for some professional
12 services by some individuals, but not for others. So
13 from what we are discussing now, the result would be the
14 2010 hourly rate for some who provided services, but the
15 2008 for others?

16 COMMISSIONER BROWN: Not to my liking, but
17 based on the evidence in the record we are limited in
18 what we can rely on.

19 COMMISSIONER EDGAR: And I do understand and
20 greatly appreciate that you are also trying to work this
21 through to give us a good legal basis and take into
22 account the information in the record, et cetera. And I
23 want to be supportive of that, but I do, again, have a
24 bit of a concern that using one standard for a group of
25 employees and another standard for another -- and I say

1 employees. For services rendered is probably more
2 accurate -- having one standard for a subset of services
3 rendered and a separate standard for another subset of
4 services rendered within the same category seems
5 somewhat arbitrary.

6 And I recognize that you are trying to work
7 within the parameters as we are understanding them, but
8 just as we are bound to make decisions based on the
9 statutes of reasonableness and prudence, we are also
10 prohibited from making arbitrary and capricious
11 decisions, and this feels somewhat arbitrary to me.
12 That may be the wrong word, and if there is a better
13 one, I desperately would appreciate somebody telling me
14 what it is.

15 So I guess what I would pose to our staff, and
16 I mean this with all respect, is there maybe another way
17 to get from Point A to Point B? I have in some past
18 decisions, and this is being just as one Commissioner,
19 only for myself, I have expressed a concern sometimes
20 about us cherry-picking one rate or one standard for one
21 person versus another for another. It just feels -- it
22 gives me some discomfort.

23 So I obviously want to be bound by the record.
24 I understand -- I believe I understand where you are
25 trying to go, and your characterization of wanting to

1 disallow the incremental increase within a couple of
2 year period does make sense to me. But, again, for some
3 and not others, so I would toss out, if I may, to our
4 legal staff is there another way to get back to where I
5 think we started on this?

6 **MS. BENNETT:** I'm thinking back to -- well, a
7 couple of things crossed my mind, and one would be you
8 have already reduced salaries by 1.18 percent, and
9 perhaps that could be applied to this overall cost,
10 hourly cost. And I'm hoping that Mary Anne will jump in
11 and say if I'm incorrect in something that I'm
12 suggesting.

13 The other thought is that you take this
14 information that Mr. Fletcher has given you and you say
15 basically for Mr. Ward, Mr. Pasceri, Ms. Hatch and Ms.
16 Rollini that those numbers don't exist. You don't have
17 that information in front of you, and so it is not
18 arbitrary and capricious because you just don't have
19 that information. You have to go with the hourly rates
20 that you have. Those are two suggestions. I'm sure
21 there are many other variations of those.

22 **MS. HELTON:** And, Commissioner Edgar, if you
23 are interested in my opinion of the two options that Ms.
24 Bennett has given out, I much prefer the second option
25 versus the first option. I don't know what basis we

1 would have to reduce the expense by 1.8 percent.

2 **COMMISSIONER EDGAR:** Give me just a second to
3 think. Thank you. As with many cases that we deal
4 with, and this one certainly, so much paper, so much
5 information, so many documents to keep track of. And we
6 all do the best we can, and my staff will attest to the
7 fact that I, again, just for myself, am constantly not
8 being able to put my hands on the right piece of paper
9 that I want at any one moment, but am I to understand
10 the suggestion from our legal office to be we have given
11 you this information, but now we're telling you that you
12 must ignore it?

13 **MS. BENNETT:** For -- yes. We presented some
14 information to you that's outside of the record.

15 **COMMISSIONER EDGAR:** Are we certain of that?

16 **MS. BENNETT:** I'm sorry?

17 **COMMISSIONER EDGAR:** I'm sorry, I did not mean
18 to speak over you. Commissioners, I apologize for that.
19 Ms. Bennett, I apologize.

20 Are we certain that this other information
21 that I believe the original motion was somewhat based
22 upon, are we certain that it is outside of the record?
23 And, again, I know there is so much to keep track of.
24 It's not a criticism. I'm just trying to get my arms
25 around it.

1 **MS. BENNETT:** I'm not 100 percent certain. We
2 were spending some time looking through Ms. Dismukes'
3 and Ms. Vandiver's testimony. We could, you know, sort
4 through the record again. Because you're right, this is
5 a huge set of papers. And so we could somewhere in this
6 paperwork have the hourly rate that each of these
7 individuals charged in 2008.

8 The other possibility is there might be some
9 other orders that have similar hourly rates. And there
10 is also the market-based study that was done for the --
11 not the market-based study, but the hourly rate that the
12 Florida Bar used in Ms. Dismukes', I believe, and Mr.
13 Szczygiel testimony. So there are some other pieces of
14 evidence in the record that we might be able to tie back
15 into these numbers.

16 **COMMISSIONER EDGAR:** I wish I had the right
17 answer right now. Again, I think we are probably all or
18 most trying to kind of get to the same place. I do have
19 some discomfort, as I said, just kind of picking out one
20 standard for assessment for Person D, E, and Z, and
21 another for Person A, B, and F, to make it even more
22 confusing. I just need to think about that. And,
23 Commissioners, if somebody has some assistance, I would
24 greatly appreciate it.

25 **CHAIRMAN BRISÉ:** Before I go to Commissioner

1 Balbis, if we were to take the route that is suggested
2 by both Ms. Bennett as Option 2 and supported by Mary
3 Anne, in essence we would start from scratch on this
4 issue, erase from our memories the information that we
5 received that is not applicable, and then we would go
6 from there. So we would start from that point and move
7 forward. And that may not accomplish all that
8 Commissioner Brown might have wanted to accomplish with
9 this issue, but those are the facts and those are the
10 circumstances that we are in, and we can only deal with
11 the information that is before us.

