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BEFORE THE  
FLORIDA PUBLIC SERVICE COMMISSION

In the Matter of:

DOCKET NO. 160101-WS

APPLICATION FOR INCREASE IN  
WATER AND WASTEWATER RATES IN  
CHARLOTTE, HIGHLANDS, LAKE, LEE,  
MARION, ORANGE, PASCO, PINELLAS,  
POLK, AND SEMINOLE COUNTIES  
BY UTILITIES, INC. OF FLORIDA.

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VOLUME 1  
PAGES 1 THROUGH 154

PROCEEDINGS: HEARING

COMMISSIONERS  
PARTICIPATING: CHAIRMAN JULIE I. BROWN  
COMMISSIONER ART GRAHAM  
COMMISSIONER RONALD A. BRISÉ  
COMMISSIONER JIMMY PATRONIS  
COMMISSIONER DONALD J. POLMANN

DATE: Monday, May 8, 2017

TIME: Commenced at 1:30 p.m.  
Concluded at 4:24 p.m.

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

REPORTED BY: ANDREA KOMARIDIS  
Court Reporter

PREMIER REPORTING  
114 W. 5TH AVENUE  
TALLAHASSEE, FLORIDA  
(850) 894-0828

## 1 APPEARANCES:

2 MARTIN S. FRIEDMAN, ESQUIRE, Friedman &  
3 Friedman, P.A., 766 North Sun Drive, Suite 4030, Lake  
4 Mary, Florida 32746, appearing on behalf of Utilities  
5 Inc. of Florida.

6 J.R. KELLY, PUBLIC COUNSEL; CHARLES REHWINKEL,  
7 DEPUTY PUBLIC COUNSEL; ERIK L. SAYLER, PATRICIA A.  
8 CHRISTENSEN, and VIRGINIA PONDER, ESQUIRES, Office of  
9 Public Counsel, c/o the Florida Legislature, 111 W.  
10 Madison Street, Room 812, Tallahassee, Florida  
11 32399-1400, appearing on behalf of the Citizens of the  
12 State of Florida.

13 WALTER TRIERWEILER, KYESHA MAPP, DANIJELA JANJIC,  
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15 General Counsel's Office, 2540 Shumard Oak Boulevard,  
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17 the Florida Public Service Commission Staff.

18 KEITH HETRICK, GENERAL COUNSEL; MARY ANNE  
19 HELTON, DEPUTY GENERAL COUNSEL; SAMANTHA CIBULA,  
20 ESQUIRE, Florida Public Service Commission, 2540 Shumard  
21 Oak Boulevard, Tallahassee, Florida 32399-0850, adviser  
22 to the Florida Public Service Commission.

23  
24  
25

1 APPEARANCES (CONTINUED):

2 BRIAN ARMSTRONG, ESQUIRE, Law Office of Brian  
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5 Alliance and Ann Marie Ryan.

6 WILLIAM S. BILENKY, Manson, Bolves, Donaldson,  
7 Varn, P.A., 1101 West Swann Avenue, Tampa, Florida  
8 33606, appearing on behalf of Seminole County.

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

1  
2 CHAIRMAN BROWN: Good afternoon. I would like  
3 to call this hearing to order in the technical  
4 portion, the application for increase in water and  
5 wastewater rates by Utilities, Inc. of Florida.  
6 Today is May 8th, 2017. The time is roughly 1:30.

7 Staff, can you please read the notice?

8 MR. TRIERWEILER: By notice issued April 10 --

9 CHAIRMAN BROWN: Mic- -- microphone, sir.

10 MR. TRIERWEILER: Thank you so much.

11 By notice issued April 10th, 2017, this time  
12 and place was set for hearing in Docket  
13 No. 160101-WS. The purpose of the hearing is set  
14 out more-fully in the notice.

15 CHAIRMAN BROWN: Thank you. And at this time,  
16 we'll take appearances, starting with Utilities,  
17 Inc.

18 MR. FRIEDMAN: Thank you. Martin Friedman of  
19 Friedman & Friedman, on behalf of Utilities, Inc.  
20 of Florida.

21 CHAIRMAN BROWN: Thank you.

22 Public Counsel.

23 MR. SAYLER: Erik Sayler with the Office of  
24 Public Counsel. I'm entering appearances for  
25 Mr. J.R. Kelly, the Public Counsel; Charles

1 Rehwinkel, the Deputy Public Counsel; Patty  
2 Christensen and Virginia Ponder, associate public  
3 counsels.

4 CHAIRMAN BROWN: Thank you.

5 Summertree/Ann Marie Ryan.

6 MR. ARMSTRONG: Right. Brian Armstrong from  
7 the Law Office of Brian Armstrong, representing  
8 Summertree Water Alliance and Mrs. Ann Marie Ryan.

9 CHAIRMAN BROWN: Thank you.

10 MR. ARMSTRONG: Thank you.

11 CHAIRMAN BROWN: Seminole County.

12 MR. BILENKY: Bill Bilenky, the law firm of  
13 Manson, Bolves, Donaldson & Varn, here on behalf of  
14 Seminole County.

15 CHAIRMAN BROWN: Thank you.

16 Commission staff.

17 MR. TRIERWEILER: Walt Trierweiler, Kyesha  
18 Mapp, Danijela Janjic, Wesley Taylor, and Jennifer  
19 Crawford.

20 CHAIRMAN BROWN: Counsel.

21 MR. HETRICK: General Counsel, Keith Hetrick,  
22 and Mary Anne Helton, your adviser.

23 CHAIRMAN BROWN: Thank you.

24 Now, there are a few preliminary matters that  
25 we need to address. Mr. Trierweiler, you want to

1 kick them off -- or Ms. Crawford?

2 MR. TRIERWEILER: Staff notes that the parties  
3 have agreed that, if necessary, Staff Witness  
4 Kleinfelter may be taken out of turn to present her  
5 testimony by May 10th due to a scheduling conflict.  
6 Staff would like, again, to express our  
7 appreciation to the parties for this accommodation.

8 CHAIRMAN BROWN: Okay. That is noted.

9 MS. CRAWFORD: Chairman, if I may, also, I  
10 note that, on Saturday, Summertree and Ms. Ryan  
11 filed a motion for reconsideration. That was  
12 placed in the docket file this -- this -- today.

13 The motion for reconsideration included a  
14 request for oral argument. And staff is  
15 recommending that the Commission take those matters  
16 up at this time, if it's the will of the  
17 Commission.

18 CHAIRMAN BROWN: Okay. Thank you. We will go  
19 ahead and take that up at this time. I do have a  
20 copy of the motion for reconsideration and have  
21 reviewed it. I don't know if my colleagues have a  
22 copy of it in front of them, but I do -- I think  
23 it's very sufficient on its face.

24 Unless someone really thinks oral argument  
25 would add to the discussion, I'm in- -- I'm



1 inclined to just address the motion for  
2 reconsideration. But then, again, I am also open  
3 to it, if anyone wants to hear oral argument.

4 Seeing none -- okay. Staff, let's go right to  
5 the motion for reconsideration.

6 MS. CRAWFORD: Yes. Staff can make a  
7 recommendation that the reconsideration should be  
8 denied. The standard for reconsideration is  
9 whether a mistake of fact or law was at issue when  
10 the order was rendered. And also reargument is not  
11 appropriate for reconsideration.

12 Looking at the matters raised in the  
13 reconsideration, they're largely the same that were  
14 raised on the motion to dismiss. The pleadings --  
15 the matters that are raised in the pleadings really  
16 go to the quality and the sufficiency of the  
17 evidence in UIF's prefiled, direct, and rebuttal  
18 testimony and exhibits, written discovery  
19 responses, and depositions.

20 That's not appropriate for a motion to  
21 dismiss. They are appropriate to raise in a post-  
22 hearing brief requesting that the utility's  
23 application be denied, but I -- it is not  
24 appropriate for dismissal.

25 And so, it appears to us that Mr. Armstrong

1 has failed to raise any point of fact or law that  
2 wasn't already before the pre-hearing officer when  
3 he rendered his order, and merely reargues the same  
4 points. And staff recommends the reconsideration  
5 be denied.

6 CHAIRMAN BROWN: Thank you, Ms. Crawford, for  
7 that analysis. I agree with you 100 percent.

8 Commissioners, any questions or comments? If  
9 not, we're ripe for a motion on the -- on the  
10 motion to reconsider.

11 COMMISSIONER GRAHAM: I move it to be denied,  
12 the motion for reconsideration.

13 COMMISSIONER PATRONIS: Second.

14 CHAIRMAN BROWN: Any further discussion?

15 Seeing none, all those in favor, say aye.

16 (Chorus of ayes.)

17 CHAIRMAN BROWN: Opposed?

18 (No response.)

19 CHAIRMAN BROWN: Motion passes.

20 All right. Staff, are there any additional  
21 matter -- preliminary matters?

22 MR. TRIERWEILER: Staff is aware of none.

23 CHAIRMAN BROWN: Okay. Thank you.

24 MR. REHWINKEL: Madam Chairman, Charles  
25 Rehwinkel with the Office of Public Counsel. We

1 have a preliminary matter we would like to bring to  
2 your attention.

3 CHAIRMAN BROWN: Please, proceed.

4 MR. REHWINKEL: Thank you.

5 Commis- -- Madam Chairman, Commissioners, the  
6 Public Counsel would like to advise the Commission  
7 that we intend to file a written motion for  
8 reconsideration of Order No. PSC-17-0147-PCO, the  
9 order of the pre-hearing officer denying the Office  
10 of Public Counsel's motion to strike. We have  
11 until Wednesday to do that.

12 And we will be making objections -- the reason  
13 we are bringing it to your attention now is we will  
14 be making objections to the admission of evidence  
15 throughout this hearing consistent with the  
16 position that we will be taking in this motion.  
17 And I would like to just briefly, for the record,  
18 summarize that.

19 CHAIRMAN BROWN: Okay.

20 MR. REHWINKEL: The basis for reconsideration  
21 that the Public Counsel would be bringing to you is  
22 that the order is based on errors of fact and law  
23 and that it is wrongly based on an assumption that  
24 the Public Counsel's rights under Chapter 120 and  
25 Chapter 367 were not violated by the piecemeal and

1 months-late filing of supporting cause  
2 documentation for pro forma plant.

3 We will ask you to recede from language in  
4 your order that can be read to endorse or encourage  
5 this utility -- or any other utility, for that  
6 matter -- to intentionally file skeletal testimony  
7 and cause support and then delay until the last  
8 minute its filing of the admitted required follow-  
9 up information that should have been included in  
10 the original, initial filing.

11 Our fundamental objection is that our expert  
12 was either completely prevented from or materially  
13 hampered in providing expert engineering-analysis  
14 testimony based on his professional judgment with  
15 regard to millions of dollars of pro forma plant  
16 additions.

17 The legal and factual information that your  
18 staff provided in drafting the order for the  
19 pre-hearing officer was a disservice to him and the  
20 Commission and must be corrected on  
21 reconsideration.

22 The facts of this case are unique, and they  
23 differ entirely and materially from the three  
24 pre-hearing order cases, WMSI, Gulf Power, and  
25 Progress Energy.

1           Additionally, the Florida Supreme Court's Gulf  
2           Power vs. Bevis case does not stand for the  
3           proposition that a utility can file any information  
4           it controls at any time it wishes without regard to  
5           your rules and orders and that you must consider  
6           it.

7           If the relevant portions of Order 170147 are  
8           not corrected, and the Commission, then, proceeds  
9           to allow revenue requirements based on incredibly  
10          late-filed information that the citizens were not  
11          allowed to provide responsive expert test- --  
12          engineering testimony on, we will be forced to, yet  
13          again, seriously consider inviting an appellate  
14          court to review the Commission's actual practice of  
15          allocating the burden of proof as opposed to the  
16          mere lip service that the utility bears the burden  
17          of proof.

18           Thank you.

19           CHAIRMAN BROWN:   Okay.   Thank you.

20           Mr. Sayler?

21           MR. SAYLER:   One other preliminary matter --

22           CHAIRMAN BROWN:   Oh, just one second --

23           MR. SAYLER:   Sure.

24           CHAIRMAN BROWN:   -- before we move on.

25           Any comment before we move on?

1 All right. Well, then we anticipate  
2 considering your motion for reconsideration by  
3 Wednesday.

4 MR. REHWINKEL: Thank you.

5 CHAIRMAN BROWN: Thank you.

6 MR. SAYLER: Thank you, Madam Chair.

7 Prior to today's hearing, we distributed a  
8 sheet -- Public Counsel had a corrected page to  
9 Mr. Woodcock's testimony. We filed it in the  
10 docket file, served it to all the parties.

11 We wanted to give people some opportunity to  
12 see it ahead of time, before he testifies, whenever  
13 he testifies during the proceeding of this case.  
14 And if it is your pleasure, we can mark it for now  
15 or wait until his testimony and have this marked at  
16 the start of his testimony.

17 CHAIRMAN BROWN: Let's just wait until he  
18 comes up to the stand. And we'll go ahead and mark  
19 that as an exhibit when he's on the stand.

20 MR. SAYLER: Thank you, Madam Chair.

21 CHAIRMAN BROWN: Thank you.

22 Any other preliminary matters before we  
23 proceed?

24 Okay. I'm going to go over just an overview  
25 of the hearing schedule that I foresee this week

1           having. We're going to try to strive and cover as  
2           much ground as possible in the time that's been  
3           allotted to this hearing. And we do have much  
4           ground to cover with direct, rebuttal, and cross to  
5           be conducted by five parties, along with staff and  
6           Commissioners on 18 witnesses, covering a little  
7           over 80 issues.

8           The challenge for all of us here today and for  
9           the rest of this week is to have a fair, yet,  
10          efficient process that concludes on time. To that  
11          end, I would like to ask all of you to be courteous  
12          and respectful in staying on point and within the  
13          scope of the proceeding and the witnesses'  
14          testimony.

15          Now, for today, since we started roughly late,  
16          and we had an earlier service hearing, I envision  
17          us stopping somewhere before dinnertime, try to  
18          ease all of us into the hearing schedule; so,  
19          somewhere around 7:00 or a natural stopping point.

20          Tomorrow, we will begin promptly at 9:00 a.m.  
21          We will recess for lunch, again, at a very natural  
22          stopping point. We'll have about a 45-minute lunch  
23          break. And then we will have a dinner break equal  
24          to that in time, again, at a natural stopping  
25          point.

1           We will take the five- to ten-minute breaks  
2           every two to three hours to allow everyone to  
3           stretch their legs and the court reporter to rest a  
4           little bit. But please let me know if you need a  
5           recess or a little break or window as well, and I  
6           will try to accommodate that if it -- if we have  
7           time -- again, a very short break.

8           I want everyone to have an opportunity to rest  
9           in between the hearing days, but I also have to  
10          balance that with the need to be efficient and  
11          cover as much ground as possible.

12          I believe tomorrow night, we're going to  
13          strive to go a little bit later than normal. So,  
14          to that regard, please plan accordingly. There's  
15          snack machines out there. Not a lot of options  
16          here. So, just try to make do tonight. Pack a  
17          snack, pack some dinner for tomorrow. And we'll --  
18          we'll do this together.

19          Please make sure to silence your electronic  
20          devices now, for all of those in the audience; your  
21          cell phones, your iPads, whatever else you've got  
22          there. Again, it makes it very difficult on our  
23          court reporter to transcribe the record properly  
24          when there are distractions like that. Thank you.

25          Now, we're going to move on to the



1 stipulations. Staff.

2 MS. CRAWFORD: Yes, there are 18 issues for  
3 which there are proposed Type 2 Stipulations. For  
4 the record, these are for Issues 13, 14, 15, 17,  
5 25, 26, 27, 44, 48, 57, 63, 66, 67, 68, 69, 70, 72,  
6 and 77.

7 And staff has prepared a document including  
8 the issue statement and the proposed stipulation  
9 for each issue. We have circulated it to all of  
10 the parties, the court reporter, and the  
11 Commissioners.

12 CHAIRMAN BROWN: We're going to go mark that  
13 as Exhibit 262, and title it --

14 MS. CRAWFORD: Proposed --

15 CHAIRMAN BROWN: Type --

16 MS. CRAWFORD: Proposed Type 2 Stipulations?

17 CHAIRMAN BROWN: That sounds good.

18 (Exhibit No. 262 marked for identification.)

19 CHAIRMAN BROWN: Commissioners, everyone has a  
20 copy of the proposed Type 2 Stipulations before  
21 them? Thank you.

22 Ms. Crawford, you may proceed.

23 MS. CRAWFORD: So, unless there are any  
24 comments the parties wish to make, we would tender  
25 the proposed Type 2 Stipulations to the Commission

1 for any discussion you may wish to have or to vote  
2 as you see appropriate.

3 CHAIRMAN BROWN: Certainly.

4 Do any of the parties want to address the  
5 Commission on the proposed Type 2 stipulations?

6 Seeing none -- Commissioners, any questions?

7 I do have some questions on just one category,  
8 Issues 66 and 67. I don't know who to direct it  
9 to, Utilities, Inc. of Florida, or to our legal  
10 staff and technical staff on the appropriate late-  
11 payment charge.

12 I'm assuming that these costs are cost-based?

13 MS. CRAWFORD: That's my understanding is  
14 there was support in the record for the -- the  
15 utility's position on that.

16 CHAIRMAN BROWN: All right. I -- I would like  
17 to know what the hourly rate is to justify these  
18 costs.

19 MS. FRIEDRICH: Marissa Friedrich with  
20 Commission staff.

21 UIF has proposed a late-payment charge of  
22 8.84. And for the labor, they are requesting 18.36  
23 for the billing specialist per hour, and \$28.16 per  
24 hour for the assistant billing manager.

25 CHAIRMAN BROWN: So, recovery for both in the

1 late-payment charge?

2 MS. FRIEDRICH: Correct.

3 CHAIRMAN BROWN: And how much per -- per  
4 processing fee -- I mean, how many hours per  
5 processing fee or minutes?

6 MS. FRIEDRICH: They came up with a total of  
7 \$7.75 total for clerical and administrative labor,  
8 and then 20 cents for the computer and copier, and  
9 then 49 cents for postage.

10 CHAIRMAN BROWN: I think this is the highest  
11 that has ever been before us, at least in the past  
12 six and a half years that I've been here. Have we  
13 ever approved anything of this magnitude, almost  
14 \$9.00?

15 MS. FRIEDRICH: Currently, the highest late-  
16 payment charge is \$7.15 for KW- -- KWRU.

17 CHAIRMAN BROWN: I mean, why -- I'm just  
18 having a hard time understanding why the costs are  
19 justified and --

20 MS. CRAWFORD: If it gives any comfort, you  
21 can note -- and we can note in the order for you --  
22 that this was pursuant to a stipulation. The  
23 reason staff didn't object to it is, having looked  
24 at the cost-justification provided, we didn't  
25 object to the -- the approval of this as a

1 stipulation.

2 CHAIRMAN BROWN: Okay. Thank you. I can't  
3 support it, but Commissioners, any questions or  
4 comments on any of the other stipulations?

5 All right. If not, ready for a motion on  
6 Exhibit 262.

7 (No response.)

8 CHAIRMAN BROWN: Seeing none, any discussion?  
9 Comments?

10 (No response.)

11 MR. ARMSTRONG: Can I --

12 CHAIRMAN BROWN: Would you all like to take a  
13 five-minute recess?

14 MR. ARMSTRONG: Madam Chair, can I ask a  
15 question, though? I -- I want to make sure -- I  
16 haven't been around here in a while. It's been a  
17 few years, but we haven't addressed this -- this  
18 comprehensive exhibit list yet.

19 CHAIRMAN BROWN: That's -- that's later in the  
20 process --

21 MR. ARMSTRONG: Okay.

22 CHAIRMAN BROWN: -- Mr. Armstrong.

23 MR. ARMSTRONG: Just wanted to make sure.

24 Thank you.

25 CHAIRMAN BROWN: You're welcome.

1           Why don't we take a five-minute break and we  
2           will reconvene at 1:55. Thank you.

3           (Brief recess.)

4           CHAIRMAN BROWN: Okay. We're going back on  
5           the record now. This hearing is reconvened. I  
6           thank you all for being patient with us, for giving  
7           us an opportunity to look at the stipulations.

8           Mary Anne.

9           MS. HELTON: Madam Chairman, I think it might  
10          be appropriate at this time to clarify that you all  
11          can approve all of the stipulations that are  
12          contained in that list or just parts or some of the  
13          stipulations. It's not an all-or-nothing deal.

