

BEFORE THE  
FLORIDA PUBLIC SERVICE COMMISSION

In the Matter of:

DOCKET NO. 160065-WU

APPLICATION FOR INCREASE IN  
WATER RATES IN CHARLOTTE  
COUNTY BY BOCILLA UTILITIES,  
INC.

\_\_\_\_\_ /

PROCEEDINGS: COMMISSION CONFERENCE AGENDA  
ITEM NO. 5

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

DATE: Thursday, May 4, 2017

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

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

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

1  
2           **CHAIRMAN BROWN:** Now I believe we will be  
3 taking up -- looking for Public Counsel to make sure we  
4 are taking up Item 5 first out of order, and then we  
5 will be moving to Item 4. There are customers here who  
6 would like to address the Commission, so they requested  
7 to present first. And we will do that after staff  
8 introduces the item.

9           Commissioners, there have been a number of  
10 handouts that have been disseminated at the break  
11 between the Special Agenda and the regular agenda. I  
12 hope you all are in -- have them in front of you because  
13 I believe that they will be used during this  
14 presentation. I want to make sure everyone is settled  
15 in first before staff introduces the item.

16           All right, staff.

17           **MR. HILL:** Good morning, Commissioners.

18           **CHAIRMAN BROWN:** Good morning.

19           **MR. HILL:** Adam Hill with Commission staff.

20           Item 5 is Bocilla Utilities, Inc.'s  
21 application for rate increase. Bocilla is a Class B  
22 utility providing water service to approximately  
23 400 customers in Charlotte County. Bocilla was granted  
24 Water Certificate 662-W in February 2013, and Bocilla's  
25 rates have never been established for ratemaking

1 purposes by the PSC. Their current rates were  
2 established by the Charlotte County Board of County  
3 Commissioners in 1994. These rates were grandfathered  
4 in by the Commission in 1995 and again in 2013. Staff  
5 is available to answer any questions you may have. And  
6 there are customers. OPC would like to speak as well.

7 **CHAIRMAN BROWN:** Thank you, Mr. Hill.

8 And so we're going to go to the customer  
9 portion first before we go to the parties. We have  
10 three customers. Originally I believe that they were  
11 given -- were told that they would have three minutes,  
12 but since there's only three, I'll be lenient on that  
13 and allow you to have up to five. And we'll start with  
14 Mr. Richard Sadenwater. Great.

15 Welcome, and thanks for making the trip up  
16 here. I know it's a long journey for you.

17 **MR. SADENWATER:** Yes, it is. Thank you.

18 My name is Richard Sadenwater, and I live on  
19 Don Pedro Island and have for 16 years. I was employed  
20 by Bocilla Utilities for seven years, resigning around  
21 2011. I'm a retired school teacher and electrical  
22 contractor.

23 Five people were selected by our homeowners  
24 group, which is P-I-E, or PIE, for their expertise in  
25 specific areas to look into the proposed water rate

1 increase: The utility construction; accounting; island  
2 history; business; and myself, a past employee of BUI.  
3 All identified participants are residents of the island  
4 and members of the PIE organization. It was never the  
5 intention of PIE to undermine the rate case process.  
6 But when we began looking into the details of the  
7 request, we were compelled to seek answers to many items  
8 being put into the 2015 test year.

9 BUI has done a poor job of recordkeeping and,  
10 with some items, providing less than complete full  
11 disclosure of requested materials. The responsibility  
12 of accurate recordkeeping is, by law, the legal task of  
13 the utility. This has been demonstrated not to be the  
14 case with BUI.

15 BUI is a small company, and all decisions are  
16 initiated by the president. PIE members are asking why  
17 the decision was made to not go with Charlotte County  
18 Utilities, who always had a mainline approximately a  
19 1,000 foot from BUI's subaqueous lines that feed the  
20 islands. Instead, BUI initiated a \$733,000 project that  
21 was discussed with Charlotte County Utilities, Englewood  
22 Water District, and the Island Utilities, and determined  
23 to be, and I quote, too expensive to run a line along  
24 Placida Road. The current water supply source was  
25 forced upon the BUI customers with no opportunity to

1 discuss the implications of the changeover.

2 We now see that there was a plan by Charlotte  
3 County Utilities to supply water down the entire length  
4 of Panama Boulevard that has placed a main feeder line  
5 within 50 yards of BUI's subaqueous pipelines feeding  
6 the islands. Today's resultant situation calls into  
7 question prudent business management and decision-making  
8 by BUI.

9 One of several current issues that I've been  
10 asked to discuss is the staffing and salaries of  
11 personnel working at BUI. The time allocations  
12 attempting to justify the requested salary increases  
13 should be studied by an efficiency and time study  
14 expert. As a past employee and full-time resident, it  
15 was and continues to be a rare occasion to see the  
16 president in the field. When employed by BUI and  
17 problems arose, I was given a private number to inform  
18 the president of the problem.

19 Another issue is expenditures being requested  
20 by BUI including barging fees. These cost figures --  
21 these cost figures need further scrutiny and speak to  
22 the integrity of BUI. A partial list was submitted  
23 earlier, and the PIE organization will assist, if  
24 needed, the PSC in identifying some of these  
25 peculiarities.

1 I have a couple of examples here. I just  
2 throw these out for you because we cannot get  
3 information on them because BUI will not supply the  
4 tickets for the barging that would identify what these  
5 items are. \$190 for Grande Aire Air-Conditioning  
6 Company. Again another \$190 for Grande Aire  
7 Air-Conditioning Company. \$190 for Certified Marine and  
8 Diesel, \$190. I believe these all go towards barge  
9 fees, and we question whether they have anything to do  
10 with the operation of the utility.

11 Under miscellaneous expenses there was a  
12 four-week rental of a lift machine for \$2,902, and to  
13 Certified Marine and Diesel there was a diesel motor  
14 starter for \$435 under miscellaneous expenses. And with  
15 that, I'd like to thank you all for not paying attention  
16 to the dress code of island casual today.

17 **CHAIRMAN BROWN:** Quite frankly, I'm jealous.  
18 Thank you. Thank you, Mr. Sadenwater.

19 Commissioners, questions? I do have a  
20 question for you regarding the barge. Do customers ride  
21 that barge as well?

22 **MR. SADENWATER:** Yes. Everybody has to ride  
23 the barge back and forth. It's a barrier island.

24 **CHAIRMAN BROWN:** And it takes your cars back  
25 and forth?

1           **MR. SADENWATER:** Yes.

2           **CHAIRMAN BROWN:** I'm not familiar with the  
3 island exactly. And you can't take a boat, a separate  
4 boat?

5           **MR. SADENWATER:** You can if you have the  
6 privilege of docking on the land side, yes.

7           **CHAIRMAN BROWN:** Now is it your understanding  
8 that the fees are covered by the utility for use of the  
9 barge by the customers, or do you have to pay them out  
10 of pocket as well, in addition? Or is it -- does it --  
11 is it all covered by the utility?

12          **MR. SADENWATER:** For customers?

13          **CHAIRMAN BROWN:** Yes.

14          **MR. SADENWATER:** No. Everybody pays their own  
15 fees.

16          **CHAIRMAN BROWN:** So the \$900 that is in here  
17 under the contract is completely separate from each  
18 individual homeowner.

19          **MR. SADENWATER:** I'm not familiar with the  
20 \$900 you're referring to.

21          **CHAIRMAN BROWN:** It's in the staff  
22 recommendation under the contract for the utility.

23          **MR. SADENWATER:** I can't comment on that. I'm  
24 not familiar with that.

25          **CHAIRMAN BROWN:** Okay. Any other questions?

1 All right. Thank you for your testimony.

2 **MR. SADENWATER:** Thank you.

3 **CHAIRMAN BROWN:** All right. Next up is  
4 Ms. Linda Cotherman.

5 **MS. COTHERMAN:** To clarify, we all live on the  
6 island. It's bridgeless. We go by barge, and each  
7 customer pays their -- each resident is responsible for  
8 getting their own self or people or whatever they need  
9 back and forth to the mainland. It has nothing to do  
10 with the utility.

11 **CHAIRMAN BROWN:** Thank you so much for that  
12 clarification.

13 **MS. COTHERMAN:** Completely separate.

14 **CHAIRMAN BROWN:** Just could you state your  
15 name and address for the record?

16 **MS. COTHERMAN:** Okay. My name is Linda  
17 Cotherman. I live at 50 Gasparilla Way on Don Pedro  
18 Island. I've owned and operated several businesses. I  
19 worked for ten years as a project manager for an  
20 engineering and surveying firm. I'm a state licensed  
21 Florida general contractor, and I still do consulting,  
22 permitting, and inspection of underground utilities and  
23 permitting with state and local agencies. I've been a  
24 full-time resident for 30 years -- 38 years, 38 years.  
25 Bocilla Utilities was originally a



1 developer-owned utility to service the owner's  
2 developments on the island. As a non-PSC-regulated  
3 utility until fairly recently, Bocilla Utilities  
4 operated under a different set of standards and was  
5 overseen by local government.

6 About September of 2016, Bocilla Utilities  
7 sent out an explanation as to why they were seeking a  
8 substantial rate increase. It indicated one reason was  
9 the no-name storm of 1982 that caused many islanders to  
10 become stranded -- that's their words -- with no fresh  
11 water because of salt water intrusion into the local  
12 wells. I'm not sure what this has to do with Bocilla  
13 Utilities, as they were not in existence at that time.

14 In the early years on the island, residents  
15 relied on individual wells, cisterns, and/or filtration  
16 systems. The quality of water and wells varied greatly  
17 between neighborhoods and even between neighbors. Some  
18 residents like myself were able to drink right from the  
19 tap. Others had to buy bottled water to bring over.  
20 However, some 35 years after that storm with Bocilla  
21 Utilities as the water provider, many residents are  
22 still stranded and having to bring over their own  
23 potable water because they can't drink it from the tap.

24 Bocilla Utilities states that we derive a  
25 benefit in fire protection because they provide fire

1 hydrants and that we would receive increased fire flow  
2 after connection to Englewood Water District. To date,  
3 Bocilla Utilities has not provided any documentation  
4 that the fire flow from their hydrants has increased,  
5 let alone even meets the NFPA minimum standard  
6 requirements. I was in the group that formed the first  
7 volunteer fire department, which is now run by Charlotte  
8 County. In fact, they've refused to allow the hydrants  
9 to be tested. Further, they state that the fire  
10 marshal's office requires the hydrants to be exercised  
11 twice a year at a cost of \$3,720 yearly; however, no  
12 documentation was supported to -- supplied to support  
13 this claim. And when contacted, Scott Morris, the  
14 Charlotte County fire marshal, stated he has no  
15 knowledge of this claim or requirement.

16 Bocilla Utilities' owner asks for a salary  
17 increase because of the time spent concerning the  
18 operation of the utilities. After repeated requests for  
19 staff, he has not been able to document how and when he  
20 spends his time on Bocilla Utilities' work. If  
21 anything, his salary should decrease because the utility  
22 is not producing RO water anymore but simply buying  
23 treated bulk water and distributing it to its customers.

24 In the past, the owner was able to operate the  
25 water producing part -- plant and utility on a minimal

1 part-time basis as he also owned and operated a land  
2 development business, a construction company, and a real  
3 estate company all at the same time, which required most  
4 of his attention. At other times he would be off island  
5 on his sailboat for weeks and even months at a time.

6 For many years residents accepted the service,  
7 water quality, and rates of Bocilla Utilities thinking  
8 that that's the way it was, there was nothing to do  
9 about it. However, now, since Bocilla Utilities is  
10 merely distributing water produced from Englewood Water  
11 District, they feel that they should be paying less. It  
12 makes no sense to increase the rates to almost the  
13 highest in the state for no proveable or documented  
14 reason.

15 And as far as the barge passes, I, myself,  
16 have -- as a resident, I'm allowed to buy a sticker and  
17 yearly pass. It costs me \$2,400. The sticker is on my  
18 car so I can use the barge. There is no such sticker on  
19 the owner of the utility's, so I don't know how he pays  
20 for his personal use. Thank you.

21 **CHAIRMAN BROWN:** Thank you, Ms. -- just a  
22 question. And I appreciate you providing -- that was  
23 going to be my question for you, so thank you. And  
24 that's an annual pass. That --

25 **MS. COTHERMAN:** It's an annual pass, yes.

1           **CHAIRMAN BROWN:** Does that apply -- and only  
2 residents live on the island. No commercial businesses  
3 operate other --

4           **MS. COTHERMAN:** There's one resort at the  
5 north end which does a lot of rental and they have one  
6 restaurant. The rest of the island is completely  
7 residential.

8           **CHAIRMAN BROWN:** All right. Do you know if  
9 they're the same cost for the barge annual --

10          **MS. COTHERMAN:** There is a number of  
11 reasons -- not reasons. There is a number -- there's a  
12 tiered system and a number of options. Contractors can  
13 get yearly passes, and that is one rate; walk-ons can do  
14 another one; golf carts can do one; residents can do  
15 one.

16          **CHAIRMAN BROWN:** Thank you. And you said that  
17 you've been on the island 38 years?

18          **MS. COTHERMAN:** Thirty-eight years, and four  
19 years building prior to that. So I've seen a lot of --

20          **CHAIRMAN BROWN:** Wow, it took four years to  
21 build your home?

22          **MS. COTHERMAN:** Yes, because it all had to  
23 come over on a boat before the barge.

24          **CHAIRMAN BROWN:** Yes, island living.

25          **MS. COTHERMAN:** Yes.

1           **CHAIRMAN BROWN:** And there's another utility  
2 that operates on the island further north.

3           **MS. COTHERMAN:** Yes, that's what the map  
4 shows. The map shows Knight Island Utilities, which is  
5 in the resort. It's a nonprofit utility located up  
6 there. And Bocilla is now considered consecutive by the  
7 DEP, it's a consecutive utility. Knight Island flows  
8 through Bocilla, which then connects to Englewood Water  
9 District.

10          **CHAIRMAN BROWN:** Thank you. I've seen that  
11 map.

12                   Now do you know, being on the island for 38  
13 years, do you know if that KIU has similar issues as the  
14 utility has with regard to quality of the product?

15          **MS. COTHERMAN:** That -- I don't know. They  
16 also had an RO plant. I've been up there recently doing  
17 some work up there, and they -- I have not heard  
18 anything from their rental people. They do a lot of  
19 rental and some residents. I have not heard about their  
20 quality of water. I really don't know.

21          **CHAIRMAN BROWN:** Okay. Thank you.

22                   Commissioners, any other questions?

23                   Thank you for taking the time to come up here.

24          **MS. COTHERMAN:** Okay. Thank you.

25          **CHAIRMAN BROWN:** All right. And the last

1 speaker is Mr. Michael Riley. Good morning.

2 **MR. RILEY:** Good morning. My name is Michael  
3 Riley, and I'm a part-year resident of the island and a  
4 member of the Palm Island Homeowners Association,  
5 commonly called PIE. I'm also a CPA licensed to  
6 practice in the state of Colorado. I'm also the  
7 president currently and part owner of a regional  
8 transportation company that operates in the eight  
9 southwestern United States.

10 My presentation represents a consensus of PIE  
11 members and includes comments, experiences, and feelings  
12 from many of them unable to attend the meeting today.

13 The first issue I would like to discuss is the  
14 allocation of costs to Knight Island Utilities. The new  
15 water transmission system referred to as the Englewood  
16 Project was sized and constructed solely by Bocilla  
17 Utilities for the Bocilla customer base only plus fire  
18 flow. As they've stated in their responses, no pipes  
19 were upsized on either the mainland or the island to  
20 provide service for Knight Island Utilities.

21 Currently with the Knight Island Utility water  
22 flows piggybacked onto this system, the Englewood  
23 Project is at 100 percent design capacity. Staff  
24 determined the allocation of cost to be based on ERCs  
25 for each utility, but that doesn't take into effect the

1 fact that the full ERC buildout, when complete, will put  
2 the Englewood Project at over 170 percent of capacity,  
3 which is going to create pressure capacity issues and  
4 fire flow issues for us. We feel the proper allocation  
5 should be on actual water flows currently being used or  
6 used in the future, not ERCs. Staff has already  
7 determined that 46 percent of the water flows are  
8 attributable to Knight Island Utilities. We, therefore,  
9 feel that costs should be allocated to Knight Island at  
10 46 percent.

11 We recommend that the allocation also be used  
12 on the operator's, certified operator's salary,  
13 benefits, common expenses used by the operator, as well  
14 as engineering expenses, operator barge passes, and  
15 other expenses related to the operation or services  
16 performed to the shared plant assets. Some of these  
17 were included by staff, some of them were not.

18 Another big concern of PIE members is the  
19 minimum guaranteed revenues of the Knight Island  
20 piggyback agreement. A total of \$1,650,000 is  
21 guaranteed as minimum revenues over the initial 30-year  
22 period of the contract. This is in excess of  
23 225 percent of the entire cost of the project. In  
24 addition to that, we, PIE members and Bocilla customers,  
25 are going to pay for 66 percent of the project in rate

1 base. Bottom line, under staff's recommendations,  
2 Bocilla Utilities is going to be allowed to recoup over  
3 300 percent of the initial cost of the Englewood Project  
4 costs.

5           Additionally, no consideration was given to  
6 the sharing of nearly two miles of the on-island  
7 distribution system from the ferry crossing to the  
8 Knight Island interconnect. On the maps you can see  
9 that. It's -- I think we've marked it in blue. It's a  
10 two-mile line that goes on island from the ferry to the  
11 north end of the island where it interconnects with  
12 Knight Island Utilities. We recommend that these shared  
13 plant assets likewise be allocated on water flows  
14 46 percent to Knight Island Utilities.

15           Issue 12 and 13, salaries and wages. Bocilla  
16 maintains no written time management records for the  
17 salaried officer or the certified operator, and staff  
18 relied solely on verbal comments to support the work  
19 schedule. We feel the officer's estimated monthly  
20 160- to 200-hour work schedule -- 20 percent field, 80  
21 percent administrative -- is significantly overstated.  
22 The office is rarely open, customer service and phones  
23 are a joke, and the officer is rarely seen in the field.

24           Time recording documentation on part-time  
25 employees and contract labor is poor at best. As



1 residents of the island, someone generally sees when and  
2 where Bocilla is working, and from our discussions, we  
3 cannot justify the claimed work hours for any of the  
4 employees. We request the Commission basically require  
5 them to do management reporting with duties and hours,  
6 if nothing else, for future rate cases, to support the  
7 amount of labor that they're including in that.

8 **CHAIRMAN BROWN:** Thank you. Are you finished?

9 **MR. RILEY:** Thank you.

10 **CHAIRMAN BROWN:** Thank you. Wait, Mr. Riley.  
11 Commissioners, any questions?

12 Thank you for coming on up here.

13 All right. Now we are going to move to the  
14 parties. And I want to -- we'll start with the utility.  
15 I want to ask you all, if you could, in addition to your  
16 brief opening comments, if you could direct us to the  
17 issues that you would like to address by number, that  
18 would be helpful.

19 **MR. FRIEDMAN:** Yes, Commissioner.

20 **CHAIRMAN BROWN:** We've got all the time in the  
21 world here.

22 **MR. FRIEDMAN:** Martin Friedman on behalf of  
23 Bocilla Utilities. Also with me is Mr. Craig Noden, the  
24 president of the utility, and Ray Flischel, who's the  
25 accountant for the utility and has been from the get-go.

1           The issues that we're going to address, and  
2 obviously I'd like to have an opportunity to respond to  
3 anything that the customers' attorney may say and what  
4 OPC may say, but the issues that the utility is going to  
5 address are going to be Issues 11, 13, 14, and 17.

6           **CHAIRMAN BROWN:** Thank you. 11, 13, 14, and  
7 17. All right.

8           **MR. FRIEDMAN:** Yes, Madam Chairman.

9           **CHAIRMAN BROWN:** Sure. And would you like to  
10 give any brief opening comments?

11           **MR. FRIEDMAN:** Do you want me to go through  
12 each issue with --

13           **CHAIRMAN BROWN:** Yes, please.

14           **MR. FRIEDMAN:** To put this in perspective, as  
15 somebody mentioned, this utility -- this is the  
16 utility's first rate case. They've been operating since  
17 1993 with basically the rates that were initially set  
18 when they were certificated by Charlotte County back in  
19 that time. And even those rates -- in the order, the  
20 Charlotte County commission noted the most significant  
21 finding reported by Messrs. Osterman and Elia, they're  
22 the -- they were the consultants for a company called  
23 Diversified Utility Systems which used to do a lot of  
24 utility accounting in the day, is that the requested  
25 rates not only contain no determination of rate base or

1 return but also do not fully offset the operating  
2 expenses. The board, that's the Board of County  
3 Commissioners for Charlotte County, expressly noted a  
4 caveat that at some future time after more customers  
5 have connected, the utility may seek a significant rate  
6 increase.

7 So these rates have been in effect, just to  
8 kind of put it in perspective, 26 years. It was  
9 recognized when they were originally set that it  
10 included no return on investment, it didn't even cover  
11 all the operating expenses, and yet the company has been  
12 able to operate for 26 years without a general rate  
13 increase. And that -- I think that -- you've got to  
14 keep the whole case in perspective when you review these  
15 issues that we're going to discuss.