12 So from my perspective, if the document were
13 presented to us with only the set of information that is
14 before us, if there were a motion that were to come
15 forward, it would only reflect the information that is
16 allowable. Now, granted considering that information
17 was out there that probably should not have been out
18 there that, of course, still exists sort of in the ethos
19 somewhere, but we ought to treat that information as if
20 it doesn't exist for our purposes. So I think that if
21 we frame it that way, I think we can possibly move
22 forward.

23 Commissioner Balbis, then Commissioner Graham,
24 then Commissioner Edgar, and then Commissioner Brown.

25 Okay. Commissioner Balbis.

1 **COMMISSIONER BALBIS:** Thank you, Mr. Chairman.

2 And, again, I want to make sure that we have
3 enough information in the record for us to make the
4 decision. And a couple of questions for staff. And
5 I'll start with the legal fees.

6 Mr. May in 2008, did he have the same title or
7 perform the same functions as he did in the 2010, this
8 case?

9 **MR. FLETCHER:** He was the lead counsel in the
10 case and the lead counsel in this case.

11 **CHAIRMAN BRISÉ:** Okay. Now, going back to
12 Brian Devine, Kim Joyce, Kelly Burns, and Mary Hopper,
13 you indicated you did not have information as to what
14 their title was in 2008 as compared to 2010?

15 **MR. FLETCHER:** That is correct. On the
16 invoices there, as far as what it was specifically,
17 their job position or job title in the last case versus
18 this case, I don't have what was in the last case. I
19 can only tell you what was in this case. But I can tell
20 you that they are all coming from the same department,
21 the rate department, which is the specific task to
22 facilitate a utility's rate relief request.

23 It's a different case, but I can't tell you --

24 **COMMISSIONER BALBIS:** That's fine. But you
25 would agree that each of those individuals have very

1 different billable rates indicating they have different
2 job functions, correct?

3 **MR. FLETCHER:** That is correct.

4 **COMMISSIONER BALBIS:** Okay. And you also said
5 that there was two employees that appeared in the 2008
6 case that didn't appear in the 2010 case, and you also
7 have two in '10 and vice versa. Is that correct?

8 **MR. FLETCHER:** That is correct.

9 **COMMISSIONER BALBIS:** So we don't know at this
10 point whether or not they were promoted, assumed
11 different functions, or any information really
12 associated with the work being performed as opposed to
13 Mr. May, who was the lead counsel in '08 and in 2010 he
14 is the lead counsel, as well. Would you agree with
15 that?

16 **MR. FLETCHER:** I would agree.

17 **COMMISSIONER BALBIS:** Okay. And, again, I
18 have questions about the ASI charges that are not
19 associated with the hourly rates. I'm not comfortable
20 that we have enough information in the record for the
21 four ASI employees. You know, I'm more comfortable with
22 Mr. May in that he was performing the same duties. I
23 still have some reservations in that, you know, a
24 business or a client gets the benefit of additional
25 experience from who they are paying, and that's why they

1 are promoted up through the ranks, that's why they are
2 paid more. So I do have some hesitation, but at least
3 he was performing the same duties in '08 as 2010, so I
4 think that is justified. But as the motion sits
5 associated with ASI, I cannot support that for I feel
6 that there is not enough information in the record.

7 **CHAIRMAN BRISÉ:** Commissioner Graham.

8 **COMMISSIONER GRAHAM:** Thank you, Mr. Chairman.

9 A question to staff. What is the dollar
10 difference between Commissioner Brown's first
11 recommendation and what we can find legally in the
12 record?

13 **MR. FLETCHER:** Commissioner Graham, the
14 difference would be between the 71,000 -- well, the
15 difference is \$37,992.

16 **COMMISSIONER GRAHAM:** 37,000 on a \$4 million
17 rate case.

18 **MR. FLETCHER:** That is correct.

19 **COMMISSIONER GRAHAM:** Mr. Chairman, my
20 recommendation would be if we can skip over this issue
21 and move on to one of the other ones. I know there has
22 got to be legal staff that can go back through some of
23 the information that Ms. Bennett says where this
24 information could be, could possibly be, and then at the
25 end to come back and see what they have found or not

1 during that time period. Because it seems like we have
2 been stuck in the stop position on this thing for the
3 longest time.

4 **CHAIRMAN BRISÉ:** Commissioner Edgar.

5 **COMMISSIONER EDGAR:** Thank you, Mr. Chairman.
6 And I absolutely appreciate Commissioner Graham's
7 reminder on context. One that I try to raise often
8 myself.

9 Mr. Chairman, if you are amenable, and if the
10 maker of the motion is amenable, I am certainly
11 comfortable with -- I think we can move on to other
12 issues and come back to this. One thought that I did
13 have since I spoke last, and as I was listening to my
14 colleagues, is perhaps, perhaps if we were to rephrase
15 it along the lines of rather than certain named
16 individuals, but rather along the lines of to allow the
17 hourly rates from the 2008 rate case, and for those
18 services rendered that the record -- that the record
19 information is available, that maybe is probably just
20 semantics, but yet is an approach that I personally am a
21 little more comfortable with. And so I'm still thinking
22 that through, but I put that out there as one option to
23 try to move us a little closer to consensus. And,
24 again, I'm fine with us moving on.

25 **CHAIRMAN BRISÉ:** Okay. Thank you,

1 Commissioner Edgar.

2 Commissioner Brown.

3 COMMISSIONER BROWN: I'm going to hold off and
4 move on.

5 CHAIRMAN BRISÉ: Okay. So we are going to, I
6 guess, temporarily pass on this particular issue. We
7 will come back to this issue a little bit later on.
8 Hopefully close to the end. Hopefully we would have
9 sorted out some those things and it would have given us
10 some time to think not only in context, but also to
11 think about how we want to address this issue moving
12 forward. It's always nice to have two chairpersons
13 sitting next to you, you know, so that they can provide
14 some valuable guidance.