14          CHAIRMAN BROWN: So, if we carve out two of  
15          the issues, then what happens with the proceeding?  
16          Would a witness be available to be put forth on the  
17          stand?

18          MS. HELTON: If there are any issues -- well,  
19          one reason why we do the stipulations at this stage  
20          of the proceeding is, if there are issues that you  
21          do not approve the stipulation for, then we  
22          would -- they would be part of the regular mix of  
23          the hearing. You could hear witness testimony on  
24          it, conduct cross-examination, parties would brief  
25          it, and then staff would make a recommendation on

1           that issue.

2           CHAIRMAN BROWN: Thank you, Ms. Helton. That  
3 helps.

4           Commissioners, I would -- I would definitely  
5 be inclined to supporting a motion that approves  
6 all the stipulations, apart from Issue 66 and  
7 Issue 67.

8           Commissioner Polmann.

9           COMMISSIONER POLMANN: Thank you, Madam Chair.  
10 I would make a motion to accept or approve all of  
11 the issues with the exception of Issue 66 and 67.

12           MS. CRAWFORD: May I -- just a point of  
13 clarification. I'm sorry. I notice that there are  
14 a number other -- of other miscellaneous service  
15 charges in 66. We can certainly table those as  
16 well, but if your only concern is a late-payment  
17 charge, we could specifically carve out the late  
18 part -- payment charge from 66 and approve --

19           CHAIRMAN BROWN: No, for -- thank you,  
20 Ms. Crawford.

21           MS. CRAWFORD: Okay. Thank you.

22           CHAIRMAN BROWN: For ease and simp- -- to  
23 make -- to be -- to simplify it, I -- just Issue 66  
24 and 67.

25           Sorry, Commissioner Polmann. You were

1 closing -- finishing up your motion.

2 MS. CRAWFORD: Yes.

3 COMMISSIONER POLMANN: I was going to respond  
4 to Ms. Crawford, but I'll -- I'll --

5 CHAIRMAN BROWN: Okay. We have --

6 COMMISSIONER POLMANN: -- just leave it as is.  
7 So, the motion would be approve all or accept all,  
8 with the exception of 66 and 67.

9 CHAIRMAN BROWN: Okay. Thank you. We have a  
10 motion to approve all stipulations apart from 66  
11 and 67.

12 Is there a second?

13 COMMISSIONER BRISÉ: Second.

14 CHAIRMAN BROWN: Any further discussion?

15 All those in favor say aye.

16 (Chorus of ayes.)

17 CHAIRMAN BROWN: Opposed?

18 (No response.)

19 CHAIRMAN BROWN: Motion passes. Thank you.

20 Thank you, Commissioner Polmann.

21 COMMISSIONER POLMANN: (Indicating.)

22 CHAIRMAN BROWN: Yes. You have the floor.

23 COMMISSIONER POLMANN: Thank you, Madam Chair.

24 I make a motion to approve Issue 66.

25 CHAIRMAN BROWN: A point of clarification. We

1 just voted on --

2 COMMISSIONER POLMANN: -- all except --

3 CHAIRMAN BROWN: -- 66 and 67. Okay. Is  
4 there --

5 COMMISSIONER POLMANN: I just made a motion.

6 CHAIRMAN BROWN: All right. Is -- there's a  
7 motion to approve Issue 66.

8 COMMISSIONER BRISÉ: Second for discussion.

9 CHAIRMAN BROWN: Second for discussion.

10 Commissioner Polmann, further elaboration?

11 COMMISSIONER POLMANN: I was separating the  
12 issues to see if there was any interest for  
13 discussion on that separately.

14 CHAIRMAN BROWN: Commissioner Polmann,  
15 Issue 66 also contains the late-payment charge.  
16 Are you providing clarification to approve all,  
17 apart from late-payment charge?

18 COMMISSIONER POLMANN: It was a procedural  
19 issue, Madam Chairman. I just wanted to make sure  
20 that there was no other interest in discussing  
21 66 --

22 CHAIRMAN BROWN: Okay.

23 COMMISSIONER POLMANN: -- as a separate issue.  
24 If -- if there was not a second, then the issue  
25 would have died.



1 I'm -- I'm happy to withdraw the motion, if  
2 there's no --

3 CHAIRMAN BROWN: Okay. Is there any --

4 COMMISSIONER POLMANN: If there's no issue  
5 to -- if there's not interest to proceed, I'll  
6 withdraw the motion.

7 CHAIRMAN BROWN: Okay. Motion is withdrawn.  
8 Thank you.

9 All right. Thank you. Now, let's move on to  
10 exhibits.

11 Commissioner Brisé has a question before we  
12 get to that.

13 COMMISSIONER BRISÉ: Just from a parliamentary  
14 perspective, does the person who seconded the  
15 motion also have to withdraw their second?

16 CHAIRMAN BROWN: Counsel?

17 MR. HETRICK: I don't believe that's true in  
18 this type of proceeding, Madam Chair.

19 CHAIRMAN BROWN: Okay. Thank you.

20 Thank you, though. Keeping us in check.

21 All right. Exhibits. Staff.

22 MR. TRIERWEILER: Staff has compiled a  
23 comprehensive exhibit list, which includes exhibits  
24 marked at the customer service hearings, the  
25 exhibits attached to the witness' prefilled

1 testimony, the staff cross exhibits. The list has  
2 been provided to parties, the Commissioners, and  
3 the court reporter.

4 At this time, staff requests the comprehensive  
5 exhibit list be marked for identification purposes  
6 as Exhibit No. 1 and that the other exhibits be  
7 marked as set forth in the comprehensive exhibit  
8 list, noting that Exhibits 2 through 25 and 251  
9 through 261 have been previously marked at the  
10 service hearings.

11 CHAIRMAN BROWN: Okay. Then we will go ahead  
12 and mark Exhibit 1 as the comprehensive exhibit  
13 list.

14 (Exhibit No. 1 marked for identification.)

15 CHAIRMAN BROWN: Mr. Armstrong?

16 MR. ARMSTRONG: Yeah, Madam Chair -- and -- we  
17 just -- the Summertree Water Alliance and  
18 Ms. Ryan -- we have a concern regarding -- we don't  
19 have a concern regarding prefiled exhibits or  
20 exhibits in the MFRs or -- or -- but -- but we have  
21 a concern there are more exhibits in here.

22 And I -- we really see this as a -- as a data  
23 dump of information that we have -- much of which  
24 we haven't seen before, and some of it which might  
25 have been created by your staff that we've never

1           seen before until we just got the thing today.

2           So, I mean, we just have an outstanding --  
3           I've never seen this kind of process before, so --  
4           but -- but I also, as a lawyer, can tell you I have  
5           serious concerns about the due-process implications  
6           of it and violations of due process.

7           So, we object to the just wholesale Exhibit 1  
8           proposed by staff.

9           CHAIRMAN BROWN: And before I turn to staff, I  
10          just want a clarification. We are not moving all  
11          of these into the record at this time. We -- we do  
12          that later in the process. And you are absolutely  
13          entitled to make --

14          MR. ARMSTRONG: Okay.

15          CHAIRMAN BROWN: -- an objection at that time,  
16          but I would like staff to respond to your  
17          complaint.

18          MS. HELTON: Madam Chairman, the comprehensive  
19          exhibit list is a tool we started using I don't  
20          know how many years ago as a way to pre-mark  
21          exhibits to make the administrative process of  
22          doing so throughout the proceeding easier and so  
23          that everyone can keep track of it easier.

24          So, all, I think, we're doing at this point is  
25          just identifying the fact that we have the

1 comprehensive exhibit list and that all prefiled  
2 exhibits have been given a number, and that all of  
3 the staff exhibits that staff would like to see go  
4 into the record that were gathered throughout the  
5 proceeding -- I think they are probably mostly, if  
6 not all, discovery responses.

7 So, all of the parties that have been here all  
8 along have seen the discovery responses. As -- as  
9 a tool to let everyone know, that is the  
10 information that staff would like to see go into  
11 the record, but if all parties stipulate to that  
12 going in, then that would go in now.

13 But it's my understanding that, in particular,  
14 Mr. Armstrong does not stipulate to that. So, the  
15 staff will do its due diligence to authenticate  
16 that information and to present it to you so that  
17 you can address whether it should be into --  
18 admitted into the record at a later time.

19 CHAIRMAN BROWN: Ms. Helton, you said it  
20 absolutely perfectly. And that was great reasoning  
21 there.

22 So, at this time, we'll take into  
23 consideration to move into Exhibit 1, which is the  
24 comprehensive list. Staff, would you like to do  
25 that at this time?

1 MR. TRIERWEILER: Yes, Madam Chair.

2 CHAIRMAN BROWN: Is there object- -- an  
3 objection to move in Exhibit 1?

4 Seeing none, we'll go ahead and move into the  
5 record Exhibit 1.

6 MR. ARMSTRONG: Can I -- I've got to clarify.  
7 Did you -- I thought we were going to take up --  
8 who -- you're not moving it into the record, into  
9 evidence now.

10 CHAIRMAN BROWN: Just the comprehensive  
11 exhibit list, not the --

12 MR. ARMSTRONG: Okay. Not the actual items  
13 behind it. Thank you.

14 CHAIRMAN BROWN: Okay.

15 (Exhibit No. 1 admitted into the record.)

16 CHAIRMAN BROWN: All right. Staff.

17 MR. TRIERWEILER: At this time, staff would  
18 recommend that the Commission take up the exhibits  
19 marked at the customer service hearings. These are  
20 Exhibits 2 through 25, from earlier service  
21 hearings, and 25 through 261 -- I'm sorry -- that's  
22 251 through 261 from today's service hearing.

23 CHAIRMAN BROWN: Okay. Thank you. Have all  
24 of the parties had an opportunity to review the  
25 service-hearing exhibits?

1 Do any of the parties have objections to that?

2 Seeing none --

3 MR. FRIEDMAN: (Indicating.)

4 CHAIRMAN BROWN: Mr. Friedman?

5 MR. FRIEDMAN: The exhibits that were -- that  
6 were talked about today --

7 CHAIRMAN BROWN: 251 through 261.

8 MR. FRIEDMAN: To 261?

9 CHAIRMAN BROWN: It's 251 through 261.

10 MR. FRIEDMAN: Okay. And I -- I don't know  
11 which one that Commissioner Mariano's exhibit  
12 was that -- that they just printed and gave to us.

13 CHAIRMAN BROWN: That --

14 MS. HELTON: I think --

15 CHAIRMAN BROWN: That was 259.

16 MR. FRIEDMAN: Exhibit -- included in  
17 Exhibit 259 is a -- is a letter to the -- to -- to  
18 you, Madam Chairman, and also to the DEP. And  
19 Utilities, Inc. had filed a response to that. And  
20 I think, for a complete record of what this packet  
21 of stuff is -- is supposed to -- to be, I would --  
22 I would think that that letter would have to be  
23 included in Exhibit 259 as a supplement to it or --  
24 or whatever.

25 CHAIRMAN BROWN: I --

1 MR. FRIEDMAN: But I think it needs to be in  
2 to be a complete record of -- of the proceeding.

3 CHAIRMAN BROWN: I think you're right. And I  
4 don't have a problem with that.

5 Do any of the parties have a problem with  
6 inclusion of that in this exhibit? We don't -- you  
7 can just supplement it -- 250- -- pardon me --  
8 Exhibit 259.

9 MR. FRIEDMAN: It would be a supplement to  
10 259.

11 CHAIRMAN BROWN: Yeah. Okay. I don't have a  
12 problem with that.

13 With that, do you have any other objections to  
14 the service hearing?

15 MR. FRIEDMAN: I do not. They are -- they are  
16 what they are.

17 CHAIRMAN BROWN: Thank you.

18 MR. SAYLER: Madam Chair?

19 CHAIRMAN BROWN: Yes.

20 MR. SAYLER: When will -- we don't object to  
21 that going in, but it would be nice to have a copy  
22 of that response.

23 CHAIRMAN BROWN: Okay. I thought you were --

24 MS. HELTON: Staff --

25 CHAIRMAN BROWN: -- copied on that letter.

1 MS. HELTON: Oh. Staff has the letter  
2 Mr. Friedman is discussing. And so, we will  
3 distribute that right now.

4 CHAIRMAN BROWN: Please go ahead and do that.

5 MR. SAYLER: Perfect. Thank you.

6 MR. FRIEDMAN: Yeah, it was in the  
7 correspondence side of the --

8 CHAIRMAN BROWN: Uh-huh.

9 MR. FRIEDMAN: Of the document.

10 CHAIRMAN BROWN: I'll just hold off until  
11 moving them in until Mr. Sayler gets a copy of it.

12 (Staff distributing document.)

13 CHAIRMAN BROWN: All right. So, we'll go  
14 ahead, at this time -- barring no objection here,  
15 we'll go ahead and move in Exhibits 2 through 25  
16 and 251 through 261.

17 (Exhibit Nos. 2 through 25 and 251 through 261  
18 admitted into the record.)

19 CHAIRMAN BROWN: Staff, would you also like to  
20 move into the record the -- 262, since we just  
21 voted on it? Mr. Trierweiler?

22 MR. TRIERWEILER: Staff moves Exhibits 225 --  
23 2 through 225 [sic], and 251 to 261 into the  
24 record.

25 CHAIRMAN BROWN: No. No. No, sir -- sir,



1 just 262. We just voted on the proposed Type 2  
2 Stipulations, 262.

3 Seeing no objections to moving into the  
4 record, we're going to go ahead and move 262 into  
5 the record as well. All right.

6 (Exhibit No. 262 admitted into the record.)

7 MR. SAYLER: Madam Chair, Public Counsel  
8 doesn't have any objection to that letter. Thank  
9 you for the opportunity to -- to review it.

10 CHAIRMAN BROWN: Thank you. I didn't think  
11 you did.

12 All right. We're going to move on to opening  
13 statements. And I'm going to go through an  
14 overview of your time allocations; although, you  
15 all saw it in the pre-hearing order.

16 Office of Public Counsel and Seminole County  
17 will have 10 minutes. Summertree Water Alliance  
18 and Ann Marie Ryan will have a combined 10 minutes.  
19 And Utilities, Inc. of Florida will have 10  
20 minutes.

21 And we will begin with Utilities, Inc. of  
22 Florida, then move on to OPC, followed by  
23 Summertree/Ann Marie, and then Seminole County. If  
24 you prefer -- if the intervenors prefer a different  
25 order, then I'm inclined to grant that.

1           Okay. Utilities, Inc. of Florida.

2           MR. FRIEDMAN: Thank you very much --

3           CHAIRMAN BROWN: You have ten minutes.

4           MR. FRIEDMAN: -- Madam Chairman,  
5           Commissioners.

6           As you know, until January the 1st of 2016,  
7           Utilities, Inc. had 12 Florida subsidiaries under  
8           this Commission's jurisdiction.

9           While there were 12 separate companies, they  
10          were operationally consolidated in that they've  
11          always shared costs and services. On January 1st  
12          of 2016, 11 of the companies merged into the 12th,  
13          Utilities, Inc. of Florida, to create a single,  
14          legal, consolidated entity. Operationally, nothing  
15          has changed.

16          This is the first rate case filed by UIF as a  
17          legally-consolidated entity. As part of that  
18          consolidation, UIF is -- is requesting rates that  
19          include a consolidated rate structure. John  
20          Guastella, who is a nationally-recognized expert on  
21          rate matters, will testify about the benefits of a  
22          consolidated rate structure.

23          Any time there's a single rate structure,  
24          there are some customers, at least in the short-  
25          term, who may pay more than otherwise. But over

1 the long-term, all customers will benefit from  
2 spreading capital costs over a larger number of  
3 customers.

4 The single rate structure will allow smaller  
5 companies -- will allow smaller customer bases to  
6 have improvements to water quality that they  
7 otherwise could not individually afford.

8 For instance, while the water at Pennbrooke  
9 meets all primary and secondary standards, you  
10 heard in the customer hearings complaints about  
11 iron. UIF had a -- a study performed; came up with  
12 the solution as to how they could -- you could fix  
13 the iron problem; presented that to the homeowner's  
14 group.

15 However, the cost of that fix would have  
16 increased the rates more than the customers were  
17 willing to pay. And they chose to live with the  
18 problem rather than pay for the solution.

19 Under single-tier pricing, that sort of  
20 improvement could be made because that -- that type  
21 of cost would be spread over a large --  
22 significantly-larger rate base and could be --  
23 could be handled better than it would be if it  
24 were -- if they had stand-alone rates.

25 You've heard a lot about quality of service,

1           which unfortunately also includes a lot of  
2           misinformation, particularly with regard to one  
3           system. As you know, quality of service is  
4           evaluated by the Commission on three components:  
5           The first is the quality of product. The second is  
6           operating conditions. And the third is attempts to  
7           address customer satisfaction.

8           At least as it relates to water systems, this  
9           first criteria or first component is usually the  
10          most emotional. This is particularly true of one  
11          of the systems, which we all know is -- is  
12          Summertree.

13          However, with one unexplained exception, the  
14          testimony at the customer hearing, everybody was  
15          satisfied with the water since the interconnection  
16          with Pasco County. The rest of the customers  
17          complained about -- just complained about there  
18          being a rate case; apparently not realizing that,  
19          under the proposal of UIF, the rates of the  
20          Summertree customers would actually decrease.

21          The only other system that really had a  
22          material number of complaints about water quality  
23          was the Pennbroke system that I mentioned earlier.  
24          And it was the iron problem. And the UIF proposed  
25          a solution. And it just wasn't cost-effective to

1 the customers to ask UIF to do that improvement.

2 The second element of quality of service --  
3 operating conditions. DEP witness is going to  
4 testify that, except for a tank replacement at  
5 Eagle Ridge and one other minor violation, I think,  
6 that is more recent -- and this tank replacement is  
7 subject of one of the pro forma projects that UIF  
8 has proposed in this case. Except for that, DEP is  
9 satisfied with the manner in which Utilities, Inc.  
10 is operating its water and wastewater systems.

11 Since DEP is the primary agency with  
12 jurisdiction over operations of a utility from an  
13 environmental standpoint, UIF believes that it  
14 would be appropriate for this Commission to follow  
15 DEP's recommendation that the UIF systems are being  
16 operated with -- in accordance with regulations.

17 As to addressing customer complaints, the  
18 Commission's witness -- the Commission's witness  
19 will testify that, in seven years, ending  
20 December 31st, 2016, UIF has only missed the  
21 deadline for responding to complaints twice.

22 And -- and as the witness will explain, that  
23 could be as little as one minute. They set the  
24 deadline at 5:00. If you file a response at 5:01,  
25 it's late. So, it could be as little as a minute

1 or a second late. The last time was in 2012. So,  
2 since the last four years or five years, UIF is --  
3 has always responded in a timely manner.

4 The Commission witness will also testify that  
5 the Commission has never had to follow up with  
6 getting a response to a complaint. In other words,  
7 the utility has responded to each and every  
8 complaint that has been filed with this Commission.

9 DEP has received very few complaints. By and  
10 large, the 12 -- the 2,000 pages of customer  
11 complaints that the OPC witness is sponsoring and  
12 testifying about arise out of rate cases. And  
13 unfortunately, as we know, rate cases seem to spurn  
14 more customer complaints than in systems that don't  
15 have rate cases.

16 UIF takes quality of service seriously. You  
17 may recall that UIF had customer service  
18 representatives at the customer hearings so that,  
19 if customers had billing issues, we could respond  
20 immediately to those. And many customers did take  
21 advantage of that.

22 Next, you'll hear a lot about the pro forma  
23 projects that UIF has completed or they will have  
24 completed by year's end. Some of these projects  
25 were required by government road-widening projects;

1 others to enhance operations; others to improve  
2 quality of service.

3 The reasonableness of these projects has not  
4 been questioned. All the projects fall within the  
5 Commission's requirement that they be either  
6 supported by invoices or executed contracts. And  
7 the fact that they will be -- the projects will be  
8 completed within 24 months of the end of the test  
9 year. All of the pro forma projects that you will  
10 hear Mr. Flynn testify about fit directly into that  
11 criteria.

12 The parties are in agreement that all water-  
13 treatment storage and distribution systems and all  
14 wastewater collection systems are a hundred percent  
15 used and useful.

16 While there's a minor disagreement in used-  
17 and-useful of the Lake Utility system, the only  
18 substantial disagreement on used-and-useful is the  
19 with the Sandalhaven system. And it deals with the  
20 wastewater capacity, the force main, the lift  
21 station, and pumping plant.