16 The first issue is Issue 11. The utility, and  
17 I'm going to let Mr. Noden explain it in more detail,  
18 but the utility has a policy that if you meet certain  
19 criteria, that they will give you a credit on your bill,  
20 and he's going to explain the details of it. The policy  
21 is also the policy that has been adopted by the  
22 Englewood Water District. And so it's just something  
23 that, you know, that takes into consideration that, you  
24 know, sometimes things happen, and the utility wants to  
25 work with customers to, you know, to deal with those

1 unforeseen and accidents, so to speak. And I'm going to  
2 let Mr. Noden explain the policy because it's not an  
3 ad hoc policy, it's one that is very well thought out,  
4 and I'm going to let him expound upon that.

5 **CHAIRMAN BROWN:** Okay. Sure. Briefly, sir,  
6 and welcome.

7 **MR. NODEN:** Certainly. Thank you.

8 Craig Noden, and I am the president of Bocilla  
9 Utilities. And the water adjustment rules that we have  
10 are the same as the Englewood Water District. And the  
11 first paragraph says, "Based on the circumstances,  
12 facts, and evidence available, the utility may  
13 authorize, at their sole discretion, a reduction of the  
14 usage portion of the customer's bill. There will be no  
15 adjustment of the base facility charge."

16 We do this strictly -- we had nine of them in  
17 2015 and eight in 2016 in the amount of 4- to \$5,000 of  
18 revenue. These are usually when somebody's child leaves  
19 the hose running on the dock, nobody sees it. The last  
20 one we had was two months ago. It was a \$2,200 bill.  
21 You can imagine the owners were not very happy with a  
22 \$2,200 bill. This policy allows us to reduce that bill  
23 approximately 50 percent, but yet it covers all of the  
24 costs of the purchased water and the utility. So the  
25 ratepayers are not burdened by this. And it seems to be

1 a policy that we would like to continue, but our -- and  
2 I don't quite understand this, but the revenue was  
3 reduced because of this. Anyways, that's -- we would  
4 like to continue the policy, because we feel if we  
5 don't, we're going to have a lot, a lot more  
6 communication with the Public Service Commission with  
7 \$2,200 type bills.

8 **CHAIRMAN BROWN:** Thank you. And you read  
9 from -- is that an ordinance?

10 **MR. NODEN:** Well, this is, this is, this is a  
11 water adjustment policy that, that we use similar to  
12 what Englewood Water does.

13 **CHAIRMAN BROWN:** Similar to -- I'm so sorry.  
14 I can't -- who?

15 **MR. NODEN:** Oh, I'm sorry. This is a policy  
16 of the utility, which, of course, we submitted during  
17 the, you know, the process.

18 **CHAIRMAN BROWN:** And you submitted that to the  
19 Board of County Commissioners in Charlotte County  
20 originally or --

21 **MR. NODEN:** No, this is not an ordinance.  
22 This is strictly a policy of the utility similar to the  
23 policy of Englewood Water District --

24 **CHAIRMAN BROWN:** That's what I needed. Yeah.  
25 Thank you.

1           **MR. NODEN:** -- in trying to resolve, you know,  
2 problems beyond the customer's, you know, ability to  
3 see.

4           **CHAIRMAN BROWN:** Commissioner Brisé has a  
5 question.

6           **COMMISSIONER BRISÉ:** Thank you. So just a  
7 quick question on that. So who covers the difference?

8           **MR. NODEN:** Well, when you say "covers the  
9 difference," in other words, the policy was designed to  
10 make sure that the water that we purchase from the  
11 Englewood Water District is covered. So it's basically  
12 expenses, I guess, of the utility that are -- I'm not  
13 sure. Oh, I'm sorry, I'm going to have to ask Ray to  
14 answer that.

15           **COMMISSIONER BRISÉ:** Sure.

16           **MR. FLISCHEL:** Ray Flischel. Basically we  
17 have a tiered rate. And what causes the person's water  
18 bill to run up to \$2,200 is anything over 12,000 gallons  
19 starts being billed at upwards to \$12 a thousand  
20 gallons. So when you have this water adjustment, we're  
21 literally bringing that back down to \$6 a thousand  
22 gallons. So this covers all our operating expenses.  
23 And this policy is only allowed, like, once every two  
24 years or something like that. It is just a way to avoid  
25 having to show up at the Public Service Commission and

1 incur legal expenses when somebody complains about a  
2 \$2,200 bill because their grandchild left the hose  
3 running or somebody had a leaking toilet for a month.  
4 Because of our conservation rate, that's what jacks the  
5 bill up so much in one month.

6 **COMMISSIONER BRISÉ:** Sure. So, so the impact  
7 to your cost, do you -- does the company have a tiered  
8 rate with Englewood? So it's a flat rate?

9 **MR. FLISCHEL:** It is an absolute flat rate  
10 with Englewood Water District of \$2.97 per thousand  
11 gallons.

12 **COMMISSIONER BRISÉ:** Okay.

13 **CHAIRMAN BROWN:** Thank you. Is that policy in  
14 your tariffs?

15 **MR. FLISCHEL:** No, it's just a company policy  
16 in order that the administrative person has an idea of  
17 whether to adjust the policy -- or adjust the water bill  
18 or not.

19 **CHAIRMAN BROWN:** Okay. Thanks.

20 **MR. NODEN:** I will add one more thing too. I  
21 just read the lead-in paragraph. There's four  
22 conditions, and they're very stringent conditions that a  
23 customer has to meet. Their bill, you know, has to be  
24 current for three years. You know, it can't be -- the  
25 usage must be at least three times the annual monthly

1 usage based on -- so there are very stringent conditions  
2 before we'll grant the reduction.

3 **CHAIRMAN BROWN:** And you said there were  
4 nine in 2015 and eight in 2016?

5 **MR. NODEN:** That's correct.

6 **CHAIRMAN BROWN:** Okay. Thank you.  
7 Mr. Friedman, you can continue with the other  
8 issues.

9 **MR. FRIEDMAN:** Thank you very much.

10 The next issue is Issue No. 13, which is  
11 officer's salary, and it's got two, two issues within  
12 the issue, both arbitrary adjustments that were made.  
13 And, you know, the first one is the AWWA. The staff  
14 looked at the AWWA criteria, and they reduced  
15 Mr. Noden's salary down to the, to the average. And I  
16 think that's a misuse of what that -- what the AWWA  
17 standard should be used for. It should be used as a  
18 guideline, a smell test, if you will. You know, look at  
19 whatever the range is in AWWA and you look at an  
20 officer's salary and you say, "Is it within that range?"  
21 If it's within that range, it passes the smell test.  
22 You ought to move on. If it's within that range,  
23 there's no sound regulatory policy that says, "If it's  
24 within that range, you still ought to reduce it more."  
25 That's, that's just wrong. It's just completely



1 arbitrary, particularly true in this case where I would  
2 suggest to you that the salaries in the AWWA study are  
3 of employees that get benefits. Mr. Noden gets no  
4 benefits. If you added 20 percent benefits or whatever  
5 the standard benefit analysis would be to his salary,  
6 you would certainly get an amount in excess of what he's  
7 asking for.

8 The second issue, even more perplexing, is  
9 that after reducing his salary to the median, they made  
10 an arbitrary 20 percent reduction. The utility had  
11 estimated that its operator spends -- its -- their  
12 operator is being used also by Knight Island Utilities,  
13 and they pay \$1,000 a month to Knight Island Utilities  
14 to reimburse them for that employee. And we had  
15 estimated that that employee spends 20 percent of his  
16 time working on non-Bocilla work.

17 So the Commission staff arbitrarily said,  
18 "Well, he must spend 20 percent, so Mr. Noden must spend  
19 20 percent as well." And they do completely different  
20 things. Mr. Noden is not the operator. He runs the  
21 utility system, and he's going to tell you exactly how  
22 much time he spends doing that. But to arbitrarily --  
23 and there's -- you know, to just say one employee's time  
24 is spent 20 percent doing something non-utility, then  
25 another employee who does something completely different

1 must be the same 20 percent is just mind-boggling and  
2 certainly arbitrary. And I'm going to ask Mr. Noden to  
3 explain to you, you know, what he does do in connection  
4 with that.

5 We had, we had originally in the filing had  
6 said -- agreed to a 10 percent reduction from his  
7 salary. That was very generous. And he'll tell you  
8 exactly what he does in connection with the relationship  
9 between Bocilla and Knight Island Utilities.

10 The utility also had provided to the staff an  
11 analysis from Englewood Water District of what their  
12 employees -- what they would pay for somebody that  
13 performed the same type of functions as Mr. Noden. That  
14 puts it into a more regional aspect.

15 As Commissioner Polmann had discussed in the  
16 last agenda, you know, some -- these employees -- these  
17 salary ranges are somewhat geographical. So recognizing  
18 that, we looked at the geographic area of Charlotte  
19 County and the same people that the Englewood Water  
20 District is going to compete with for the same labor  
21 pool, and the salary that Mr. Noden is getting paid is  
22 certainly reasonable within that scale.

23 I'm going to now turn it over to, to Mr. Noden  
24 to explain exactly what he does in connection with, with  
25 his non-Bocilla work. Thank you.

1                   **CHAIRMAN BROWN:** Okay.

2                   **MR. NODEN:** Again, Craig Noden. And as  
3 Mr. Friedman said, we were just totally taken aback by  
4 the 20 percent reduction because Monday of this week I  
5 did the only work that I do for Knight Island Utilities  
6 once a month, and that's -- we have three meter  
7 readings, and I record them on a piece of paper and  
8 they're emailed to the Knight Island office and it tells  
9 them how much to pay the Englewood Water District. And  
10 that takes approximately 5 to 15 minutes once a month.  
11 So my entire duty to the Englewood Water District (sic)  
12 is 5 to 15 minutes a month. What did I say? I'm sorry,  
13 to Knight Island Utilities.

14                   **CHAIRMAN BROWN:** Okay. Thank you.

15                   Moving on to Issue 14, Mr. Friedman.

16                   **MR. FRIEDMAN:** Thank you. This is a -- you  
17 know, this is a -- sorry. We had provided an analysis  
18 from an engineer, Jim Elder, that, that we needed in the  
19 future more flushing than we had done in the test year,  
20 between a half-million gallons and a million gallons  
21 more than we did in the test year, and the staff has not  
22 recognized that there's going to be an increase. And,  
23 in fact, the flushing post-test year, I think the -- all  
24 of the non-uses, the flushing and the unaccounted and  
25 the lawn (phonetic) loss, was about 9.5 million gallons,

1 and in the test year the staff has only recognized about  
2 7 million. So there's a substantial difference in what  
3 flushing that the company is going to have  
4 prospectively. And we presented that information to the  
5 staff and it was, it was ignored. We would, we would  
6 request that you add that additional million gallons of  
7 water that we need to flush back into the revenue  
8 requirement.

9 **CHAIRMAN BROWN:** Okay. You may continue with  
10 Issue 17.

11 **MR. FRIEDMAN:** All right. And Issue 17 is  
12 rate structure. And, you know, this is one of those  
13 situations, and I'm going to let Mr. Flischel go into  
14 more detail on it, but, you know, usually utilities  
15 don't complain about rate structure because the revenues  
16 are the revenues. In an area like this, which the staff  
17 had recognized as being somewhat seasonal, I'm not sure  
18 what that means, but they -- it's important, when you  
19 have a seasonal rate base, to keep the revenue  
20 stability. And to do that, it's -- the base facility  
21 charge needs to be higher. And the staff -- the staff's  
22 recommendation, they did present some alternatives, and  
23 we, we would request that the Commission adopt  
24 Alternative 1 to increase the amount of the revenue  
25 requirement in the base facility charges just to take

1 care of that -- of the seasonality of the customers.

2 I'm going to let Mr. Flischel also jump in on  
3 that issue. Thank you.

4 **CHAIRMAN BROWN:** Okay. Thank you.

5 **MR. FLISCHEL:** Ray Flischel again. Quickly,  
6 our proposed rate or the staff's proposed rate is  
7 \$47.21 for a base facility charge. If you take out the  
8 rate cost out of that, which is \$2.54 that shows on the  
9 last page of the order, that brings our base facility  
10 charge down to \$44.67. At the time of filing, our base  
11 facility charge was \$46.24. That means that our base  
12 rate is actually decreasing in the face of a 25 percent  
13 staff-recommended increase. And the utility has a major  
14 concern that if all of the rate increase is allocated to  
15 just gallonage, that we will have a hard time generating  
16 the revenue required to meet what staff's recommended  
17 revenue requirement is.

18 **CHAIRMAN BROWN:** Okay. So your recommendation  
19 is to increase the BFC to 56 percent under  
20 Alternative 1?

21 **MR. FLISCHEL:** We would just like the  
22 Commission to consider Alternate 1, and we feel that  
23 would provide a more reasonable steady revenue.

24 **CHAIRMAN BROWN:** Do you know what the  
25 percentage of seasonal customer base you have?

1           **MR. FLISCHEL:** I think in the staff report  
2 it'll say approximately 30 percent because they looked  
3 at gallonage usage under 1,000 gallons.

4           **CHAIRMAN BROWN:** Okay. Thank you.

5 All right. Anything else?

6           **MR. FRIEDMAN:** Other than the opportunity to  
7 respond to comments that OPC and the customer group may  
8 make. Thank you.

9           **CHAIRMAN BROWN:** Absolutely.

10           Okay. We're going to move to the Office of  
11 Public Counsel first, Ms. Patty Christensen.

12           **MS. CHRISTENSEN:** Good morning, Commissioners.  
13 Patty Christensen with the Office of Public Counsel. I  
14 have Ms. Merchant here as well. And she'll be speaking  
15 on several of the issues as well, so we will switch out.  
16 And she has a handout as well, and I don't know if you  
17 want to hand it out at the beginning of her presentation  
18 or before she speaks.

19           **CHAIRMAN BROWN:** It looks like they're going  
20 to go ahead and do it while you're speaking.

21           **MS. CHRISTENSEN:** Okay. Wonderful.

22           You've heard from the customers today, and we  
23 fully support what the customers have brought forth as  
24 issues today. These rates are the third highest -- or  
25 amongst, definitely, the highest in the state. We think

1 there are several drivers for that.

2           You've heard about Issue 13 and the officer's  
3 salary, and that's one of the issues that we want to  
4 focus on today. You've heard about -- from the  
5 customers about their inability to reach anyone in their  
6 office.

7           In staff's first recommendation that was filed  
8 January 26, 2017, on page 21 of that recommendation,  
9 staff stated that "According to the utility, 20 to  
10 30 percent of the officer's time," and that's Mr. Noden,  
11 "was spent on field-related work and 70 to 80 percent of  
12 his time was associated with administrative office  
13 duties."

14           In the same paragraph it stated, "Further,  
15 staff believes that the additional hours recommended  
16 above for the administrative employee will offset some  
17 of the duties and responsibilities of the officer."  
18 This language was subsequently deleted from the  
19 subsequent recommendations; however, we agree with that  
20 analysis and we would offer that the officer's salary  
21 should be reduced by the hours that are offset by the  
22 new administrative employee. The information regarding  
23 the allocation of the officer's time was provided by the  
24 utility in their response to the third set of data  
25 requests.

1           Also, according to page 24 of the new  
2 recommendation, the officer works 160 to 200 hours a  
3 month on utility-related matters. That's basically  
4 full-time, 40 hours a week. In the third data request,  
5 the utility acknowledged that no formal study was  
6 conducted to establish Mr. Noden's actual time or  
7 support this estimated and, we would say, arbitrary  
8 160 hours worked. There's no documented support for it.  
9 In fact, some of his work time seems to be based on his  
10 claim that he's on call 24/7, and because of this claim,  
11 he's stating that he's working full-time.

12           Moreover, I did not see where he's also a  
13 licensed operator like other small utility owners, which  
14 might justify a higher salary. Recently the Commission  
15 approved an owner/operator salary which was less than  
16 \$70,000 a year. My understanding is also for an  
17 adjacent barrier island the president/officer's salary  
18 was approximately \$70,000 a year. So we do not see the  
19 justification for the -- even the \$88,800 or so salary  
20 that Mr. Noden is requesting.

21           However, in presenting an additional  
22 recommendation to you and an adjustment to his salary,  
23 we're basing that on the assumptions that staff made in  
24 its recommendation that he is working full-time and the  
25 recommended salary that staff was recommending in the



1 recommendation. And we believe that the additional  
2 eight hours per week that has been recommended for  
3 approval by staff for the administrative staff should be  
4 reduced from Mr. Noden's salary since this will  
5 obviously reduce some of his workload.

6 **CHAIRMAN BROWN:** Do you happen to have that  
7 calculation on you?

8 **MS. CHRISTENSEN:** We made a  
9 back-of-the-envelope calculation based on the  
10 recommended salary that's in the recommendation from  
11 staff. It's 416 hours times approximately \$47 per hour,  
12 and that would be a reduction of \$19,552.

13 **CHAIRMAN BROWN:** Can you state that number  
14 again? Nineteen thousand --

15 **MS. CHRISTENSEN:** \$19,552.

16 **CHAIRMAN BROWN:** Okay. Thank you.

17 **MS. CHRISTENSEN:** Certainly. Next we would  
18 also like to address the barge fees that were on page 26  
19 of the recommendation, Issue 14.

20 **CHAIRMAN BROWN:** Fourteen?

21 **MS. CHRISTENSEN:** Uh-huh. Bocilla has a flat  
22 rate contract for 50 round trips per month for \$950, and  
23 staff has allowed an additional 60 round trips at a cost  
24 of \$19 per trip. And while the utility provided  
25 invoices that showed that the utility was charged for

1 the additional trips most months, they did not address  
2 the reasons for these trips. There's no additional  
3 support that shows this was utility-related business.  
4 We agree with the customers that a more reasonable barge  
5 fee should be used by the company. Since Mr. Noden, the  
6 utility president, lives on the island, customers should  
7 not be charged for his personal transportation on and  
8 off the island or for his daily commute.

9           Clearly the operator needs to travel to and  
10 from the island. The customers identified, I believe, a  
11 golf cart pass. Our understanding is that is  
12 approximately \$900 per year that would be available if  
13 the utility left a vehicle on the island and left a  
14 vehicle on the mainland. They could buy that pass and  
15 travel back and forth and use the vehicles established  
16 in both places. Or as Ms. Cotherman identified today,  
17 there's flat fees that have been available for  
18 customers.

19           But what is clear is there are passes and  
20 modes of transportation back and forth to the island  
21 that are significantly less than the \$12,540 that's  
22 being recommended in today's recommendation and that has  
23 not been supported by documentation. We believe a more  
24 reasonable amount would be to provide funds sufficient  
25 for two golf cart passes or maybe one equivalent

1 residential type pass, and that would be \$2,540.

2 If the Commission is going to consider  
3 allowing the additional amount for flushing, we would  
4 note that that should be allocated based on the flows to  
5 Knight Island, that the customers of Bocilla should not  
6 be charged for all that additional flushing since the  
7 utility is treating the water that is being passed  
8 through its system to Knight Island Utility.

9 Now Ms. Merchant has some additional comments  
10 on used and useful. Thank you.

11 **CHAIRMAN BROWN:** Thank you.

12 All right. Welcome, Ms. Merchant. Used and  
13 useful is Issue 6.

14 **MS. MERCHANT:** Yes, ma'am. Good morning,  
15 Commissioners.

16 The first issue is on page 15 of the staff  
17 recommendation, and it relates to the used and useful  
18 adjustment for the transmission and distribution system.  
19 Although there is no rule regarding how to calculate the  
20 used and useful percentage for a water transmission and  
21 distribution plant, the Commission has had a consistent  
22 policy since at least the early 1990s.

23 The first handout that I've provided you  
24 summarizes the policy and provides citations for several  
25 recent cases, two of which were full evidentiary

1 hearings. Essentially the policy is that for water and  
2 wastewater lines, the used and useful percentage should  
3 be calculated using an ERC or lot count methodology or  
4 formula plus an allowance for growth.

5 The policy also outlines five exceptions, and  
6 I've pulled these from all the orders over the years,  
7 not all of them but a substantial number of orders, the  
8 five exceptions to the -- when the formula should not be  
9 applied or when the company should be considered  
10 100 percent used and useful without applying the  
11 formula. The exceptions -- I've included all the  
12 exceptions. I'm not going to read them right now on the  
13 handout.

14 But staff's support for its 100 percent used  
15 and useful recommendation is that there are no large  
16 undeveloped parcels, undeveloped lots are interspersed  
17 throughout the system, all lines are required to serve  
18 existing customers, and no portions of the distribution  
19 system could be isolated as non-used and useful. None  
20 of these statements fit the well-defined exceptions  
21 outlined in the voluminous number of cases where the  
22 Commission's policy is stated. I've reviewed almost 50  
23 cases, mostly this week, and none state the reasons used  
24 by staff in this recommendation, nor has staff listed  
25 any orders that support its deviation from using the lot

1 count or ERC formula.

2 OPC also points out that the language just  
3 above the discussion regarding the distribution system,  
4 which states that "Bocilla purchases all of its water  
5 through an interconnection; therefore, the transmission  
6 plant should be considered a well for used and useful  
7 purposes" -- while OPC disagrees with this position,  
8 staff states the Commission's policy is based on a  
9 recent Little Gasparilla case, but they obviously didn't  
10 read the whole used and useful analysis because in the  
11 Little Gasparilla case, they did the lot count formula  
12 on the transmission lines. And Bocilla is in the same  
13 county as Little Gasparilla. It's a barrier island just  
14 like -- it's on a barrier island. It's a different  
15 barrier island. In the Little Gasparilla case, they  
16 gave a 57 percent used and useful formula for the lines.