15 All right. Moving on to Issue 23.

16 MR. FLETCHER: Commissioners, Issue 23 is a
17 fallout issue; Issue 24 was dropped, and Issue 25 is a
18 fallout.

19 CHAIRMAN BRISÉ: All right. Is there a
20 motion?

21 COMMISSIONER EDGAR: Move staff.

22 COMMISSIONER GRAHAM: Second.

23 CHAIRMAN BRISÉ: Very good. So it's moved and
24 properly seconded. All in favor say aye.

25 (Vote taken.)

1 **CHAIRMAN BRISÉ:** All right. Any opposed?

2 Seeing none, moving on to Issue 26. For those
3 who may be following along with us in their copy of the
4 recommendation, we are on Page 167, which contains the
5 recommendation for Issue 26.

6 **MS. LINGO:** Thank you, Chairman.

7 Commissioners, before I get started, your
8 decisions in prior issues, especially those adjustments
9 you have approved that are band specific, they will have
10 ripple effects on Issues 26 through 31 and Schedules 5A
11 and 5B, possibly changing how the bands are banded
12 together.

13 Since Issues 26 through 31 and Schedules 5A
14 and 5B are fallout issues, staff respectfully requests
15 administrative authority to recalculate the amounts in
16 Issues 26 through 31 and Schedules 5A and 5B applying
17 the cap band methodology that we have discussed in
18 Issues 28 and 29. As a result, there may be a change in
19 how the current rate bands in stand-alone systems are
20 banded. And, Commissioners, we would say that without
21 this administrative authority, we will -- after our
22 recalculations, we will have to bring back a revised
23 recommendation for you to vote on on Issues 26 through
24 31.

25 **CHAIRMAN BRISÉ:** Commissioner Balbis.

1 **COMMISSIONER BALBIS:** Thank you, Mr. Chairman.
2 And I'll start by saying that I would support giving
3 staff the administrative authority as long as our intent
4 is clear. But I do have a question for Ms. Lingo
5 concerning the systems and which rate band they are
6 placed in.

7 There are some systems, one comes to mind, I
8 believe it's Lake Osborne Estates that is a customer of
9 Aqua's that receives utility service from -- I think
10 it's Lake Worth Utilities. And Aqua simply performs the
11 billing associated with it. There is no treatment
12 associated there.

13 Is there a way to remove similar systems and
14 make them stand-alone? Do you have enough information
15 to do that, or the way the bands were structured in 2008
16 limits your ability to do so?

17 **MS. LINGO:** Commissioner, respectfully, we
18 don't have that level of detail. We have the level of
19 detail as the MFRs were filed, which reflected the bands
20 that were approved by the Commission in the last rate
21 case. And certainly Mr. Fletcher can correct me if I'm
22 wrong.

23 **MR. FLETCHER:** That is correct. In the last
24 case, the Commission approved the consolidation of the
25 utility's books and records to the approved rate

1 structure, or the bands, if you will, in the last case.
2 So we don't have that level of detail for each specific
3 system.

4 **COMMISSIONER BALBIS:** Okay. And I know I made
5 these comments during the PAA process, but it's
6 something that frustrates me personally, and I think
7 there may be a gap in oversight in that if you have a
8 municipal utility that is represented by elected
9 officials, that those customers have some avenue to
10 voice their concern. And in this case we have customers
11 that are not part of the municipality, so they do not
12 have the elected officials representing them, and yet we
13 do not really have the authority to question the rates
14 charged by the municipality.

15 So I made those comments during the PAA
16 process, and I think I encouraged the utility as well as
17 staff to look and see if there is anything that can be
18 done. Do you have any ideas, or options, or requests on
19 something -- how we could possibly address this issue?

20 **COMMISSIONER GRAHAM:** Could I get you to
21 repeat that?

22 **COMMISSIONER BALBIS:** Let me find out who's
23 speaking first, and then I'll repeat it. (Laughter.)

24 **CHAIRMAN BRISÉ:** Commissioner Graham wants you
25 to repeat that. (Laughter.)

1 **COMMISSIONER GRAHAM:** I apologize. I zoned
2 out during halftime.

3 **COMMISSIONER BALBIS:** Okay. No, that's fine.
4 I will not be as eloquent, but I'll try. So you have a
5 situation where you have a private utility customer that
6 we have oversight in the rates and charges applied to
7 the customers. However, the utility is simply
8 purchasing water from a municipal utility, and they just
9 pass along whatever those costs are. So in the case of
10 Lake Osborne Estates, they are not within the city
11 limits, so therefore they have no voice with the City of
12 Lake Worth, and yet we cannot -- we just pass those
13 costs along, and so there seems to be a gap in
14 jurisdiction that I'm not sure how to address and how
15 prevalent it is.

16 **MR. WILLIS:** Commissioner, that same condition
17 exists all over Florida where you might have a
18 municipality that serves outside the city limits, such
19 as Tallahassee. I receive water from Tallahassee, and
20 I'm outside the city limits, and I have no say-so on my
21 rate whatsoever. I can't complain about it. I could
22 complain, but I don't have a county commissioner to go
23 to, or a city commissioner. It's just like that for
24 Lake Osborne.

25 I will tell you for the Lake Osborne system,

1 the company did indicate in the rate case that they were
2 trying to renegotiate that contract because the higher
3 rates were a result of the City changing how they
4 structured the rates to the utility company, and because
5 of that it caused a higher rate being charged or a
6 higher amount being charged. They are, from our
7 understanding, trying to renegotiate that contract with
8 Lake Osborne. And they did agree I think in the PAA or
9 about that time that if they were to get an agreement
10 with the company they would file for a pass-through. If
11 they got an agreement with Lake Osborne or with Lake
12 Worth to reduce the rate, they would file for a
13 pass-through to have that reduced. A reverse
14 pass-through you might say.

15 **COMMISSIONER BALBIS:** Okay. Thank you. And I
16 hope staff will continue to monitor that so if a
17 reduction is warranted, if that happens it moves
18 forward. That's all the questions I had. And I would,
19 if it's the appropriate time, move staff's
20 recommendation on those associated issues starting with,
21 I believe, 25.