22 You'll recall that the Commission's used-and-  
23 useful rule only applies to plant. It doesn't  
24 apply to force mains, lift stations, pumping plant.  
25 The OPC witness extrapolated from a water rule to

1 try to come up with a used-and-useful for those  
2 facilities, which we believe is -- is -- has never  
3 been done and is inappropriate.

4 Mr. Seidman, however, who has provided used-  
5 and-useful analysis before this Commission for  
6 hundreds of water and wastewater systems, will  
7 explain why the Sandalhaven wastewater system  
8 should be complete -- considered a hundred percent  
9 used and useful.

10 We look forward to professional presentations  
11 by the parties so that you can completely vet all  
12 of these issues.

13 Thank you very much.

14 CHAIRMAN BROWN: Thank you. You had a minute  
15 left.

16 Office of Public Counsel.

17 MR. SAYLER: Thank you, Madam Chair. If you  
18 will give me a one-minute warning, I would  
19 appreciate that.

20 CHAIRMAN BROWN: Oh, sure.

21 MR. SAYLER: All right. My name is Erik  
22 Sayler with the Office of Public Counsel on behalf  
23 of the customers of Utilities, Inc. of Florida.

24 Utilities, Inc. of Florida often touts itself  
25 as one of the largest -- or the largest privately-



1 owned water and wastewater provider in the state of  
2 Florida. As a result, it should be held to the  
3 highest standard of all other Class A utilities  
4 operating in Florida.

5 Given the magnitude and complexity of this  
6 case, the Commission must carefully evaluate and  
7 scrutinize Utilities, Inc.'s original rate-case  
8 application, which was filed originally on  
9 August 31st, and then deemed complete by the  
10 staff -- or by the Commission on November 22nd.

11 Final rates should be based upon the pro forma  
12 projects and expenses supported in the original  
13 filing. And all new costs and expenses injected  
14 into this case after November 22nd and after OPC's  
15 testimony was filed should be rejected.

16 The burden of proof -- it is clear the Florida  
17 Supreme Court stated in Florida Power Corp vs.  
18 Cressie that -- and I quote, "The burden of proof  
19 in a Commission proceeding is always on the utility  
20 seeking a rate change."

21 Further, pursuant to Commission Order No.  
22 PSC-07-0129-SC-WS, issued February 27th, 27- -- or  
23 2017, in Docket No. 060262, it is not the  
24 Commission's burden, nor is it staff's  
25 responsibility, to assist a utility in meeting its

1           burden of proof.

2                   In this case, OPC sponsored three witnesses,  
3           covering the topics of quality of service,  
4           engineering expert, as well as an accounting  
5           revenue-requirement expert.

6                   First, quality of service: The Commission's  
7           quality-of-service determination should be largely  
8           based upon UIF's actions, or lack thereof, before  
9           and during the test year. UIF will argue that  
10          actions taken after the test year should be given  
11          more weight or essentially on promises to do a  
12          better job in the future.

13                   However, current Commission Rule 25-30.440  
14          requires Class A and Class B utilities seeking a  
15          rate increase to provide five years of DEP or  
16          health department notices of violation, consent  
17          orders, letters of notice, or warning notices; five  
18          years of secondary water-quality complaints; as  
19          well as all customer complaints received during the  
20          test year.

21                   These are things that are not present. These  
22          are things that occurred in the past that the  
23          Commission must evaluate. OPC Witness Denise  
24          Vandiver provided a thorough evaluation of quality  
25          of service in her testimony.

1           In summarizing and categorizing the customer  
2           complaints, Ms. Vandiver examined almost every  
3           complaint and customer contact Utilities, Inc.  
4           provided in its MFRs, the supplement to the MFRs,  
5           thorough discovery, all the various customers'  
6           letters, concerns, complaints filed in the online  
7           docket, and all of the customer-service hearing  
8           testimony and exhibits.

9           Moreover, she carefully examined all the  
10          quality-of-service issues and DEP compliance issues  
11          for each UIF water and wastewater system, publicly  
12          available in Oculus, the Florida DEP's public  
13          online database, which anyone can access.

14          In addition, she summarized all the recent  
15          Commission decisions in quality of service  
16          affecting all of the Utilities, Inc. systems. Her  
17          testimony, combined with UIF's admitted failure to  
18          have implemented any proactive, preventative, or  
19          predictive maintenance systems or programs,  
20          supports a finding of unsatisfactory of quality of  
21          service for Utilities, Inc.

22          Second, engineering: OPC -- Mr. Andrew  
23          Woodcock is a licensed professional engineer, who  
24          has a thorough understanding of the water and  
25          wastewater industry, as well as standards for

1 proactive, preventative, and predictive maintenance  
2 in the water and wastewater industry.

3 With respect to UIF's proposed pro forma  
4 projects, he carefully evaluated each project along  
5 with UIF's supporting documentation contained in  
6 its original MFRs and testimony, and physically  
7 inspected many of the larger projects.

8 His investigation revealed that UIF submitted  
9 incomplete or insufficient information for at least  
10 five or six projects and failed to provide any  
11 supporting information or documentation for four of  
12 its projects in its original application --  
13 actually, excuse me -- seven of its original  
14 projects on its original application.

15 Out of Utilities, Inc.'s originally-requested  
16 \$30.8 million in pro forma plant, Mr. Woodcock  
17 recommends approximately 21.3 million as being  
18 reasonable and properly supported for cost recovery  
19 in this case.

20 And providing incomplete or no documentation  
21 for the remaining projects, it is plainly evident  
22 that Utilities, Inc. has failed to meet its burden  
23 of proof to support its original rate case for all  
24 of its pro forma projects.

25 Moreover, the Commission should not consider

1 the more than \$6 million in increased pro forma  
2 costs that Utilities, Inc. is improperly trying to  
3 add through its rebuttal testimony; information  
4 that Public Counsel never had an opportunity to --  
5 to review or provide testimony on.

6 Third, accounting and revenue requirement:  
7 OPC Witness Donna Ramas, a utility accounting  
8 expert -- she thoroughly examined Utilities, Inc.'s  
9 original rate-case filing and each set of MFRs for  
10 Utilities, Inc.'s 12 water systems and 15  
11 wastewater systems.

12 She carefully evaluated the original -- the  
13 originally-filed documentation, Utilities, Inc.'s  
14 responses to discovery, and Mr. Woodcock's  
15 recommend- -- recommendations with respect to  
16 Utilities, Inc.'s pro forma projects. She  
17 concluded that Utilities, Inc., is entitled to a  
18 fair, just, and reasonable rate -- relief of no  
19 more than \$2.5 million.

20 Ms. Ramas did not examine any of the costs  
21 associated with the Project Phoenix project because  
22 Utilities, Inc. did not include this regulatory  
23 asset information in either its original filing or  
24 its rebuttal filing.

25 Moreover, as part of her evaluation, she

1 uncovered a problem with negative accumulated  
2 depreciation, which is discussed in her testimony.  
3 And if it is not corrected by this Commission or --  
4 or avoided going forward, this will allow  
5 Utilities, Inc. to earn a perpetual return on plant  
6 items retired from service.

7 Now, as Mr. Rehwinkel indicated earlier in his  
8 remarks, Public Counsel, from time to time, will  
9 need to make some objections. One of the major  
10 issues in this hearing and one of the major issues  
11 that you will hear repeatedly in this case is  
12 Utilities, Inc.'s failure to meet its burden of  
13 proof as required by the Florida Supreme Court  
14 decision cited earlier.

15 Utilities, Inc. had plenty of time to prepare  
16 its original rate case starting with its March 2016  
17 test-year request letter. It filed its original  
18 rate-case application on August 31st, which  
19 contains significant and substantial deficiencies  
20 identified by the Commission staff.

21 These deficiencies were cured as of  
22 November 22nd; however, Utilities, Inc. failed to  
23 provide any documentation for about seven projects  
24 in its original request. And these projects are  
25 Mr. Flynn's PCF-9, 13, 17, 20, 28, 33, and 34.

1           Subsequently, Utilities, Inc. did not timely  
2 respond to OPC's discovery request requesting  
3 documentation on these projects, and then,  
4 attempted to provide new cost information.

5           Now, just to correct things, they did provide  
6 a few things related to that, which is the purpose  
7 of our corrected testimony, but -- however, there  
8 are still issues with four out of the five  
9 projects.

10           No information was provided prior to -- timely  
11 provided with enough time to incorporate into his  
12 testimony. And as a result, it was too late for  
13 any party to conduct an appropriate review and  
14 evaluation for filing testimony.

15           Later in his rebuttal -- late -- excuse me.  
16 Later in its rebuttal testimony, Utilities, Inc.  
17 provided revised and increased cost information for  
18 at least 11 of its original pro forma projects,  
19 which -- which provide OPC with no opportunity to  
20 submit rebuttal, sup- -- excuse me -- supplemental  
21 testimony.

22           Finally, Utilities, Inc. continues -- excuse  
23 me. Finally, Utilities, Inc. has continued in its  
24 attempts to provide new supplemental information  
25 well after the pre-hearing officer's discovery

1 cutoff up and to and as recent as last Friday.

2 If any of you -- Utilities, Inc.'s improper or  
3 revised supplemental information is allowed into  
4 the record of this proceeding, OPC submits it will  
5 violate the customers' due-process rights. And  
6 that was the reason we filed our motion to strike.

7 In addition, as a result of UIF's continued  
8 attempts to -- excuse me. Excuse me. As a result  
9 of Utilities, Inc.'s attempts to improperly  
10 supplement this rate case, from time to time, we  
11 will be forced to make some objections to preserve  
12 the customers' appellate rights.

13 In addition, staff's proposed hearing exhibit  
14 includes a number of those objectionable discovery  
15 responses from Utilities, Inc., which attempt to  
16 assist Utilities, Inc. in meeting its burden of  
17 proof, essentially related to the unsupported pro  
18 forma plant additions contained in Utilities,  
19 Inc.'s original filing.

20 CHAIRMAN BROWN: One minute.

21 MR. SAYLER: Thank you. I'm winding down.  
22 Thank you.

23 As such, Utilities, Inc. will need to make  
24 those objections to staff's hearing exhibit at the  
25 appropriate times to preserve its appellate rights.



1           In conclusion, Utilities, Inc. is entitled  
2           only to the amount of rate relief it specifically  
3           requested in its original application, which is  
4           about a \$6.9-million increase, and for which it  
5           timely provided sufficient evidentiary  
6           documentation and testimony.

7           Based upon the recommended adjustments by OPC  
8           Witness Ramas and Woodcock, Utilities, Inc.  
9           supported a fair, just, and reasonable increase for  
10          approximately 2.5 million.

11          Now, that recommended amount does not take  
12          into account any reductions in the return on equity  
13          related to quality of service; Utilities, Inc.'s  
14          failure -- failure to implement any preventative or  
15          predictive maintenance systems; and its past and  
16          prudent maintenance practices.

17          Thank you very much.

18          CHAIRMAN BROWN: Thank you. With ten seconds  
19          to spare.

20          All right.

21          MR. ARMSTRONG: Madam Chair, the Summertree  
22          Water Alliance -- the group decided to do some post  
23          board- -- poster boards. And Ms. Ryan has agreed  
24          to be our Vanna White for -- for a few minutes.  
25          So, if it's okay with you, she -- if she could hold

1 the poster boards over there in the corner by  
2 Utilities, Inc., where they can see it, if that's  
3 okay.

4 CHAIRMAN BROWN: Is there an objection?

5 MR. FRIEDMAN: There is. I think these are  
6 demonstrative exhibits. And the pre-hearing  
7 order --

8 CHAIRMAN BROWN: And --

9 MR. FRIEDMAN: The pre-hearing order required  
10 in Paragraph E, on Page 8, that, if a party wishes  
11 to use a demons- -- demons- -- it's not easy -- a  
12 demonstrative exhibit or other demonstrative tools  
13 at the hearing, such materials must be identified  
14 by the time of the pre-hearing conference.

15 CHAIRMAN BROWN: Okay.

16 MR. FRIEDMAN: I don't think any party  
17 identified any demonstrative tools. And I would  
18 object to them being used.

19 CHAIRMAN BROWN: I'm actually still trying to  
20 find that in the pre-hearing order. I'll turn to  
21 legal right now.

22 MS. HELTON: It's actually in the order  
23 establishing procedure --

24 CHAIRMAN BROWN: Thank you. Okay. We'll --

25 MS. HELTON: -- not the pre-hearing order.

1 MR. FRIEDMAN: I'm sorry. I apologize.

2 CHAIRMAN BROWN: And that was my understanding  
3 as well. Staff and I had briefed on this and --  
4 and unfortunately, demonstrative exhibits will not  
5 be allowed in this proceeding.

6 MR. ARMSTRONG: Okay. The team just wanted to  
7 try and put some boards together to make it easy  
8 for you, Madam Chair. I accept your decision.

9 CHAIRMAN BROWN: Thank you.

10 MR. ARMSTRONG: Thank you.

11 CHAIRMAN BROWN: You have the floor.

12 MR. ARMSTRONG: Good afternoon, Chairman,  
13 Commissioners, staff, representatives of Utilities,  
14 Inc. of Florida. I am proud to be here today  
15 representing the thousand-member-strong Summertree  
16 Water Alliance and Mrs. Ann Marie Ryan, a customer  
17 and customer leader served by the Summertree  
18 system.

19 Getting directly to the meat and potatoes of  
20 this proceeding, Commissioners, as you know, a case  
21 can be made by the introduction of evidence or the  
22 failure by the party with the burden of proof to  
23 introduce evidence necessary to meet that burden.

24 In this proceeding, we will show that  
25 Utilities, Inc. has not met its burden of proof and

1 has not justified a rate increase.

2 Quote, "Rate base is to rate-making what a  
3 foundation is to a house, since it is the basis  
4 upon which the utilities' earnings are determined."  
5 That is what this Commission said long ago when it  
6 denied what was, then, Florida's largest utility a  
7 rate increase.

8 Rate base is, indeed, the foundation upon  
9 which Utilities, Inc. is basing its rate increase.  
10 The utility has based its rates on the assumption  
11 that it would place approximately \$37 million of  
12 additional plant into service by the end of this  
13 year, December 31st, 2017.

14 However, the most-recent evidence produced,  
15 Exhibit 51 from Utilities, Inc.'s vice president,  
16 makes clear that Utilities, Inc. has only placed  
17 \$4.5 million of additional plant in service; only  
18 13 percent of its suggested \$37 million total. The  
19 PSC Commissioners in the case I just referred to  
20 denied the utility any increase when it had  
21 completed 50 percent of its projection.

22 13 percent. You cannot establish rates based  
23 upon 13 percent. It is not credible to suggest  
24 that more than \$30 million will be spent by  
25 Utilities, Inc. between now and December 31st, when

1           only \$4.5 million was spent over the last nearly 17  
2           months.

3           Regarding return on equity, it also is not  
4           credible for Utilities, Inc. to suggest that it is  
5           entitled to a return on equity hovering around  
6           11 percent. The leverage graph is not appropriate  
7           for Utilities, Inc. The authorized return needs to  
8           be lower, much lower.

9           Utilities, Inc. says it has under-earned for  
10          the past ten years, but in the past years, the  
11          utility has been bought by one multi-billion dollar  
12          conglomerate after another: Nuon, a Dutch  
13          conglomerate; High Star, a creature of AIG,  
14          American Investment Group, which we all have heard  
15          of; and now Corix, part of a family of multi-  
16          billion dollar funds owned by British Columbia,  
17          IMC, a \$124-billion global investor.

18          Utilities, Inc. has never had a problem  
19          attracting investors and will not if the Commission  
20          does the right thing and sends it back to the  
21          drawing board to correct the deficiencies in its  
22          request.

23          An investment in Utilities, Inc. is less risky  
24          than an investment in a natural gas utility. A  
25          natural gas utility does not have the indexing

1 Utilities has. It does not have all the pass-  
2 through opportunities Utilities, Inc. has,  
3 including additional pass-through opportunities  
4 Utilities, Inc. secured for itself with the passage  
5 of Bill 534, which it cites.

6 A natural gas utility does not have AFPI or  
7 guaranteed revenue or access to state revolving  
8 loan funds and grants like Utilities, Inc. has, or  
9 staff-assisted rate cases like Utilities, Inc. has  
10 taken advantage of frequently in the past.

11 Since water is a necessary to public health --  
12 we must drink with it, wash with it, and get rid of  
13 it -- Utilities, Inc. has a monopoly that natural  
14 gas utilities do not, have since their customers  
15 can switch to another form of power or heat.

16 And Utilities, Inc. is asking the Commission  
17 to increase the amount of revenue it recovers in  
18 its base-facility charge. That is the base minimum  
19 customers must pay each month, another risk-  
20 reducing measure. A 300-basis-point reduction to  
21 the return on equity is warranted from these  
22 differences with the natural gas utilities upon  
23 which the graph is based.

24 Another quote, "There is a difference to this  
25 Commission between expenditures stated and

1 expenditures justified;" another of this  
2 Commission's noteworthy quotes from the order  
3 denying a rate increase I referred to earlier.

4 Unlike water and wastewater utilities who  
5 implemented cost-saving and rate-reducing policies  
6 and systems as much as decades ago, Utilities, Inc.  
7 won't have such policies in place, perhaps, until  
8 later this year.

9 I will refer to these policies and systems as  
10 UIF's tool kit. The new tool kit includes a  
11 preventive maintenance program, a predictive  
12 maintenance program, an asset-management system, a  
13 geographic information system, and a computerized  
14 maintenance and management system.

15 Utilities, Inc. admits it will save costs,  
16 make better investment decisions, and lower the  
17 amount of investment it will be required to make  
18 when its tool kit is available, but the tool kit  
19 should have been in place years ago.

20 If the tool kit were in place years ago, the  
21 utility's costs would be lower, the amount of  
22 investment the company seeks to include in rate  
23 base would be lower, and the rate increase sought  
24 by the utility would be lower.

25 A critical thing for you to be aware of,

1           Commissioners, is that Utilities, Inc. did not  
2           reduce its costs or remove prior investments made,  
3           which would not have been made if the utility kit  
4           had been in place long ago.

5           The utility admits that much of their  
6           maintenance activity was done on an ad-hoc basis  
7           all these years. The customers, my clients, should  
8           not have to pay the higher operating costs and a  
9           return on larger dollars of investments which  
10          Utilities, Inc. was forced to make because they  
11          were not properly maintaining their systems.

12          This Commission should not reward Utilities,  
13          Inc. for its deficient management practices over  
14          the past years. When asked to document the cost  
15          savings and changes in investments that can be  
16          expected when its tool kit was implemented, we were  
17          told that they would not voluntarily produce such  
18          information.

19          Utilities, Inc. has never understood its  
20          obligations to its customers or to this Commission.  
21          Management is obligated -- obligated, not only to  
22          provide high-quality service, which meets all  
23          standards, but it also is obligated to investigate  
24          cost-savings measures so it can prove to you and to  
25          my clients that they have made every reasonable



1 attempt to keep the cost of providing that service  
2 down. They have presented no such evidence in this  
3 proceeding.

4 Utilities, Inc. has failed miserably in both  
5 of these obligations. Utilities, Inc. has  
6 presented no evidence that it closely monitors its  
7 significant cost and substantial services being  
8 provided by its affiliate, even though such  
9 services and costs should receive extraordinary  
10 scrutiny.

11 This is particularly troubling since the  
12 evidence will show that Utilities, Inc., through  
13 its affiliate, has been deficient in keeping its  
14 books and records, failed to book Commission orders  
15 after numerous Commission requests that it do so,  
16 and generally provides poor accounting services.

17 Utilities, Inc. also has failed to show that  
18 its cost -- the costs it allocated -- is allocated  
19 by its affiliate are reasonable in relation to the  
20 services rendered. No attempt is made to establish  
21 the reasonableness of the allocated costs  
22 whatsoever.

23 Another example of questionable management:  
24 Utilities, Inc. is asking to give it more -- is  
25 asking you to give it more money to hire three

1 maintenance people. These people, we are told,  
2 will conduct a preventive and predictive  
3 maintenance activities that other utilities have  
4 been doing for years; yet, Utilities, Inc. has  
5 indicated it will not hire these three maintenance  
6 people unless the Commission gives it the extra  
7 money first. This is not good utility management.  
8 This is abhorrent utility management.

9 Utilities, Inc. even goes so far as to say  
10 that, if it hired these maintenance people first,  
11 without higher rates, then customers would unfairly  
12 receive the benefits.