17 OPC does not believe that the staff's  
18 recommendation is consistent with the Commission's  
19 long-standing practice, and we further believe that  
20 rulemaking should be initiated to codify this policy.

21 On the second page of my handout, I've  
22 calculated the used and useful percentage and applied  
23 the percentage to staff's recommended balance of  
24 transmission and distribution plant, accumulated  
25 depreciation -- excuse me -- accumulated depreciation,

1 and depreciation expense. I used a growth rate of  
2 5 percent as the utility did not provide any growth in  
3 its MFRs as it was required.

4 Based on the 2015 customer count and available  
5 lots and the fact that the whole system is residential  
6 with no general service customers, OPC believes it's  
7 appropriate to consider that the T&D system is  
8 58.9 percent used and useful.

9 And I'd also like to add on that issue is that  
10 this map that the customers gave us, which is very nice,  
11 you can just look at it and see how many vacant lots are  
12 throughout, it's not a minimal number of lots. The  
13 system is not close to being built out. And all those  
14 exceptions that the Commission has previously mentioned  
15 do not fit this scenario for this utility.

16 **CHAIRMAN BROWN:** Thank you, Ms. Merchant.

17 **MS. MERCHANT:** And I have one more issue that  
18 I'd like to address, and that's Issue 19. And it has to  
19 do with service availability charges, excuse me, and  
20 particularly the AFPI, which is inside that issue, and  
21 it's on page 40 of the recommendation.

22 Staff has recommended continuing the existing  
23 AFPI charges, and AFPI is a non -- it's a below-the-line  
24 revenue charge that new customers pay to offset the part  
25 of the revenue requirement that was disallowed for

1 setting rates to current customers. So it's a future  
2 use charge. New customers pay it, current customers  
3 don't pay for it, and the revenue is considered below  
4 the line for rate setting purposes.

5 So staff -- this charge was grandfathered in  
6 when Charlotte County set original rates in this case.  
7 It's my understanding, from what Mr. Friedman said  
8 earlier, there's never been a rate case before. It's  
9 only been an original certificate, which Mr. Friedman  
10 said rate base was not established, so nobody can tell  
11 whether the AFPI charges that were mentioned in 1992  
12 were treatment plant or lines or a combination of both.  
13 And we don't really know the basis -- we don't even know  
14 if they calculated the charge consistent with the  
15 Commission's methodology on AFPI.

16 But the other point I'd like to make on the  
17 AFPI is that staff's recommendation states that it's  
18 related to treatment plant. And I'm not sure how they  
19 got that. I haven't seen the order myself. But if it's  
20 related to the treatment plant, the treatment plant is  
21 retired. So I don't believe it's appropriate to charge  
22 AFPI to future customers for a treatment plant that's  
23 already been retired and they will never even see the  
24 benefit of it. So the retirement entries that the  
25 utility made should have offset the company for its

1 needs to recover the cost of that plant.

2 Also, if it's associated with lines, staff has  
3 recommended 100 percent used and useful for the line.  
4 So I don't believe it would be appropriate to have AFPI  
5 for any portion of the lines because there's no non-used  
6 and useful. But if you do accept our recommendation on  
7 the used and useful of the transmission distribution  
8 plant, we do believe it's appropriate to establish a new  
9 AFPI charge to allow the utility to recover those  
10 non-used and useful costs from future customers, and  
11 that way they are made whole for the reduction in rate  
12 base for the non-used and useful plant. And that  
13 concludes my remarks.

14 **CHAIRMAN BROWN:** Thank you.

15 Ms. Christensen, do you have any other  
16 comments?

17 **MS. CHRISTENSEN:** Yes. Sorry. We're playing  
18 a little tag team here today.

19 Yes, just to wrap up, and we wanted to make  
20 sure that we did not lose the point that consistent with  
21 what Mr. Rehwinkel has brought to your attention in the  
22 past regarding unadopted rule policy, we have an  
23 instance again in this case of unadopted rule policy  
24 that we believe should be brought forward to your  
25 attention so that the Commission can make the



1 appropriate -- take the appropriate action.

2 And that concludes our comments. Thank you,  
3 and we're available for additional comments, if  
4 necessary.

5 **CHAIRMAN BROWN:** And I will have staff respond  
6 to some of the items that you mentioned, specifically  
7 the rule, when we get to staff.

8 But we'll move on to Mr. Loar. Welcome. This  
9 is your first time before the Commission; is that  
10 correct?

11 **MR. LOAR:** It is. That's correct.

12 **CHAIRMAN BROWN:** And I hope you enjoy it.

13 **MR. LOAR:** Thank you. John Loar of Broad &  
14 Cassel for Palm Island Estates Homeowners Association.  
15 On behalf of myself and Palm Island, I'd like to thank  
16 the Commissioners for giving me the opportunity and  
17 giving the customers the opportunity to come here and  
18 speak today. We understand it's a very difficult task  
19 of ensuring that rates are just and reasonable and  
20 compensatory. We applaud your efforts to do so.

21 I will be addressing Issue 1, the issue of  
22 quality. But before I do, I would just like to comment  
23 and see if I can try to clarify something that  
24 Mr. Sadenwater talked about.

25 **CHAIRMAN BROWN:** Sure.

1           **MR. LOAR:** What he was speaking to, and if you  
2 can open your map, is that right here where this Palm  
3 Island line comes, there is a Charlotte County hookup.

4           **CHAIRMAN BROWN:** So -- wait. So right where  
5 Panama Boulevard intersects Ferry Landings?

6           **MR. LOAR:** Right where it meets Placida Road,  
7 right there there's a Charlotte County water hookup.

8           **CHAIRMAN BROWN:** Oh, okay.

9           **MR. LOAR:** And what Mr. Sadenwater is saying  
10 is why didn't we just hook up to that line right there?  
11 Why did we have to build a line all the way from here to  
12 Englewood Water Management District. At what point do  
13 you take into account that particular business decision?  
14 It's kind of a slippery slope. If, if you're going to  
15 be assessed to build a longer line that wasn't  
16 necessary, where do you draw that line at? Suppose that  
17 they end up deciding to build a pipeline to Fort  
18 Lauderdale or build a pipeline to Miami. How is that  
19 going to be accounted for in this particular situation  
20 when it's not necessary? Yet it seems to be that you're  
21 including that pipeline in there, so how do you account  
22 for that particular business decision?

23           That being said, I'll move on to Issue 1. The  
24 rule and statute require consideration of quality. It  
25 makes sense. Customers should not be required to pay

1 more for poor quality water. And the PSC is placed in  
2 the role of ensuring that the customer, who has  
3 absolutely no choice as to what utility provider they're  
4 using, is not forced to pay an exorbitant amount for  
5 water, for basic -- something as basic as clean drinking  
6 water.

7 Now as you're aware, this rate increase is  
8 sought to account for the business decision to build the  
9 pipeline to Englewood Water Management District and  
10 import water from an outside source. As you may not be  
11 aware, since that pipeline was constructed and  
12 implemented, the water quality has suffered  
13 substantially. I have -- I don't know if -- I hope  
14 you've got a copy of my April 19th letter up there.

15 **CHAIRMAN BROWN:** Yeah, we all do.

16 **MR. LOAR:** There are several letters from  
17 customers in there that basically say that although the  
18 issue -- the water quality was acceptable beforehand.  
19 Since the pipeline, the water has been brown,  
20 discolored, odorous, sulfurous, not something that I  
21 myself would want to pay for.

22 If you can, if you can turn to Exhibit C2, I'd  
23 just like to describe or talk about some of these  
24 pictures here and explain what this is. On the  
25 right-hand side you've got a whole house filter, and

1 this water is going to run in from the Bocilla outlet  
2 right here. And as you can see, that whole house filter  
3 is discolored brown. This has been in for a couple of  
4 weeks. On the left-hand side you've got what a clean  
5 filter looks like before it goes in there. As you can  
6 see, it's completely white.

7 I did want to show a video. We couldn't  
8 accommodate it unfortunately, but I hope everyone had an  
9 opportunity to view it. What that video shows is that  
10 once this filter is put into the system, within about  
11 ten seconds that filters -- that completely white filter  
12 turns brown.

13 **CHAIRMAN BROWN:** And the video is in the  
14 docket file, just so you know.

15 **MR. LOAR:** Thank you. Thank you.

16 Now Mr. Geiger, who supplied the video and  
17 supplied that photograph, has described the water as  
18 tinted orange, loaded with sediment, and quickly stains  
19 our toilets, sinks, and anything where it stands.

20 If you'll turn to Attachment D, this is  
21 actually not Mr. Geiger, this is Mr. Milroy, who is  
22 experiencing the same type of problem. This is, this is  
23 the staining of the toilets that he's referring to, and  
24 this is the water that -- they would have you pay the  
25 third highest rate in the state of Florida for this

1 water, which I find inappropriate.

2 And if you can turn to Attachment D, page 3,  
3 these are some ice cubes.

4 **CHAIRMAN BROWN:** I wondered what those were.  
5 I saw this in the docket file.

6 **MR. LOAR:** Yes. These are ice cubes that are  
7 created. They're run through your typical freezer and  
8 your freezer spits out the ice cubes, and these are some  
9 of the ice cubes that the Milroys came back after a  
10 vacation to. I would not put that in my water or in my  
11 drink. I would not use it to cool my drink. This is  
12 not the type of water that I want to pay for that I  
13 believe justifies payment of the third highest rate in  
14 the state of Florida. Now Exhibits E through F are more  
15 of the same type of thing.

16 Now -- and I'd like to talk about the finding,  
17 and this is on page 4, that there was only one complaint  
18 made to BUI in a five-year period. I think to take such  
19 a statement at face value that a utility provider has  
20 only been complained to one time in a five-year period  
21 is pretty absurd. I think even if they are doing a  
22 fantastic job, somebody is bound to complain. That's  
23 just the nature of the world we live in. But what you  
24 can see from all these letters is all these, all these  
25 customers have complained. They've registered

1 complaints with the utility and nothing has happened.  
2 Mr. Geiger has registered this complaint for two years  
3 and nothing has happened. Most of these customers, they  
4 call up, they don't get calls back. They call again,  
5 they leave messages.

6 Mr. Milroy had -- was leaving notes on the  
7 door. I don't know if you've, if you've looked at  
8 the -- the utility storefront here is pictured in  
9 Attachment H. There's no posted hours here. If he's  
10 spending -- if Mr. Noden is spending 160 to 200 hours a  
11 week, why aren't there posted hours on the utility door?  
12 How can people complain if there's no one to complain  
13 to? They make calls, they don't get calls back. They  
14 go to leave messages, they don't get calls back on the  
15 messages, and sometimes the voice mailbox is full.

16 So you've got a serious issue with water  
17 quality, you've got a serious issue with customer  
18 service, and meanwhile you've got customers who are  
19 being asked to pay for construction of this pipeline  
20 where they have gotten no benefit from it. You know,  
21 what benefit has the utility provided to the customer?  
22 The only thing they've received is a reduced quality of  
23 water.

24 So -- and I guess what is the reason for it?  
25 And I can tell you what Ms. Cotherman said earlier,

1 they've provided the reason for it and this is their  
2 justification.

3 "Why now? For many years wells provided water  
4 to island residents until the no-name storm of 1982."  
5 That would be roughly -- what? -- 35 years ago. "Salt  
6 water intruded to many of the water wells and ruined  
7 them. Because of this storm, many island residents were  
8 stranded with no fresh water and received it by barge or  
9 boat for two years."

10 Okay. Fixing a single well pump utility -- or  
11 utility well is not the same as having to go in and fix  
12 hundreds of individual wells and residents. This is not  
13 justification. This justification is completely empty  
14 and completely irrelevant.

15 When you look at what's happened here and you  
16 look at all the facts, you see that the only parties  
17 that have -- or that have been put in a better position  
18 from this pipeline is Knight Island Utilities and BUI,  
19 who now is able to transport Knight Island Utilities'  
20 water and piggyback on this line. So they want to sit  
21 over here and they want to reap the majority of the  
22 benefit from the KUI (sic) contract, and then they want  
23 stick that -- the cost of building this pipeline, which  
24 did not benefit the customers at all, with the  
25 customers. And it's highly inappropriate and it should

1 not be countenanced by this Commission.

2 In sum, the water is brown, it's odorous, it  
3 is -- as counsel for the utility said, it doesn't pass  
4 the smell test. You know, this whole thing doesn't pass  
5 the smell test. You know, we're not saying that PIE --  
6 or that BUI should be precluded forever from getting a  
7 rate increase. That's not what we're saying. But we  
8 are saying that until these water quality issues are  
9 resolved and until the customers are getting quality  
10 water, water that doesn't have to be run through a whole  
11 house filter -- I don't have a whole house filter, I  
12 don't know anybody in town that has a whole house  
13 filter -- then the rate increase is completely  
14 inappropriate, and we request that the Commission deny  
15 the rate increase.

16 **CHAIRMAN BROWN:** Thank you, Mr. Loar. Do you  
17 want to comment on any other issues?

18 **MR. LOAR:** No.

19 **CHAIRMAN BROWN:** Thank you.

20 Okay. Utility.

21 **MR. FRIEDMAN:** Thank you very much. Marty  
22 Friedman again on behalf of Bocilla. I'm going to  
23 address a couple of issues and then ask Mr. Noden to  
24 address some too. It's -- you know, a little knowledge  
25 is a very dangerous thing.



1           Public Counsel originally mentioned that this  
2 was the highest rates in the state, then counsel for PIE  
3 pointed out it's the third highest. I don't know  
4 whether it's third, fifth, or tenth highest. We do know  
5 that the rates of Little Gasparilla just to the south  
6 are higher than these rates, and those rates are set to  
7 go up again when their Phase 2 rates go into effect.  
8 So, you know, that's really, that's really not an issue.  
9 It's just -- it's a great thing to espouse out there,  
10 high rates, highest rates, highest rates, but, you know,  
11 the rates are what the rates turn out to be.

12           Ms. Christensen pointed out that the change --  
13 one of the changes from the prior staff recommendation  
14 and this staff recommendation is that they -- the -- in  
15 the prior staff recommendation, the staff had  
16 recommended reducing Mr. Noden's salary by the same  
17 amount that they were going to add to the office person  
18 that was going to come in for another day a year. What  
19 she didn't point out was that that staff recommendation  
20 didn't have the arbitrary 20 percent reduction in his  
21 salary in it, and so, you know, that's not the whole  
22 story. I can't remember what -- who that, who that  
23 pundit was on the radio that used to say, you know, "And  
24 now the rest of the story," and that's what this is  
25 about.

1           Also, the barge fees, that was, that was --  
2 barge fees were fully vetted by the staff. You know,  
3 they didn't, they didn't find that Mr. Noden had any,  
4 any personal barge fees in there. In fact, he's got  
5 stickers on his car just like one of the ladies up there  
6 testified to. So, you know, he accesses it with his  
7 cars, with his stickers, and doesn't use -- misuse that.  
8 That's already been vetted by the staff.

9           The used and useful point that, that OPC  
10 brought up, you know, two aspects of that, you know, two  
11 separate ones. One is the transmission and one is the  
12 distribution. I mean, clearly that transmission system  
13 to bring the water from Englewood Water District -- I'm  
14 going to let Mr. Noden explain to you why they didn't go  
15 with Charlotte County Utilities. But, you know, that  
16 was, that was a prudent decision to make to -- of the  
17 size necessary to provide water for the Bocilla  
18 customers. It wasn't oversized. It was what was  
19 needed. And that's the sole source; that's the only  
20 source of water. And consistent with Commission policy,  
21 the Commission typically treats those sort of  
22 transmission facilities as -- the same as they would a  
23 single well, and it's 100 percent used and useful.

24           The argument about the, about the distribution  
25 system, you know, look at the map. I mean, how could

1 they build a distribution system any different to, to,  
2 to cut off those lots that aren't built on yet? It  
3 defies engineering logic that it makes any difference  
4 whether you've got a vacant lot or two in between  
5 somebody that's being served on each side of that. Plus  
6 there's 62 fire hydrants throughout that system that are  
7 on that distribution system that, that certainly are  
8 valuable to everybody that's out there, and those are  
9 used and useful.

10 I mean, obviously the utility, if it had a  
11 full-time staff person that could sit in an office, you  
12 know, they could have somebody sitting in an office.  
13 They've got a woman there two days a week, one day a  
14 week and another day a week with the, with the case,  
15 and, and she takes complaints and calls. And as one of  
16 the witnesses testified when he worked for Bocilla, if  
17 they needed Mr. Noden, they had his private number and  
18 they called him. I'm going to let Mr. Noden address  
19 the --

20 **CHAIRMAN BROWN:** Business decision for the  
21 interconnect.

22 **MR. FRIEDMAN:** -- the business decision about  
23 the two, the two options for interconnecting to  
24 Charlotte County and the Englewood Water District.

25 **CHAIRMAN BROWN:** Thank you. If you could do

1 it briefly, that would be appreciated.

2 **MR. FRIEDMAN:** It's --

3 **MR. NODEN:** Well, it was a long process.

4 **MR. FRIEDMAN:** It took -- yeah.

5 **MR. NODEN:** It was a long process. We were  
6 convinced in 2004, when Hurricane Charley took out half  
7 a mile of the island a couple of islands south, and our  
8 water plant sits right in the same location, it would  
9 have been destroyed. So in 2004, we started looking for  
10 alternatives. We built the original RO plant in 1985.  
11 We expanded it two or three times. You know, I've been  
12 involved with it since the late '70s, early '80s. I've  
13 been on the island 46 years.

14 Anyways, one of our options was to go to the  
15 governor and cabinet and ask for a subaqueous water  
16 water line and we did. And we negotiated for two years  
17 with Charlotte County. Their offered rate to us, and I  
18 forget exactly how much it was, I think it was  
19 50 percent more approximately than Englewood offered us,  
20 and Charlotte County wanted to charge all additional  
21 customers \$2,500 on top of our hookup fees. So the  
22 business decision was very clear to us to run to  
23 Englewood.

24 It was mentioned that Charlotte County had a  
25 line coming down Panama. That was installed last month.

1 That line was not there in 2013, '14 when we did the  
2 interconnect.

3 **CHAIRMAN BROWN:** Good. Thank you. I  
4 appreciate that.

5 Now I'd like to turn to staff and have them  
6 respond to some of the, the matters that were raised  
7 here today.

8 **MR. HILL:** Certainly. And we can go in order  
9 of how we heard them or in order of issues.

10 **CHAIRMAN BROWN:** Whatever your preference is.

11 **MR. HILL:** All right. I think by issue would  
12 make the most sense since we did hear multiple comments  
13 on issues from different people. So if we'd like to  
14 start with Issue 1, quality of service.

15 **CHAIRMAN BROWN:** Okay.

16 **MR. HILL:** First and foremost, the quality of  
17 service is made up of the quality of the utility's  
18 product, the operating conditions of the plant, and  
19 their attempts to address customer satisfaction. Those  
20 are the three considerations that staff uses.

21 The quality of the utility's product, as you  
22 can see in the videos and in the pictures, are -- is  
23 definitely -- leaves you wanting, and we definitely  
24 commiserate with any customers who are having those  
25 quality issues. However, we -- staff also considers the

1 utility's attempts to address those concerns.

2           These quality of service -- quality of product  
3 concerns arose when they connected to EWD. And at that  
4 point, they're a reseller and EWD is in charge of  
5 delivering the water to a -- the DEP secondary  
6 standards, which is -- which covers all those things,  
7 color, taste, odor, those sorts of things, and so the  
8 utility, Bocilla, is not regulated by DEP for secondary  
9 standards any longer. So from that perspective, they're  
10 not failing to meet any requirements for DEP. They are  
11 still required to have a bacteriological test, and they  
12 are meeting those tests. So that is something that  
13 staff investigated.

14           The water quality that EWD delivers to Bocilla  
15 is at an acceptable level at the point of connection.  
16 But as the map points out, that's a fair distance from  
17 Bocilla's territory, and so you've got this water  
18 sitting in a very long pipe. On hot days that actually  
19 degrades the quality of the disinfectant, the  
20 chloramines, so on hot days those chloramines will lose  
21 their potency by the time they reach Bocilla's system.

22           Part of the reason for this rate case today is  
23 the pro forma expense of -- sorry, the pro forma plant  
24 of putting in a chloramine feed system to address these  
25 concerns. And while that feed system has been in place

1 for about a month now, these pictures -- I know I've  
2 seen some of them at the customer meeting earlier in the  
3 case, and so these pictures are definitely from before  
4 when their attempts to fix this problem went into place.  
5 And so since it's been a month since this has gone into  
6 effect, we know that there's some windup time where  
7 they're trying to figure out the appropriate amount of  
8 flushing and chloramine additions to solve those  
9 problems. The utility is actively working to fix this  
10 problem, and they're meeting the DEP requirements in  
11 that they, they are not the primary treater of this  
12 water.

13 **CHAIRMAN BROWN:** That would be Englewood.

14 **MR. HILL:** Englewood, correct.

15 **CHAIRMAN BROWN:** Commissioners, please feel  
16 free to jump in and ask questions along the way. I  
17 don't want -- we're taking questions now too.

18 Commissioner Graham.

19 **COMMISSIONER GRAHAM:** Thank you, Madam Chair.  
20 This is a perfect good time for me.