22 **CHAIRMAN BRISÉ:** 26.

23 **COMMISSIONER BALBIS:** 26 through 31.

24 (Microphone off. Motion seconded by
25 Commissioner.)

1 **MR. HARRIS:** Commissioner, is that as modified
2 by the staff modification?

3 **COMMISSIONER BALBIS:** Yes.

4 **CHAIRMAN BRISÉ:** Yes. I believe that that
5 includes the fact that we give you administrative
6 authority to go ahead --

7 **MS. LINGO:** Thank you, Commissioners.

8 **CHAIRMAN BRISÉ:** -- and work the bands out.
9 It has been moved and properly seconded. All in favor
10 say aye.

11 (Vote taken.)

12 **CHAIRMAN BRISÉ:** All right. Very good. These
13 issues are carried, 25, 26 -- I mean, 26, 27, 28, 29,
14 30, and 31.

15 Okay. Now we are moving on to Issue 31A.

16 **MR. JAEGER:** Yes, Chairman. Ralph Jaeger in
17 legal staff.

18 And staff's recommendation on this issue is
19 given the revenue requirements, which has been reduced,
20 and we're seeing where the rates are going to change,
21 plus the billing determinants and the subsidy limit at
22 12.50, as Paul Stallcup says, the rates are as
23 affordable as possible. Further, staff believes it
24 would not be appropriate to use this issue to justify
25 any additional decrease in the revenue requirement.

1 I think, you know, we have gone through a long
2 tortuous process on each issue of what is legitimate and
3 prudent and get to an end result, and then say, uh-oh,
4 we need to take more away. The courts -- I think we
5 don't need to open ourselves up to the courts.

6 **CHAIRMAN BRISÉ:** All right. Thank you very
7 much. Any comments by any Commissioners on this issue?

8 Commissioner Edgar.

9 **COMMISSIONER EDGAR:** Thank you.

10 Mr. Chairman, I would just like to take this
11 opportunity to very briefly reiterate comments I made
12 when we first sat down and started our discussion on
13 this issue, which is that I know we all want a good
14 product and a good service at an affordable rate, and we
15 want any concerns or issues that exist to be addressed.
16 And I would like to reiterate that as those decisions
17 are made that our expectation and desire is that the
18 costs that are incurred are reasonable, cost-effective,
19 and prudent, especially with additions to pro forma.
20 Thank you.

21 **CHAIRMAN BRISÉ:** Thank you very much.

22 Commissioner Brown.

23 **COMMISSIONER BROWN:** Thank you.

24 And I think this argument does bear some
25 merit. However, during the technical hearing OPC was

1 unable to offer any method or process for which the
2 Commission can implement this. We are -- as Mr.
3 Stallcup indicated, we are somewhat constrained by
4 statutory requirements that rates be compensatory, and
5 so I would support the staff recommendation.

6 **CHAIRMAN BRISÉ:** Thank you very much.

7 Commissioner Balbis.

8 **COMMISSIONER BALBIS:** Thank you, Mr. Chairman.

9 And I, too, support staff's recommendation on
10 this issue. The way I personally approach this is, you
11 know, we take a very close look at all of the individual
12 costs that build up to the overall revenue requirement.
13 And, you know, logically, if you agree that each of the
14 individual costs are prudent and are warranted, then
15 whatever the result is it is. And that is something
16 that -- how I approached it, and I think it gives a
17 logical conclusion to it, and I support staff's
18 recommendation on this issue.

19 **CHAIRMAN BRISÉ:** I served as prehearing
20 officer on this issue, and I decided to include this
21 issue as one that we should consider in this rate case.
22 I sort of delayed the issue a bit in that we do have
23 constraints that are out there. We gave an opportunity
24 for the parties to make their case on this issue and the
25 reality is what is affordable. I mean, that is the big

1 question. How do you define affordable. And, you know,
2 in looking at what was made available to us, I don't
3 think there was a clear definition as to what the
4 affordability test would be, particularly if you're
5 looking at a variety set of ratepayers, for instance,
6 and what may be affordable in one section of the state
7 may not be in another section of the state and so forth.

8 So I found that, you know, I agree with staff
9 recommendation on this issue. And beyond that, as Mr.
10 Jaeger said, you know, you can't go through the whole
11 process and then come back and say, well, gee, at the
12 end, I don't like the outcome and now I'm going to go
13 ahead and sort of go back and make changes to reflect
14 that. So I am in support of staff recommendation.

15 I don't know if, Andrew, you wanted to add
16 anything at this time.

17 **MR. MAUREY:** Well, during the break we did
18 have a conversation about it was reported in the press
19 before this case was taken up that the revenue
20 requirement that staff had recommended was \$200,000
21 higher than the company had requested. That was in
22 error. It was \$23,000 higher than the revenue
23 requirement that the Commission approved in the PAA
24 order, but we did want to clear up that misunderstanding
25 that the staff did not recommend an increase \$200,000

1 higher than the company had requested.

2 **CHAIRMAN BRISE:** Thank you.

3 Commissioner Edgar.

4 **COMMISSIONER EDGAR:** Thank you, Mr. Chairman.

5 And I would say thank you to Mr. Maurey, as
6 well. I know it is always frustrating when some
7 inaccurate information tends to kind of take on a life
8 of its own. And that can be a natural occurrence when
9 dealing with, again, so many pieces of paper and so many
10 documents and so many different numbers. But the
11 opportunity to clarify for the record is much
12 appreciated.

13 I would also, I guess, maybe very briefly kind
14 of speak to using a colloquialism of the elephant in the
15 room, which is from my perspective many of the rates for
16 these systems are high. They are higher than I am
17 comfortable with. They are higher than I would want to
18 pay.

19 You know, my understanding of the reality is
20 that much of that is due to kind of legacy circumstances
21 for some of these very small systems that were not
22 selected by municipalities to be included in their service
23 territory. And I know the Legislature is trying to deal
24 with it. I know that local government officials are
25 trying to deal with it, and I hope everybody in this

1 room and everybody interested in this case sees and
2 realizes how seriously we take it and how we are
3 struggling to try to find solutions.