13 Utilities, Inc. obviously has lost focus on  
14 its obligations to this Commission and to  
15 customers. The utility is focused solely upon  
16 doing whatever it needs to do to secure the biggest  
17 rate increase possible, while withholding  
18 information and refusing to disclose analyses which  
19 would tend to reduce the amount of that rate  
20 increase.

21 Finally, the Commission should not reward  
22 Utilities, Inc. for its failures when it comes to  
23 my clients in the Summertree community. You have  
24 heard plenty from that community. I ask that you  
25 not dismiss anything that you've heard from my

1 clients, the Speaker of the House, Speaker  
2 Corcoran; a state senator, Senator Wilton Simpson;  
3 a former state senator, Mike Fasano; a county  
4 commissioner, Commissioner Jack Mariano.

5 Instead -- and a new sitting representative, Amber  
6 Mariano, today. Instead, you should dismiss  
7 Utilities, Inc.'s request for higher rates for my  
8 clients.

9 I have been advising utility owners and been a  
10 part of utility management for more than 30 years.  
11 And Utilities, Inc. has a lot of improving to do,  
12 the cost of which should not be borne solely by my  
13 customers who have suffered long enough over  
14 that --

15 CHAIRMAN BROWN: One minute.

16 MR. ARMSTRONG: Thank you for your time.

17 CHAIRMAN BROWN: Perfect. Thank you,  
18 Mr. Armstrong.

19 Mr. Bilenky with Seminole County.

20 MR. BILENKY: Thank you, Madam Chair.

21 CHAIRMAN BROWN: Welcome back to the  
22 Commission.

23 MR. BILENKY: It -- it's scary because this  
24 room is named after the very person who hired me.

25 CHAIRMAN BROWN: Oh, wow.

1 MR. BILENKY: So, I -- it's -- it was kind of  
2 interesting. And I think the Supreme Court case  
3 that was cited, the Florida Power Corp vs.  
4 Cressie -- I think I did that case. I don't  
5 remember what it meant, but --

6 (Laughter.)

7 CHAIRMAN BROWN: Well, welcome back.

8 MR. BILENKY: Thank you. Thank you. And  
9 it's -- it's really an honor and pleasure to be  
10 here. And I have a different perspective. I hear  
11 the bell ringing and I want to start advising the  
12 Commission on all the issues that are before you,  
13 but my client is paying me not to do that.

14 But if you look at a rate case, step back from  
15 all -- all the issues, this adjustment and that  
16 adjustment, and look at a rate case. You have two  
17 decisions to make, two primary decisions: Decision  
18 one is a revenue requirement; how much money does  
19 the company prove its entitlement to.

20 And the second question, which isn't addressed  
21 by the Public Counsel or the staff in this case, at  
22 least as far as creating a position, is probably  
23 the reason you have all those service hearings  
24 because you're going to take that revenue  
25 requirement, and you're going to impact each and

1 every one of the customers of this utility by how  
2 you allocate those dollars.

3 So, if you step back for one second and look  
4 at it, it doesn't matter to the company, from a  
5 revenue standpoint, which rate structure you're put  
6 in. They're getting the same revenue requirement.  
7 So, why do they want to put so much emphasis on  
8 going to this uniform rate. There's got to be a  
9 reason.

10 Well, what we did is we looked at a lot of the  
11 financial data and what -- trying to find out if  
12 there was some sort of a way to justify this, based  
13 on average costs that we could group some  
14 utilities.

15 And -- and this was a very diverse system.  
16 You have what looked like, from cost standpoints,  
17 at least five package plants, in which they are  
18 very small-consumption utilities that probably sell  
19 between a thousand and 2,000 gallons a month per  
20 customer, all the way up to some that have an  
21 average-capacity use of -- of 15,000.

22 So, there -- the system is different. And  
23 while I -- I love Marty Friedman to the world,  
24 he -- he's sort of made a sort of flippant comment  
25 about how my customers are going to have a short-

1 term hurt. It -- it's a long-term hurt.

2 Once you go to a different form of rate  
3 structure, you're not going to change that rate  
4 structure. You may change the levels of it, but  
5 those rates are going to be in effect until the  
6 next rate case. So, that's not a short-term  
7 benefit.

8 So, why my client, of course, is concerned,  
9 because they're facing an enormous rate increase,  
10 144 percent increase in -- in their rates. And  
11 they're a big customer. And it's doubling -- more  
12 than doubling the revenue requirements that they  
13 have.

14 And -- and even Mr. Guastella sort of takes a  
15 flippant attitude that -- that the single-tariff  
16 model is in the best interest of the customer.  
17 Well, put yourself in -- in the customer's place  
18 for a moment.

19 And let's just take the Chairman. And we'll  
20 say, Madam Chairman, you, on -- under stand-alone  
21 tariffs, you have a monthly bill of \$42 for -- for  
22 sewage. And Dr. Polmann, you're in a different  
23 system. You're in Tampa and -- and your utility is  
24 \$40 a month, based on the stand-alone.

25 Well, when -- when you go to the uniform

1 tariff, you, Commissioner, will go up \$54 a month.  
2 So, you're going to be paying \$15 more. And you  
3 won't notice any difference in your -- in your  
4 household when you turn the water on or when you  
5 use the other facilities. And -- and you,  
6 Dr. Polmann, you're going to be paying \$13 a month  
7 more. And you're not getting anything for it. And  
8 you're going to be sending that money to other  
9 utilities.

10 And so, what the fiction is in -- in the  
11 uniform rate, you create a fiction that each and  
12 every customer is as profitable to the utility by  
13 subsidizing their rates. So, the utility customer,  
14 who has this enormously-inefficient system, looks  
15 the same from a profit standpoint as -- as the  
16 utility customer who's in a system that is run  
17 particularly well.

18 So, what's the impetus hiding behind the  
19 uniform rate? Well, your staff -- I think  
20 Ms. Daniel pointed to a case -- and I'm going to  
21 read you what the point is. And this is Southern  
22 States Utility case, which Ms. Daniel cited to.

23 And it says, "Utilities should be prudent and  
24 efficient in their business operations. The most-  
25 effective way to ensure accountability is to force

1 a utility to look at those decisions as they relate  
2 to the cost and benefits of a particular service  
3 area, rather than on a total-company basis where  
4 the individual investment decisions often appear  
5 immaterial."

6 And if you step back and look at what the  
7 costs are -- what is the variable cost of providing  
8 water? It's only -- it's only two elements of  
9 variable costs. That's -- that's the rate that's a  
10 volumetric rate.

11 And -- and really, the only two costs in -- in  
12 a production of water -- and Dr. Polmann, also,  
13 from his previous experience, realized that it's  
14 chemicals and electricity. Those are the variable  
15 costs. The more water you produce, the more  
16 chemicals you need, the more electricity you need  
17 to pump it.

18 The efficiency of the system is in the base  
19 charges. That's where you're looking for the  
20 efficiency of the system. And for this particular  
21 utility, the base charges vary by almost  
22 400 percent between the utilities. 400 percent.  
23 Four times as much as cost to produce the plant.

24 And that's the whole purpose of the cost-of-  
25 service study is to put those dollars and -- and it



1 forces the company to improve the quality of the  
2 systems when you use a cost-of-service study.

3 Now, what -- what the Court also said in that  
4 case is it said, well, you can have minor -- minor  
5 differences, if you can group them. And they were  
6 looking at, like, a 7-percent difference. And  
7 they -- and they assign that to the value-of-  
8 service sort of concept.

9 But you don't have value-of-service testimony  
10 here. So, you're looking strictly at a cost of  
11 service. And the minute you go to a -- a uniform,  
12 consolidated rate across-board, you take away the  
13 impetus of the company to operate efficiently in  
14 the inefficient systems because those costs are  
15 lost. And those customers look like they're as  
16 profitable as the other.

17 And there is also one further dark side to --  
18 to the -- to the uniform rate. And that is -- and  
19 this is, now, coming into my current world. When a  
20 utility decides to sell off these package plants to  
21 the adjoining utility, in the market, what is  
22 decided is -- for value of those systems, is the  
23 discounted cash flow of the income that they  
24 produce.

25 So, when you have the uniform rate, the income

1 is raised for these inefficient systems. And so,  
2 the price is raised because the discounted cash  
3 flow is -- is brought back to present value. And  
4 it's based on the income from the higher rates that  
5 are being subsidized by my client and others.

6 And so, when they are sold, the individual  
7 buying them is buying an inflated price based on an  
8 inflative income stream, which no longer is  
9 applicable once they own it. And so, they have to  
10 go back and raise rates to those customers to make  
11 up for that purchase cost.

12 And in doing so, what the utility customer  
13 ends up doing is paying again for the utility, for  
14 the second time because the price has been  
15 artificially inflated by the income stream.

16 So, there is a dark side. And it's totally to  
17 the advantage of the utility to have a consolidated  
18 rate structure. It doesn't help the ratepayer in  
19 the least. The company is under no impetus to  
20 manage those high-cost systems effectively as long  
21 as there is a subsidy coming from the low-cost  
22 systems.

23 So, I -- I conclude my -- my opening statement  
24 by saying it is -- it is not in the best interest  
25 of the ratepayers. And we also believe that,

1           pursuant to Chapter 367, it's a discriminatory rate  
2           structure that is not permitted under those rates,  
3           and subsidies are not permitted in a cost-of-  
4           service analysis.

5           And I thank you.

6           CHAIRMAN BROWN: Thank you, Mr. Bilenky.

7           I enjoyed all of your opening statements.

8           Now, moving on to witnesses. Before we call  
9           the first witness to the stand, I do have just a  
10          few matters, administrative matters, to cover on  
11          process.

12          And as I stated earlier, I want to give every  
13          witness, every party an opportunity to present its  
14          case, but would ask for your cooperation. And to  
15          that end, I would like to remind the parties that  
16          friendly cross, as delineated in the pre-hearing  
17          order, will not be allowed.

18          In addition, I intend to follow the standards  
19          set forth in Section 120-569(2)(G) Florida  
20          Statutes, which provides that irrelevant,  
21          immaterial, or unduly-repetitious evidence shall be  
22          excluded. I fully intend to uphold the standard.

23          If a party has asked a witness questions that  
24          you wanted to ask, to the extent possible, please  
25          refrain from asking the same line of questions that

1 have already been asked. We do have much ground to  
2 cover, as I mentioned. So, please be mindful.

3 As a housekeeping matter, in order to  
4 facilitate a smoother hearing process -- and I know  
5 I mentioned this to staff earlier in the process.  
6 I would like to ask that, before conducting cross-  
7 examination of a witness, please provide our staff,  
8 who will be sitting here and accompanying you all,  
9 with the co- -- collated copies of all cross-  
10 examination exhibits that you plan to use for the  
11 witness testifying on the stand so that they could  
12 be distributed -- distributed to us at one time.

13 That will be extremely helpful and will help  
14 facilitate a much-swifter distribution process. If  
15 you can do that, everyone in this room is going to  
16 be happy. So, we appreciate you trying to  
17 accommodate that.

18 And then for those in the audience, I did  
19 mention earlier, just please silence your phones,  
20 again, and please refrain from clapping, shouting,  
21 or interrupting others so that the court reporter,  
22 again, can accurately transcribe the record.

23 All right. At this time, we'll -- Mr. Saylor?

24 MR. SAYLER: Sorry. Public Counsel is happy  
25 to collate our exhibits and provide them ahead of

1 time. Would you mind instructing all witnesses to  
2 not look at them; to turn them face-down until such  
3 time as the start of the testimony? Sometimes we  
4 take breaks.

5 CHAIRMAN BROWN: Yes.

6 MR. SAYLER: We start passing them out.  
7 There's a break. We just don't want --

8 CHAIRMAN BROWN: I -- absolutely. I was going  
9 to do that, and I appreciate your reminding me of  
10 that. So, I -- I will encourage that all  
11 witnesses -- when you have an exhibit, before the  
12 counsel has asked -- cross-examined you, please  
13 make sure to keep that paper over, all of the  
14 exhibits, until asked.

15 All right. We're going to swear in witnesses  
16 now. So, all witnesses who plan on presenting  
17 testimony, please -- and who are here today, please  
18 rise with me and raise your right hand.

19 (Witnesses sworn en masse.)

20 CHAIRMAN BROWN: Thank you. Please be seated.

21 All witnesses will be called in the order that  
22 they appear in the pre-hearing order, with the  
23 exception of those where there's an ex- -- an  
24 agreement among the parties that they will be taken  
25 out of order.

1           And to the extent that the parties can agree  
2           on how to arrange the witnesses differently from  
3           the order that's set out in the pre-hearing order,  
4           I am absolutely willing to accommodate reshuffling,  
5           provided there is no hearing dead time or extreme  
6           inconvenience to the process.

7           Witnesses are permitted, again, pursuant to  
8           the pre-hearing order, up to five minutes each on  
9           direct and rebuttal to summarize their testimony.  
10          But please be advised, you do not have to use all  
11          of that or any of that time.

12          Counsel for each witness shall be responsible  
13          for entering their prefiled testimony and exhibits  
14          into the record. Prefiled testimony shall be  
15          entered into the record at the beginning of the  
16          witness' testimony. We will admit exhibits into  
17          the record at the conclusion of the witness'  
18          testimony, barring no objection.

19          The order of cross-examination shall be as  
20          follows: Office of Public Counsel, Summertree/Ann  
21          Marie Ryan, and Seminole County, staff, followed by  
22          Commissioners, and then redirect.

23          And I guess that -- staff, does that conclude  
24          the preliminary matters?

25          MR. TRIERWEILER: Yes, Madam Chair.

1 CHAIRMAN BROWN: Do any parties have any  
2 preliminary matters before Utilities, Inc. of  
3 Florida puts on its first witness?

4 Seeing none, Utilities, Inc.

5 MR. FRIEDMAN: Thank you, Madam Chairman.  
6 Utilities, Inc. of Florida's first witness is  
7 Mr. John Hoy.

8 CHAIRMAN BROWN: Thank you.

9 MR. SAYLER: Madam Chair, do you want our  
10 exhibits to be passed out before he summarizes his  
11 testimony or after he summarizes his testimony?

12 CHAIRMAN BROWN: After. Thank you.

13 All right. Good afternoon, Mr. Hoy.

14 THE WITNESS: Good afternoon -- (turning on  
15 microphone). Now, we are -- good afternoon.

16 CHAIRMAN BROWN: It's been a short day so far.

17 THE WITNESS: Right.

18 CHAIRMAN BROWN: Mr. Friedman.

19 EXAMINATION

20 BY MR. FRIEDMAN:

21 Q Would you please state your name, Mr. Hoy.

22 A John Hoy.

23 Q And Mr. Hoy, did you prefile testimony --  
24 direct testimony in this case?

25 A Yes, I did.

1           **Q**    All right.  And if I ask you the questions in  
2   the prefiled testimony, would your answers be the same?

3           A    Yes, they would.

4           **Q**    Do you have any corrections or changes?

5           A    I have some minor corrections to the first  
6   page of my testimony.  On Line 7 -- this is the first  
7   page after the -- after the cover.  On Line 7, 8 years  
8   should be 11 years; and on Line 11, 2012 should be 2014.

9           **Q**    And do you --

10          A    That's an update.

11          **Q**    And did you sponsor any exhibits?

12          A    I sponsored one exhibit.

13               MR. FRIEDMAN:  Okay.  Thank you.

14               Madam Chairman, I would like to ask that  
15   Mr. Hoy's direct prefiled testimony be admitted  
16   into the record as though read.

17               CHAIRMAN BROWN:  We will insert Mr. Hoy's  
18   prefiled direct testimony into the record as though  
19   read.

20               MR. FRIEDMAN:  Thank you.

21               (Prefiled direct testimony inserted into the  
22   record as though read.)

23  
24  
25



1 Q. Please state your name, position and business address.

2 A. My name is John Hoy. I am President of Utilities, Inc. of Florida (UIF) and my business  
3 address is 200 Weathersfield Ave., Altamonte Springs, FL 32714.

4 Q. State briefly your educational background and experience.

5 A. I have a Bachelors Degree in Civil Engineering and a Masters of Business Administration  
6 both from Marquette University. I have over 30 years of experience in the utility industry,  
7 including gas, electric and water companies, the last ~~eight~~<sup>11</sup> years of which have been with  
8 Utilities, Inc. I joined UI in 2006 as the Regional Vice President of the Florida and  
9 Louisiana region. Since that time, I have served as the Chief Regulatory Officer for UI  
10 and subsequently the Chief Operating Officer before assuming my current position as  
11 President of the Florida companies in ~~2012~~<sup>2014</sup>. My professional background is described in  
12 more detail in Exhibit JPH-1.

13 Q. What is the purpose of your testimony?

14 A. The primary purpose of my testimony is to provide an overview of our rate request filing  
15 and to introduce our witnesses. I will also summarize UIF's request for rate relief and  
16 generally describe the factors contributing to the need for rate relief. As our witnesses will  
17 further describe in greater detail, we must now seek rate relief to further sustain our  
18 customer service and make infrastructure investment to provide safe and reliable service  
19 to our customers now and into the future.

20 Q. Please provide an overview of your case for rate relief?

21 A. UIF has been providing water and wastewater service in Florida for 40 years and is  
22 currently the largest PSC regulated water and wastewater utility in the state. We currently  
23 provide service to over 60,000 water, wastewater, and reuse Equivalent Residential  
24 Connections (ERCs) spread over 15 systems in 10 Florida counties. Consequently, we  
25 have the consistent responsibility to upgrade our infrastructure and make necessary

1 improvements to ensure continued quality service, compliance with changing  
2 environmental regulations, and to fulfill our overall obligation to serve. To that end, we  
3 have invested over \$100 million in capital improvements over the past decade. In addition,  
4 our expenses continue to increase. In effect, our rate of return on equity is well below the  
5 allowed return of 10.4% and we have not earned our allowed return as a consolidated  
6 company at any time in the past 10 years. Our current rates will not be adequate to cover  
7 our cost of providing service. Having the ability to earn the allowed return on investment  
8 is critical to attracting the capital for infrastructure improvements in the state. For this  
9 reason, we are requesting a revenue increase in this filing that will provide the opportunity  
10 to earn the authorized return.

11 **Q. Why is infrastructure investment important at this time?**

12 A. In their 2016 report card for America's Infrastructure, the American Society of Civil  
13 Engineers (ASCE) gives Florida a grade of C+ for water and wastewater gets a C. A "C"  
14 grade is defined as "mediocre" which is a serious problem for a state where water is a  
15 critical part of the economy and a necessary component of future growth. The U.S.  
16 Environmental Protection Agency estimates that Florida will need to spend about \$16.5  
17 billion in drinking water infrastructure improvements alone over the next 20 years to ensure  
18 that drinking water systems in Florida continue to provide safe and reliable drinking water  
19 to the public. Significant investment will also be required on the wastewater side. At UIF,  
20 we face these same challenges with a number of our communities developed over 40 years  
21 ago which means that the original infrastructure is nearing the end of its useful life. In  
22 addition to the aging infrastructure we have the challenge of meeting constantly evolving  
23 EPA regulations and other standards with respect to water and wastewater treatment.  
24 Upgrades to water and wastewater plants are required to meet these new standards which  
25 include not only environmental regulations but also new state statutes impacting the quality

1 of water and wastewater service provided to customers. UIF is committed to meeting these  
2 standards and has the access to capital in order to make the necessary capital investments.  
3 But the utility must also have the opportunity to earn its allowed return on investment in  
4 order to continue to attract the capital for the necessary projects in the future.

5 **Q. What can UIF do to temper the rate impact to customers?**

6 A. With over 60,000 ERCs across the state, UIF has the opportunity to spread the risk of large  
7 investments over a broader customer base. Effective January 1, 2016, we consolidated our  
8 12 regulated Florida utilities into one company, Utilities, Inc, of Florida. However, there  
9 continue to be 15 different rate structures based on the old company structure. The  
10 customer base for some of the rates is less than 500 ERCs which means that a large capital  
11 project will have a significant impact on rates. We have already seen that in some of our  
12 recent filings. None of our systems, large or small, will be immune from infrastructure  
13 upgrades so all would benefit from a consolidation of the rates into one uniform rate across  
14 the state. This would serve to reduce the potential for dramatic changes in rates for any  
15 one group of customers. Mr. Guastella will provide more justification for this proposal in  
16 his testimony.