21 Secondary water standards, the legislators  
22 passed a law saying that we have to consider both  
23 primary and secondary standards. Now did the law that  
24 they passed say that it only matters if they're the ones  
25 pulling it out of the ground and it does not matter if

1 they're buying it from a second party?

2 **CHAIRMAN BROWN:** It looks like Mary Anne is  
3 look it up right now.

4 **COMMISSIONER GRAHAM:** Because the way I  
5 understood it was that when it gets to their point of  
6 distribution, it's supposed to meet the primary and  
7 secondary standard. And it looks like right here that  
8 we do not have that data for the secondary standard; is  
9 that correct?

10 **MR. HILL:** Correct. DEP does not do those  
11 inspections for this system.

12 **COMMISSIONER GRAHAM:** I guess my problem is or  
13 my question is if -- because we've had -- DEP had  
14 something that wasn't necessarily three years current,  
15 but yet it may have been four years or five years, but  
16 there was at least a data point there. And it sounds  
17 like here we do not have a data point at all. And I  
18 guess when Mary Anne finds the answer to that question,  
19 I think it's -- the burden is upon us to make sure  
20 somebody gets that data point.

21 **CHAIRMAN BROWN:** Mary Anne?

22 **MS. HELTON:** The statute is 367.0812, and it  
23 says that you all are charged with considering the  
24 extent to which the utility provides water service that  
25 meets secondary water quality standards as established



1 by the DEP. And then in determining whether a utility  
2 has satisfied its obligation to provide quality of water  
3 service that meets these standards, it gives several  
4 things that you must consider.

5 **COMMISSIONER GRAHAM:** So you need to --

6 (Technical difficulties with sound system.)

7 **COMMISSIONER GRAHAM:** You need to pull the  
8 layers of that onion back a little bit for me, and what  
9 exactly does that say? I mean, because my understanding  
10 is -- you're saying, "according to DEP." Well, my  
11 understanding is we need to make sure they have both  
12 their primary and secondary water quality standard, and  
13 it sounds like we do not.

14 **MS. HELTON:** Well, as I understand this -- and  
15 I am not the expert on this provision, so if there's  
16 someone in here that understands this better than me, I  
17 hope they will speak up. It says that DEP establishes  
18 the standards, and then you consider whether the utility  
19 has met those standards that have been published by DEP  
20 when you are setting rates for the utility.

21 **COMMISSIONER GRAHAM:** But, so this utility did  
22 not meet that primary and secondary standard because I  
23 guess DEP doesn't require for them to have the secondary  
24 standard since they are buying it from a third party or  
25 from another party.

1           **MS. HELTON:** Well, the utility is still  
2 charged with providing adequate -- water service that  
3 has an adequate quality or good quality, as I understand  
4 it. But Mr. Ballinger, I think, might understand it  
5 better than me.

6           **MR. BALLINGER:** I get to practice law today.  
7 (Laughter.)

8           **CHAIRMAN BROWN:** Disclaimer.

9           **COMMISSIONER GRAHAM:** Welcome to my world.

10          **MR. BALLINGER:** I don't believe it does. I  
11 believe the statute is for if DEP sets a standard for a  
12 utility, then we have to review those secondary  
13 standards and primary ones.

14           In this case, being that Bocilla is a  
15 purchaser, there's not a DEP standard for them for  
16 secondary standards.

17          **COMMISSIONER GRAHAM:** But there is a DEP  
18 standard for a secondary standard. It's just -- it's --  
19 DEP is not forcing them to do it, but, I mean, the  
20 standard is the standard.

21          **MR. BALLINGER:** Right.

22          **COMMISSIONER GRAHAM:** I mean, so there's a  
23 standard you've got to meet to hit secondary.

24          **MR. BALLINGER:** That standard does not apply  
25 to secondary or sequential systems, if you will. So the

1 standard would apply to Englewood District up to the  
2 point of interconnect.

3 **COMMISSIONER GRAHAM:** Do we have that number?

4 **MR. HILL:** That would be based -- sorry --  
5 that would be based on Englewood's inspections by the  
6 DEP.

7 **COMMISSIONER GRAHAM:** So how can we move  
8 forward with this rate case if we do not have that  
9 secondary data point that we're required to have?

10 **CHAIRMAN BROWN:** And I know the parties here  
11 are trying to jump in, but I'm going to let staff be  
12 able to respond to Commissioner Graham's questions, and  
13 then turn to Commissioner Polmann, and then I'll get  
14 back to you.

15 **MR. HILL:** Right. So I think the analogous  
16 case would be something like a hotel where the utility  
17 would deliver the water to the hotel, and then the pipes  
18 and the quality of the water exiting the pipe in the, in  
19 the guest's room, DEP does not regulate the water at  
20 that point, and that is kind of the analogous situation  
21 here.

22 Englewood is meeting its standards at the --  
23 or they're in -- they're being regulated by DEP.  
24 Englewood is not a party in this particular case, and so  
25 staff did not receive those standards.

1                   **COMMISSIONER GRAHAM:** But I understand that,  
2 and we're not talking about what it is going through the  
3 distribution system. I'm talking about where it's going  
4 through -- somewhere along the line someone has got to  
5 provide that secondary standard. I don't care if you  
6 draw it where the connection is or if you draw it from  
7 where the people they're buying it from pulls it,  
8 sending it out. But we should -- part of this case  
9 should have that number, and it sounds like we do not  
10 have that number. Is that correct?

11                   **MR. HILL:** I would say that's correct. I  
12 would say that the two possibilities at the point of  
13 interconnection with Englewood is either Englewood is  
14 providing water that meets that standard or Englewood is  
15 not, in which case the DEP would be in enforcement  
16 action with Englewood, not with Bocilla.

17                   **COMMISSIONER GRAHAM:** Okay.

18                   **CHAIRMAN BROWN:** Staff, would you like to take  
19 a five-minute break?

20                   (Staff indicating affirmatively.)

21                   Okay. Let's take a five-minute break, and we  
22 will recess now and come back at 10:51. Thanks.

23                   (Recess taken.)

24                   **CHAIRMAN BROWN:** All right. We are  
25 reconvening this Agenda Conference, and we are still on

1 the Bocilla Utilities. If you all, who are standing up,  
2 could you please take your seats or -- thank you.

3 All right. And I believe staff had the mike  
4 before we concluded and had some questions to address,  
5 so I'll turn it back over to Ms. Helton.

6 **MS. HELTON:** This is where we are, I believe,  
7 this morning based on staff's conversation during the  
8 break, and we appreciate the break very much, Madam  
9 Chairman.

10 As I understand it, this particular utility is  
11 not under -- or DEP does not look at secondary standards  
12 for this particular utility that's in the room today  
13 with us. That being said, it's my understanding that  
14 this utility is looking at its secondary water standards  
15 that it provides to its customers and acting in such a  
16 way to ensure that it meets the secondary water  
17 standards that are set out by DEP. Mr. Hill can further  
18 elaborate on that.

19 **MR. HILL:** Right. And I think Commissioner  
20 Graham's point is very well taken, that it's very  
21 important to determine whether -- during this case we  
22 want to make sure that the utility is addressing quality  
23 of product. The specific question of are they required  
24 by DEP, we believe, you know, based on the break, that,  
25 that they are not required by the DEP. However, if they

1 were and they were failing, they're doing the exact  
2 types of activities that we would expect a utility to do  
3 in order to address the concern. So the utility is  
4 performing in the way that if they were failing  
5 secondary water quality standards, this is the type of  
6 action that we would expect them to take.

7 **CHAIRMAN BROWN:** Commissioner Graham, you have  
8 the floor.

9 **COMMISSIONER GRAHAM:** But still my  
10 understanding is they are not meeting the -- they're  
11 working on getting there but they're not there now. So  
12 how can you say they're satisfactory if they are not  
13 satisfactory?

14 **MR. HILL:** I would say that staff's evaluation  
15 of the, of the situation is that they have been working  
16 to design this system as soon as they identified the  
17 problem and that they're working to complete it. And  
18 that they -- based on the timing that they've given us,  
19 they're working in an expeditious manner to attempt to  
20 fix this problem. And if, if it makes sense to, to say  
21 that at this exact moment that the quality is not  
22 satisfactory, staff is not opposed to that. This one  
23 leg of the three-legged -- staff is looking at a  
24 prospective manner in that we haven't seen the results  
25 of the system that they put in so far. That is why

1 staff made the recommendation. However, you are all  
2 definitely -- you have latitude to evaluate the  
3 recommendation and the situation.

4 **COMMISSIONER GRAHAM:** Thank you.

5 **CHAIRMAN BROWN:** Okay. Commissioner Polmann.

6 **COMMISSIONER POLMANN:** Thank you, Madam Chair.

7 A question to staff. Can you please identify  
8 for us, and if you don't have it right there, I'd like  
9 you to get it, what are the secondary water quality  
10 standards? What are the parameters within that?

11 **MR. HILL:** I can, I can speak in general, but  
12 for the specific numbers and all that --

13 **COMMISSIONER POLMANN:** I don't need the  
14 numbers. I just need to know what the chemical or  
15 biological parameters are.

16 **MR. HILL:** The secondary water quality  
17 standards affect the aesthetics of the water, not the  
18 health-related standards. Primary standards are all of  
19 the things as far as heavy metals, acidity, those sorts  
20 of things. Secondary standards are things like odor,  
21 color, taste, some other things such as -- I believe  
22 hardness is one, and there's a couple of others. But  
23 essentially they're aesthetic and they do not affect the  
24 safety of the water. And, in fact, the utility is still  
25 having safety tests performed by DEP, and those are

1 satisfactory.

2 The secondary water quality standards, which  
3 is, you know, a hop-on issue because we had recent  
4 legislation around it, is all about, you know, who cares  
5 if it's safe if no one wants to drink it sort of thing?  
6 Okay? And if -- based on my personal inspection, I  
7 might have been on a good day, the water seemed fine.  
8 You know, I completely understand that experience  
9 changes from day to day. From what staff has to go on,  
10 historical data, it appears that this problem began when  
11 they had the interconnect with EWD.

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

13 **MR. HILL:** Sorry.

14 **COMMISSIONER POLMANN:** So the primary  
15 standards are health and safety.

16 **MR. HILL:** Correct.

17 **COMMISSIONER POLMANN:** And the one we often  
18 hear about is the bacteriological. So is it fair to say  
19 that customers would not typically be aware of primary  
20 standards except, for example, if there was a boil water  
21 notice? If there was a pipe break or something like  
22 that, there would be a notice to boil your water; don't  
23 drink the water unless you boil it because there might  
24 be a bacteria problem. So folks would know about that,  
25 but otherwise they probably wouldn't be concerned about



1 primary standards.

2 **MR. HILL:** Yes, sir.

3 **COMMISSIONER POLMANN:** But on the other hand,  
4 secondary standards, taste, odor, color, perhaps  
5 sediment, turbidity, those kinds of things they would  
6 notice.

7 **MR. HILL:** Correct.

8 **COMMISSIONER POLMANN:** That's -- those are --  
9 are those the types of complaints or the -- I think  
10 that's what we've heard from customers here today. Is  
11 that typically the type of quality of service things  
12 that we hear from customers for this utility or for  
13 others? Is that, is that often the case that the staff  
14 is aware of, secondary type?

15 **MR. HILL:** I would note that it is -- that  
16 there's definitely some complaints. It is not the  
17 majority of the complaints in this case. The majority  
18 of the complaints on Table 1-1 on page 3, the majority  
19 are for other sorts of issues, things like opposing the  
20 rate increase, the quality of service, boil water  
21 notice, pressure. And then additionally on page 4 there  
22 was a petition, and in that petition, eight out of 128  
23 comments were about water quality. So, you know, put  
24 that in perspective. The majority of the comments were  
25 not about water quality. We definitely do want to

1 consider it. And if it is at that poor state, then they  
2 are taking --

3 **COMMISSIONER POLMANN:** Okay. Well, thank you  
4 for the word "consider."

5 I want to go back to Commissioner Graham's  
6 point. And before the break we had asked counsel to  
7 identify the statute, which is 367.0812, and I'm reading  
8 from that. "The Commission shall consider the extent to  
9 which the utility provides water service that meets  
10 secondary water quality standards." Those secondary  
11 water quality standards are established by the  
12 Department of Environmental Protection, DEP. And  
13 focusing on the extent to which the utility provides  
14 water service, now I interpret that "provides water  
15 service," that means provides water service to the  
16 customer. Is that a fair and reasonable interpretation?  
17 Do you -- does staff agree with that, they're providing  
18 water service?

19 **MR. HILL:** I would defer to counsel.

20 **MR. HETRICK:** Commissioner, we would agree  
21 that this utility is providing water service.

22 **COMMISSIONER POLMANN:** That's my only point.  
23 They're providing water service.

24 **MR. HETRICK:** We would agree with that.

25 **COMMISSIONER POLMANN:** And the reference here

1 is that the Commission, being us, are to consider the  
2 extent to which they provide service that meets  
3 secondary water quality standards, to Commissioner  
4 Graham's point. Now how we consider that is -- in  
5 reading that sentence, it's not specified other than the  
6 extent to which the provision of water service meets  
7 secondary water quality standards. And the standards  
8 are defined or established by DEP, and there are --  
9 they're listed and they're numeric standards.

10 But what you're telling us as staff is that  
11 this utility is not required to sample as a receiver, as  
12 receiving wholesale water from Englewood.

13 **MR. HILL:** Not required by the DEP.

14 **COMMISSIONER POLMANN:** Now that's at the point  
15 of connection from, from Englewood to Bocilla.

16 **MR. HILL:** That point of connection is the  
17 responsibility of EWD, yes.

18 **COMMISSIONER POLMANN:** But this statute that  
19 we're reading from that Ms. Helton identified doesn't  
20 speak to the connection from EWD to Bocilla. This  
21 statute addresses the point of delivery to the customer,  
22 the water service to the customer, which is what the  
23 Commission is charged with considering. So how do we  
24 get there?

25 **MR. HETRICK:** Commissioner?

1                   **COMMISSIONER POLMANN:** Yes, counsel.

2                   **MR. HETRICK:** If I might, Chairman.

3                   **CHAIRMAN BROWN:** Yes.

4                   **MR. HETRICK:** If you continue on in the  
5 statute and read the statute, it talks about "In  
6 determining the quality of service that meets these  
7 standards, the Commission shall consider testimony and  
8 evidence provided by customers of the utility." You  
9 have that testimony that's been provided before you by  
10 the customers of the utility.

11                   "The results of past tests required by a  
12 county health department or the Department of  
13 Environmental Protection, which measures the utility's  
14 compliance with the applicable secondary water quality  
15 standards." We don't have those. From DEP they're not  
16 required. I would ask staff if we have any by the  
17 county health department pertaining to secondary  
18 standards.

19                   **MR. HILL:** There were no results.

20                   **MR. HETRICK:** No results.

21                   We go on to the third criteria. "Complaints  
22 regarding the applicable secondary water quality  
23 standards filed by the customers with the Commission."  
24 We obviously have a lot of complaints.

25                   "If the Commission deems necessary" -- and

1 then you go on to D. "If the Commission deems  
2 necessary, the results of any updated tests." We don't  
3 have any updated tests. So what we have is testimony  
4 from the customers right now and we have complaints.

5 If you go further in the statute, it says that  
6 "In determining the quality of water service, the  
7 Commission shall consider a finding by the Department of  
8 Environmental Protection as to whether the utility has  
9 failed to provide water quality service that meets  
10 secondary water quality standards of the department."  
11 We don't have that.

12 "The utility shall create an estimate of the  
13 cost and benefits." If you go on to read the statute,  
14 what we have is customer complaints. Then the statute  
15 goes on to provide what the Commission can do. You can  
16 consider the customer -- the customers' complaints, the  
17 customer testimony, and determine, in your own view,  
18 that they don't meet the quality of service.

19 So what do you do next once they don't meet  
20 the quality of service, if that's your determination?  
21 You go further in the statute, and it says, "The  
22 Commission may require the utility to implement a  
23 solution that is in the best interest of the customers  
24 for each quality of water service issue. The utility  
25 may recover its costs in implementing the solution

1 ordered by the Commission. The Commission may establish  
2 the necessary benchmarks that a utility must meet for  
3 each solution and require the utility to report  
4 periodically until each solution is completed."

5 So I think the statute does provide the  
6 roadmap for what you do when the only evidence that you  
7 have before you today is what the customer testimony in  
8 the complaints show. And you -- if that's all the  
9 evidence that's out there, you can make a decision based  
10 on that evidence and come up with a solution to remedy  
11 those complaints. As I understand it, technical staff  
12 will go into what the utility proposes the solution is,  
13 and then it's your, it's your prerogative to determine  
14 if that solution is appropriate.

15 **CHAIRMAN BROWN:** Thank you.

16 Commissioner?

17 **COMMISSIONER POLMANN:** My primary point in  
18 this discussion is to establish that the point of  
19 interest is at the point of delivery to the customer  
20 because the utility is providing water service, and that  
21 the consideration that I believe, this Commissioner  
22 believes that this Commission should be taking into  
23 account is on behalf of the customer, not at the  
24 location where the utility is receiving wholesale water.  
25 Because I don't see how that is applicable when, when --

1 as the statute says "considering the quality of  
2 service."

3 **CHAIRMAN BROWN:** Okay. Commissioner Polmann,  
4 we've got another Commissioner, and we have to hear from  
5 the parties on this. So Commissioner Brisé.

6 **COMMISSIONER BRISÉ:** Thank you, Madam Chair.  
7 So obviously we have an issue where the statute may be  
8 quasi-silent on, on the issue of the secondary water  
9 qualities with respect to utilities that are purchasing  
10 water from another, from another utility. Now I would  
11 think that the average legislator is thinking about the  
12 point of delivery rather than the point of purchase.  
13 And so that secondary water standard, if we take it from  
14 that perspective, would be applicable to the utility at  
15 hand today.

16 Now obviously if we have an interest in  
17 pursuing anything other than satisfactory, there are  
18 other prongs that we can use to get to that point. And  
19 so I think we might be best served to pursue those as  
20 other avenues to get to that, to that particular point.

21 **CHAIRMAN BROWN:** Thank you, Commissioner  
22 Brisé. Excellent points.

23 Mr. Baez, do you want to comment? You looked  
24 like you were reaching.

25 **MR. BAEZ:** No, I think you got it covered.

1           **CHAIRMAN BROWN:** Okay. I understand that the  
2 parties would probably like to address us on this. And  
3 I saw Public Counsel first, and so I'll go with  
4 Ms. Christensen.

5           **MS. CHRISTENSEN:** I think a lot of the points  
6 that I wanted to address have been made by Commissioner  
7 Graham, which I think has articulated well what the  
8 standard is in the statute.

9           **CHAIRMAN BROWN:** He did a good job, didn't he?

10          **MS. CHRISTENSEN:** And certainly can wear my  
11 lawyer hat any time he wishes.

12           But what I would suggest also is there are, as  
13 Commissioner Brisé was pointing out, there's other  
14 methods that the Commission has available, including ROE  
15 reductions depending on whether or not the Commission  
16 believes the quality of service is satisfactory. And  
17 this may be an issue that the Commission needs to  
18 explore further because we know that DEP sets the  
19 secondary water quality standards, but from the Office  
20 of Public Counsel's experience and knowledge, we're not  
21 sure that they require testing for that secondary water  
22 quality. So this may not be an issue just isolated to  
23 Bocilla Utilities and being a pass-through utility. It  
24 may be an issue that is an issue for implementing this  
25 portion of the statute for all of the regulated water



1 utilities that the Commission has. Particularly if the  
2 standards are set but there's no requirement by DEP to  
3 actually test for these standards and provide those to  
4 DEP, this may be, for lack of a better word, a hole in  
5 the numeric testing that can be information provided to  
6 the Commission for its consideration in future water  
7 cases. And that may need to be a discussion with DEP on  
8 a going-forward basis.

9 But you certainly do have, and I think it's  
10 been articulated well by your general counsel, there is  
11 certainly testimony in the record on which this  
12 Commission can make a decision on secondary water  
13 quality issues. Thank you for your time.

14 **CHAIRMAN BROWN:** Thank you.

15 Mr. Loar, you raised this issue to us, so --

16 **MR. LOAR:** Yes, thank you. I would just like  
17 to point out one small distinction here in the statutory  
18 language. It says, under 367.0812, that "The Commission  
19 shall consider the extent to which a utility provides  
20 water service in fixing the rates," and then it provides  
21 another option down here that "The Commission may  
22 require the utility to implement a solution." So it is  
23 not -- if you find that the water does not meet the  
24 quality standards, it's not necessary that you require  
25 an implementation of a solution, although I would

1 encourage it. But it is, it is absolutely necessary  
2 under the statute that you take that into account when  
3 fixing your rate.

4 And as your counsel pointed out, the only  
5 evidence that we have of record in this particular  
6 proceeding is the testimony and the complaints of the  
7 customers.

8 **CHAIRMAN BROWN:** Thank you.

9 Mr. Friedman.

10 **MR. FRIEDMAN:** I'm going to have, I'm going to  
11 have Mr. Noden explain to you some stuff in a second,  
12 but I wanted to point out -- I'm not going to weigh in  
13 on the legal issue. Your General Counsel can do that.