4 And I think one of those solutions that we
5 have taken action on today, and in past decisions, and I
6 know in future decisions is that partially a reality of
7 those legacy circumstances and the rates that fall out
8 from that is that as a Commission we have very, very,
9 very high expectations for what the customer service
10 should be. There are some things that are out of any
11 operators, companies, consumers, regulators ability to
12 fix. One may be aesthetic quality and how
13 cost-effective any possible solution is. But customer
14 service is something that is absolutely in the control
15 of any business, and I think that as a result of kind of
16 all the accumulation of circumstances, our high
17 expectations on customer service, and because of the
18 rates that apply, the consumers' expectations on
19 customer service should be high and are certainly
20 merited, and I think that flows within the issue that is
21 before us. Thank you.

22 **CHAIRMAN BRISÉ:** Thank you.

23 At this time if there are no further comments,
24 I guess we are ready to entertain a motion.

25 **COMMISSIONER EDGAR:** Move staff.

1 (Microphone off. Motion seconded by
2 Commissioner.)

3 **CHAIRMAN BRISÉ:** Okay. It has been properly
4 moved and seconded. All in favor say aye.

5 (Vote taken.)

6 **CHAIRMAN BRISÉ:** All right. Very good. This
7 motion carries.

8 Issue Number 32.

9 **MR. FLETCHER:** Commissioners, actually Issue
10 32 through 38 are fallout issues. I would note that
11 Issue 37 would be dependent upon the Commission's -- you
12 know, all of these issues are dependent upon your
13 previous decisions, but also Issue 37 regarding the
14 four-year rate reduction is still dependent upon your
15 vote on Issue 22. But they are fallout.

16 **CHAIRMAN BRISÉ:** Commissioner Balbis.

17 **COMMISSIONER BALBIS:** Thank you, Mr. Chairman.

18 And if it's appropriate, I would move staff's
19 recommendation on those issues with the caveat that any
20 changes would be administratively performed.

21 **CHAIRMAN BRISÉ:** All right. Is there a second
22 to that motion?

23 **COMMISSIONER GRAHAM:** Second.

24 **CHAIRMAN BRISÉ:** All right. All in favor say
25 aye.

1 (Vote taken.)

2 **CHAIRMAN BRISÉ:** Any opposed?

3 Seeing none. Now we have going back to 22.

4 Let's take a ten-minute break, and then we will come
5 back to 22, which will bring us back at 5:00 o'clock.

6 (Recess.)

7 **CHAIRMAN BRISÉ:** All right. And we are back.

8 We are going to reconvene from our little break, and
9 we're going to try to bring this in for a landing. We
10 are at Issue 22, and I'm going to ask Commissioner Brown
11 to sort of get us to where we need to be.

12 **COMMISSIONER BROWN:** Okay. Thank you, Mr.
13 Chairman.

14 And I want to extend a compliment to
15 Commissioner Edgar for raising this issue. But I think
16 it's very important, and I appreciate everybody staying
17 and deliberating over this.

18 We certainly don't want to cherry-pick certain
19 categories. But that being said, and extending the
20 philosophy that we have applied to other categories,
21 including salaries and non-AUF employees of keeping cost
22 of living expenses out of the -- from the ratepayers'
23 pocketbooks, I would reword my motion, and maybe this
24 will accommodate and address all the concerns here.

25 To hold the line from the prior rate case for

1 those services rendered where there is record evidence
2 to support that, rather than identifying particular
3 employees. I would rather just say, in general, hold
4 the line from the prior rate case.

5 **CHAIRMAN BRISÉ:** Is there a second to that
6 motion?

7 **COMMISSIONER EDGAR:** (Indicating yes.)

8 **CHAIRMAN BRISÉ:** Okay. There is a second.

9 **MR. KISER:** Mr. Chairman, is she asking to go
10 back and reconsider, or did that motion not ever pass,
11 did we just hold it in limine?

12 **CHAIRMAN BRISÉ:** The other motion never
13 passed.

14 **MR. KISER:** Okay.

15 **CHAIRMAN BRISÉ:** So at this time, Commissioner
16 Edgar and then Commissioner Balbis.

17 **COMMISSIONER EDGAR:** Thank you, Mr. Chairman.

18 And thank you, Commissioner Brown, and to each
19 of my colleagues and our staff for helping us work
20 through this. As I said earlier, it may be semantics,
21 but the way you have approached it does give me some
22 additional comfort and some clarity. And according to
23 our legal staff it is perhaps a little clearer way to
24 make sure that what we are doing is based on the record,
25 as I know that we all want to do. So I thank you for

1 continuing to work on it.

2 **CHAIRMAN BRISÉ:** Commissioner Balbis.

3 **COMMISSIONER BALBIS:** Thank you, Mr. Chairman.

4 And I think that rewording the motion does alleviate a
5 lot, if not all of my concerns. Because, again, I think
6 if we focus on the category, or the title, or the work
7 being performed that makes more sense. And I think with
8 the evidence that we have it's supported by that, and as
9 long as we limit it to costs that are associated with
10 the '08 case that we can rely on, then I can support the
11 motion.

12 **CHAIRMAN BRISÉ:** All right. I'm seeing no
13 lights, so therefore, no further comment.

14 All in favor of the motion, please say yea.

15 (Vote taken.)

16 **CHAIRMAN BRISÉ:** Or aye.

17 Any opposed? All right. Very good. I want
18 to -- yes, Commissioner Balbis.

19 **COMMISSIONER BALBIS:** Thank you, Mr. Chairman.

20 And I thought -- I had some other concerns about this
21 issue that I was holding off on.

22 **CHAIRMAN BRISÉ:** Sure.