17 **Q. What policies would support the investments needed to secure Florida's water  
18 future?**

19 A. The Florida Department of Environmental Protection has estimated that total water demand  
20 in the state will increase by more than 20% or 1.3 billion gallons per day by 2030. Securing  
21 new sources of supply and adding the treatment and delivery infrastructure to meet this  
22 demand will be critical to Florida's economic future. As the largest private water and  
23 wastewater utility in the state, UIF is in a unique position to assist in that challenge. One  
24 policy position, however, that could be in conflict with that objective, is the application of  
25 the Used & Useful (U&U) rule for water and wastewater utilities. As I understand it, the

1 rule was initially adopted to insure that facilities were not overbuilt and that current  
2 customers do not have to pay for construction of significant capacity that was built for  
3 future demand. Today, we face new challenges as I have described above. Like all  
4 industries keeping up with population and usage demand, policies that inhibit prudent  
5 investment are no longer appropriate. Prudent investments that are incrementally less  
6 expensive to construct now should be encouraged as smart long term planning and in the  
7 best interest of the consumer. The Legislature and the PSC recognized that issue in the  
8 adoption of a 100% U&U policy for reuse investments and that same thinking should be  
9 applied to other prudent water and wastewater investments.

10 **Q. What policies would help with future rate impacts to customers?**

11 A. Florida is recognized nationally as having a number of regulatory best practices that allow  
12 for rate adjustments in an efficient and cost effective manner. Annual index filings and  
13 pass through of certain expense items have allowed utilities in the state to keep pace with  
14 at least a portion of the expense increases that we face every year. These mechanisms also  
15 help smooth the increases that customers face over the years. The Legislature appears to  
16 have recognized these benefits with the adoption of SB 534 which will expand the  
17 application of these mechanisms to other expense items. Given that the current drivers of  
18 needed rate relief are more capital related than expense driven, and the need for  
19 infrastructure replacement will assuredly continue, it would be beneficial to both the utility  
20 and the customer to implement mechanisms that allow for the timely pass through of  
21 prudent capital investments as well as expenses.

22 **Q. Who are the other witnesses participating in this case and the nature of their  
23 testimony?**

24 A. Jared Deason is sponsoring the billing analysis, allocation schedules and the WSC  
25 Operating Agreement.

1 Deborah Swain will be sponsoring the majority of MFR Volume 1 – Financial, Rate and  
2 Engineering, and the reconciliation schedules.

3 Frank Seidman will sponsor exhibits and present testimony on used & useful.

4 Patrick Flynn will testify and present exhibits regarding the various pro-forma projects.

5 John Guastella will be testifying on rate design, principally consolidated or single tariff  
6 rates.

7 **Q. Does that conclude your direct testimony?**

8 A. Yes, it does.

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1 CHAIRMAN BROWN: Staff?

2 EXAMINATION

3 BY MR. TRIERWEILER:

4 Q Good afternoon, Mr. Hoy.

5 A Good afternoon.

6 Q Have you had an opportunity to look at what's  
7 been marked on staff's comprehensive exhibit list as  
8 exhibits that you sponsored in this docket?

9 A Yes, I did.

10 Q Did you prepare these exhibits or were they  
11 prepared under your direction and supervision?

12 A Yes, they were.

13 Q Are they true and correct, to the best of your  
14 knowledge and belief?

15 A Yes, they are.

16 Q Would your answers be the same today as they  
17 were when you prepared them?

18 A Yes, they would.

19 MR. TRIERWEILER: Thank you.

20 CHAIRMAN BROWN: Thank you.

21 Mr. Friedman?

22 MR. FRIEDMAN: Thank you.

23 EXAMINATION

24 BY MR. FRIEDMAN:

25 Q Mr. Hoy, do you have a brief summary of your

1 **testimony?**

2 A I do.

3 **Q Thank you.**

4 A It will be brief.

5 CHAIRMAN BROWN: Thank you.

6 THE WITNESS: Good afternoon, Madam Chair.

7 Good afternoon, Commissioners. Let me first take  
8 this opportunity to thank you and the staff for the  
9 time and effort that has gone into this case  
10 already. There are important issues to decide, and  
11 we appreciate the attention they have received.

12 Mr. Friedman essentially covered the essence  
13 of my testimony in his opening statement. And  
14 since you've heard my summary multiple times as  
15 we've traveled the state for the service hearings,  
16 I'll keep this short.

17 The case has two primary drivers:  
18 infrastructure investment and consolidated rates.  
19 With respect to the infrastructure, all water and  
20 wastewater utilities are facing the challenge --  
21 challenge of aging facilities.

22 UIF is no exception. And we face that  
23 challenge head-on with significant capital  
24 improvements over the past decade and a number of  
25 major projects going on as we speak.

1           These projects will allow us to continue to  
2 provide safe, reliable service to our customers.  
3 At this time, we have the access to capital in  
4 order to make those investments and ask simply for  
5 the rates to allow us the opportunity to earn our  
6 allowed returns so we continue to track that  
7 capital in the future.

8           We know from some of our smaller-company rate  
9 cases in the past that these capital improvements  
10 have had significant impact on rates. That's led  
11 to a wide disparity in our rates across the state.  
12 Since we have recently consolidated all of our  
13 companies into UIF, the other driver of this case  
14 is the request for uniform rates.

15           The consolidated rates that we are requesting  
16 will result in immediate rate decreases for many of  
17 our computers, and will provide very competitive  
18 rates across the state. It will also allow us to  
19 make the needed infrastructure improvements while  
20 tempering the rate impact that can happen in any  
21 single community.

22           I want to thank you, again, for time today.  
23 And that concludes my summary.

24           CHAIRMAN BROWN: Thank you.

25           MR. FRIEDMAN: We would tender the witness for



1 cross-examination. Thank you.

2 CHAIRMAN BROWN: Thank you.

3 Staff, can you help assist Mr. Sayler with  
4 passing out exhibits, please.

5 (Staff distributing document.)

6 CHAIRMAN BROWN: Thank you.

7 Did you have extra for the other -- so, I  
8 envision a quicker, smoother process of  
9 distribution.

10 (Laughter.)

11 CHAIRMAN BROWN: All right. The witness has  
12 the exhibits. And Mr. Sayler, you have the floor.

13 MR. SAYLER: Thank you, Madam Chair.

14 EXAMINATION

15 BY MR. SAYLER:

16 Q Good afternoon, Mr. Hoy. Would you take a --  
17 turn to your resume, which is Exhibit 1.

18 A I'm sorry. Which exhibit are you talking  
19 about?

20 Q Your exhibit -- your resume.

21 A I've got it. Thank you.

22 Q All right. According to your resume, you were  
23 named the president of the Florida Business Unit for  
24 Utilities, Inc. in 2014, correct?

25 A Correct.

1 Q And prior to that, from 2006 to 2008, you were  
2 the VP of operations for Florida and Louisiana, right?

3 A Correct.

4 Q And as VP of operations, you are responsible  
5 for all the maintenance activities and pro forma  
6 projects, projects, things of that nature, that were  
7 done in Florida and Louisiana; is that correct?

8 A Among other things, yes.

9 Q All right. And prior to coming to Utilities,  
10 Inc., you were with the gas industry; is that correct?

11 A Yes.

12 Q All right. And -- and since becoming the  
13 Florida president in 2014, you would agree you've had  
14 somewhat of an interesting start. From the very  
15 beginning, hands on, working with all the secondary  
16 water-quality issues with the Summertree customers; is  
17 that right?

18 A We -- we have worked with them, yes.

19 Q All right. And you would agree that those  
20 severe secondary water-quality issues gained some  
21 attention of the Legislature; is that correct?

22 A I -- I would say that the activity at the  
23 Legislature had some of its beginnings in -- in the  
24 Summertree system, yes.

25 Q All right. Mr. Hoy, can we agree that, if I

1 ask you a yes-or-no question, answer yes or no first,  
2 and then, if you need an amplification --

3 A Yes.

4 Q All right. Thank you.

5 And you would agree that, since becoming the  
6 president, the Legislature amended Florida statutes to  
7 allow customers to petition to revoke a utility  
8 certificate; is that correct?

9 A Yes.

10 Q And since then, also to require the Public  
11 Service Commission, when fixing rates, to specifically  
12 address secondary water-quality issues; is that correct?

13 A Yes.

14 Q All right. And a year ago, Utilities, Inc.  
15 sent its test year in to the Public Service Commission  
16 requesting that this case be processed using the  
17 Commission's proposed agency-action procedures; is that  
18 correct?

19 A Originally, yes.

20 Q All right. And you would agree that, if a  
21 process, proposed agency action -- it would have avoided  
22 a full administrative hearing; is that correct?

23 A Yes.

24 Q All right. And also, it would have avoided a  
25 full examination -- examination of your rate case by OPC

1 and other intervenors like we've had at -- for this  
2 time, correct?

3 A I'm not sure that's the case. I think the PAA  
4 process allows for -- for full examination of a case.

5 Q Does it allow for sworn testimony by  
6 intervenor parties or just between the utility and the  
7 staff?

8 A No, it does not.

9 Q All right. Thank you.

10 And you would agree that the timing of this  
11 rate case was within your absolute control? Meaning,  
12 you chose when to file it.

13 A Yes, we -- we choose to file.

14 Q All right. And you would agree that there was  
15 a number of what Public Counsel would call incomplete  
16 information and placeholder exhibits in Mr. Flynn's  
17 testimony; is that correct?

18 A There -- there were -- yes, there were  
19 placeholders in the -- in the testimony.

20 Q All right. And you were aware, when you filed  
21 it on August 31st, there were a number of exhibits  
22 missing from Mr. Flynn's testimony.

23 A That was brought up in the deficiencies.

24 Q All right. And when those exhibits were  
25 refiled, the utility said, for a number of those missing

1 exhibits, "Held for future use"; is that correct?

2 A I -- I'm not -- I don't recollect that.

3 Q Okay. You don't recollect that the exhibits  
4 in Mr. Flynn's testimony that were -- had no information  
5 said "Held for future use"?

6 A That -- no, I don't remember that.

7 Q All right. So, if I were to ask what "Held  
8 for future use" meant in his exhibits, I should ask  
9 Mr. Flynn?

10 A Yes.

11 Q Thank you.

12 You would agree that, when Utilities, Inc. was  
13 anticipating this rate case, it anticipated large  
14 numbers of customers attending customer meetings  
15 scheduled by the Commission; is that correct?

16 A We wouldn't have been aware of how many  
17 customers would attend. We've had -- we've had hearings  
18 in cases where no customers have attended.

19 Q All right. But given that you're seeking a  
20 rate consolidation, as well as a large rate increase,  
21 isn't it reasonable to conclude that a number of  
22 customers would attend those meetings?

23 A Some.

24 Q All right. And you would also anticipate an  
25 increase or rise in complaints as it relates to the

1 proposed final rates; is that correct?

2 A That has generally happened in the past.

3 Q All right. And you -- have you looked into  
4 the docket file through the course of this proceeding?

5 A Yes, I have.

6 Q You would agree that hundreds and hundreds of  
7 petitions, letters, complaints, concerns, e-mails, et  
8 cetera, have all been filed by customers and other  
9 concerned stakeholders since this rate case was filed?

10 A Yes. I've seen those in there.

11 Q And you would agree that a proposal to double  
12 rates for some customers, while decreasing rates for  
13 others, could quite -- could create quite a stir amongst  
14 the customer communities?

15 A Not necessarily. Depends on the community.

16 Q All right. So, you would agree that it would  
17 create a concern for those who are paying higher rates,  
18 correct?

19 A It -- it could, but we have some systems where  
20 we have large customer base that no customers attended  
21 the meetings.

22 Q All right. And for the large customer bases  
23 where no customers attended, were any of those getting a  
24 significant increase in their rates?

25 A Not that I'm aware.

1 Q All right. You would agree that there is a  
2 quite a bit of participation from the customers of  
3 Sanlando, Seminole County, and Longwood; and they're the  
4 customers who are experiencing large rate increases,  
5 correct?

6 A Well, that's also one of our larger customer  
7 bases.

8 Q All right. And you would agree that those  
9 customer hearings, along with the public -- or the  
10 Summertree customer hearings were the most well-attended  
11 in the whole proceeding, correct?

12 A I'm -- that may be correct, but I -- I don't  
13 have a count of each of them.

14 Q All right. Now, Mr. Hoy, do you think that  
15 Utilities, Inc. has been -- or would you agree that some  
16 might characterize Utilities, Inc.'s dealings with its  
17 customers as somewhat tone-deaf to their concerns for  
18 the many years that Utilities, Inc. has been in --

19 A No, not at all.

20 Q -- operation?

21 A Yes.

22 Q All right. And as a result of this rate case,  
23 did you anticipate quite a bit of negative publicity  
24 from the customers and even from legislators?

25 A I'm sorry. Repeat that?

1           Q     As a result of this rate case, did you  
2 anticipate a significant amount of negative publicity  
3 from customers, the press, perhaps, even legislators?

4           A     Well, I think, in -- in a case this -- this  
5 large --

6           Q     Yes or no.

7           A     No, we didn't. In a case this large, it's --  
8 it's complicated and there -- there would be some  
9 attention.

10          Q     No, you didn't anticipate a lot of attention  
11 or, yes, you did anticipate a lot of attention?

12          A     No, we -- we didn't -- we didn't anticipate  
13 the attention, but -- but we're not surprised by it.

14               MR. SAYLER: Okay. Madam Chair, the first  
15 exhibit I would like marked for identification  
16 would be -- it's actually --

17               CHAIRMAN BROWN: We're at 263, too.

18               MR. SAYLER: All right. 263. And this  
19 exhibit is -- the description is called "Rate Case  
20 Expense."

21               CHAIRMAN BROWN: Hold on one --

22               MR. SAYLER: Sorry. It might be -- it might  
23 be out of order. I apologize.

24               CHAIRMAN BROWN: Okay. I see it. It's the  
25 second one in the packet --



1 MR. SAYLER: Yeah --

2 CHAIRMAN BROWN: -- that I had. Mr. --

3 MR. SAYLER: Yes, ma'am.

4 CHAIRMAN BROWN: Mr. Hoy, do you have a copy  
5 of it?

6 THE WITNESS: How is it identified?

7 CHAIRMAN BROWN: It says -- the description --

8 MR. FRIEDMAN: It's the second --

9 CHAIRMAN BROWN: "Rate Case Expense."

10 THE WITNESS: Oh. Got it. Okay.

11 MR. SAYLER: All right.

12 CHAIRMAN BROWN: So, we're going to go ahead  
13 right now and mark that rate case -- 263,  
14 description, "Rate Case Expense."

15 (Exhibit No. 263 marked for identification.)

16 BY MR. SAYLER:

17 Q Take a moment to familiarize yourself with the  
18 exhibit, please.

19 A (Examining document.) Okay.

20 Q All right. And a moment ago, I believe your  
21 testimony was that you did not anticipate significant  
22 reaction from customers or legislatures -- legislators;  
23 is that correct?

24 A That's what I said, yes.

25 Q All right. Then, you would agree that you've

1 retained the public relations firm, Tucker/Hall, on  
2 December 29th, 2017 [sic]; is that correct?

3 A Yes.

4 Q All right. And that was about ten days before  
5 the first customer service hearing; is that correct?

6 A Correct, but it was about three months after  
7 the filing.

8 Q Right. And you would agree that your first  
9 discussions with Tucker/Hall occurred less than a month  
10 after the November 1st agenda conference where -- where  
11 your interim rates were voted on; is that correct?

12 A That, I don't -- I don't remember when the  
13 first discussion was.

14 Q All right. Would you turn to the first page  
15 from Tucker/Hall's website. Do you see at the bottom  
16 where it is identified Tucker/Hall, and at the bottom,  
17 it identifies their website? Do you see that?

18 A Yes.

19 Q All right. Would you read that page for us,  
20 please?

21 A This is the second page that has --

22 Q Excuse me. It's -- the Page is 1/2.

23 A Okay.

24 Q It says "Strategy, Crisis, and Issues."

25 A "Strategy, crisis, issues: We can help you

1 successfully navigate your most-complex communications  
2 challenges."

3 Q All right. And the cost for retaining Tucker/  
4 Hall is about \$5,000 a month to help you through this  
5 rate case; is that correct?

6 A Correct.

7 Q All right. Let's see. And -- let's see. If  
8 you will, turn to the page -- top of the page that says  
9 "Tucker/Hall Crisis Management Strategy and Issues."  
10 And at the bottom of the page, it's 2/2. Do you see  
11 that?

12 A Yes.

13 Q And you would agree that Tucker/Hall helps  
14 companies grow their business, manage crisis situations,  
15 and advance a particular agenda; is that correct?

16 A Well, that's -- that's one of their -- of the  
17 focus they have. We -- we employed them because, as we  
18 got into this case, we knew the communications would  
19 be -- would be somewhat complex.

20 We don't have a communications staff. We're a  
21 small company with no communications, media relations,  
22 anybody. So, we employed some outside services, knowing  
23 that there would be some communications needed in this  
24 case. We knew there would be some communications needed  
25 after this case, as we went to talk about how the final

1 rates are implemented and how they affect each of the  
2 customers.

3 Q All right. Would you turn to the next page  
4 that says "Crisis management" in big letters at the top?

5 A Okay.

6 Q And if you go down to the -- one, two --  
7 three -- third paragraph, that first sentence -- take a  
8 moment to look at that.

9 A (Examining document.)

10 Q Let me know you're ready.

11 A The first -- the first sentence?

12 Q Yes, the first sentence.

13 You would agree it says that "Crisis  
14 management strategy professionals use what is called the  
15 crisis management arc that consists of three stages:  
16 avoidance, mitigation, and recovery," correct?

17 A That's what it says.

18 Q So, is it your testimony that this rate case  
19 caused a crisis for which Utilities, Inc. needed to  
20 retain Tucker/Hall?

21 A No. No.

22 Q All right.

23 A We looked for some outside resources to help  
24 us in the communications.

25 Q And you would agree that Utilities, Inc. is

1 seeking recovery for Tucker/Hall expenses through rate-  
2 case expense; is that correct?

3 A That's correct.

4 Q All right. And -- and if you turn to the  
5 page -- a couple of pages through, the top of it says  
6 "Industries." Do you see that?

7 A Yes.

8 Q And each "industries" -- it describes  
9 environmental crisis management, government crisis  
10 management, aviation, health, financial, travel -- all  
11 sorts of crisis management. So, you would agree  
12 Tucker/Hall specializes in crisis management, correct?

13 A As I said before, that's one of the things  
14 they -- they tout themselves as, yes.

15 Q All right. And for the record, the next  
16 couple of pages are where this information was produced  
17 through discovery, first to Public Counsel's Request for  
18 Production No. 29. Do you see that?

19 A Yes.

20 Q And would you take a moment to look at those  
21 documents. Do you have any reason to believe that those  
22 were not produced in response to Public Counsel's  
23 Production of Documents Request No. 29?

24 A (Brief pause.)

25 Q Let me rephrase my question. Do those look

1 like documents that you've seen before and that would  
2 have been produced in response to OPC's request?

3 A I have -- I have seen this document before. I  
4 wasn't responsible for -- for providing the documents as  
5 part of the request.

6 Q All right. And if you look at that first  
7 document dated November 28th, Tucker/Hall -- do you see  
8 that?

9 A Yes.

10 Q You would agree that you do not see any Bates-  
11 stamped page numbers on that document; is that correct?

12 A No, I do not.

13 Q All right. And you would agree that the order  
14 establishing procedure in this document -- or docket  
15 requires that every request for production of documents  
16 be Bates-stamped; is that correct?

17 A That, I don't know.

18 Q Okay. And you would agree that it would be  
19 very difficult to know what documents are produced by  
20 Utilities, Inc. from anybody else's documents because  
21 they're lacking Bates-stamped page numbers?

22 A I -- that, I don't know.

23 Q Okay. And you would agree that this  
24 Commission has routinely disallowed expenses related to  
25 public relations and image enhancing; is that correct?

1 A Yes, but that's not what this is.

2 Q Well, you said they're a public relations firm  
3 and they're advising you --

4 A No.

5 Q -- in this case, correct?

6 A No. No, I -- I said they helped us with  
7 communications. We were looking for a firm that had  
8 communications skills. And this is the firm we -- we're  
9 using to help communicate the rate-case details. And  
10 ultimately, we haven't spent all the money on this -- on  
11 this contract. And we're looking for help as we  
12 communicate the ultimate outcome of this case.

13 Q So, they're trying to help you put a positive  
14 spin --

15 A No.

16 Q -- on this rate case?

17 A No, it's not spin at all. It's communications  
18 of what actually happens.

19 Q Okay. But you would agree that the Commission  
20 has routinely disallowed expenses related to PR and  
21 image enhancing -- enhancing?