14 The, the point is -- two points. One is that  
15 we did hear some customers complain about quality of  
16 service. I don't think if you hear two or three or four  
17 customers complain about quality of service that that  
18 means it's prevalent throughout the system. As the  
19 staff pointed out, before the rate case was filed, there  
20 were, you know, very few customer complaints about  
21 quality of water. And whether or not this company is  
22 required to meet DEP secondary standards, they certainly  
23 want to provide the best water that they can. He drinks  
24 the water. He lives on the island. He's a customer.  
25 So what these people are drinking and experiencing,

1 Mr. Noden is as well. So you can expect that he would  
2 want the best quality of water that he can get.

3 So they're going through a transition period.  
4 They just switched from their own well to, to connecting  
5 to another provider, and so there's a transition period.  
6 This isn't the only company, I know, that y'all know  
7 about that's going through a transition period because  
8 of that exact same thing. And there is going to be a  
9 transition period, and that's what he's going through.  
10 And I'm going to let Mr. Noden explain to you what he's  
11 doing to try to resolve this. Because if -- even with  
12 those four or five people that complained about their  
13 water, we want to resolve that.

14 **CHAIRMAN BROWN:** And we do see that in the  
15 recommendation, so if you could be brief with that. We  
16 have that in the recommendation, though.

17 **MR. NODEN:** It's Craig Noden. And very  
18 simply, you know, for almost 30 years we were an RO  
19 provider and we had very little issue. Well, when we  
20 connected to Englewood -- Englewood has been in effect  
21 since 1958. They deliver a good quality of water. We  
22 did not assume that we were going to have any problems  
23 but we have, and that's the reason we're becoming a  
24 retreatment facility.

25 We have a pumping booth station on Panama

1 Boulevard that boosts the pressure, but we have no  
2 treatment -- or did not have any treatment. We are in  
3 the process of putting in chloramine feed, and we've  
4 been doing it now for almost two months to try to  
5 determine, you know, if we -- well, we do need to  
6 retreat Englewood's water, which we didn't know when we  
7 hooked up.

8 **CHAIRMAN BROWN:** Right.

9 **MR. NODEN:** But we're in the process of  
10 retreating it. And biofilm and nitrification are two  
11 words I didn't know two years ago, but I know them  
12 today.

13 **CHAIRMAN BROWN:** So is there an option to do  
14 chlorine, to treat it with chlorine?

15 **MR. NODEN:** No, you can't. That's the  
16 problem. You -- and I'm not -- but I've learned this.  
17 You know, you have trihalomethanes and haloacetic acids  
18 and that, and that's why you can't use just liquid  
19 chlorine.

20 We had a pilot project -- I'm going at length,  
21 but DEP approved a pilot project over a year ago to try  
22 liquid chlorine because we had some taste and odor  
23 concerns, and it was biofilm nitrification. So we tried  
24 for about six months injecting chlorine, trying to go  
25 past the break point, which is very confusing, to try to

1 resolve the problem. It wouldn't resolve it. That's  
2 when our engineer designed the chlorine -- or the  
3 chloramine feed system that we're currently using.

4 **CHAIRMAN BROWN:** So the new system, the  
5 chloramine feed on your side of the island, is that  
6 eventually going to remedy the product issue that is  
7 occurring?

8 **MR. NODEN:** That's certainly what we're hoping  
9 because it's the exact same treatment that Englewood  
10 Water does. In other words, they treat with  
11 chloramines. We're retreating with chloramines.

12 **CHAIRMAN BROWN:** Thank you.

13 Commissioners, any other questions on  
14 Issue 1? We're still on Issue 1. And you know what, I  
15 think the most appropriate thing to do is just to go  
16 ahead and vote out this issue at this time, and then  
17 we'll get to the other issues that were raised.

18 So obviously there's three parts to quality of  
19 service, including the product, the operating  
20 conditions, and the utility's attempt to address the  
21 customer satisfaction.

22 Commissioner Graham.

23 **COMMISSIONER GRAHAM:** Thank you, Madam Chair.  
24 I don't have a problem with reducing the basis points  
25 now. And if they want to come back when they've got the

1 problem fixed with some test data, we can do a limited  
2 proceeding to change that number. Or if you want to  
3 make it a staff function, whichever way you want to  
4 handle it, I don't have a problem with that at all. I  
5 just -- I do have a problem with moving forward with  
6 something that either we don't have data or we have  
7 clear customer complaints saying that there is an issue  
8 here and for us to, quote, just ignore that.

9 **CHAIRMAN BROWN:** Okay. So are you -- how do  
10 you feel about voting on this issue at this juncture?

11 **COMMISSIONER GRAHAM:** I don't have a problem  
12 with voting on it, but my recommendation would be to  
13 change the quality to unsatisfactory and reduce the  
14 basis points by either 30 to 50 basis points, depending  
15 on how the Commission feels.

16 **CHAIRMAN BROWN:** Okay. All right. So there's  
17 an idea floated out here to change the staff  
18 recommendation to unsatisfactory with a 50 -- a 30 to 50  
19 basis point reduction in the ROE.

20 Yes, Mr. Hetrick.

21 **MR. HETRICK:** Commissioner, yes, for purposes  
22 of being clear as to what the utility needs to do in  
23 order to come back to the Commission, are you suggesting  
24 that they be required separately, independently of this  
25 Commission, which I believe you have the authority to

1 do, to meet secondary water quality standards?

2 **CHAIRMAN BROWN:** Commissioner Graham?

3 **COMMISSIONER GRAHAM:** Yes, I would like for  
4 them to do that. And I don't know if the best place is  
5 for where they tie in from when they purchase it, or if  
6 the best place is from where it hits their distribution  
7 system to go out. I would say from where it hits their  
8 distribution system to go out is where I'd like to see  
9 the test sample. And they just need to -- they need to  
10 hire a lab or do it themselves to make sure that that  
11 secondary standard is met.

12 **CHAIRMAN BROWN:** Commissioner Brisé.

13 **COMMISSIONER BRISÉ:** Yes. And on top of that,  
14 I think I heard from the customers, and we look at the,  
15 the docket, that there is concern about having access to  
16 staff and having access to knowing when the office is  
17 open and all of those type of things. So I think that  
18 they need to keep better records for us to know the  
19 hours that they're open and keep better records of  
20 complaints and concerns.

21 So with that, those are the two things that I  
22 would be interested in in addition to the, to the issue  
23 of the water itself.

24 **CHAIRMAN BROWN:** Thank you, Commissioner  
25 Brisé, for bringing that up because that was the thing

1 that seemed to glare out in this whole recommendation:  
2 The recordkeeping and the communication with the  
3 customers. That seems to be a very, very big issue  
4 here.

5 Commissioner Polmann.

6 **COMMISSIONER POLMANN:** Thank you, Madam Chair.

7 The system that is mentioned here in terms of  
8 the retreatment of chloramine and so forth, I  
9 acknowledge, can be a little bit tricky. And where are  
10 you in the stage of that implementation -- can you -- in  
11 terms of time frame?

12 **MR. NODEN:** Well, it was designed -- this is  
13 Craig Noden. It was designed about a year ago, and we  
14 have DEP approval. And we started about two months ago  
15 injecting chloramine, which is into the system.

16 **COMMISSIONER POLMANN:** Right. So are you in  
17 testing? Have you confirmed -- what I would like to do  
18 is add that into this and -- in terms of the performance  
19 so that it's the quality of -- water quality. You're  
20 doing that to improve water quality or confirm that  
21 you've dealt with the biofilm and so forth. What was  
22 the purpose?

23 **MR. NODEN:** We are testing every day at the  
24 connection point to Englewood. We check at the booth  
25 station. We have six flush stations that we check every



1 day. We check for ORP. We check for Cl2. We check for  
2 free ammonia.

3 **COMMISSIONER POLMANN:** Right.

4 **MR. NODEN:** And were monitoring the, you know,  
5 the situation to try to put the water in balance. But I  
6 do have to say on the complaints, I don't know of more  
7 than a handful of complaints, and I think they're all  
8 pre our retreatment process. I think most of the  
9 complaints happened last summer when we were just  
10 learning of the situation.

11 **CHAIRMAN BROWN:** All right. So, Commissioner  
12 Polmann, any follow-up?

13 **COMMISSIONER POLMANN:** What I was trying to do  
14 is get to the point of what Commissioner Graham was  
15 asking for was confirmation on the secondary standards,  
16 and I was trying to determine whether we could tie that  
17 in with this additional treatment and where in the  
18 system it would be appropriate to sample on those. I'm  
19 not sure, I'm sorry, how to tie those together, but I'll  
20 just leave it at that.

21 **CHAIRMAN BROWN:** Mr. Hill.

22 **MR. HILL:** Yes, I would say that the utility  
23 has identified several locations where they might treat.  
24 I can say for a normal utility, they would test at the  
25 point of treatment. We may want to, to recommend either

1 that, which is more in line with other utilities;  
2 however, I would note one of the complaints we had in  
3 this case was for someone who had been on vacation, and  
4 that is more of a stale water issue. And so we might  
5 want to treat -- sorry -- test at one of the sort of  
6 ends where they say they've got flushing systems.

7 **CHAIRMAN BROWN:** Okay. So we are ready for a  
8 motion. Commissioner Graham.

9 **MR. BAEZ:** Madam Chair, I'm sorry to  
10 interrupt.

11 **CHAIRMAN BROWN:** Sure, Mr. Baez.

12 **MR. BAEZ:** One question. Is there a time  
13 certain when you would like to hear back from the  
14 utility on their testing or -- so that you have a chance  
15 to reconsider or consider --

16 **CHAIRMAN BROWN:** Okay, okay. Commissioner  
17 Graham.

18 **COMMISSIONER GRAHAM:** No. I think we're going  
19 to -- I guess my recommendation is going to be 50 basis  
20 points. And if they want the 50 basis points back,  
21 they'll come back to us with the test data. I mean, so  
22 they can not do anything, if they choose.

23 **CHAIRMAN BROWN:** Okay. Are you ready for a  
24 motion?

25 **COMMISSIONER GRAHAM:** Yeah. All right. I

1 move that we change the staff recommendation to  
2 unsatisfactory, that we do a reduction of 50 basis  
3 points based on the customer complaints and for quality  
4 and based on the customer complaints as far as customer  
5 service. Commissioner Brisé mentioned posting office  
6 hours and making sure there's a better job of returning  
7 phone calls, so customer interaction. And that  
8 50-basis-point decrease will be there until after  
9 they've come before -- now do we need to make this a  
10 staff function or do we want to make it a limited  
11 proceeding when it comes back before us?

12 **MR. BALLINGER:** That was going to be my  
13 question. Did you want it to be administratively done  
14 by staff, or did you want the utility to come back for  
15 your vote?

16 **COMMISSIONER GRAHAM:** I don't have a problem  
17 with making it a staff function. I think that --

18 **MR. BAEZ:** Commissioner?

19 **COMMISSIONER GRAHAM:** I'm sorry.

20 **MR. BAEZ:** I don't want to play lawyer here,  
21 but I don't think, I don't think we can remove a  
22 penalty.

23 **COMMISSIONER GRAHAM:** Okay. So then it's got  
24 to be a limited proceeding that comes back before us.

25 **CHAIRMAN BROWN:** Okay. So we have a motion on

1 the floor. I think it was --

2 **COMMISSIONER GRAHAM:** Wait, wait.

3 **CHAIRMAN BROWN:** Commissioner.

4 **MR. BAEZ:** I don't want to tie you to a  
5 limited proceeding either. I think, I think we can, we  
6 can find the appropriate vehicle for you, but as long  
7 as -- we'll get it before you.

8 **CHAIRMAN BROWN:** Got you.

9 **COMMISSIONER GRAHAM:** Whatever the appropriate  
10 vehicle is before us --

11 **MR. BAEZ:** Thank you. Thank you.

12 **COMMISSIONER GRAHAM:** -- and that they come  
13 back with the secondary standard at the point of  
14 distribution.

15 **MR. BALLINGER:** I think I heard -- I got his  
16 name wrong -- Mr. Noden say that they were taking tests  
17 at various points in their system; is that correct?

18 **MR. NODEN:** This is Craig Noden. Yes, it is.

19 **MR. BALLINGER:** Okay. I would say all those  
20 points that they're currently doing. They sound like  
21 they're at flushing points near the end of the system,  
22 they're at other points along the system. So I think  
23 that would give us a good baseline.

24 **COMMISSIONER GRAHAM:** So are we going to say  
25 specifically at five different points that they're all

1 at a specific --

2 **MR. BALLINGER:** I think at the points that  
3 they're currently doing now that they're providing to  
4 DEP.

5 **COMMISSIONER GRAHAM:** Now the only question --  
6 I guess my concern is if you have that static area,  
7 which is not necessarily any fault of their own, that  
8 they could still have an issue there.

9 **MR. BALLINGER:** Here's where I have a problem.  
10 They're taking it at flushing points now which are near  
11 the end of the system to do that. If you start getting  
12 further into the system or on the other side of the  
13 meter even is where the issue could be.

14 **COMMISSIONER GRAHAM:** Well, no, I'm --

15 **MR. BALLINGER:** Right. And I don't have a  
16 baseline. So I'm trying to keep it to where they've  
17 already got a baseline of data that they've got so I can  
18 see a trend.

19 **COMMISSIONER GRAHAM:** Okay. So then if --

20 **MR. BALLINGER:** If I add another point, I get,  
21 I get bias in it.

22 **COMMISSIONER GRAHAM:** So they have to, they  
23 have to meet secondary quality standard at the six  
24 current testing points.

25 **MR. BALLINGER:** That would be my suggestion,

1 yes.

2 **CHAIRMAN BROWN:** Is that part of your motion?

3 **COMMISSIONER GRAHAM:** That's part of my  
4 motion.

5 **CHAIRMAN BROWN:** Okay. I think it's clear. I  
6 think the Clerk has a lot to work on.

7 Is there a second to the motion?

8 **COMMISSIONER BRISÉ:** Second.

9 **CHAIRMAN BROWN:** All right. Any further  
10 discussion on Issue 1?

11 **COMMISSIONER GRAHAM:** Question, yes.

12 **CHAIRMAN BROWN:** Commissioner Graham.  
13 Commissioner Graham.

14 **COMMISSIONER GRAHAM:** Part of that motion was  
15 the customer service part of that. What sort of data do  
16 we need to make sure that that gets fulfilled?

17 **CHAIRMAN BROWN:** Staff? Here comes Adam.

18 **MR. HILL:** I would say that there's a couple  
19 of different ways that we can track those. Of course,  
20 the utility has always been required to keep track of  
21 customer complaints. I would, I would suggest that we  
22 would make sure that they post their office hours so  
23 that they know when they can get a live person, and a  
24 good place for that would be on the bill. Every  
25 customer receives that.

1           Also on the side of the office, since we are  
2 in the recommendation, there is additional office work  
3 time. They would potentially be able to answer phone  
4 calls during the potential clerical work time.

5           An additional thing that we would want to see  
6 is check -- usually after a utility comes in the first  
7 time, the customers learn about the PSC's customer  
8 complaint line, and so I'm sure that the customers here  
9 will bring that information back. And if we see an  
10 uptick, we can track the customer complaints reported  
11 directly to us that, of course, we don't have any, you  
12 know, any funny business going on with that tracking.

13           So I would say that we want to make sure that  
14 the utility is making it available for their own  
15 complaint line, having some sort of statement, when they  
16 come in to remove this unsatisfactory, that they have  
17 monitored their voice mail, make sure it's not full and  
18 not receiving complaints, and that every customer that  
19 comments on them, they find out whether it should be  
20 logged as a complaint. Because there are rules and it  
21 is very well laid out what is a complaint and what they  
22 have to track. And so they'll have to affirm that they  
23 are meeting those standards for tracking complaints  
24 going forward.

25           **CHAIRMAN BROWN:** Commissioner Graham.

1                   **COMMISSIONER GRAHAM:** That's my motion.

2                   **CHAIRMAN BROWN:** Good motion.

3                   All right. Any further discussion before we  
4 take a vote on the Graham motion?

5                   All right. All those in favor, say aye.

6                   (Vote taken.)

7                   Opposed? All right. It passes unanimously.

8                   We're going to go ahead and vote on

9 Issues 2 through 5, which none of the parties raised,  
10 but Mr. Hill can address the Commission on those issues.

11                   **MR. HILL:** Yes. Sorry. Issue 3 deals with  
12 some of the concerns about the 36 percent allocation to  
13 KIU, so I just wanted to bring that up. I'm sure OPC  
14 was already reaching for their mike when I said it.

15                   **CHAIRMAN BROWN:** Oh, thank you.

16                   **MR. HILL:** It goes through a lot of issues,  
17 but this is one that it touches.

18                   **CHAIRMAN BROWN:** Yeah. And that was Issue --  
19 pardon me -- 3.

20                   **MR. HILL:** Three is the first time it appears.

21                   **CHAIRMAN BROWN:** Okay. Commissioners, any  
22 questions on Issues 2 through 5, including the  
23 allocation mentioned? If not, we are ripe for a motion.

24                   **COMMISSIONER GRAHAM:** Move staff.

25                   **CHAIRMAN BROWN:** Second?



1                   **COMMISSIONER PATRONIS:** Second.

2                   **CHAIRMAN BROWN:** Any further discussion?

3                   I just did want to point out that in Issue 5  
4 it talks about a truck, a brand new truck, and it talks  
5 about purchasing a truck. There's not a lot of  
6 discussion in the actual staff recommendation on it, but  
7 in my briefing staff provided a good rationale for why  
8 they deemed -- thought that that was reasonable and  
9 prudent versus using the existing truck and why it was  
10 reasonable and prudent to buy it rather than lease it.  
11 I think that type of discussion should be included in  
12 our order. But I support those issues too.

13                   So any other discussion or questions?

14                   All those in favor on the Issues 2 through --  
15 on the motion on Issues 2 through 5, signify by saying  
16 aye.

17                   (Vote taken.)

18                   All right. Opposed?

19                   That passes.

20                   Getting to Issue 6, which is the used and  
21 useful. Mr. Hill.

22                   **MR. HILL:** Thank you. There are really two  
23 issues that were raised about used and useful. One is  
24 the 100 percent of the source that was brought up later  
25 on in Ms. Merchant's comments.

1           The -- she mentioned that Little Gasparilla  
2 was a different situation. However, it was not for the  
3 source; it was for the transmission and distribution.  
4 And so I can address that; however, I'd just like to  
5 sort of say that staff's position on the single source,  
6 we disagree that this should not be 100 percent used and  
7 useful. This should be 100 percent used and useful.  
8 It's a single source. If anything were to happen to  
9 that source in a similar situation with a single well,  
10 the customers would be completely left in the lurch. So  
11 it should be 100 percent for the source.

12           **CHAIRMAN BROWN:** Can you elaborate on the  
13 Little Gasparilla? I thought in that order we used ERCs  
14 instead of lock counts.

15           **MR. HILL:** For transmission and distribution,  
16 yes, but not for source. That's where I'm trying to  
17 draw this distinction now, yes.

18           So the source, where they get the water from  
19 essentially. A traditional utility gets it from a well.  
20 And if they only have one well, then their source is  
21 100 percent used and useful per rule. This is if they  
22 have more than one well, then you take out the largest  
23 well and you do used and useful based on a percentage  
24 formula for this source. This was a very small point  
25 that Ms. Merchant made. She didn't put a number on this

1 in particular. I just wanted to put it in the very  
2 beginning of this discussion since it was a pretty cut  
3 and dried situation where there is no calculation that  
4 you can run on this.

5 In the Little Gasparilla case, that was  
6 100 percent used and useful for the source, not for the  
7 transmission and distribution. I wanted just to make  
8 that, that part -- our position on that clear.

9 **CHAIRMAN BROWN:** Okay. Thank you.

10 Commissioners, any questions or suggestions or  
11 comments on the used and useful for Issue 6?

12 **COMMISSIONER PATRONIS:** Move staff.

13 **CHAIRMAN BROWN:** Is there a second?

14 **COMMISSIONER GRAHAM:** Second.

15 **CHAIRMAN BROWN:** Any further discussion?

16 All those in favor, say aye.

17 (Vote taken.)

18 Opposed? It passes.

19 All right. So Issues 7 through 10 were not  
20 mentioned by any of the parties. Staff, would you like  
21 to address any of those issues before we consider voting  
22 on it?

23 (No response.)

24 All right. I just have an issue on -- I kind  
25 of feel a little uncomfortable on the Issue 9, the ROE,

1 and I had some discussion with Mr. Maurey on it. The  
2 utility did take advantage of the leverage formula when,  
3 in fact, in their MFRs they requested less than that,  
4 10.5 percent, and the leverage formula, in effect, bumps  
5 the utility's ROE up to 11.16 percent. I asked staff  
6 how much that equates in terms of dollars because that's  
7 additional funds in the utility's pocket. Can you kind  
8 of go through that for us?

9 **MR. MAUREY:** Well, we ran the numbers. The  
10 difference between an 11.16 ROE that's indicated by the  
11 leverage formula and the 10.5 percent ROE that the  
12 company initially included in its MFRs is approximately  
13 \$1,087.

14 **CHAIRMAN BROWN:** Okay. Has the Commission  
15 ever voted against the leverage? It's been in effect  
16 since -- for 20 years?

17 **MR. MAUREY:** Over 20 years.

18 **CHAIRMAN BROWN:** Has the Commission ever voted  
19 against the leverage formula in any of its prior case  
20 orders?

21 **MR. MAUREY:** Let me answer it this way.