23 **COMMISSIONER BALBIS:** And I wanted to open it
24 up and get my fellow Commissioners' input on this.
25 During the technical hearing, there was a line of

1 questioning that I had with an Aqua representative on
2 determining what is a prudent rate case expense and what
3 is not. And we focused on the legal fees and we used as
4 an example the invoices from Holland and Knight and Mr.
5 May where there was detailed descriptions as to the work
6 performed. And it was in, I believe, ten-minute
7 increments, and it was very detailed and thorough. And
8 the Aqua witness indicated that based on his thorough
9 review of those descriptions that is how he determines
10 that these costs are reasonable and they should be
11 passed on to the customers.

12 However, when I looked at the costs for rate
13 case expense associated with the Aqua affiliated company
14 ASI, the only thing that was in the record in Exhibit
15 340 were time sheets that were -- that did not have any
16 descriptions. The only thing that was included was an
17 activity which just listed an account number of M92105
18 AUF rate case, and that was it. Some of these time
19 sheets were either unsigned or not approved, and that a
20 subsequent summary was prepared that it's my
21 understanding they interviewed the employees sometime
22 after the fact to determine what they did during those
23 periods of time.

24 And I think we have a situation here where the
25 affiliated charges that have to meet a greater burden of

1 proof to determine whether these costs are reasonable
2 and prudent. And my concern is that, you know, we have
3 one level of scrutiny for an outside consultant and yet
4 what appears to be very little scrutiny for the ASI
5 charges.

6 And the question for staff is, you know, one,
7 what options do we have when faced with this decision,
8 because this issue and these costs associated I believe
9 are \$216,000, is that correct?

10 **MR. FLETCHER:** That is the utility's total
11 requested. Based on the prior decision it's now on Page
12 162, it would be a total of \$194,257 now.

13 **COMMISSIONER BALBIS:** And there's no question
14 that some work was performed by ASI, and they had to
15 have their internal folks working on this rate case, but
16 I don't feel they met the burden of proof for all of
17 these expenses. So I think it would be appropriate to
18 disallow some of these costs as recommended by staff as
19 far as different options we have because, again, there
20 is a higher level of scrutiny that is required with
21 these associated and affiliated charges.

22 **MR. FLETCHER:** Yes, Commissioner. I guess the
23 options you can take, because the Commission has broad
24 discretion with regards to the approval of rate case
25 expense, and we do have court cases with Florida Power

1 versus Cresse, it is the utility's burden to prove its
2 requested costs are reasonable, and particularly when
3 you have affiliate transactions. They are not, per se,
4 unreasonable, but they do require greater scrutiny.

5 We did have heartburn over the fact that this
6 was done after the fact. An interview regarding the
7 time sheets was initially there. One thing that gave us
8 just a little bit of pause in that is that the level
9 that was done in this case was less than what was
10 approved in the last rate case. So we kind of -- even
11 with that heartburn, we just moved forward on
12 identifying what was not related to this case. If it
13 was work performed elsewhere, we made those specific
14 disallowances.

15 But given everything, it does require greater
16 scrutiny. The Commission does have that broad
17 discretion to come up with a reduction however you wish.
18 Basically, it wouldn't be considered arbitrary because
19 simply you believe that the lack of detail or support is
20 not there. And as Ms. Bennett has spoken about, you
21 have to make a finding that it's not reasonable. Well,
22 your finding could be that it is not reasonable because
23 of lack of support documentation regarding that and be
24 given that greater scrutiny. So I guess with that broad
25 discretion, the spectrum is there with regard to the

1 remaining amount of 194,000 for the Commission.

2 **COMMISSIONER BALBIS:** Thank you. And, again,
3 there was some work that was performed. There is no
4 question a case of this magnitude requires work, but I
5 don't feel they met the burden of proof. I'm
6 uncomfortable with disallowing all of it, and I think,
7 you know, I'm struggling with coming up with a
8 percentage to disallow that doesn't appear to be the A
9 word, arbitrary. So I'm kind of opening it up to the
10 Commission, if this is something that my colleagues have
11 any ideas on how we can address this.

12 **CHAIRMAN BRISÉ:** Before we go there, I see
13 Commissioner Brown has an interest in speaking on this.
14 Perhaps our General Counsel can give us the framework of
15 what we can work within.

16 Mary Anne.

17 **MS. HELTON:** I would have said things maybe a
18 little bit differently than Mr. Fletcher did. The
19 Commission does have broad discretion when setting
20 rates, and that is when you look at Section 367.081, in
21 particular, and the other ratemaking provisions in
22 Chapter 367. The courts have continually said with
23 respect to your jurisdiction you do have broad
24 ratemaking authority and you do have a lot of
25 discretion. That being said, the courts have told you

1 with respect to rate case expense that you can only
2 approve those expenses that you believe to be
3 reasonable.

4 How do you decide what is reasonable or what
5 is not reasonable? Well, one of the factors that you
6 have to look at is what's in the record and what the
7 company has produced to you. So I think it is
8 completely legitimate for you to determine that the
9 company has failed to meet its burden of proof with
10 respect to the information that it has provided you for
11 the expenses that Commissioner Balbis has raised before
12 you.

13 I would not characterize it so much as you can
14 do anything you want to. You have to do what's -- work
15 within the confines of the record. If there are certain
16 invoices that you've looked at, Commissioner Balbis,
17 that you think just aren't clear enough, then deduct
18 those out from what was presented. Or if you think a
19 certain category of expenses within the category has not
20 been clearly laid out to you, then deduct those out.
21 But you do have to work within the confines of the
22 record and what in your professional expertise you
23 believe to be reasonable.

24 Does that help, I hope?

25 **CHAIRMAN BRISÉ:** So, therefore, the suggestion

1 wouldn't be to look at the sum number and make a
2 deduction, but it would be to identify within -- by the
3 services provided identify either line items or groups
4 of things that we find that may not be reasonable and
5 then make deductions from there.

6 **MS. HELTON:** I'm sitting here probably with
7 the least amount of knowledge about what is in the
8 record with respect to these types of expenses, but what
9 you have described to me sounds reasonable.