22 CHAIRMAN BROWN: Counsel, asked and answered.

23 MR. SAYLER: What was his answer, ma'am? I  
24 don't remember his answer, yes or no. That's why I  
25 asked it again. I apologize.

1 CHAIRMAN BROWN: Okay. Go ahead.

2 THE WITNESS: Yes, I've seen that in the past.

3 BY MR. SAYLER:

4 Q Okay. Let me ask you a question: Do you know  
5 why these Tucker/Hall expenses were included in rebuttal  
6 testimony as opposed to filed in the original rate case?

7 A I -- I believe we incurred these expenses and  
8 we made that decision to bring Tucker/Hall on to help  
9 with communications as this rate case moved along, and  
10 as we were looking for a need for communication coming  
11 out of the rate case with the ultimate rates that are  
12 decided.

13 Q And on the topic of non-Utilities, Inc.  
14 employees or businesses or firms that Utilities, Inc.  
15 engaged for this rate case -- you would agree that  
16 Utilities, Inc. engaged Gunster to monitor Public  
17 Service Commission and legislative activities; is that  
18 correct?

19 A Not -- not for this rate case.

20 Q Not for this rate case.

21 A No.

22 Q And are you seeking cost recovery for their  
23 services in this rate case?

24 A That, I'm not aware of, if it was in the test  
25 year or not.



1 Q All right. You would agree that lobbying  
2 expenses are routinely disallowed by the Commission,  
3 correct?

4 A That -- that's my understanding, but we did  
5 not engage them for lobbying.

6 Q Okay. And when it comes to monitoring Public  
7 Service Commission and regulatory activities, you do  
8 have a person on staff to do that. Is that Mr. Jared  
9 Deason?

10 A For the Public Service Commission?

11 Q Yes.

12 A For interaction with the Public Service  
13 Commission, yes. We -- Jared is here in Tallahassee and  
14 able to interact with staff.

15 Q So, you wouldn't need any outside counsel to  
16 help you interact with staff; is that correct?

17 A No, that's not true.

18 Q All right. And it is your testimony that the  
19 reasons you engaged Gunster -- it wasn't as a lobbyist;  
20 is that correct?

21 A It was not as a lobbyist.

22 Q Okay. But you do agree that lobbyists monitor  
23 legislative and agency activities for their clients,  
24 correct?

25 A That -- that's one function of lobbyists?

1 Q Okay.

2 A That's your question?

3 Q Yes.

4 A That -- that can be one function. That's --  
5 we -- we did not -- we did not engage Gunster to do any  
6 lobbying activity for us.

7 Q Okay. And to your knowledge, does the  
8 Commission routinely disallow lobbying activities?

9 A I think I have answered that, and the answer  
10 was yes.

11 Q Thank you.

12 All right. Different line of questions.

13 Mr. Hoy, as the Florida unit president, you would agree  
14 that you're responsible for assuring that all the  
15 Commission-ordered adjustments are recorded on the  
16 utility books, correct?

17 A I am responsible for all of Florida operations  
18 and the reporting of -- of the results.

19 Q All right. And that would also include  
20 complying with the Commission orders and rules  
21 established by this Commission?

22 A Correct.

23 Q And that would also include making sure that  
24 the Commission-ordered adjustments are properly booked  
25 within the 90-day time period required by the Commission

1 orders; is that correct?

2 A Yes, that's one requirement.

3 Q And you would agree that you don't actually  
4 verify that the Commission-ordered adjustments were  
5 properly made. You delegate those activities; is that  
6 correct?

7 A We -- as part of the order, we comply with the  
8 order and file the Commission-ordered adjustments with  
9 the Commission within the time -- time frame.

10 Q All right. And -- but you don't do that  
11 filing yourself. I mean, you delegate that --

12 A Right.

13 Q -- to someone who works for you.

14 A Correct.

15 Q And if those Commission-ordered adjustments  
16 are not booked on time, who is held responsible in your  
17 organization?

18 A That would be the -- well, the responsibility  
19 ultimately lies with me.

20 Q Uh-huh. All right. And as it relates to  
21 these Commission-ordered adjustments, if they are filed  
22 late, several months after they were due or maybe years  
23 after they were due, does the Commission notify the  
24 utility if the Commission-ordered adjustments are late  
25 at the time they file it?

1           A     Not that I'm aware of, but if -- if -- we make  
2 every attempt to get them filed on time. If there are  
3 extenuating circumstances, there are questions about the  
4 adjustments, work that has to be done with -- with staff  
5 in order to understand them, I will work with staff in  
6 order to -- to let them know that we're working on them  
7 and need some extra time -- extra time.

8           Q     And if you need extra time, do you put  
9 something in the docket file so that parties are  
10 available -- or anyone can see that you're seeking extra  
11 time?

12          A     That, I'm not aware of.

13          Q     All right. So, the answer to that would be --  
14 never mind. I would say no, but -- excuse me. Strike  
15 that.

16                    You would agree, when the utility provides  
17 proposed or actual journal entries to the Commission  
18 staff, and if there is no follow-up by staff, the  
19 utility assumes those are accurate -- accurate and  
20 accepted?

21          A     We assume they are accepted.

22          Q     All right. And despite that, you would agree  
23 that some of the Commission-ordered adjustments have not  
24 been made correctly, correct?

25          A     I think there's -- there's been some -- I

1 would say not necessarily because I think there's been  
2 some concern as -- as the booking of the Commission-  
3 ordered adjustments, and then the -- the discovery of  
4 them in the next rate case or the trueing-up of them in  
5 the next rate case.

6 It isn't always -- it isn't always the staff  
7 auditor's position that they -- they were done correctly  
8 either. There may be some interaction back and forth at  
9 that time as to whether they were booked -- booked  
10 accurately and whether the auditor's assessment that  
11 they were booked correctly is true.

12 Q All right. I need you to clarify that. So,  
13 at the time you file the Commission-ordered adjustment,  
14 if you don't hear back from the Commission staff, you  
15 assume it is booked correctly, correct?

16 A Correct.

17 Q And then -- one, two, three, four -- however  
18 many years later, you file a rate case, and staff audits  
19 the rate case. And sometimes, in the audit findings, it  
20 says that the utility did not properly book Commission-  
21 ordered adjustments; is that correct?

22 A That -- that's correct.

23 Q All right. And you would agree that failure  
24 to timely make Commission-ordered adjustments has been  
25 an issue that has been brought up in many different

1 prior rate-case dockets; is that correct?

2 A We've got a lot of -- of rate cases with a  
3 number of different companies. And the -- the timing --

4 Q Yes or no.

5 A -- of the -- in some cases.

6 Q Okay. Thank you.

7 And in the current audit by the audit staff,  
8 you would agree that the current audit says that some of  
9 the COAs have not been made, correct?

10 A Yes, but we -- in a couple of cases, we didn't  
11 agree with that.

12 Q All right. And Mr. Hoy, according to your  
13 background, your Exhibit JPH-1 -- you're a professional  
14 engineer; is that correct?

15 A Correct.

16 Q And are you licensed in Florida?

17 A No, that -- Wisconsin.

18 Q Wisconsin. Is there a reciprocity between  
19 Florida and Wisconsin? I don't know how that --

20 A No, there's not.

21 Q Okay.

22 A I'm not practicing engineering in Florida.

23 Q Okay. So, you couldn't go out and put your  
24 stamp on documents.

25 A Not in Florida.

1 Q All right. And while you are in Wisconsin,  
2 you have extensive experience in the gas and water,  
3 wastewater industries; is that correct?

4 A Gas, electric, and water.

5 Q All right. And earlier in my opening, I  
6 stated that Utilities, Inc. is the private -- largest  
7 privately-owned water and wastewater provider in the  
8 state; is that accurate?

9 A Our understanding, yes.

10 Q All right. And when you were working for the  
11 gas utilities, you would agree they had some form of  
12 preventive or predictive maintenance programs in place?

13 A Different programs for different things. I'm  
14 not sure what would fall in that category.

15 Q All right. So, yes, for different things,  
16 correct? For maintenance activities?

17 A Depends what you put in -- that's a big --  
18 that's a big bucket. So, I don't know what you would  
19 necessarily put in that category. So, there may have  
20 been some, yes.

21 Q And do you recall, when I asked you that  
22 question in your deposition, that your answer -- my  
23 question was: When you were with the gas company, did  
24 you have preventive-maintenance-type programs.

25 And your answer was, "Yes, we did." Do you

1 recall that?

2 A Yes. And I'm qualifying that by saying  
3 there -- there may have been some, but in -- in  
4 different forms.

5 Q All right. And as -- do you recall me asking  
6 that -- you've been with Utilities, Inc. in some form or  
7 capacity since 2006, correct?

8 A Correct.

9 Q And after you were the VP for Florida and  
10 Louisiana, you went up to Northbrook, Illinois, which is  
11 where Utilities, Inc. is headquartered?

12 A Correct.

13 Q All right. For clarity of the record, if I  
14 say Utilities, Inc. Northbrook, I mean the parent  
15 company for all of the systems around the country and --  
16 would that be accurate, that --

17 A Yes.

18 Q Okay. So, when you came back to Florida to be  
19 the president of the business unit, you already had some  
20 general familiarity with the Florida operations,  
21 correct?

22 A Yes.

23 Q Both the building of new infrastructure,  
24 renewing infrastructure, replacing infrastructure, as  
25 well as maintenance activities?



1 A Yes.

2 Q All right. And when you became president of  
3 the Florida operations in 2014, you would agree that  
4 Utilities, Inc. lacked any formal plan for capital  
5 improvements?

6 A No.

7 Q So, you had formal written plans bound --

8 A No, I didn't -- I didn't say.

9 Q Okay.

10 A I said we have plans. We have capital  
11 projects that are in the form that we use to prioritize  
12 and -- and then execute.

13 Q You would agree you didn't have a capital  
14 planning department, correct?

15 A No, not a formal capital planning department.

16 Q So, you had an informal plan. Would it be  
17 fair to characterize it as a to-do list of capital  
18 improvements?

19 A No, more than that.

20 Q Okay. And you would agree that Utilities,  
21 Inc.'s informal capital improvement plan was based upon  
22 the individual assessments by local systems of dedicated  
23 employees who knew their systems?

24 A Partly, yes. That was part of the input that  
25 went into it.

1 Q And you would agree that, if a local employee  
2 was more experienced and had more years in service, they  
3 might have a better understanding of their system as  
4 opposed to someone who is new?

5 A They might; they might not.

6 Q All right. You would agree that Utilities,  
7 Inc. currently does not have and has not had any type of  
8 formal five-year or ten-year plan for capital  
9 improvements; is that correct?

10 A I -- I wouldn't say it's a formal plan, but  
11 it's a -- as I've said before, we have extensive groups  
12 of projects. And we bring projects into our -- our  
13 planning all the time. They come in at a later period.

14 And as we move up in the planning process,  
15 they become more and more robust in terms of the detail  
16 involved with it. It goes through a very rigorous  
17 process for approval and then ultimate execution.

18 Q And you're the one who signs off on those  
19 approval projects, up to a certain dollar amount,  
20 correct?

21 A Correct, up to a certain dollar amount.

22 Q And to get approval from the Northbrook,  
23 Illinois, what's the dollar threshold?

24 A I believe that's a million dollars.

25 Q A million dollars. So, a number of these

1 projects that are in your pro forma request had to be  
2 approved by Northbrook; is that right?

3 A I'm sorry. You said a number of them?

4 Q A number of them.

5 A Yes, there were some that did.

6 Q Okay. So, I believe your testimony just was  
7 that you have short-term plans that go over one- to  
8 two-, maybe a three-year horizon for those improvements,  
9 correct?

10 A Yes, I think that's -- for the detailed  
11 projects, that's where -- where most of -- of the detail  
12 is for -- for -- for the near term. We do have projects  
13 as we look out on the horizon. And those come into our  
14 plan and then move up, as I said, as we get closer and  
15 closer to execution.

16 Q Thank you.

17 As a -- you said your status as an engineer,  
18 professional engineer, is non-practicing or --

19 A Correct. Correct.

20 Q Yeah. Okay.

21 But as a professional engineer with years of  
22 experience in the utility industry, you're generally  
23 familiar with the GPS -- excuse me -- GIS systems and  
24 their capabilities, correct?

25 A Correct.

1 Q And did you use those in the gas industry?

2 A Not -- not early in my career, no.

3 Q Latter -- to the latter part of your career?

4 A Oh, I would have to go back and think about  
5 when it was.

6 Q All right. Do you think you were using those  
7 around the year of 2005, 2006, when you made your  
8 transition to Utilities, Inc.?

9 A I think we had just started.

10 Q Okay. Thank you.

11 And you would agree that the GIS system is one  
12 of the pro forma projects that UIF is implementing in  
13 this rate case, correct?

14 A Correct.

15 Q And it is supposed to help Utilities, Inc.  
16 locate and map all of its assets, correct?

17 A Well, it's -- it's one tool, yes.

18 Q All right. You would agree that, in addition  
19 to the gas industry, GIS-type systems have been used in  
20 the water and wastewater industry for years?

21 A For some, yes.

22 Q Excuse me? What was your -- for some --

23 A For some companies, yes.

24 Q And -- and you would say generally the larger  
25 companies, correct?

1           A     That, I don't know.

2           Q     Okay.  And you would agree that there are many  
3 potential benefits for implementing a GIS system for  
4 Utilities, Inc.'s systems; is that correct?

5           A     There -- there can be, yes.

6           Q     All right.  And one of those benefits is -- of  
7 having a -- your facilities located in GIS is that it  
8 allows you to quickly identify breaks, to repair breaks,  
9 to identify valves, to shut down the system, so as for  
10 Utilities, Inc. to interrupt a minimum number of  
11 customers, correct?

12          A     That's a benefit, yes.

13          Q     And you would agree that, only now, in pro  
14 forma, Utilities, Inc. is now seeking to implement a GIS  
15 system for its Florida operations?

16          A     That's -- that's a pro forma project in this  
17 case, yes.

18          Q     All right.  But you would agree you could have  
19 done that starting in 2006 when you came to Florida,  
20 correct -- or were overseeing Florida and Louisiana,  
21 correct?

22          A     I don't know.  I don't know what would have  
23 been available for -- for UIF at the time.

24          Q     All right.  It would be accurate to state  
25 that, when you started supervising Florida and

1 Louisiana, you did not implement a GIS system for either  
2 state; is that correct?

3 A Not in 2006, no.

4 Q Okay. And you would agree that one of the  
5 reasons Utilities, Inc. did not implement a GIS system  
6 was Utilities, Inc. had good operators; and paper maps  
7 were about as good as anything; is that correct?

8 A I think, at that time, that -- that those  
9 tools sufficed. I think we're at a stage now where we  
10 believe it's a -- it's a benefit to put it in. And it's  
11 also -- we have to remember, this isn't buying software  
12 off the shelf and just plugging it in. There's a lot of  
13 work that has to go into not only converting the maps,  
14 but then also digitizing all the equipment that's out in  
15 the field that goes with it.

16 Q And it's your testimony that GIS would need to  
17 work in conjunction with some other operating system,  
18 management system to --

19 A To get the most benefit out of it, yes.

20 Q How come you didn't implement GIS and that  
21 other system back in 2006?

22 A We were -- had other priorities at the time  
23 and -- and it wasn't a critical need at the time. We  
24 were able to get the work done with -- with the manual  
25 systems that we had.

1 Q All right. Same question for GIS and that  
2 other program. When you came to Florida in 2014, you  
3 didn't implement one of those at that time?

4 A Not at that time.

5 Q Okay. Earlier I asked you questions about the  
6 timing of this rate case and the fact that -- or I  
7 believe the fact is that it was your decision on the  
8 timing for when this rate case would be filed; is that  
9 correct?

10 A Yes.

11 Q All right. So, ultimately, the actual  
12 decision to file it on October -- excuse me --  
13 August 31st rested with you, correct?

14 MR. FRIEDMAN: Asked and answered.

15 CHAIRMAN BROWN: Yes. Move along, Mr. Sayler,  
16 please.

17 BY MR. SAYLER:

18 Q All right. So, when you pulled the trigger on  
19 August 31st, you knew that there were some serious holes  
20 in your -- your filing; is that correct?

21 A No.

22 Q You knew that there was missing cost  
23 information for a number of pro forma plant additions;  
24 is that correct?

25 A Well, that's the case in -- in a number of

1 filings; that pro forma cost information needs to be  
2 updated through the filing.

3 Q And you would agree that staff's first  
4 efficiency letter indicated that you were missing some  
5 exhibits entirely, correct?

6 A I believe so.

7 Q And when you refiled those exhibits, some of  
8 those -- excuse me. I asked that question earlier.

9 And for the documents that you filed -- that  
10 Utilities, Inc. filed for Mr. Flynn's testimony that  
11 said "Held for future use," were you surprised when this  
12 Commission deemed that your filing was complete, even  
13 though you had missing information for those projects?

14 A No.

15 Q Okay. And you would agree this is your first  
16 full-blown evidentiary hearing in Florida since you  
17 became the president of the Florida unit, correct?

18 A For a rate case, yes.

19 Q And most of those proceedings you were  
20 involved with used the Commission's proposed agency-  
21 action procedures, correct?

22 A For the rate cases, yes.

23 Q And during those proposed agency-action rate  
24 cases, you would agree that Utilities, Inc. supplements  
25 their -- that original filing all along the rate-case



1 process; is that correct?

2 A We have, yes.

3 Q All right. And those supplements are in  
4 response to staff's data requests?

5 A Yes.

6 Q All right. And you would agree that sometimes  
7 those supplements come all the way up and to right  
8 before the Commission finalized -- the staff finalizes  
9 its recommendation, correct?

10 A I believe so, yes.

11 Q And you would agree that a utility has a large  
12 incentive to respond to staff's data request and provide  
13 the information they requested, correct?

14 A We generally try to provide all the  
15 information requested that we can.

16 Q All right. And since this is your first  
17 evidentiary hearing in a rate case, you would agree that  
18 you've learned about some of the differences between the  
19 Commission's PAA process and a Section 120.571  
20 evidentiary hearing; is that correct?

21 A Well, there are differences, yes.

22 Q All right. Are you familiar with the term  
23 "Official date of filing"? Is that --

24 A Yes.

25 Q And you would agree that, on November 22nd,

1 when this filing was deemed complete, that was the  
2 official date of filing for this application, correct?

3 A Yes.

4 Q All right. And that triggered the eight-month  
5 time clock, correct?

6 A Correct.

7 Q And you would agree that Public Counsel  
8 started serving discovery in this case in early  
9 September -- about mid-September. Do you recall?

10 A I -- I don't recall, but that -- that sounds  
11 right.

12 Q All right. And even though the application  
13 was deemed complete on November 22nd, you would agree  
14 that Utilities, Inc. did not respond to OPC's first  
15 several sets of discovery until sometime early January;  
16 is that correct?

17 A I'm not aware. I just don't recall.

18 Q All right. Do you recall that Utilities, Inc.  
19 served discovery on the projects in Mr. Flynn's  
20 testimony that still said "Held for future use"? Do  
21 you -- did you know that?

22 A I'm sorry. I missed that question.  
23 Utilities, Inc.?

24 Q Yeah, Utilities, Inc. of Florida -- were you  
25 aware that we served discovery asking for information

1 about your pro forma projects in Mr. Flynn's testimony?

2 A I don't recall.

3 Q Okay. And you would agree that, after  
4 Utility -- or excuse me -- after the Office of Public  
5 Counsel provided testimony of March 6th, that Utilities,  
6 Inc. responded with rebuttal testimony on April 3rd,  
7 correct?

8 A I don't recall the date.

9 Q All right. And you would agree that  
10 Utilities, Inc. provided new, updated information  
11 regarding a number of the Utilities, Inc.'s pro forma  
12 projects that were different from what they originally  
13 arrest- -- requested in the rate-case application?

14 A Yes, I believe we -- we updated the pro forma  
15 project estimates and costs.

16 Q And you would agree some of those costs went  
17 down from what you requested in direct, correct?

18 A I would believe so, yes.

19 (Background noise.)

20 MR. SAYLER: Bells from heaven.

21 CHAIRMAN BROWN: It's pretty.

22 (Laughter.)

23 CHAIRMAN BROWN: Would you repeat the  
24 question?

25 MR. SAYLER: Certainly.

1 BY MR. SAYLER:

2 Q You would agree that some of the costs,  
3 estimated costs, for the pro forma projects that you  
4 requested in your direct -- in your original filing --  
5 those estimated costs have actually -- the final costs  
6 are less than what you originally requested, correct?