22 **CHAIRMAN BROWN:** I'm trying to find out,  
23 what's the reason?

24 **MR. MAUREY:** Okay. This is a proposed agency  
25 action, and the Commission can use the leverage formula

1 or it can make a decision based on another rationale.  
2 However, in other situations with similarly situated  
3 utilities, the Commission has always availed itself to  
4 the leverage formula unless evidence has been presented  
5 for another rate of return.

6 **CHAIRMAN BROWN:** Well, I noticed the parties  
7 didn't say anything about this particular item. And  
8 typically we really see these on smaller utilities.  
9 This is a --

10 **MR. MAUREY:** Class B.

11 **CHAIRMAN BROWN:** -- Class B utility,  
12 400 customers. It just kind of stuck out. I mean, I'll  
13 give it to the utility, they took advantage of the  
14 leverage formula. It just is something that jumped out  
15 at me. And I know the dollar amount isn't that  
16 significant, given the overall rate case requested. I  
17 just don't know if the leverage formula is appropriate  
18 in this instance.

19 (Power interrupted.)

20 We're going to take a ten-minute break since  
21 we're not streaming live now. I know the customers need  
22 to be gone by 2:00, so we're going to try to address  
23 these issues. We will be reconvening at 11:50.

24 (Recess taken.)

25 **CHAIRMAN BROWN:** So we're considering Issues

1 5 through 10.

2 **COMMISSIONER BRISÉ:** No, no, 7, 7 through 10.

3 **CHAIRMAN BROWN:** 7 through -- thank you,  
4 guys -- 7 through 10. At this time we're back on the  
5 record and we are streaming live. The lights are all  
6 back on. Thank you guys for again being patient with  
7 us.

8 I appreciate staff, Mr. Maurey talking  
9 about -- with me outside too on the ROE. My  
10 understanding, staff just applied the leverage formula  
11 too. But we are -- pursuant to our vote on Issue 1 with  
12 the 50 basis points, so that would bring it to -- quick  
13 math, Mr. Maurey.

14 **MR. MAUREY:** Oh, seven -- 66 -- oh, 10.66.

15 **CHAIRMAN BROWN:** 10.66? Okay. And with that,  
16 Commissioners, I'm okay with that. Can we get a motion  
17 on Issues 7 through 10?

18 **COMMISSIONER BRISÉ:** Move staff.

19 **COMMISSIONER GRAHAM:** Second.

20 **CHAIRMAN BROWN:** All those in favor, say aye.

21 (Vote taken.)

22 Opposed? Thank you very much.

23 On to -- Issue 11 was raised by the utility  
24 regarding the credit. I didn't know if staff wanted to  
25 address the Commission on that or have -- if the

1 Commissioners had any questions on that. Staff.

2 **MR. JOHNSON:** Can we take up Issue 11 and 17  
3 together?

4 **CHAIRMAN BROWN:** Sure. 11 and 17.

5 **MR. JOHNSON:** The issue that the utility has  
6 with 11 directly affects 17, so that's why I wanted to  
7 do that.

8 As far as the utility forgiving the water, the  
9 \$4,000 revenue of water, it's my understanding that the  
10 utility did not forgive the water outright, but they  
11 took a water -- the high usage rate and charged it at  
12 the lower rate block so they would recover at least the  
13 cost of buying the water.

14 Staff does not oppose the utility's policy on  
15 forgiving the water, but we did not want the general  
16 body of ratepayers to, you know, face the impacts of,  
17 you know, raising the rates to recover that revenue.

18 **CHAIRMAN BROWN:** Commissioner Brisé has a  
19 question.

20 **COMMISSIONER BRISÉ:** Thank you. So is it your  
21 understanding that the general body of ratepayers are  
22 paying for that reduction?

23 **MR. JOHNSON:** Not currently.

24 **COMMISSIONER BRISÉ:** Okay.

25 **MR. JOHNSON:** What was requested of me was

1 they originally wanted me to design rates based on an  
2 increased revenue requirement capturing that \$4,000 of  
3 revenue. If I did that, it would have raised the rates  
4 to the general body of ratepayers. If I would have  
5 taken out the gallons, which would have been much more  
6 difficult because they don't forgive them outright, it  
7 still would have raised the rates a little bit and again  
8 would have impacted the general body of ratepayers.

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

10 **CHAIRMAN BROWN:** Okay. Commissioners, any  
11 questions or comments on staff's comments here on Issue  
12 11 and Issue 17? Go ahead on Issue 17.

13 **MR. JOHNSON:** Also the utility requested that  
14 we do Alternative 1 for the rate structures. Staff does  
15 not oppose that. It's a 57 percent BFC allocation, if  
16 I'm correct. Staff recommended the lower BFC allocation  
17 at 40 -- or 47 --

18 **CHAIRMAN BROWN:** Percent?

19 **MR. JOHNSON:** -- 47 percent, which is still a  
20 pretty high BFC allocation. And we -- they have  
21 23 percent of the bills are over 12,000 gallons, so we  
22 wanted to send a little bit of a stronger pricing signal  
23 to the gallonage charge. But we do not oppose the  
24 Alternative 1. That's up to the Commission to weigh,  
25 you know, the seasonality of the customer base and the



1 guaranteed revenues on the base facility charge.

2 **CHAIRMAN BROWN:** Yeah, but it jumps the BFC by  
3 almost \$10 -- close to \$10 --

4 **MR. JOHNSON:** Yeah.

5 **CHAIRMAN BROWN:** -- from what's being  
6 proposed. So even though seasonal customers -- of  
7 course, it helps the utility, but even the seasonal  
8 customers will be -- will have to pay for that without  
9 any usage.

10 Commissioners?

11 Commissioner Brisé.

12 **COMMISSIONER BRISÉ:** Quick question. What is  
13 the percentage of seasonal customers? Do we know?

14 **MR. JOHNSON:** Well, when we, when we looked at  
15 the zero gallon bills, it was 12 to 13 percent. When we  
16 looked at the 1,000 gallon bill mark, it jumped to  
17 30 percent. So that's why we decided to look at the  
18 1,000 gallon mark, which shows -- and I called the  
19 utility and asked them if they knew kind of the  
20 seasonality of the customer base. They didn't have a  
21 direct answer on that, but I'm imagining, you know, with  
22 it maybe being a, you know, vacation spot --

23 **COMMISSIONER BRISÉ:** Sure.

24 **MR. JOHNSON:** -- they have people there often  
25 maybe not using as much water.

1           **COMMISSIONER BRISÉ:** Sure. But I'm sure you  
2 asked them a while ago, and I know that they prepared to  
3 be here today. So what, what is your answer to that?

4           **MR. FLISCHEL:** We concur that about 30 percent  
5 of our bills are seasonality bills, but we also would  
6 like to emphasize that 23 percent of our revenue comes  
7 from high end users. And with putting 100 percent of  
8 the rate increase into just water rates, it will  
9 significantly affect our ability to generate the revenue  
10 requirement.

11           **COMMISSIONER BRISÉ:** Okay.

12           **CHAIRMAN BROWN:** Commissioner Brisé.  
13 Commissioner Polmann.

14           **COMMISSIONER POLMANN:** Thank you, Madam Chair.

15           I see the average, I think on page 34, the  
16 average residential water demand is 5,125 gallons per  
17 month. If you take out the zero gallon bills, in which  
18 case they would be paying the base facility charge -- is  
19 that correct? -- the recommended rate compared to  
20 the -- Alternative 1 would be a differential of some \$9,  
21 I guess. But aside from the seasonal, which we just  
22 talked about, what is the distribution of usage, meaning  
23 other than the average, what other statistics do we  
24 have? Is that known, you know, the range, the, sort of  
25 the median? How many people are in the low end? How

1 many are in the upper end?

2 **MR. FLISCHEL:** No, we did not prepare that.  
3 What we looked at more closely was the high end users  
4 that generate 23 percent of our revenue.

5 **COMMISSIONER POLMANN:** Okay. I was just  
6 curious, you know, seeing how many people are low users,  
7 how many are in the high end in terms of -- but you  
8 don't have those numbers.

9 **MR. FLISCHEL:** We have a stratification of the  
10 users that we provided staff, and they may have that  
11 information.

12 **MR. JOHNSON:** I don't have the exact numbers  
13 through all the ranges. I have the percentages that I  
14 mentioned, that 23 percent of the bills are over 12,000  
15 in the high users he's referring to --

16 **COMMISSIONER POLMANN:** Sure.

17 **MR. JOHNSON:** -- and 30 percent of the bills  
18 are 1,000 gallons or lower.

19 If we look at Table 17.1, I have bill  
20 comparisons at 3-, 6-, and 12,000 gallons.

21 **COMMISSIONER POLMANN:** Okay.

22 **MR. JOHNSON:** The staff-recommended rate  
23 structure just mitigates the impact that the increase  
24 will have on the, the usage below 3,000 gallons;  
25 whereas, you'll notice at the 6,000 gallon mark, which

1 is a little higher than what we said was the average  
2 usage without the zero gallon bills, the rate impact is  
3 pretty similar there and it's a pretty similar bill.

4 **COMMISSIONER POLMANN:** Thank you.

5 **CHAIRMAN BROWN:** All right. So we're  
6 considering -- if we could, just for the record, take up  
7 Issue 11 first, and then we'll take up, since we're  
8 discussing it now, take up Issue 17.

9 Commissioners, any other comments or questions  
10 on Issue 11? If not, ready to take a motion.

11 **COMMISSIONER GRAHAM:** Move staff.

12 **CHAIRMAN BROWN:** Is there a second?

13 **COMMISSIONER PATRONIS:** Second.

14 **CHAIRMAN BROWN:** Any further discussion on  
15 Issue 11? All those in favor, say aye.

16 (Vote taken.)

17 Opposed? It passes unanimously.

18 Moving to Issue 17, which is the rate  
19 structure we just discussed, discussed, discussed. Any  
20 comments, questions before we take up a motion?

21 Okay. We're ripe for a motion.

22 **COMMISSIONER GRAHAM:** I don't have a --

23 **CHAIRMAN BROWN:** Commissioner Graham.

24 **COMMISSIONER GRAHAM:** I don't have a problem  
25 with Alternate 1, if staff doesn't have a problem

1 with it, so I move staff recommendation with  
2 Alternate 1, unless somebody else would rather do  
3 something different.

4 **COMMISSIONER BRISÉ:** Second.

5 **CHAIRMAN BROWN:** There was a second. I don't  
6 feel strongly about it either way. And, Commissioners,  
7 any other comments? We've got a motion and a second for  
8 Alternative 1. All those in favor, signify by saying  
9 aye.

10 (Vote taken.)

11 Okay. Opposed? It passes unanimously. Thank  
12 you.

13 We're on Issue 12 now, going back to  
14 adjustment to pro forma expenses. I took this out just  
15 because this talks about the salaries and wages of the  
16 additional employee, and it also talks about the  
17 accounting services. It seems that the recordkeeping is  
18 a big, big issue here, and they're -- the utility would  
19 like to have an additional accountant. I think Mr. --  
20 pardon my -- Mr. Noden -- Flischel, Flischel.

21 **MR. FLISCHEL:** Yes.

22 **CHAIRMAN BROWN:** So you're -- Mr. -- so you're  
23 the board member who also serves as the accountant right  
24 now.

25 **MR. FLISCHEL:** As the rate consultant. I

1 really don't serve as the accountant. I --

2 **CHAIRMAN BROWN:** I mean, are you, are you the  
3 individual on the board who helps do year-end  
4 accounting?

5 **MR. FLISCHEL:** Yes, yes.

6 **CHAIRMAN BROWN:** Okay. And you have not been  
7 collecting. It says here that the utility is going to  
8 be -- or staff is recommending that the utility be  
9 authorized to have an accountant. Will you be doing --  
10 acting in that capacity?

11 **MR. FLISCHEL:** No, no.

12 **CHAIRMAN BROWN:** Okay. All right. Thank you.  
13 Commissioners, any other questions on  
14 Issue 12? If not, ready for a motion.

15 **COMMISSIONER GRAHAM:** Move staff.

16 **COMMISSIONER PATRONIS:** Second.

17 **CHAIRMAN BROWN:** All those in favor, signify  
18 by saying aye.

19 (Vote taken.)

20 It passes.

21 Issue 13 and Issue 14, salary and wages and  
22 operating expenses. I'd like to have that discussion  
23 together since they were addressed together by multiple  
24 parties here.

25 Staff, can you address some of the points

1 raised under Issue 13 by the utility and Office of  
2 Public Counsel?

3 **MR. FRANK:** One of the issues brought up by  
4 the utility was the allocation, the 20 percent  
5 allocation was arbitrary. We believe, since there was  
6 not clear time sheets or recordkeeping, there was no way  
7 to really pin down support for that 10 percent. Given  
8 that the operator had a 20 percent allocation, we  
9 believed it was appropriate to use that.

10 In addition, the offset that was brought up by  
11 OPC for the accountant --

12 **CHAIRMAN BROWN:** The additional eight hours?

13 **MR. FRANK:** Yes, ma'am. We, we -- staff  
14 decided to use 40 hours a week for -- based on what the  
15 utility had responded to numerous data requests.  
16 However, we used that same number of hours, didn't  
17 increase it to offset anything, but we did compare that  
18 to the AWWA guide and tried to find a reasonable salary.  
19 From there we did apply the 20 percent allocation.

20 **CHAIRMAN BROWN:** Okay. What about moving on  
21 to Issue 14 regarding the barge fees?

22 **MR. FRANK:** For the barging we did a thorough  
23 analysis. We got the contract between Palm Island  
24 Transit and the utility. It's 9.50 a month. And we --  
25 there was a -- we did an average on additional trips

1 based on what we -- the breakdown that they provided.  
2 There were some additional trips that they separated out  
3 for personal use. Those were not included.

4 **CHAIRMAN BROWN:** And you see going forward the  
5 amount of trips with the meter replacement program that  
6 we approved under the pro forma, that having the need to  
7 have those over the next few years is necessary.

8 **MR. HILL:** Yes. I would actually ask the  
9 utility to comment on that because I know one of the  
10 comments made -- and, I'm sorry, I can't remember who  
11 brought it up -- about having a golf cart barge  
12 agreement instead of a full truck. I know they got this  
13 utility truck for a reason, and I'd like them to address  
14 that one.

15 **CHAIRMAN BROWN:** Excellent, Mr. Hill.

16 There was a suggestion about having two golf  
17 carts or something to that effect.

18 **MR. NODEN:** Yes. Golf carts are used on the  
19 island, but they're not effective for transportation  
20 back and forth.

21 A couple of things. One, I do not believe you  
22 can have a commercial golf cart pass. They're limited  
23 to residences much like the \$2,400 pass for residences.  
24 That's a single pass for a single car for a residence  
25 and not allowed for commercial traffic. That is the



1 reason we have a commercial contract with them for the  
2 \$950 a month, which reduces the rate considerably.

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

4 And the truck that we agreed to include, is  
5 the truck going to stay on the island or in the, the  
6 office on the mainland?

7 **MR. NODEN:** I think that's really yet to be  
8 decided. The truck we currently have is not roadworthy.  
9 It's 20 years old, and that's why we're having to  
10 replace it. I think the truck will, I think the truck  
11 will stay on the mainland and go across once a day with  
12 the operator.

13 **CHAIRMAN BROWN:** The truck has storage  
14 capabilities?

15 **MR. NODEN:** All the parts necessary to do  
16 repairs.

17 **CHAIRMAN BROWN:** Yeah. Okay. Thank you.

18 Anything else, staff?

19 Actually on Issue 14, the utility raised  
20 1 million gallons of water for flushing be considered  
21 back into the recommendation.

22 **MR. HILL:** Yes. I would just say that this is  
23 a situation where the KIU relationship is very -- it's  
24 very unique because -- essentially when you flush, you  
25 are trying to introduce additional flows that are not a

1 part of your, of your customer's usage. You essentially  
2 let out water into the street.

3 Since KIU is taking water at one part of the  
4 system, and it's only one part but it's a significant --  
5 I'd say, you know, looking at the map, it's a  
6 significant portion of the distribution system, KIU is,  
7 in essence, doing part of the flushing for Bocilla.

8 As part of the utility's response, they have  
9 stated that the flushing is not anticipated to decrease  
10 as a result of the chloramine feed system; however,  
11 there's really no basis for that. The flushing has  
12 been -- their first attempt before putting in the  
13 chloramine feed system to address the quality concerns.  
14 Now that the chloramine feed system is in place, they  
15 will need to flush in order to do their testing and  
16 those sorts of things. However, it's really premature  
17 to say what the future flushing amounts will be, and so  
18 that is why staff made this recommendation.

19 **CHAIRMAN BROWN:** How can the utility then  
20 address it at a later date if it's needed?

21 **MR. HILL:** They would have to show what amount  
22 of flushing that they're doing and show that the amount  
23 of flushing they're doing at that point is prudent.

24 **CHAIRMAN BROWN:** Okay. Commissioners, any  
25 questions on Issues 13 and 14? Seeing none, ready for a

1 motion on both issues.

2 **COMMISSIONER PATRONIS:** Move staff.

3 **COMMISSIONER GRAHAM:** Second.

4 **CHAIRMAN BROWN:** Any further discussion?

5 There's a motion on Issues 13 and 14 to approve the  
6 staff recommendation. All those in favor, signify by  
7 saying aye.

8 (Vote taken.)

9 Opposed? Passes unanimously.

10 Moving on to 15 and 16, which are the rate  
11 case expense and the revenue requirement. None of the  
12 parties raised either of these issues, although I will  
13 say the rate case expense for the accounting consultant  
14 seemed a little high. Are you serving as the accounting  
15 consultant, sir?

16 **MR. FLISCHEL:** Yes.

17 **CHAIRMAN BROWN:** Do you have a CPA license?

18 **MR. FLISCHEL:** I'm a former CPA. I was a CPA  
19 for over 40 years, and I -- this is the only company  
20 that I now work with.

21 **CHAIRMAN BROWN:** Are you going to continue  
22 working as an accountant even though -- after this  
23 approval in some capacity?

24 **MR. FLISCHEL:** Yes. We're going to -- my son  
25 and I are going to try to form a business to do the rate

1 consulting.

2 **CHAIRMAN BROWN:** I mean for this utility.

3 **MR. FLISCHEL:** For this utility I was going to  
4 continue to do rate consulting work.

5 **CHAIRMAN BROWN:** Okay.

6 **MR. FLISCHEL:** I will not prepare the tax  
7 returns or -- I don't want to do that anymore. I've had  
8 enough of that.

9 **CHAIRMAN BROWN:** It doesn't sound like fun,  
10 although I will say just because of the poor  
11 recordkeeping, it gave me some pause that it drove up  
12 the rate case expense.

13 Staff, do you have any opinion on that?

14 **MR. FRANK:** The utility had to perform an  
15 original cost study due to the poor recordkeeping, which  
16 they did not request any of that in the rate case  
17 expense, so.

18 **CHAIRMAN BROWN:** Okay. Okay. All right. Can  
19 I get a motion on Issues 15 and 16?

20 **COMMISSIONER BRISÉ:** Move staff.

21 **COMMISSIONER GRAHAM:** Second.

22 **CHAIRMAN BROWN:** Any further discussion?

23 All those in favor, say aye.

24 (Vote taken.)

25 All right. It passes. Moving on to the

1 remaining issues, 18 through 24, although I will note  
2 that Public Counsel mentioned an issue in that  
3 discussion on Issue 19 on the AFPI charge. If staff can  
4 just address that briefly.

5 Hi, Patti.

6 **MS. DANIEL:** Good morning. I'll try to be  
7 succinct, Commissioners. I'm Patti Daniel.

8 The AFPI charges include costs that were not  
9 included in rates because the costs were not considered  
10 used and useful at the time those rates were originally  
11 approved. The Bocilla AFPI charges accrued from 1992  
12 through 1995, so those AFPI charges include historical  
13 costs that the utility will never be able to recover  
14 absent those AFPI charges.

15 I agree we don't know exactly how Charlotte  
16 County calculated those charges, but this Commission has  
17 grandfathered those charges in twice, both in 1995 and  
18 in 2013. Retirements of plant and changes in used and  
19 useful calculations have no impact on the historical  
20 costs incurred by the utility.

21 **CHAIRMAN BROWN:** Thank you.

22 Commissioners, any questions on any of the  
23 Issues 18 through 24, which is the close the docket?

24 All right. I'm ready for a motion.

25 **COMMISSIONER GRAHAM:** Move staff

1 recommendations on all remaining issues. And if we need  
2 to give them the ability to make adjustments based on  
3 the earlier decisions, they have that as well.

4 **CHAIRMAN BROWN:** Okay. Is there a second?

5 **COMMISSIONER BRISÉ:** Second.

6 **CHAIRMAN BROWN:** Any further discussion?

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

8 (Vote taken.)

9 It passes.

10 Thank you. I want to thank the parties. I  
11 want to thank the customers for coming out here today.  
12 We appreciate the time that you've all spent too. Thank  
13 you. Thank you.

14 (Agenda item concluded.)

1 STATE OF FLORIDA )  
 : CERTIFICATE OF REPORTER  
 2 COUNTY OF LEON )

3  
 4 I, LINDA BOLES, CRR, RPR, Official Commission  
 Reporter, do hereby certify that the foregoing  
 5 proceeding was heard at the time and place herein  
 stated.