10 **MR. FLETCHER:** I believe that's a fair
11 characterization of how you need to review rate case
12 expense as far as the support provided in the review in
13 line with what Ms. Helton said.

14 **CHAIRMAN BRISÉ:** All right. Commissioner
15 Brown, and then we'll come back to Commissioner Balbis.

16 **COMMISSIONER BROWN:** Thank you. And do we
17 have those invoices here for Commissioner Balbis to
18 evaluate and make a suggestion?

19 **MR. FLETCHER:** Well, for the ASI employees
20 that he's referring to, their time sheets, they were
21 provided in response to -- I guess it was Late-filed
22 Deposition Exhibit 12, Szczygiel, and I think it's
23 Hearing Exhibit 340. They were provided in that
24 exhibit. And I will agree with Commissioner Balbis that
25 it was provided after the fact. It was an interview

1 that was done for those ASI employees that worked on the
2 rate case done after the fact. And how it was
3 determined -- I guess how it was said by AUF Witness
4 Szczygiel was that it was an effort to clarify in a
5 little bit more detail to get it closer to what you
6 would see in an outside consultant. So it was done
7 after the fact, I will admit that.

8 **COMMISSIONER BROWN:** Okay. And this is a
9 significant number, I mean, that we are talking here.
10 May I ask what that number was from the prior rate case,
11 the total?

12 **MR. FLETCHER:** Yes. In the last case it was
13 about 234,000.

14 **COMMISSIONER BROWN:** Which was approved.

15 **MR. FLETCHER:** Which was approved for ASI
16 employees.

17 **COMMISSIONER BROWN:** So the amount actually
18 went down from --

19 **MR. FLETCHER:** Correct.

20 **COMMISSIONER BROWN:** Okay.

21 **CHAIRMAN BRISÉ:** Commissioner Balbis.

22 **COMMISSIONER BALBIS:** Thank you.

23 I have a question or two for staff. And I
24 have reviewed all of the time sheets, and I have
25 reviewed each page of the summary. I just have not

1 accumulated my notes from that. So I know that it is
2 available, and I can certainly do so, but the question
3 for staff: Are time sheets such as were submitted by
4 Aqua in this case, were they to the level of detail that
5 staff normally deems sufficient to prove whether or not
6 they are prudent or not?

7 **MR. FLETCHER:** They are in the similar format
8 that we have seen for, like, the UI cases that we have
9 seen where they have each employee and a limited
10 description. They are not as elaborate as you would see
11 in the Holland and Knight or legal invoices, but they
12 are of similar format that we have seen and reviewed.

13 We were able to identify from the time sheets
14 specific hours that we did not feel that were reasonable
15 and prudent. Either they did not relate to this rate
16 case was the predominant recommended disallowance is
17 that it related to a nonregulated system. So it is of
18 similar format as we have seen in other cases, yes.

19 **COMMISSIONER BALBIS:** And that staff has
20 approved?

21 **MR. FLETCHER:** Yes, Commissioner.

22 **COMMISSIONER BALBIS:** Okay. As much as I
23 don't like the position we are in, I don't know if it's
24 fair to change the rules of the game midstream. A final
25 question for staff. Were these time sheets similar to

1 those submitted for the '08 case?

2 **MR. FLETCHER:** Yes, Commissioner.

3 **COMMISSIONER BALBIS:** Well, I certainly would
4 direct staff to require additional descriptions and
5 information. I am somewhat comforted by the fact that
6 the costs did go down from '08, so that does help me a
7 little. But, you know, it seems like we have two
8 standards. We expect very detailed descriptions from
9 outside consultants, and yet we have accepted in the
10 past very little detail from internal costs, especially
11 affiliated charges. So I would hope that staff puts all
12 utilities on notice that additional descriptions are
13 required. And I don't think changing the rules at this
14 point is fair, but, again, the costs have gone down, so
15 that's all I have. So with that, I can move staff's
16 recommendation as modified by Commissioner Brown's
17 amendment.

18 **CHAIRMAN BRISÉ:** All right. We have a motion
19 and a second. All in favor say aye.

20 (Vote taken.)

21 **CHAIRMAN BRISÉ:** Very good. There are none
22 opposed to this motion. This brings us pretty much to
23 the conclusion of this rate case.

24 **COMMISSIONER EDGAR:** Mr. Chairman, I'm not
25 sure that we took up Issue 39.

1 **CHAIRMAN BRISÉ:** 39.

2 **COMMISSIONER EDGAR:** To close the docket.

3 **CHAIRMAN BRISÉ:** We didn't take up 39?

4 **COMMISSIONER EDGAR:** I was going say we
5 didn't, but --

6 **CHAIRMAN BRISÉ:** I guess we didn't.

7 **COMMISSIONER EDGAR:** Well, we had to go back
8 to 22, so we needed to leave it open.

9 **CHAIRMAN BRISÉ:** All right. So we will take
10 up Issue 39. Is there a motion on that?

11 (Microphone off. Motion by Commissioner.)

12 **COMMISSIONER EDGAR:** Second.

13 **CHAIRMAN BRISÉ:** All right. It is moved and
14 properly seconded. All in favor?

15 (Vote taken.)

16 **CHAIRMAN BRISÉ:** All right. Any opposed?

17 **MR. JAEGER:** Chairman, I just want to make
18 sure. We're having to come back for Issue 22. Are
19 Jennie's issues -- I didn't understand. We have been
20 given the administrative authority, is that right?

21 **CHAIRMAN BRISÉ:** Yes.

22 **MR. JAEGER:** And so you are moving Issue 39?

23 **CHAIRMAN BRISÉ:** Yes. Thank you. At this
24 time, if any Commissioners have any comments that they
25 would like to make concerning the work that we have done

1 today, this would be the time for you to do so.

2 Commissioner Balbis.

3 **COMMISSIONER BALBIS:** Thank you, Mr. Chairman.