7 A Yes, I believe that was the case for some  
8 projects.

9 Q All right. And -- but you would agree that  
10 some of the project costs are now much higher than they  
11 were originally estimated; is that correct?

12 A Some projects, yes.

13 Q You would agree that, if Utilities, Inc.  
14 forgot something or omitted it in its original filing,  
15 and then, again, in its rebuttal filing, it also  
16 admitted it -- you would agree that Utilities, Inc.  
17 should not be entitled for cost recovery for things they  
18 did not request?

19 A No.

20 Q I'm sorry?

21 A No, if -- if there's something in the filing  
22 that -- that's corrected through these proceedings or  
23 some other time -- I believe that could be corrected.

24 Q All right. So, it is your testimony that, if  
25 it's not in your MFRs, your testimony, or exhibits in

1 your direct case or your rebuttal case -- it's your  
2 testimony that Utilities, Inc. should be eligible for  
3 something they did not ask for?

4 A Well, it depends what the correction is.

5 Q All right. Are you saying that this  
6 Commission, on its own motion, can provide the utility  
7 more in revenue requirement than the utility originally  
8 requested in its original case and in rebuttal?

9 A No, but I don't believe we asked for that.

10 MR. SAYLER: All right. There's another  
11 exhibit. The next one should be "Evolving New  
12 Standards."

13 CHAIRMAN BROWN: So, that's the top one that I  
14 have. And we're going to identify that as  
15 Exhibit 264, and have the description Mr. Sayler  
16 just said.

17 (Exhibit No. 264 marked for identification.)

18 CHAIRMAN BROWN: You may proceed.

19 MR. SAYLER: Certainly.

20 BY MR. SAYLER:

21 Q Would you take a moment to familiarize  
22 yourself with that exhibit and also turn to Page 2 of  
23 your testimony -- unnumbered Page 2. The Lines 22  
24 through 24 on Page 22 are what I would like you to look  
25 at.

1 A Okay.

2 Q All right. You would agree -- it's your  
3 testimony that the utility has a -- has the challenge of  
4 meeting constantly-evolving EPA regulations and other  
5 standards with respect to water and wastewater  
6 treatment. Do you see that?

7 A Yes.

8 Q You would agree that all regulated industries  
9 always have to comply with constantly-evolving  
10 government regulations and other standards, correct?

11 A Correct.

12 Q And whether you're electric, gas, water,  
13 wastewater, you have to evolve and comply with those  
14 charges and standards, correct?

15 A Correct.

16 Q And that's true whether it's a regulated  
17 industry or a private industry, correct?

18 A Correct.

19 Q Unregulated -- all right.

20 And is it your testimony that, for Utilities,  
21 Inc., evolving EPA regulations and other standards are  
22 particularly challenging to Utilities, Inc.?

23 A Not to Utilities, Inc. I think it can be a --  
24 challenges within the industry. So, it's not only the  
25 EPA. It's the water management districts. It's -- it's

1 the local governments. So, constantly-changing  
2 regulations there are -- are important for us to -- to  
3 understand and then -- and then adapt to.

4 Q All right. Is it -- so, your testimony is it  
5 is not challenging to Utilities, Inc., correct?

6 A Well, it's -- it's a challenge, I think,  
7 for -- for anybody in this industry.

8 Q Is that because Utilities, Inc. doesn't have  
9 systems in place to comply with those changing  
10 regulations --

11 A No, not at all.

12 Q -- and standards?

13 All right. Would you turn to the exhibit  
14 identified as "Evolving New Standards."

15 CHAIRMAN BROWN: Exhibit 264.

16 Q All right. We're going to look at your  
17 response -- the utility's response to 244. Do you  
18 recall responding to this question?

19 A Yes.

20 Q All right. And this is one of the questions  
21 staff identified for you to be familiar with, correct?

22 A Pard- -- pardon me?

23 Q This is one of the questions staff asked you  
24 to look at as far as staff's exhibit; is that correct?  
25 Or do you know?

1 A No, I don't -- I don't remember.

2 Q Okay. And you would agree for 20- -- 244A,  
3 you're giving a general overview of the changing EPA  
4 regulations that, then, the Florida Department of  
5 Environmental Protection are required to enforce; is  
6 that correct?

7 A Correct.

8 Q You would agree that responding to challenging  
9 or changing regulations is a greater challenge to  
10 Class C utilities than to Class A utilities, correct?

11 A Not necessarily.

12 Q All right. And you would agree that water  
13 utilities now need to comply with secondary water-  
14 quality standards beyond what is required by the  
15 Department of Environmental Protection, correct?

16 A Correct.

17 Q And you would agree that that includes pass-  
18 through systems?

19 A Correct.

20 Q All right. And if you pro- -- produce water,  
21 meaning like, for instance, in Sanlando where you  
22 produce water from wells and treat it, you would agree  
23 you must comply with stricter standards enforced by the  
24 Public Service Commission in a rate proceeding,  
25 according to Section 367.0812; is that correct?



1           A     I'm -- I'm sorry. I didn't understand the  
2 question.

3           Q     All right. I'll -- I'll rephrase. You would  
4 agree that the statutes recently changed to provide  
5 stricter standards of enforcement for secondary water  
6 quality in rate-case proceedings, correct?

7           MR. FRIEDMAN: I'm --

8           Q     And if you're a producer of that water, then  
9 you must comply with those standards?

10          MR. FRIEDMAN: I'm going to object to the  
11 question. If he wants to answer it, just of his  
12 knowledge, but if it's -- it's -- that's a legal  
13 question that is beyond the scope of his expertise.

14          CHAIRMAN BROWN: He's asked a few legal  
15 questions that you didn't object to.

16          MR. FRIEDMAN: Well, and -- and it's the same  
17 way it's -- as we went through at agenda the other  
18 day.

19          CHAIRMAN BROWN: Okay. Mr. Sayler, first of  
20 all, it was a compounded question.

21          MR. SAYLER: Certainly --

22          CHAIRMAN BROWN: Can you restate your --  
23 rephrase your question.

24          MR. SAYLER: Certainly.

25                ///

1 BY MR. SAYLER:

2 Q You would like me to rephrase, Mr. Hoy?

3 A Yes.

4 Q All right. As a water producer, you must  
5 comply with the stricter standards enforced -- that the  
6 Commission, now, enforces in a rate proceeding, correct?  
7 To your knowledge, do you know?

8 A To my knowledge, yes, the -- those  
9 standards -- some of those have already been in place  
10 with the Commission.

11 Q Now, if you are a -- a buyer and reseller of  
12 water -- if the water that you purchase has undesirable  
13 secondary attributes, you would agree that Utilities,  
14 Inc. is still responsible for providing water to those  
15 customers that meets secondary qualities, correct?

16 MR. FRIEDMAN: I object, to the extent it  
17 calls for a legal conclusion.

18 CHAIRMAN BROWN: Objection overruled. I'll  
19 allow the witness to answer it, if he -- if he  
20 knows, he knows.

21 THE WITNESS: I believe so.

22 BY MR. SAYLER:

23 Q All right. And that would include potentially  
24 retreating water to resolve the secondary issues in  
25 those water, correct -- secondary water-quality

1 attributes in those waters?

2 Do I need to repeat the question?

3 A Yes.

4 Q Okay.

5 CHAIRMAN BROWN: And Mr. Sayler, could you  
6 please just speak a little bit louder and a little  
7 bit clearer for our court reporter.

8 MR. SAYLER: I apologize.

9 CHAIRMAN BROWN: Thank you.

10 BY MR. SAYLER:

11 Q You would agree that, if you purchase water  
12 that doesn't meet the secondary standards, then you must  
13 potentially retreat that water to do something to  
14 become -- to come into compliance with the secondary  
15 water-quality standards, correct?

16 A Yes, or enforce the -- the provisions of the  
17 agreement with the supplier.

18 Q Okay. Now, turn to the next page, 224 --  
19 excuse me -- is it -- 244B. Here, you discuss your  
20 efforts to comply with the evolving new standards,  
21 correct?

22 A Correct.

23 Q Now, here, you provide a list of projects that  
24 fall into one or more of the above categories, correct?

25 A Correct.

1 Q And I don't understand your response for  
2 Sandalhaven. It says: Interconnection of Sandalhaven  
3 wastewater system and abandonment of the plant that was  
4 the preferred alternative to meet effluent discharge  
5 limits. Do you see that response?

6 A Correct.

7 Q Isn't it true that the Utilities, Inc.  
8 prematurely retired the Sandalhaven wastewater-treatment  
9 plant because it was under a consent order?

10 A No. When you say prematurely, you mean from  
11 an accounting standpoint or from a --

12 Q From a maintenance standpoint.

13 A No. No. The reason for abandoning the -- the  
14 Sandalhaven plant was, first of all, the effluent-  
15 disposal option went away. So, there -- it needed an  
16 alternative.

17 Q You would agree that the -- the Department of  
18 Environmental Protection consent order arose because  
19 Utilities, Inc. didn't properly renew or maintain its  
20 percolation ponds or find another customer for reuse  
21 once the golf course went bankrupt?

22 A No, I don't believe that's correct.

23 Q All right. And as a result of the retirement  
24 of the Sandalhaven wastewater-treatment plant, you would  
25 agree that the used-and-usefulness of the utility's

1 investment in the Englewood interconnection as well as  
2 all the plant, pumps, force mains designed to create  
3 that interconnection -- you would agree that that used-  
4 and-useful percentage more than doubled after that  
5 wastewater-treatment plant was retired, correct?

6 A I believe we asked for a hundred percent used-  
7 and-useful in this case.

8 Q But it went up from about 15-percent used and  
9 useful to quite a -- more than double the 15-percent  
10 used-and-useful, correct?

11 A That would be a question for Mr. Seidman.

12 Q Thank you.

13 And you would agree that Utilities -- or  
14 excuse me -- the Office of Public Counsel protested the  
15 Commission's used-and-useful determination in that case,  
16 correct?

17 A Correct.

18 Q And that there was a settlement between  
19 Utilities, Inc. and the Office of Public Counsel that  
20 expressly stated that the Commission's prior used-and-  
21 useful determination, meaning the one that was approved  
22 in the PAA order, was non-precedential and -- in value  
23 in this consolidated rate case, correct?

24 A I believe that's the case, yes.

25 Q So, in other words, the Utilities, Inc.,

1 Public Counsel, any intervenors, and the Commission  
2 staff get a fresh opportunity to revisit the Sandalhaven  
3 used-and-useful percentage in this case without any  
4 reliance on the prior order, correct?

5 A That -- that's interpretation, yes.

6 Q So, your testimony is that the Commission --  
7 CHAIRMAN BROWN: Asked and answered,  
8 Mr. Saylor, like, two times.

9 MR. SAYLER: Madam Chair, he said that was a  
10 matter of interpretation. And I'm trying to  
11 understand what he means. Is he saying that this  
12 Commission doesn't -- that the settlement that we  
13 entered into --

14 CHAIRMAN BROWN: You've asked the question,  
15 now, three different ways. If you can, move along,  
16 please.

17 MR. SAYLER: Certainly.

18 All right. Would you turn to the next exhibit  
19 entitled May 2nd -- "May 2nd e-mail regarding PSC  
20 Interrogatory 296."

21 CHAIRMAN BROWN: Okay. So, we are going to  
22 mark that as 265, and identify it as you just  
23 stated.

24 MR. SAYLER: Thank you, Madam Chairman.

25 CHAIRMAN BROWN: You're welcome.

1 Mr. Hoy, you have a copy of it?

2 THE WITNESS: Yes, I do.

3 (Exhibit No. 265 marked for identification.)

4 BY MR. SAYLER:

5 Q Would you take a moment to look at it, sir.

6 A Yes.

7 Q And you were -- you would agree that you were  
8 copied on this e-mail, correct?

9 A Correct.

10 Q And the e-mail was dated May 2nd, correct?

11 A Correct.

12 Q All right. Would you please turn to the next  
13 page where it says -- the question, Interrogatory 296,  
14 correct?

15 A Correct.

16 Q All right. And you would agree it says,  
17 "Pursuant to Order No. PSC-140521-FOF, Utilities, Inc.  
18 was authorized to create a regulatory asset for the  
19 following utilities" -- and I'm not going to name them.  
20 "Please provide Utilities, Inc.'s calculation of the  
21 regulatory assets for each system." Do you see that?

22 A Yes.

23 Q And the response says, "See spreadsheet  
24 provided with this response," correct?

25 A Correct.

1           Q     To your knowledge, did the utility provide the  
2 correct spreadsheet when this response was due on  
3 April 19th?

4           A     That, I'm not aware.

5           Q     All right. Would you, now, flip back to the  
6 e-mail to Mr. Trierweiler of Commission staff. Would  
7 you read what it says.

8           A     Pursuant to staff's request, attached is the  
9 schedule of the Project Phoenix regulatory asset,  
10 according to generic docket -- the generic docket order,  
11 UIF did not include this in its filing, and it should  
12 offset any negative revenue adjustments.

13          Q     All right. You would agree that Utilities,  
14 Inc. did not include the Project Phoenix regulatory  
15 asset allowed by the generic docket in its original  
16 filing.

17                   MR. FRIEDMAN: Asked and answered. I --

18                   MR. SAYLER: Madam Chair, I asked him to read  
19 the question. And now I am asking him if he -- to  
20 his knowledge, if it was included in his direct or  
21 rebuttal.

22                   CHAIRMAN BROWN: Okay. I'll allow the  
23 question.

24                   THE WITNESS: It was -- sorry. Was it  
25 included in where?



1 BY MR. SAYLER:

2 Q You would agree that Utilities, Inc. failed to  
3 include the Project Phoenix regulatory asset allowed by  
4 the generic docket order in its original filing,  
5 correct?

6 A I don't -- I don't believe it was included,  
7 no.

8 Q Okay. And the same would be true on rebuttal.  
9 It wasn't included on rebuttal.

10 A I don't believe so, but I'm not -- I'm not  
11 totally sure.

12 MR. SAYLER: Okay. Thank you.

13 If you will, turn to the next couple of  
14 exhibits.

15 Madam Chair, if we can go ahead and identify  
16 both.

17 CHAIRMAN BROWN: So, we're at 266. So, which  
18 one would you like?

19 MR. SAYLER: Cost savings and allocations  
20 first.

21 CHAIRMAN BROWN: Okay. We're going to go  
22 ahead and identify that as 266, cost savings and  
23 cost allocations. And then 267 will be UIF cost  
24 savings.

25 MR. SAYLER: Yes, ma'am.

1 CHAIRMAN BROWN: Got it.

2 (Exhibit Nos. 266 and 267 marked for  
3 identification.)

4 BY MR. SAYLER:

5 Q Please take a moment -- please take a moment  
6 to look at those.

7 A (Examining document.) Okay.

8 Q All right. Just to give you a heads-up, I'm  
9 almost done with all my questioning. So, hopefully we  
10 can run through these quickly and move on.

11 A Okay.

12 Q You would agree that Utilities, Inc. is a for-  
13 profit business, correct?

14 A Correct.

15 Q And as a for-profit business, a regulated  
16 business -- excuse me. And you would agree that, for a  
17 regulated utility business, profit equates to maximizing  
18 shareholder returns within the range authorized by a  
19 regulatory Commission, correct?

20 A Well, I think we have the ability to earn a  
21 return, but not necessarily sure of -- that your  
22 statement is a hundred percent correct.

23 Q Okay. But you would agree that the  
24 shareholders want the utility operators to -- to, as  
25 much as possible, maximize their returns, correct?

1           A     No, I think the utility owners want a well-run  
2 utility, of which one objective is a fair return, along  
3 with a number of other key performance indicators.

4           Q     All right. You would agree that companies  
5 such as Utilities, Inc. of Florida or Utilities, Inc.  
6 Northbrook or Corix or any other utility -- they're  
7 always looking for ways to find cost savings, correct?

8           A     Well, we -- we strive to find cost savings,  
9 yes.

10          Q     Okay. And for the sake of these couple of  
11 questions, you would agree that profit or shareholder  
12 revenues is basic -- excuse me -- shareholder returns is  
13 basically the formula -- you take whatever revenues you  
14 get from water or wastewater sold to the customers less  
15 the costs, and the remainder is what is returned to the  
16 shareholders, correct?

17          A     Less a number of other things, yes.

18          Q     Okay. Taxes and a few other things.

19                 All right. And you would agree one of the  
20 main ways that a regulated utility business grows its  
21 revenues is through increased sales through growth and  
22 demand, correct?

23          A     Grows its revenues? Yes, that's one way.

24          Q     All right. And another way would be  
25 increasing its rate base, correct?

1           A     No. You need to return -- increase rates in  
2 order to get that.

3           **Q     Right. Correct, that -- to increase the**  
4 **returns, you would need to increase rate base, correct?**

5           A     To increase -- if you increase the rate base  
6 without increasing the revenue, you would erode your  
7 returns.

8           **Q     I didn't understand your response.**

9           A     You said -- you said, one way to increase the  
10 return is to increase rate base.

11          **Q     Excuse me. Let me rephrase my question.**

12 **Thank you.**

13                   Let me just move to the next question. You  
14 would agree that the addition of the \$30 million in pro  
15 forma additions to rate base that Utilities, Inc. is  
16 proposing will, in turn, increase its profit or the  
17 amount of money that it can send to Northbrook -- to  
18 Utilities, Inc. Northbrook, correct, to the --

19          A     No. Same -- same answer as last time: That's  
20 an increase in rate base. That's an expense. So,  
21 unless -- unless a fair return comes along with that,  
22 the increased rates that go with it -- there is no  
23 additional return.

24          **Q     Well, assuming you increase rate base and get**  
25 **the increased revenues associated with that, you would**

1 agree that that increases the shareholder return because  
2 you have more rate base, correct?

3 A Well, that increases the shareholder -- the  
4 share- -- it doesn't increase the overall return  
5 percentage. There is more capital invested. So  
6 there's -- there's obviously more return needed to cover  
7 that cost of that capital.

8 Q All right. You would agree that another way  
9 to -- to increase the -- the monies that Utilities, Inc.  
10 is able to return to Utilities, Inc. in Northbrook is to  
11 reduce O & M costs, including salary costs?

12 A It may or may not because that -- that, in  
13 turn, could result in a rate decrease.

14 Q Okay. And assuming perfect rate-making,  
15 meaning that, as you increase your rate base and cost  
16 savings that -- I mean, from a hypothetical standpoint,  
17 assuming perfect rate-making, you would agree that O & M  
18 costs, while increasing rate base -- you would agree  
19 that it is win-win for profitability -- excuse me. Let  
20 me just strike that question.

21 You would increase -- you would agree that  
22 replacing aged infrastructure helps reduce O & M costs  
23 in the -- going forward, correct?

24 A Possibly for that particular asset, but there  
25 are other assets that are aging --

1 Q All right. So, for every --

2 A -- additionally.

3 Q Excuse me. I didn't mean to cut you off.

4 A Go ahead.

5 Q All right. So, for every aging asset that's  
6 replaced, the O & M cost that was necessary for that  
7 aging asset should be reduced, correct?

8 A Not necessarily. It depends on the asset.

9 Q Would you please look at Utilities, Inc.'s  
10 response to OPC Interrogatory No. 26.

11 A Okay.

12 Q You would agree that Utilities, Inc. engaged  
13 Johnson Controls; is that correct?

14 A Correct.

15 Q And did that -- did your work with Johnson  
16 Controls produce any kind of cost savings for Utilities,  
17 Inc.?

18 A I believe -- I did not provide this response,  
19 but I -- I believe that we explored cost savings with  
20 Johnson controls, and there were no opportunities  
21 identified.

22 Q And there were no opportunities?

23 A Not that I'm aware of.

24 Q Okay. Now, if you look at Public Counsel's  
25 question, we asked: Please list and describe any major

1 cost savings, initiatives, or programs implemented  
2 during the 2014, '15, '16 year to date. Do you see that  
3 question?

4 A I'm sorry. Which question?

5 Q The question to PODs 26 -- do you see that we  
6 asked for information about 2016?

7 A Yes.

8 Q And you would agree that there's nothing in  
9 the response from 2016, even though we requested  
10 information about those cost-saving initiatives?

11 A Again, I did not provide this response.

12 Q You would agree that's -- there's nothing in  
13 that response for 2016?

14 A I don't see anything in here, no.

15 Q All right. And consistent with your opinion  
16 that rates -- going forward, rates should be based upon  
17 the test year -- excuse me. Let me rephrase that  
18 question.

19 Is it your opinion or testimony that rates  
20 should be based upon financial information in the test  
21 year, correct?