6  
 7 IT IS FURTHER CERTIFIED that I  
 stenographically reported the said proceedings; that the  
 same has been transcribed under my direct supervision;  
 8 and that this transcript constitutes a true  
 transcription of my notes of said proceedings.

9  
 10 I FURTHER CERTIFY that I am not a relative,  
 employee, attorney, or counsel of any of the parties,  
 nor am I a relative or employee of any of the parties'  
 11 attorney or counsel connected with the action, nor am I  
 financially interested in the action.

12 DATED THIS 16th day of May, 2017.

13  
 14  
 15  
 16 

17 LINDA BOLES, CRR, RPR  
 Official FPSC Hearings Reporter  
 Office of Commission Clerk  
 18 (850) 413-6734

Hunter, Judy <Judy.Hunter@charlottefl.com>

To

Bullert, Bruce Couture, Terri

CC

lcotherman@yahoo.com

04/09/12 at 2:03 PM

Ms. Cotherman who has been copied on this email called today asking if there are discussions taking place in re: to CCU selling bulk water to either or both of the subject utilities and/or consideration of CCU taking over either of the utilities. Apparently there were discussions along this line with EWD, but it was found to be too expensive to run a line along Placida Rd to make this happen.

Ms. Cotherman's number is 941 - 697-0871 and she would like to hear from one of you either by phone or email about this topic.

Judy Hunter, Administrative Assistant  
Charlotte County Utilities  
Engineering Services  
25550 Harbor View Road, Suite 1  
Port Charlotte, FL 33980  
Ph: 941.764.4539  
Fax: 941.764.4319  
Email: [judy.hunter@charlottefl.com](mailto:judy.hunter@charlottefl.com)  
Web: [www.charlottecountyfl.com](http://www.charlottecountyfl.com)

Parties Staff Handout  
Internal Affairs Agenda  
on 5/4/12  
Item No. 5



Couture, Terri <Terri.Couture@charlottefl.com>

To

[lcotherman@yahoo.com](mailto:lcotherman@yahoo.com)

CC

Bullert, Bruce

04/09/12 at 3:31 PM

Ms. Cotherman,

Thank you for your interest in a potential interconnect between the Charlotte County barrier islands utilities and Charlotte County Utilities. The Utilities have met off and on for the past few years and spoken of a possible interconnect, but have never actually sat down to try to draft some key terms and conditions until recently. About one month ago we received word from the attorney representing the three (3) barrier island utilities of the key elements of a connection and agreement that they would be looking for. We have reviewed this information with the County Attorney's office and it is now their job to put all of this information into a proper legal format for further negotiation and discussion between County staff and the barrier island utilities.

Right now all we have is a conceptual idea of how an interconnect might work between the parties, but we've got further to go in digging through all the details. Of course, then it would have to go before the Board of County Commissioners for final approval. That's all the information I have for the time being, but you're welcome to contact us again in the summer. Thank you.

Terri (Kesner) Couture

Utilities Director

Charlotte County Utilities

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**From:** "Couture, Terri" <[Terri.Couture@charlottefl.com](mailto:Terri.Couture@charlottefl.com)>  
**To:** Linda C <[lcotherman@yahoo.com](mailto:lcotherman@yahoo.com)>  
**Sent:** Monday, January 7, 2013 9:25 AM  
**Subject:** RE: Knight Island & Bocilla Island Utilities

Linda,

The attorney representing all 3 utilities on the barrier islands called our County Attorney's office last week to discuss the possible bulk water interconnect with Charlotte County. They are all interested in moving forward but are waiting until after the January 15<sup>th</sup> workshop with the Board of County Commissioners, when the topic of utility regulation is being discussed to see if the Board is still interested in regulating utilities in Charlotte County or wishes to turn the jurisdiction back over to the Public Service Commission. Thanks.

Terri Couture

Utilities Director

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May 4, 2017 PSC presentation  
For Palm Island Estates Association, Inc.

Bocilla Utilities, Inc. request for rate increase – Docket #160065-WU

My name is Michael Riley and I am a resident of the Island and a member of the Palm Island Estates Association, Inc. My wife and I moved to the island on a part-year basis 8 years ago. We generally spend 6-8 months in Florida and the remainder in Colorado. I am a CPA, currently licensed to practice in the state of Colorado (and formerly in Missouri and Kansas). I am also the President and part owner of a truckload transportation company with 65 over the road tractors and 200 plus semi-trailers, operating in the 8 southwestern United States. Similar to water utilities, trucking is highly regulated, so I am very familiar with regulatory agencies and rate cases. My rate case experience has always been on the company side and associated with transportation either at the state level, primarily in Colorado and California (CARB) or on a national basis (ICC and FMCSA). I must admit I am not as knowledgeable with the Florida regulations, the Staff's side, or with water utilities.

I became involved with this rate case at the request of PIE because of being a CPA and because of my regulatory experience. PIE was concerned about the proposed water rate increase and that, if granted, we would be the highest water rate in Florida, with a reduced water quality over the past few years. My presentation and comments represent a consensus of PIE members and include comments, experiences, and feelings from many of them individually as they were not able to attend this meeting.

BUI – Bocilla Utilities, Inc.  
EWD – Englewood Water District

KIU – Knight Island Utilities, Inc.  
CCU – Charlotte County Utilities

### Issue 3: ALLOCATION OF COSTS TO KNIGHT ISLAND UTILITIES

In responses to staff's 5<sup>th</sup> data request BUI stated the new water transmission system, also referred to as the Englewood Project [this is the line from the Englewood connection to the island] was sized and constructed by BUI for the BUI customer base only or 715 ERC's plus fire flow and "No pipes were upsized on either the mainland or the island to provide service to KIU". After construction was began, BUI then entered into an agreement with KIU to 'piggyback' onto this system for their water needs, approximately 400 ERC's. The current combined usage for BUI and KIU active accounts is approximately 740 ERC's, therefore the Englewood Project plant assets are at 100% of the design capacity.

Staff determined the allocation of Englewood project costs shared in this piggyback agreement should be 36% KIU and 64% BUI which is based on total ERC's of each utility - BUI at 715 and KIU at 400, or a total of 1,115 ERC's. However, it appears that Staff gave no consideration to the fact that it is currently at full capacity and at full buildout of ERC's the Englewood project transmission system would be at 170% of design capacity – both ERC's and fire flow.

Parties/Staff    Handout  
Internal Affairs/Agenda  
on 5 / 4 / 17  
Item No. 5

Based on this 'after the fact' piggyback situation, and the design capacity of the system, we feel the proper allocation should be on actual water flows during the test year, not ERC's. Staff determined in their recommendation page 22, Issue 12, Chloramine Feed System Chemicals, that "46% of the [water] flows through this system can be attributable to KIU". We therefore feel the Englewood Project costs should be allocated on Staff's calculated 46/54% ratio.

OPC determined the allocation factor should be on actual water purchases, which calculate to a 40% KIU and 60% BUI and are requesting this allocation factor be used.

Another allocation factor argument is that Staff's recommendation does not take into consideration the minimum guaranteed revenues derived by BUI under their initial 30 year piggyback agreement. This minimum guaranteed revenue from KIU is \$1,650,000, which is in excess of 225% of the total cost of the Englewood Project assets that are being shared. The total cost of the Englewood Project is approximately \$733,000 per Staff Recommendation, issue 3, page 9, Table 3-2. The BUI/KIU agreement is for plant use only, nothing else. These contract revenues were treated by BUI and allowed by Staff as 'below the line' revenues not subject to PSC rate making.

Next, based on Staff's recommended allocation BUI customers will pay for 66% of the Englewood Project costs in the rate base.

Bottom line – Under Staff's recommendations, **BUI will be allowed to recoup almost 300% of the cost of the new Englewood Project**, which is inappropriate and unfair to the consumers who are currently paying one of the highest rates in the state.

Staff's recommendation likewise did not consider the sharing of nearly 2 miles of the on-island distribution system from the ferry crossing to the KIU interconnect. [See map]. As stated by BUI, "no pipes were upsized on either the mainland or the island to provide service to KIU", so this section of the BUI distribution system should now also be considered at or above design capacity. The cost of this portion of plant assets should be isolated in the plant asset records and allocated between KIU and BUI based on water flows or 46% KIU and 54% BUI.

We and OPC both feel our allocation factors should be used on the operator's salary, benefits, and common expenses used by the operator. It should also include a higher allocation to the common plant accounts for shared plant assets, the golf cart, if allowed, workers compensation, the pro forma chloramine testing and chemicals, purchased power, barge transportation for the operator, and engineering services performed on the shared plant assets or related to water quality.

Another significant argument, not considered by Staff, is in the form of why BUI chose to connect with Englewood Water District. A business decision made by BUI in 2012/2013, after EWD refused to install the Placida Road line to Panama Drive (the Englewood Project) because it was too expensive to build. [Reference emails from EWD to BUI/KIU and Little Gasparilla Water]. Please remember, Charlotte County [Water] Utilities already had a main line on Placida

Road at the junction of Panama Drive, a distance of 200 yards to the Intra-Coastal waterway [see map]. It seems from the emails, that BUI was concerned about who was going to regulate them because it mentions the Charlotte County Commissioners workshop of January 15, 2013. Eventually BUI decided to build the line along Placida Road under Buck Creek to Panama Drive on its own, without any cost sharing or help from KIU. We can only assume that they were confident that the PSC would allow them to fully recoup the Englewood Project costs in rate making.

We question the validity of BUI's prudent (?) business decision that was 'too expensive' for another larger utility to attempt, and remember, that larger utility was negotiating with 3 utilities (BUI, KIU, Little Gasparilla Water) and the revenues from their 3 respective ERC's or water flows to cover or offset the cost.

Recommendation: We request that 66% of the cost of this transmission line be removed from the rate base as inappropriate and poor management on the part of BUI ownership. Our 66% is based on the "too expensive to build" statement by EWD when dealing with 3 equivalent sized water utilities to help offset the building cost. Remember, BUI made the decision and designed the pipeline for BUI service capacity only.

**Issues 12 and 13: SALARIES AND WAGES** – All too high. Staff made minor adjustments to all salary and wage areas and Directors fees, but not deep enough.

When asked by Staff for documentation of hours and work load, BUI stated that the officer and the certified operator were salaried employees and therefore no written time management records are maintained – and in lieu of time records, BUI offered a general job description. In that job description the officer claims to work 160-200 hours per month (40-50 hours per week) – 20% in the field and 80% administratively. As residents, we rarely, if ever see the officer in the field working. Personally, I have seen him once in 8 years and that was in January 2017 where he was watching the certified operator work on the pump station on Panama Dr. As for the 80% administrative work, the office is rarely open, the office phones are rarely answered in person, but mostly answered with a recording requesting the caller to leave a message. Much of the time the message box is full, so you cannot leave a message and if you do, it is generally not answered or the call is not returned. It took me over 4 months and 5 phone calls to get my billing put onto the BUI automatic debit billing from my bank account.

In addition to the officer's administrative duties and the current 16 hours per week in administrative staff, BUI is also asking for an additional 8 hour per week of administrative office staff at \$10,000 annually and \$4,200 in additional CPA expenses for monthly accounting.

As for time records for hourly employees, all that was furnished was a few time sheets with start and finish times, but no or only a very limited descriptions of work completed or accomplished. As residents we feel the total hours worked by employees and sub-contractors is significantly overstated and undocumented. As a business owner and CPA, you have to know

the whereabouts and productivity of all your employees to properly and efficiently operate your business.

Example: Recently the officer and the salaried certified operator, were observed working several days repairing and resurfacing the officer's personal dock - during normal work hours. The certified operator has also been observed numerous times on the barge trailering the officer's smaller boat on and off the island, or using the company truck hauling lawn trash off the island in a trailer.

Example: Meter change outs – BUI claims it takes 4 hours per meter @ \$20 per hour to change out the meter. My meter exchange was just done the week before last and is a prime example. 2 people (current meter readers – a husband and wife). It took them 1 hour and 15 minutes to complete a change out of 2 meters, mine and my neighbors, in same meter box, including new shut off valves on the customer side, backflow preventers, etc. This was start to finish, digging to clean up and leave. Our water service was off for approximately 40 minutes.

Recommendation: As residents of a small island, someone generally always sees when and where BUI is working, flushing, etc. and from our discussions we cannot justify the claimed work hours or schedule. BUI is now a re-seller of bulk processed water and no longer operates a water plant, yet is asking for more labor hours, management time, sub-contract work, and professional engineering work than when they operated the on-island water plant.

BUI claims it is because of the formation of nitrates and bio-film at some residences. Per DEP testing, these issues do not exist in the bulk water received at the Englewood water connection, so they must be created in the BUI distribution system. If they exist now, they had to exist when BUI was operating the water plant. This brings us to question the safety of our tap water.

We feel Salaries should be reduced to reflect a more efficient, typical business environment and not an undocumented, unsupported, inefficient operation with personal use of business employees and assets.

Additionally, we feel that you, the Commissions, should require BUI to immediately start maintaining complete time management recording of hours worked and duties completed, including salaried employees. Most importantly to have these records available to support total wages, hours worked, salary levels, and personnel needs for any future rate cases.

#### **Issue 14: RELATED PARTY TRANSACTIONS AND BARGE/FERRY CHARGES:**

After many requests, and not answers from BUI, Staff finally forced the issue of related party transactions. According to the Florida Secretary of State records, the officer, Mr. Noden, also current owns and operates Islander Management Group, LLC and one other corporate entity, each listing BUI's off island office address as their address. As stated by one of its directors, Mr. Ray Fleschel, in the Staff conference call of a month or so ago, Islander Management Group, LLC owns the officer's large sailboat and has a cell phone agreement and a commercial barging pass

with reduced barge rates, nothing else. All barging charges and phone charges paid by BUI were billed monthly from this related party. According to the Mr. Fleschel, this related party company was billing BUI only those barge trips that were related to BUI business activities. When asked for supporting Palm Island Transit barge tickets issued by the ferry mates on each trip, BUI refused to furnish these details. Instead they entered into a new comparable commercial barge agreement with Palm Island Transit under the name of BUI at a minimum annual cost of more than \$11,000, and a minimum of 50 trips per month – many more trips than we feel are necessary to operate BUI.

**Recommendation:** As residents we challenge, that for this rate case, none of the barging should be allowed as BUI refuses to support it with proper 3<sup>rd</sup> party documentation, and only justifies it with a related party billing. They have furnished the Palm Island Transit monthly billings, but it has no detail for all the trips. Only the unsupplied barge tickets will have the detail.

A more prudent ferry procedure is to have employees walk onto the ferry (\$7 per trip) and, once on island, use the older on-island truck or the golf cart, instead of driving onto the Island with their vehicles (cost \$20 per trip). Or a more prudent business solution would be to purchase a year round golf cart pass (annual cost \$900) and use it for most trips on and off the island, saving thousands of dollars. We do understand that large materials occasionally have to be brought over which would require a vehicle barge pass. Tools, employees, small parts, etc. could all be ferried across with the golf cart. This practice is currently being used by Witter Construction and Southern Design – both are ‘non-regulated’, ‘for profit’ companies that have to be prudent and control their costs instead of relying on the regulatory environment where you merely request a rate increase to offset this type of non-prudent expenses.

With the new expensive commercial Palm Island Transit barge agreement, it should also be stated that none of Mr. Noden’s personal vehicles have any type of reduced rate barge pass (an annual or a punch pass, both of which require a sticker on the vehicle’s window). Since Mr. Noden’s residence is on island and his office is off island we have to assume that Mr. Noden chooses to pay full retail of \$56 per ferry trip to go on/off the island for commuting or personal trips, or charge it to BUI or his other related party company. We feel it is appropriate for BUI consumers to only pay for documented, justified, business use only, not personal use or personal commuting to or from the office (IRS regulations do not allow any business deduction related to commuting).

**Recommendation:** We feel that the Commission should direct BUI to maintain all original Palm Island Transit barge tickets as documented by the ferry mates, plus, on each barge ticket, include the time of the trip and if not already on the barge ticket, the vehicle, the person(s) traveling, and the business purpose. Lack of adequate 3<sup>rd</sup> party support and/or documentation of expenses by BUI in the rate case has been a huge issue to PIE and its members. For rate making purposes, we only ask for transparency and documentation to ensure a proper BUI business purpose and use. How BUI handles it for internal reporting or IRS is solely their decision.

## **Issue 15: RATE CASE EXPENSES**

Mr. Ray Fleschel's billing from Englewood Management LLC. First, the Commission should be aware that Englewood Management, LLC is not registered with the Secretary of State's Department of Corporations, but is freely operating in Florida. Second, Mr. Fleschel is a retired CPA, who retired his license in December 2014. Third, he is a Director for BUI and has been in charge of the BUI records since its inception. Mr. Fleschel's billing for this rate case is in excess of \$63,000+ and was reduced by Staff to \$56,000+. His original professional estimate was \$30,000, however BUI was unable to provide any records prior to 2007 as they were not maintained or available, and Staff had to make numerous corrections to the books and records where they were not in conformity with normal IRS capitalizing rules or the Commissions accounting regulations. BUI could not produce records to support the total plant value used in the MFR's. In as such, BUI commissioned an "original cost study" to support it, but it was proven to be inaccurate and incorrect, so staff accepted the unsupported values supplied by BUI in the MFR's. As a former CPA, Mr. Fleschel has failed to follow standard record retention rules and accounting regulations. His billing reflects an inability in many cases to timely and efficiently supply supporting documentation, creating additional billing time or his time requirement to break out expenses not properly accounted for in the books and records. Accordingly, we feel Mr. Fleschel's billing for rate case expenses should be reduced to his original professional estimate of \$30,000.

All of the rate case expenses have increased over their estimates, but only because concerned residents of the island have asked or pushed Staff to question inappropriate or incorrect responses, related party transactions, reimbursements of personal use of vehicles, bargaining costs, plant cost documentation, labor costs, salary levels and responsibilities, agreements with KIU, etc. For a small utility, Staff was forced to do 5 separate requests for data and still did not get all the answers.

**Recommendation:** Based on this we feel the overall rate case expenses should be reduced by 25% for BUI's failure to properly disclose much of the information in the original MFR's and annual reports, many of the items we are discussing today.

### **CONCLUSION:**

In conclusion, PIE and its member's request that this rate increase request be denied or at least adjusted to our recommendations. Our justification is primarily that we do not have an acceptable level of water quality to support any rate increase. We also believe that BUI needs to (1) implement time management recording to adequately support labor productivity, hours worked, wage and salaries levels, (2) improve documentation for ferry passes and other business expenses to support the business use and purpose. Basically, since BUI is now a PSC regulated utility, we feel there needs to be more accountability and transparency in all areas of concern including allowing Charlotte County Fire District to regularly test fire hydrant water pressures throughout the island to ensure compliance with their requirements and hopefully avoid a potential loss of life in the future.





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April 19, 2017

Parties/Staff Handout  
Internal Affairs/Agenda  
on 5/4/17  
Item No. 5

Florida Public Service Commission  
2540 Shumard Oak Blvd.  
Tallahassee, FL 32399

Re: Docket No. 160065-WU-Application for Increase in Water Rates  
in Charlotte County by Bocilla Utilities, Inc.

Dear Commissioners:

This letter is on behalf of Palm Island Estates Association, Inc. (PIE), regarding Bocilla Utilities, Inc.'s (BUI) application to increase the rates it charges its customers for water. The rate increase would give BUI the third highest water rate in the State of Florida. It would also result in BUI customers paying a premium price for water and customer service that is of an unsatisfactory quality and well below industry standards. Until quality and service issues are corrected, BUI should be denied any increase, and it should be monitored to ensure that customers are getting what they pay for, especially given that BUI's current rate is already 300% higher than the state average.

BUI provided acceptable quality water from its facility prior to making the decision to build a pipeline, so that it could purchase water from Englewood Water District (although the lack of water pressure has been a consistent issue<sup>1</sup>). Since building the pipeline, the water pumped in from Englewood Water District is of an unacceptable quality, *i.e.*, discolored (orange/brown) and odorous.

BUI seeks to increase the rates it charges customers to offset the cost of the pipeline. This business decision was made without any actual advantage to or consideration of the consumer customer and resulted in a substantial decline in water quality. After BUI applied for a rate increase it sent out a letter attempting to justify building the pipeline, and the corresponding rate increase, on grounds that a storm in 1982 (35 years ago) knocked out water for two years, and BUI wants its customers to have a dependable *and clean* water supply. (*See Attachment A*). But, surely technology and construction has developed and improved substantially in the last 35 years. The letter acknowledges that the treatment plant and storage tank withstood a near direct hit from category 4 hurricane, Charlie, which made landfall 20 miles away in 2004. BUI's assertion that an untested pipeline would hold up better than the hurricane tested plant is nothing more than unsupported speculation.

<sup>1</sup> It should be noted that BUI has refused to allow the Charlotte County Fire Department to test the water pressure to confirm compliance with local ordinances. (*See Attachment B*).

The only parties to *actually* benefit from the pipeline (given the decline in water quality) are BUI and Knight Island Utilities (KIU), who can now utilize the pipeline to allow BUI to pump water from Englewood Water District to provide to KIU. BUI charges KIU for each gallon of water pumped through the pipeline to KIU<sup>2</sup>. The revenues from BUI's contract with KIU are sufficient to cover the entire cost of the requested rate increase, *i.e.* 150%<sup>3</sup> of the entire cost for constructing the Zone 9 assets (*i.e.* the pipeline). But, by creative accounting, BUI seeks to charge its customers an increased rate to offset the cost of the pipeline that makes the KIU contract possible, thereby allowing BUI to reap a higher benefit from the KIU contract, without regard to the decline in water quality suffered by consumers.