4 And I just want to make a few comments. I'd like to
5 thank staff for all of their work. This being my first
6 large water rate case, I have been impressed with the
7 level of professionalism and dedication from staff.

8 I also want to thank the public and the
9 customers. I thank you for your involvement, and I
10 thank you for attending the customer hearings. I know
11 that all of these that I attended, and my fellow
12 Commissioners, we listened, we paid attention, and we
13 used that as an important tool. So I want to thank you
14 for that.

15 The issue with Aqua Utilities and the high
16 cost is something that we are concerned with. I mean,
17 there are many reasons to it. I know the Legislature is
18 moving forward with possibly addressing this issue, but
19 hopefully through this process that there has been some
20 comfort to the public from the Commission and the agency
21 that we review all the costs individually and make sure
22 that they are prudent and move forward with what is
23 appropriate, because it is a balancing act. These
24 improvements need to be made. The utility needs to stay
25 in business, but the customers have their needs, as

1 well. So I think this process shows the hard work that
2 has been done, and hopefully the fairness, and I want to
3 thank everyone for their involvement. I thank my fellow
4 Commissioners because it certainly was a pleasure
5 working with you on this docket. So, thank you.

6 **CHAIRMAN BRISÉ:** Commissioner Brown.

7 **COMMISSIONER BROWN:** Thank you. I will try to
8 be brief.

9 And I also want to thank staff for over a
10 year's worth of work that you have put in. Your
11 dedication and expertise has been very helpful in
12 helping guide us. And I thank the parties, and
13 especially the customers, because you have contributed
14 significantly to our decisions today.

15 And I was thinking about this after I read the
16 recommendation. Maybe you all have seen the movie "The
17 Perfect Storm." I feel like this rate case has been
18 like the perfect storm for the customers. Aqua just had
19 a rate case two years ago causing a little polarizing
20 between the customers and the utility, coupled with the
21 economic downturn, you know, which has been particularly
22 felt by those folks in these service areas operated by
23 Aqua. The higher rates of Aqua has contributed to less
24 usage by the customers. Less usage by the customers has
25 equaled less revenue for the utility which has escalated

1 the need for another rate case.

2 In addition, there is this perception out
3 there by the customers that the quality of water is
4 unsafe and undrinkable. We heard it repeatedly at the
5 service hearings. Which, again, has been a polarizing
6 issue between the utility and the customers.

7 Finally, I think the issue that we struggle
8 with as regulators is that Florida law can be somewhat
9 constricting in terms of what we can do. I feel that
10 today we have accomplished everything that we can
11 possibly do for the consumers, given the constraints of
12 the statutes. And I would encourage the utility to
13 continue to work on the issues that we have addressed
14 today and striving for more customer satisfaction and
15 better quality of product and quality of service.

16 **CHAIRMAN BRISÉ:** Thank you, Commissioner
17 Brown.

18 I want to thank our staff for working
19 tirelessly on putting together the recommendation. I
20 think your recommendation was balanced. Obviously we
21 might have taken some exception to parts of it, but I
22 think you have done your job in an exceptional fashion
23 and we thank you for that.

24 Also, I want to thank the customers for
25 remaining engaged. And I know that it is late in the

1 evening and many of you have -- or all of you have
2 traveled pretty far to be here, and we appreciate the
3 fact that you are intimately involved and engaged in
4 this process.

5 I also want to thank the utility for the
6 efforts that they have made, and we'll certainly look
7 for them to continue on the path that they have begun,
8 notwithstanding that we think that there is work that
9 needs to continue, but we certainly appreciate the
10 effort that has been made.

11 And I want to thank my fellow Commissioners
12 for being thoughtful this afternoon, understanding the
13 four corners that we have to work within. And obviously
14 there are things that are beyond our pay grade here at
15 the Commission, and understanding the situation with
16 respect to water policy here in the state. There is
17 work that obviously needs to be done with respect to how
18 to deal with smaller systems with a small base in terms
19 of customers and how to deal with all of the
20 infrastructure upgrades that need to occur.

21 So I certainly hope that those who have the
22 capability and ability to address those issues will do
23 that in a thoughtful manner so that the public interest
24 is always preserved. And I think this afternoon we have
25 proven once again that we are working in the public

1 interest. So I want to thank every single one of you
2 for your hard work.

3 And with that, we stand adjourned.

4 (The Agenda Conference concluded at 5:25 p.m.)
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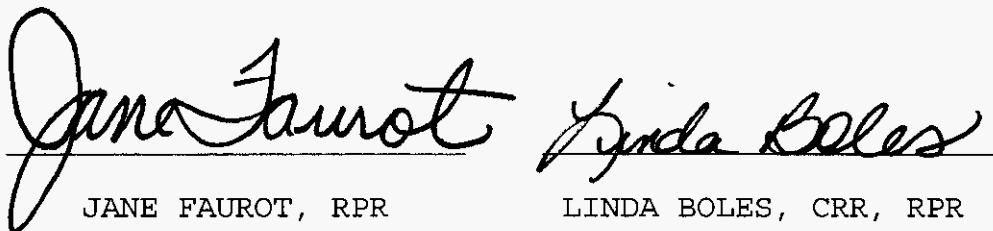
COUNTY OF LEON)

WE, JANE FAUROT, RPR, and LINDA BOLES, RPR, CRR, Official Commission Reporters, do hereby certify that the foregoing proceeding was heard at the time and place herein stated.

IT IS FURTHER CERTIFIED that we stenographically reported the said proceedings; that the same has been transcribed under our direct supervision; and that this transcript constitutes a true transcription of our notes of said proceedings.

WE FURTHER CERTIFY that we are not a relative, employee, attorney or counsel of any of the parties, nor are we a relative or employee of any of the parties' attorneys or counsel connected with the action, nor are we financially interested in the action.

DATED this 17th day of February, 2012.


JANE FAUROT, RPR LINDA BOLES, CRR, RPR

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