22 A Yes, that's the basis, the start of it.

23 Q And is that also true unless it -- something  
24 happens outside of the test year that increases the  
25 revenue requirement; then, you believe the utility

1 should be entitled to that information outside of the  
2 revenue requirement, correct?

3 A There are some limited items, yes --

4 Q Excuse me.

5 A -- like pro forma projects.

6 Q Excuse me. Not outside the revenue  
7 requirement, but outside the test year.

8 A Correct.

9 Q All right. If you look at the response to  
10 No. 27 that says "Cost allocations," the response says,  
11 "Allocations used in the annual reports are inaccurate."  
12 Do you see that?

13 A Yes.

14 Q And you would agree that filing accurate  
15 annual reports is something -- an important duty of the  
16 president of the utility, correct?

17 A Yes.

18 Q If you will, turn to the next exhibit entitled  
19 "UIF Cost Savings." You would agree that Public Counsel  
20 asked for any external or internal assessments about  
21 efficiency gains or cost savings that Utilities, Inc.  
22 expects to achieve through its consolidation efforts.  
23 Do you see that?

24 A Yes.

25 Q Please review your response to 285 through



1 287.

2 A (Examining document.) Okay.

3 Q All right. Would it be a fair  
4 characterization that -- to say that Utilities, Inc.  
5 expects cost savings to occur in future rate cases?

6 A That's -- that's a possibility. It depends  
7 how this rate case is -- is finally decided.

8 Q Okay. Meaning whether or not the Commission  
9 consolidates rates; is that --

10 A Correct. That's one factor, yes.

11 Q Okay. Now, you would agree that Utilities,  
12 Inc. of Florida is not the first Utilities, Inc.  
13 subsidiary to consolidate in the statewide uniform  
14 rates; is that correct?

15 A I believe there have been other attempts. I'm  
16 not sure anybody went all the way to one single tariff.

17 Q What about Illinois?

18 A In Illinois, we were successful in going to  
19 one tariff.

20 Q All right. Now, based upon Utilities, Inc. of  
21 Illinois' experience with single-tariff rates, do you  
22 believe that the parent company has an idea about what  
23 to realize in respect to cost savings from the  
24 consolidation?

25 A No. That's a completely separate -- separate

1 systems, separate state.

2 Q So, you don't think that Utilities, Inc. in  
3 Northbrook expects Utilities, Inc. of Florida to realize  
4 cost savings as a result of the consolidation?

5 A No, other than what's laid out here in terms  
6 of maybe some filings with the Secretary of State and  
7 some future rate cases.

8 Q So, if you don't expect any future cost  
9 savings as a result of consolidation, why do a  
10 consolidation?

11 A Because it's easier to manage the companies  
12 under one -- under one umbrella than it was with 12  
13 separate companies.

14 Q All right. And you would agree that a well-  
15 run company like yours should always be studying ways to  
16 increase revenues and decrease costs, correct?

17 And that's my final question.

18 A Yes.

19 MR. SAYLER: All right.

20 CHAIRMAN BROWN: All right. Thank you,  
21 Mr. Sayler. No more questions?

22 MR. SAYLER: No, ma'am. Thank you.

23 CHAIRMAN BROWN: Thank you.

24 All right. Mr. Armstrong -- I just want to  
25 check with the court reporter to make sure she's --

1 THE COURT REPORTER: (Indicating.)

2 CHAIRMAN BROWN: Okay. We're going to proceed  
3 ahead.

4 MR. ARMSTRONG: Thank you, Madam Chair. I  
5 have my exhibits here.

6 CHAIRMAN BROWN: Thank you.

7 Well, have staff -- can you assist  
8 Mr. Armstrong?

9 MR. ARMSTRONG: However --

10 CHAIRMAN BROWN: How --

11 MR. ARMSTRONG: -- was I supposed to  
12 consolidate them the way -- I mean --

13 CHAIRMAN BROWN: Oh, collate them?

14 MR. ARMSTRONG: Yeah. I mean, I have them --  
15 20 of each one.

16 CHAIRMAN BROWN: Okay.

17 MR. ARMSTRONG: But I didn't collate them.

18 CHAIRMAN BROWN: Staff, can you go ahead  
19 and --

20 (Discussion off the record.)

21 CHAIRMAN BROWN: All right. You know what,  
22 we -- we're going to go ahead and take a quick  
23 five-minute break. This is an appropriate time.  
24 And we'll reconvene in -- at 4:05. Thank you.

25 (Brief recess.)

1 CHAIRMAN BROWN: And we appreciate  
2 Mr. Armstrong having these collated for us. Thank  
3 you for working with us. It saves us a lot of  
4 time.

5 MR. ARMSTRONG: They'll be collated next time,  
6 I promise --

7 CHAIRMAN BROWN: I appreciate it.

8 MR. ARMSTRONG: -- for the next witness.

9 CHAIRMAN BROWN: Great.  
10 Okay. So, you have the floor, sir.

11 MR. ARMSTRONG: Thank you. Thank you, Madam  
12 Chair.

13 EXAMINATION

14 BY MR. ARMSTRONG:

15 Q Good afternoon, Mr. Hoy.

16 A Good afternoon.

17 Q On Page 1 of your testimony, you testify that  
18 you're providing an overview of the rate request and a  
19 summary of your request for rate relief and you're  
20 generally -- generally describing the factors  
21 contributing to the need for rate relief of Utilities,  
22 Inc. At Line 23, you're --

23 CHAIRMAN BROWN: Oh, just a -- just a -- if  
24 you don't mind, staff, could you, please, silence?  
25 It's kind of hard -- there's a lot of noise going

1           **on here.**

2           **Mr. Armstrong.**

3           MR. ARMSTRONG: Thank you.

4           CHAIRMAN BROWN: You're welcome.

5           BY MR. ARMSTRONG:

6           **Q     At Line 23 of Page 1, you refer to the fact**  
7           **that you're the largest regulated utility in Florida,**  
8           **and you have 60,000 ERCs, I believe.**

9           A     Correct.

10          **Q     At one time, the affiliated companies under**  
11          **the Utilities, Inc. of Florida -- there were about a**  
12          **hundred thousand ERCs in Florida, weren't there?**

13          A     Oh, I don't recall. I think --

14          **Q     I mean, if you -- if you think of our system**  
15          **in, what Seminole County, and if you think of the South**  
16          **Gate system in Sarasota and the two systems in Bay**  
17          **County -- it was about a 100,000 ERCs. Does that sound**  
18          **about right?**

19          A     We have more ERCs in Florida; I just don't  
20          recall the number.

21          **Q     Yeah, okay.**

22                   **I guess you've been -- you mention on Line 21**  
23          **that you've been in Florida for 40 years, right?**

24          A     UIF, correct. I thought you meant me,  
25          personally.

1 (Laughter.)

2 Q Right. No, the utility. The utility.  
3 Utilities, Inc. of Florida waited that 40  
4 years to consolidate all the utilities under one  
5 utility, correct?

6 A Well, we -- we did some consolidation, I  
7 think, prior to that into -- like into the old UIF  
8 system. So, this is the first time we're consolidating  
9 into one regulated company here in the state, yes.

10 Q Yeah. That's right.

11 And I guess, was it part of the hesitation to  
12 consolidate all of the utilities in one -- was part of  
13 the hesitation the fact that, if you sold a system, you  
14 might have to share the gain with all the other  
15 customers?

16 A No, I don't -- I don't think that's the case.

17 Q Okay. So, when you sold those systems in  
18 Sarasota County, and it -- it didn't -- it wasn't a  
19 factor that kept you away from consolidating because you  
20 might have had to share that gain.

21 A No.

22 Q Okay. Can I just refer -- there -- probably a  
23 month ago, three weeks ago, we received the project  
24 brief for the asset-management system. And I'm looking  
25 at Page 14 of 43 of Exhibit 50 of Mr. Flynn's testimony,

1 but I'll just read to you what I -- what I wanted to  
2 pass by you.

3 At Page 14 of Exhibit 50, in summarizing the  
4 operations-management-system implementation, the project  
5 brief states, and I quote, "This tool set, which is  
6 commonplace in medium and large utilities, will enhance  
7 UI's ability to bring advanced operational and  
8 managerial tools and processes to the small utility  
9 sector."

10 Do you take issue with that statement or do  
11 you accept that statement?

12 A I think we -- we see that as a beneficial  
13 investment for us going forward, yes.

14 Q Okay.

15 A Just for a point of clarification, I mean,  
16 that -- that system -- the cost of that system is not  
17 part of this proceeding.

18 Q Come again?

19 A The cost of that system is not --

20 Q The cost of that system.

21 A Is not part of this proceeding. That's a  
22 future expenditure.

23 Q Okay. On Page 2 of your testimony, at  
24 Line 14, you note that the American Society of Civil  
25 Engineers grades Florida water infrastructure as

1 **"Mediocre." Do you see that?**

2 A Correct.

3 **Q Would you describe UIF's infrastructure as**  
4 **mediocre?**

5 A No, I -- I think the -- the assets are  
6 performing as -- as we need them to. They're aging,  
7 as -- as all are. So, our goal is to continue to invest  
8 and improve the quality of those assets.

9 **Q But isn't it true that UIF has not been**  
10 **adequately maintaining its infrastructure?**

11 A No, that's not true.

12 MR. ARMSTRONG: I -- I draw your attention,  
13 Mr. Hoy, to my -- I labeled it "A."

14 CHAIRMAN BROWN: Okay. Let's see.

15 MR. ARMSTRONG: Description, UIF response to  
16 OPC Interrogatories No. 78. Do you see that?

17 CHAIRMAN BROWN: I see it. It's --

18 THE WITNESS: No.

19 CHAIRMAN BROWN: Mr. Hoy, it's very light, but  
20 it -- it was the first one on top of the package.  
21 If you look at the description, it says "UIF  
22 response to OPC interrogatories." And then under  
23 documents, it says No. 78.

24 Oh, Mr. Friedman is helping you out. Do you  
25 have it?



1 THE WITNESS: I've got four documents.

2 CHAIRMAN BROWN: Staff, could you help see --  
3 yeah, I have more than that, a lot more than that.  
4 You're missing several.

5 THE WITNESS: I don't think --

6 MR. ARMSTRONG: It's "A" through "G."

7 CHAIRMAN BROWN: "A" through "G"? Oh, wait a  
8 second. "A" through "G."

9 MR. FRIEDMAN: I gave him the stack that was  
10 turned down here. Maybe somebody walked past here  
11 (inaudible).

12 MR. ARMSTRONG: Do we have "A" through "G"?  
13 Yeah. Okay.

14 Do we -- do you mind if Ms. Ryan gives him --

15 CHAIRMAN BROWN: I --

16 MR. ARMSTRONG: -- her stack?

17 CHAIRMAN BROWN: I do not, no.

18 Thank you, Ms. Ryan.

19 So, did -- did I get that right,  
20 Mr. Armstrong, it's No. 78 -- you would like that?

21 MR. ARMSTRONG: Yeah, No. 78. I would like to  
22 mark for identification, please.

23 CHAIRMAN BROWN: We'll do that as soon as  
24 he -- Mr. Hoy gets a copy of it in his hands.

25 THE WITNESS: I do.

1 CHAIRMAN BROWN: Okay. You've got it. So,  
2 we're going to go ahead and label UIF response to  
3 OPC Interrogatories No. 78 as 268. Thank you.

4 (Exhibit No. 268 marked for identification.)

5 MR. ARMSTRONG: Thank you, Madam Chair.

6 BY MR. ARMSTRONG:

7 Q And Mr. Flynn [sic], if you can turn to the  
8 response to -- to Interrogatory 78, you see that the  
9 question referred to labor costs and the fact that  
10 Utilities, Inc. had adjusted salary and benefits for  
11 five FTEs. Do you see that?

12 A Correct.

13 Q And your response begins by indicating you're  
14 proposing to add one technician?

15 A Correct.

16 Q Okay. If we go to the second page of -- the  
17 next page -- it's Page 8. Do you see where the -- where  
18 it begins, the paragraph, "This five-person team will be  
19 focused on a year-round basis on the ongoing, periodic  
20 scheduled maintenance of multiple asset types across all  
21 Utilities Florida systems." Do you see that?

22 A Yes.

23 Q Could you read the next sentence.

24 A Starting with "By creating"?

25 Q Please.

1           A       "By creating and supporting an asset-  
2 maintenance team, the utility will establish the  
3 resources needed to comprehensively maintain, repair,  
4 monitor, and manage the vertical and linear assets that  
5 are otherwise not adequately maintained in the normal  
6 course of business due to the current workload on the  
7 existing workforce.

8           **Q       Does that not conflict with your statement**  
9 **that you -- that you believe the facilities were**  
10 **adequately maintained?**

11          A       No. No. I did not prepare this response.  
12 This may be a better question for Mr. Flynn. But I  
13 think, as -- as -- these assets are aging. We are  
14 looking to consolidate and put a maintenance team  
15 together instead of putting that burden on the  
16 individual operators of the individual systems.

17                   So, just trying to get a more-efficient  
18 workforce together to focus just on maintenance of  
19 certain assets.

20                   MR. ARMSTRONG: Okay. And I ask you to look  
21 at "B," and ask Madam Chair that that be marked for  
22 identification.

23                   CHAIRMAN BROWN: Okay. I -- I just need to  
24 find that. What -- you said "D"?

25                   MR. ARMSTRONG: "B."

1 CHAIRMAN BROWN: "B" as in boy. Is that what  
2 the description reads, "B"?

3 MR. ARMSTRONG: The description reads -- no,  
4 I'm sorry. It's got a -- it's got a "B" on it, but  
5 the description reads, "Three predictive/  
6 preventative maintenance employees." And then it  
7 says, "Documents, UIF responses to OPC  
8 Interrogatories 294, 299, and 300."

9 CHAIRMAN BROWN: Okay. We will go ahead and  
10 label as 269 "Three productive" -- I can't even --

11 MR. ARMSTRONG: "Predictive."

12 CHAIRMAN BROWN: "Predictive maintenance  
13 employees." And we'll just go ahead and label it  
14 that.

15 Do you have of a copy of it, Mr. Hoy?

16 THE WITNESS: I think I do.

17 (Exhibit No. 269 marked for identification.)

18 BY MR. ARMSTRONG:

19 **Q Mr. Hoy, can you refer to those -- to the**  
20 **question and response to 299?**

21 **A** Okay.

22 **Q The question refers to wages and salaries and**  
23 **a portion of Mr. Flynn's testimony. Can you see**  
24 **where -- where it says, "For each of the tests listed,**  
25 **please explain why the utility is not currently**

1 performing each test" -- could you please read that  
2 response.

3 A The utility does not have the manpower  
4 available to complete those tasks, other than on a  
5 sporadic basis; certainly not in a comprom- --  
6 comprehensive, programmatic way.

7 Q Okay. And if we look at "B" on the next  
8 page --

9 A Yeah.

10 Q It says, "If the utility is only performing  
11 these tasks at a portion of the systems, please detail  
12 what systems are receiving each of these maintenance  
13 tasks and which systems are not."

14 Could you read that response for me.

15 A As noted above, the tasks are completed in a  
16 sporadic way across the various water and wastewater  
17 systems, dedicating properly-trained and equipment  
18 manpower to systematically perform a variety of asset-  
19 maintenance tasks; provides an opportunity to increase  
20 the reliability and performance of the many assets in  
21 service, which benefits the customers by prolonging the  
22 life of the assets reducing the frequency and duration  
23 of assets being out of service and, thus, enhance the  
24 quality of service.

25 Q Okay. Well, thank you.

1           Can I just point your attention to -- to  
2 No. 300. If you see "A" there, it talks about, "Please  
3 provide the amount of materials as applies for Eagle  
4 Ridge for 2016 and 2017."

5           And if you see, the response suggests that the  
6 requested data is clearly outside of the test year and,  
7 thus, is immaterial to the instant rate case. Do you  
8 see that?

9           A     Yes.

10          Q     Do you agree with that?

11          A     Yes.

12          Q     And if we look at "B," it refers to -- it  
13 request materials and supplies expense for Eagle Ridge,  
14 to -- as well as for 2016 and 2017.

15                 Do you also agree the requested data is  
16 clearly outside the test year and, thus, is immaterial  
17 to the instant rate case?

18          A     It's a -- 200- -- 2016 number. I believe  
19 we -- we may have provided this. I'll -- I'll defer  
20 that answer to the -- to Mr. Deason.

21          Q     Okay. The response would indicate that you  
22 did not, though, right?

23          A     In this -- in this set of interrogatories,  
24 correct.

25          Q     Right.

1           Can you please refer to Page 4, Line 10 of  
2 your testimony. And I -- it's not paginated, but it's  
3 the fourth page, not including the cover page.

4           You see at Line 10, you're asked what policies  
5 would help with future rate impacts to customers? Do  
6 you see that?

7           A     Yes.

8           Q     Wouldn't speeding up the implementation of the  
9 asset-management systems and the GIS and the other  
10 programs -- wouldn't they also help customers in UIF?

11          A     Speeding it up?

12          Q     Uh-huh.

13          A     Speeding up the implementation, you're asking?

14          Q     Right.

15          A     Yes, but -- but we are -- we have sped it up.  
16 Florida is going to be the first company that's rolled  
17 out in Utilities, Inc. So, it's coming to Florida  
18 first.

19                But it -- it can't be -- like I said earlier,  
20 there can't be a -- a tool that comes off the shelf.  
21 This has got to be a tool that's accepted by the field  
22 because there are a number of places where asset-  
23 management systems are put in place and they're just  
24 populated with data and then never used.

25                One of the criteria we have for an asset-

1 management program in our company, one of my criteria,  
2 was to make sure the field accepted it because I wasn't  
3 putting it in unless they did. So, that's a criteria  
4 we've got. And that's why we're rolling it through the  
5 field to make sure that they are part of building it  
6 and -- and developing it.

7 Q Okay. Could I refer to -- well, I have a  
8 "C" -- the description is UIF responses to OPC  
9 Interrogatories 112, 113, 114, 115, 117, 118, 119. Do  
10 you see that?

11 CHAIRMAN BROWN: So, we're going to go ahead,  
12 real quickly, and label as Exhibit 270 UIF  
13 responses to OPC rogs 112 through 119. Okay.

14 (Exhibit No. 270 marked for identification.)

15 BY MR. ARMSTRONG:

16 Q Could you please refer to the questions and  
17 responses to 114 and 115.

18 A (Examining document.) Okay.

19 Q Was it originally -- did your original  
20 testimony or the testimony and presentation of  
21 Utilities, Inc. -- did you indicate that this would  
22 happen in the second quarter of 2017, and now we're  
23 moving back to the second half of 2017? Do you recall?

24 A I -- I -- I don't remember what the original  
25 proposal was, but we had been working on this asset-



1 management -- excuse me -- implementation for -- for  
2 quite a while. So, this is the rollout, I believe,  
3 we're talking about here.

4 **Q Okay. So, there aren't -- they're all being**  
5 **rolled out now. There aren't predictive maintenance**  
6 **plans and activities in place now.**

7 A No, there -- there are. This -- it's a  
8 comprehensive system here that's going to integrate them  
9 all together.

10 **Q And that would be the same for 115. It would**  
11 **be a more-comprehensive computer-based sewer-system**  
12 **overflow. SSO is sewer-system overflow, correct?**

13 A Correct.

14 **Q Okay. And currently, sewer-system overflows**  
15 **are just tracked by event, by the people in the field?**

16 A That would be a question for Mr. Flynn.

17 (Transcript continues in sequence in Volume  
18 2.)

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## 1 CERTIFICATE OF REPORTER

2 STATE OF FLORIDA )  
3 COUNTY OF LEON )4 I, ANDREA KOMARIDIS, Court Reporter, do hereby  
5 certify that the foregoing proceeding was heard at the  
6 time and place herein stated.7 IT IS FURTHER CERTIFIED that I  
8 stenographically reported the said proceedings; that the  
9 same has been transcribed under my direct supervision;  
10 and that this transcript constitutes a true  
11 transcription of my notes of said proceedings.12 I FURTHER CERTIFY that I am not a relative,  
13 employee, attorney or counsel of any of the parties, nor  
14 am I a relative or employee of any of the parties'  
15 attorney or counsel connected with the action, nor am I  
16 financially interested in the action.

17 DATED THIS 11th day of May, 2017.

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21  
22 \_\_\_\_\_  
23 ANDREA KOMARIDIS  
24 NOTARY PUBLIC  
25 COMMISSION #GG060963  
EXPIRES February 9, 2021