BUI's customer service is also unsatisfactory and below industry standards. In assessing the quality of service, the March 23, 2017 Staff Recommendation (the Recommendation) considered the complaints to BUI and BUI's attempts to address the complaints. According to the Recommendation, BUI reported to the PSC that it had *one complaint in the last five years*. It is absurd to take such a claim at face value, especially when considering the records produced by the facility have been, at best, limited. Given BUI's record keeping, it is appropriate to infer that many customer complaints were not recorded, or were simply disregarded, deleted, or ignored.

A recent sample inquiry to BUI customers provides support for this inference. Since the switch to water piped in from Englewood Water District, one customer, George Geiger, has written that he repeatedly complained about brown water, brown ice cubes, brown stains in sinks and commodes caused by the brown water, clogged filters, and sulfurous odors. (*See Attachment C – includes photographs*). He has "contacted [BUI] or talked to John [BUI's field technician] at least ten times." Mr. Geiger's complaints remain unresolved. He and his wife have given up drinking or cooking with the BUI water and only use it for showers, landscaping, and laundry. "For all other uses [they] have been forced to buy bottled water."

Another customer, Donald Milroy, Esq., wrote that he took three trips away from his home in 2015, and upon returning home from each trip, found all six of the commodes in his home were stained with dirty brown water and also found brown ice in the ice maker. (*See Attachment D – includes photographs*). The water from the faucet smelled "so horrendous that it drove [him] from the room." Mr. Milroy left numerous complaints at the BUI office, but never received a reply. He also left a voicemail (no call-back), and tried to leave a follow-up voicemail on a separate occasion but the mailbox was full. As a result of the brown discoloration, Mr. Milroy had to install a whole house filter and spends roughly \$540 annually in filter costs.

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<sup>2</sup> KIU also pays Englewood Water Management District for each gallon that it receives via the subaqueous pipeline.

<sup>3</sup> Pursuant to the contract, KIU pays BUI \$2.52 per thousand gallons that is pumped through the BUI pipeline for use by KIU, for 21 million minimum gallons per year. At a minimum, BUI receives annual payment of \$52,920 (with an escalator clause). During the initial 30 year term this extrapolates to \$1,587,600 (without the price escalator) as a total minimum payment. This represents 150% of the entire cost of Zone 9 plant assets.

Another customer, James Wade, who spoke at the meeting with the PSC about the dramatic change in water quality over the past few years, also made several complaints. (See Attachment E). When the problems started after the switch, Mr. Wade called BUI and left messages, but his calls were never returned, and he “gave up.” Mr. Wade pays an additional \$300 dollars every three months in filter costs just to have “drinkable water.”

BUI customers, Marie and Ray Smith, emailed BUI several times back in 2016 about yellowish water that was staining clothes and commodes, but never heard anything back. (See Attachment F). Another couple of customers, Sharon and Ed Porro, experienced water heaters full of sand and occasionally algae. (See Attachment G – includes photographs). The Porros called BUI at least three times to complain about the water quality, and an email was also sent to the company web site. The issues have not been addressed.

This lack of service from BUI is only exacerbated by its “very limited office hours.” According to BUI’s Website:

“As we are a small privately owned, publicly regulated utility, we have very limited office hours. It is best to drop us an email at [office@bocillautilities.com](mailto:office@bocillautilities.com) or give us a call at 941-769-0561, with your customer service needs.”

No actual office hours are provided on the Website. Customers who would like to speak to someone in person are left to guess at when the office might be open. Likewise, the actual office provides no office hours. (See Attachment H).

In sum, the customer service provided by BUI is ineffective and grossly inadequate, and does not support the rate currently charged by BUI, let alone the rate BUI is seeking. It is clear that the Recommendation conclusion that there was only one complaint in the last five years and that BUI addressed complaints in a timely manner is based on insufficient and erroneous data provided by BUI, and must be revisited to account for the customer complaints that show otherwise. PIE recommends surveying BUI customers.

The Recommendation also notes that BUI installed a chloramine injection system on March 20, 2017, to address color and odor issues. However, the customers have confirmed that the water provided is still brown. The results of the installation should be verified prior to any conclusion that the odor and discoloration issues are sufficiently or adequately addressed. As it stands now, BUI customers who want clear, odor free drinking water can either expend significant resources on a whole house filter (sometimes to no avail as in the case of the Geigers), or they can buy bottled water.

This lack of customer service leads to serious skepticism regarding the estimated work hours submitted by BUI, which has not furnished adequate documentation to justify or back-up its employment expenses. Additionally, Mr. Craig Noden claims, without supporting documentation, to work 160-200 hours per month: 20% in the field and 80% administratively. If Mr. Noden spends

80% of his "average" 180 hour month (144 hours) doing administrative functions, why are the office hours so limited that they are not even posted, and why do BUI customers not receive call-backs or responses to their complaints, and how is it possible for BUI, who allegedly only gets one complaint in a five year period, to have a voicemail box that is at capacity and cannot receive any additional messages?

BUI also requests a significant amount of barging expense, which they initially justified by submission of a bill from a related party. BUI did not produce all of the invoices from the Barge Company to the third party when requested, but instead switched gears and opened a new commercial account with Palm Island Transit costing at least \$11,000 per year and claims this as evidence to support the barge expense. But insufficient documentation has been provided justifying this expense and the individual barge tickets indicating the passenger name, vehicle, date, and time have not been supplied. BUI has the burden of proving its expenses with records and should not be permitted to hide the ball. It should either provide adequate documentation of the barge expense or the expense should be disallowed.

As previously indicated by the PIE letter dated March 2, 2017, BUI's rate case expenses are inflated due to deficient record keeping and accounting and should be reduced to a reasonable amount, as contemplated by the statutory scheme.

The quality of service and water that BUI provides is not satisfactory and is well below industry standards. The water is brown and odorous, office hours are not posted, phone calls are not answered, voicemails do not result in call-backs, and quality issues are not addressed. The requested rate increase would unreasonably and unjustifiably give BUI the third highest water rate in the State of Florida. The PSC is charged with regulating and fixing rates that are just, reasonable, compensatory and fair, and must consider the value and quality of the service. Its goals include the "provision of safe utility services at levels of quality and reliability that comply with established industry standards and practices." For a customer to be forced to pay such a premium rate for the subpar service and product that is being provided by BUI is not compensatory, just, fair or reasonable. BUI should be precluded from being awarded *any* rate increase until it can address these problems. Simply promising to fix the problems is not enough.

Sincerely,

BROAD AND CASSEL LLP



John F. Loar, Esq.

JFL:sf

Cc: Palm Island Estates Association, Inc.

Islander Properties is the largest rental company on Palm Island and we can help you with the perfect vacation rental or buying your dream home.

**2015 President-Englewood Area Board of Realtors**

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**From:** Bob Madden [<mailto:bobmadden@islanderproperties.com>]

**Sent:** Friday, September 23, 2016 2:04 PM

**To:** [robinmadden@islanderproperties.com](mailto:robinmadden@islanderproperties.com)

**Subject:** FW: Bocilla Utilities Rate Increase

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**From:** Bocilla Utilities Business Office [<mailto:office@bocillautilities.com>]

**Sent:** Friday, September 23, 2016 1:44 PM

**To:** [bobmadden@islanderproperties.com](mailto:bobmadden@islanderproperties.com)

**Subject:** Bocilla Utilities Rate Increase

Dear Islander,

Recently you have received mailings regarding Bocilla Utilities filing for a rate increase.

**Reason for the Increase**

The primary reason for this increase is to help ensure a safe and dependable water supply in the event of a hurricane or other natural disaster. Other than minor cost of living adjustments, this is our first request for a rate increase in **28 years**.

**Why Now?**

- For many years, wells provided water to island residents until the "No Name Storm" of 1982. Salt water intruded into many of the water wells and ruined them.
- Because of this storm, many island residents were stranded with **no fresh water** and received it by barge or boat for 2 years!
- During this time, we worked to permit and build a water treatment plant that served all of us without incident or rate increase for nearly 3 decades.
- When Hurricane Charley hit in 2004 (just 20 miles south), we realized our treatment plant and storage tank could have been destroyed, stranding us without fresh water, again!
- At that time, we began long-range planning for dependable water supply from the mainland.

**Safe Water Costs Money**

Bocilla Utilities secured a 1-million-dollar loan to pay for the permitting and directional drilling of 10,000 feet of pipe, 2 subaqueous crossings of Buck Creek/Intracoastal Waterway, plus a pumping station on Panama Boulevard.

Attachment A, page 1 of 2

Numerous engineers, accountants, attorneys, meetings, permitting approvals, leases, long-term agreements, construction contracts, bank loans, and construction projects have connected Bocilla Utilities to the Englewood Water District to provide a reliable long term source of drinking water.

**How Much?**

We know that the increase may seem like a surprise – and a 40 percent increase all at once seems steep.

This increase will add **\$18.22** to your monthly base charge (less than one trip on the Palm Island Ferry) and **\$1.82** per thousand for the first 6000 gallons.

**Our Goal**

It's simple: **Safe, clean and dependable water** for the residents of Don Pedro-Knight/Palm Islands now and in our future.



22429 Edgewater Drive  
Punta Gorda, Florida 33980 - 2016  
(813) 743-1367

November 15, 1994

Ms. Linda B. Cotherman  
P.O. Box 5063  
Grove City, FL 34224

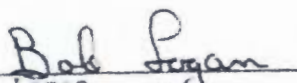
Dear Ms. Cotherman:

In response to your letter concerning Bocilla Utilities and Fire Flows, let me offer the following information:

1. County Ordinance 91-52 with an effective date of October 4, 1991 was in effect in November, 1991.
2. Copies are enclosed of the ordinance in question.
3. The same requirements are still in effect.
4. To the best of my knowledge the flows from the hydrants on the Bocilla Utilities System flow about 200 GPM. This data was relayed to us from the utilities since we were requested verbally not to flow test their hydrants.
5. Without actually flow testing a hydrant on the Bocilla System, we do not know if the system complies or not.

I hope this information will be of benefit to you. Please fill free to call if we can be of further assistance.

Sincerely,

  
Bob Logan  
Assistant Fire Director

Attachment B

**From:** George Geiger <[georgegeiger@mac.com](mailto:georgegeiger@mac.com)>  
**Date:** April 6, 2017 at 9:30:24 AM EDT  
**To:** [sadenwater150@comcast.net](mailto:sadenwater150@comcast.net)  
**Subject:** Bocilla Utilities Water Problems

Dick,

Regarding your request for a written summary of our problems with the water supplied by Bocilla Utility, here is what we've been experiencing:

Since Bocilla Water switched to water provided by the Englewood Water District the water quality has been terrible. It's tinted orange, loaded with sediment and quickly stains our toilets, sinks and anything where it stands. It fouls the pipes in our house and quickly loads up our filters. My 5 micron whole house filter system cannot remove all the sediment. After changing filters, a new filter is colored a dark orange the instant I turn on the water. I change filters once a month, but could and probably should do it far more frequently.

We've been repeatedly reporting this problem (I'm estimating) for two years since the switch. Englewood Water District will not deal with the problem directly, but refers us to Bocilla Utility. They in turn refer us to their field technician who is named John. We don't know his last name, but his mobile number is (941) 201-1084. We have contacted Bocilla or talked to John at least ten times.

Because Bocilla Utilities offer no other remedy but to speak with John I've gotten into the habit of calling him directly. John is well aware of the problem, but his only remedy is to open the hydrants to "flush the pipes". This has marginal and only temporary results. Within a day or so the water returns to being laden with sediment.

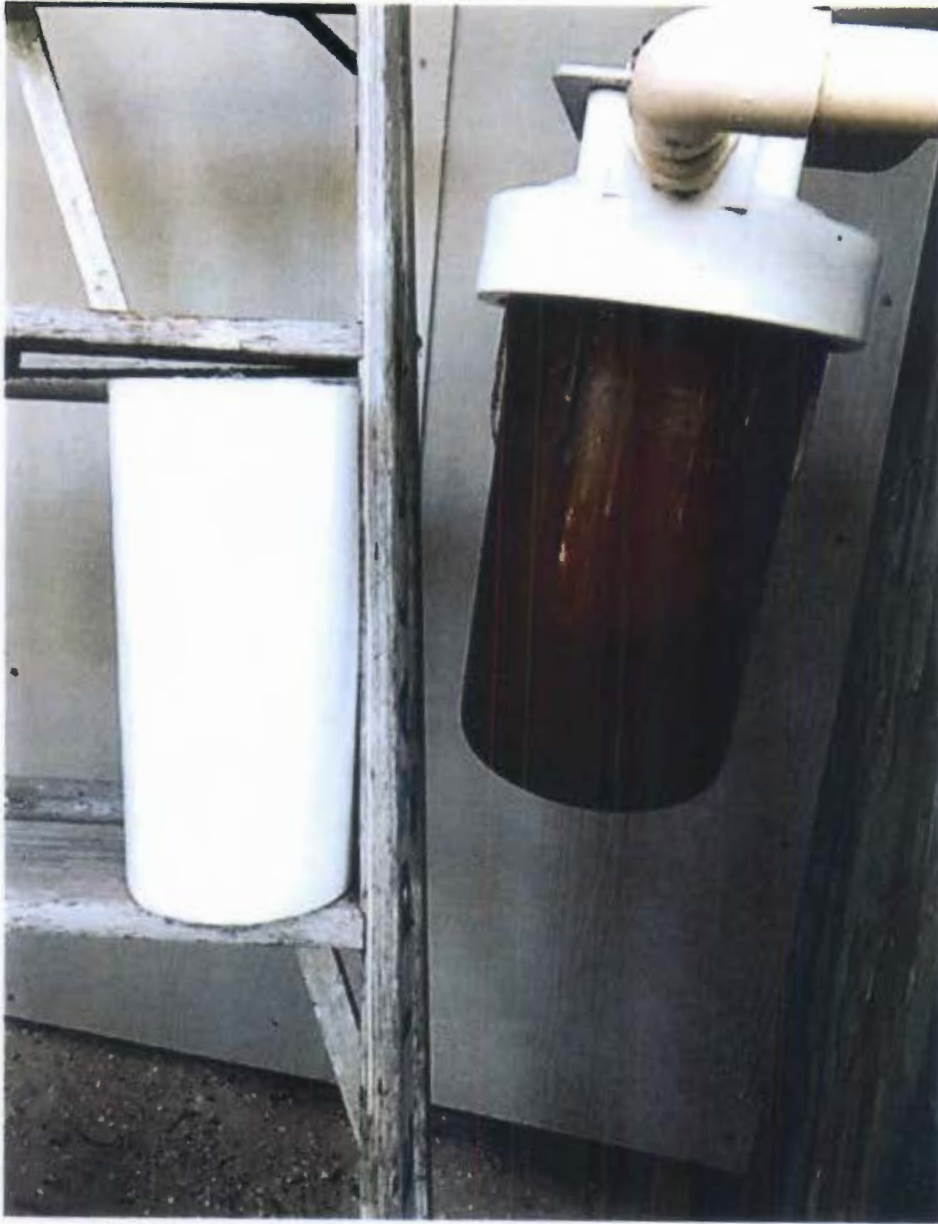
This orange goo coats the surfaces of pipes, faucets, toilets and our ice maker with a slimy mess. It frequently also has a sulfurous odor. In short, it is so unappetizing we have given up drinking or cooking with the water and use it only for showers, landscaping and laundry. For all other uses we have been forced to buy bottled water.

I consider this water unacceptable for potable use. The PUC should consider not only restricting rate hikes but requiring Bocilla Utilities and its partner, the Englewood Water District, to improve the water quality immediately.

Thank you for pursuing this matter for all of us being served (badly and expensively) by Bocilla Utilities.

George and Lorraine Geiger





Donald Milroy & Kim Peacock  
480 S Gulf Blvd  
Placida, FL 33946  
817-371-3044

April 4, 2017

To Whom It May Concern,

I have been asked to document the events that caused my wife and I to invest in a "whole-house" filtration system in October 2015.

During the summer of 2015 we had taken three trips that took us away from home for four to five weeks at a time. Upon returning home from each of these trips we found dirty brown water and stains in all of our 6 commodes (photo attached) and brown ice in our ice maker (photo attached). In addition, when we turned on the faucets the smell was so horrendous that it drove us from the room. We had to run the faucets for up to 10 minutes before the smell would dissipate.

On October 15, 2015, we paid \$664.00 for the filtration system. However, to our chagrin when we returned from our next trip the buildup of sediment in the filter caused the water pressure to drop to a trickle. For the next six months I had to change the filter every month at a cost of almost \$40 per cartridge, even though the manufacturer recommended changing the filter every six months.

During this timeframe I left numerous notes for John (Bocilla Utilities) at the office near the tennis court, but never received a reply. I did run into John on two occasions while he was working on the water system and told him of my situation. He told me that they were trying to flush the system and that it should improve. I left one message on the Bocilla Utilities voice mail, but never received a reply. On another occasion the mailbox was full.

If I can provide additional information, please don't hesitate to contact me.

Sincerely,

Donald Milroy, Esq.





Donald Milroy & Kim Peacock  
480 S Gulf Blvd  
Placida, FL 33946  
817-371-3044

April 5, 2017

To Whom It May Concern,

This is a follow-up to my letter of yesterday.

Today, April 5<sup>th</sup>, my wife Kim and I returned to our don Pedro Island home having spent the last three weeks in Texas. We found that we had virtually zero water pressure. Toilets would not refill and there was barely a drip from the faucets. I suspected that once again we had a clogged "whole-house" filter. I changed the filter and we had full water pressure. However it ran rusty brown for about 5 minutes.

Attached is a photo of the last six filters that I have had to change on a monthly basis. Each filter costs \$44.97 at Home Depot and as you can see in the photo they are all filled with a dark sediment.

This expense adds \$540 annually to my water costs.

Sincerely,

Donald Milroy, Esq.

From: Don Milroy  
Subject: Use this one instead  
Date: Today at 4:43 PM  
To: Dick & Kathy Sadenwater

Dick,

My editor (Kim) found a few corrections, so please use this one.

Don



**TO WHOM IT MAY CONCERN:**

**At the island meeting with the county, I spoke about the dramatic change in water quality that we have experienced over the past few years.**

**I have both an RO filter for drinking water and a double (paper and carbon) whole house filter. When our toilets started turning brown two or three days after cleaning we went to the double whole house which now gives us 5 to 7 days before toilets turn brown.**

**The cost of filter changes is significant. The RO filters are \$106 for the set and the whole house filters are \$100, plus installation of both sets which has been \$95. That's over \$300 just to have clean, drinkable water and be able to clean toilets less frequently.**

**Before Bocilla water reversed the flow and began getting its water from Englewood, filters lasted 9 to 12 months. I now have the \$300 expense every 3 months.**

**When we began having problems I called Bocilla water and left messages, but never spoke to a real person, nor were my calls returned. I gave up. I have spoken to John on several occasions when he came out to flush the lines. While flushing improves the situation temporarily, it has not solved it.**

**James W. Wade  
8405 Anthony Drive  
Placida, Florida**

**John Loar**

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**From:** Linda C <lcotherman@yahoo.com>  
**Sent:** Thursday, April 6, 2017 12:33 PM  
**To:** John Loar  
**Subject:** Fwd: water

Sent from my iPad

Begin forwarded message:

**From:** Ray Smith <[smith460@hotmail.com](mailto:smith460@hotmail.com)>  
**Date:** April 6, 2017 at 12:23:08 PM EDT  
**To:** Linda Cotherman <[lcotherman@yahoo.com](mailto:lcotherman@yahoo.com)>  
**Subject:** water

Linda, to the best of my 'old' memory, I e-mailed Bocilla water around the time the water was yellowish and was staining clothes and TBowls, maybe around 10/16?.

Never heard back...

Ray has a lot of archived PIE communications and he will go through them today.

Good Luck!

Marie

Attachment F



**John Loar**

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**From:** [ep271@comcast.net](mailto:ep271@comcast.net)

**Sent:** Wednesday, April 05, 2017 9:31 AM

**To:** [smpmco@comcast.net](mailto:smpmco@comcast.net)

**Subject:** Re: Water help

In reply to your email, I have called John and/or the Bocilla Water Company, office phone with water quality complaints at least on three occasions. I sent an email to Craig at the company web site. That message was returned by a woman I did not know. I have contacted the DEP at least three times with water issues. They were no help at all. It might be helpful to see if DEP keeps records of how many complaints have been made. The problems I have experienced has been water heaters full of sand. I put a house water filter system in place and it fills with sand and on occasion algae. I am attaching some photographs of the filter.







**Commission's Non-rule Policy on Determining the Used and Useful Percentage for Transmission and Distribution Systems or Wastewater Collection Systems**

For systems with large residential or general service customers, the ERC<sup>1</sup> formula should be used to determine the used and useful percentage for lines. For systems with only residential customers with small meters, a lot to lot analysis should be used. A growth allowance is added pursuant to the Section 367.081(2), F.S.

Exceptions to applying the Lot/ERC count formula:

1. The lines were considered 100% used and useful in the last case and no material changes have occurred.
2. The lines are fully contributed.
3. The lines should be considered 100% U&U if the service area is built out. Minimal growth of 1 percent or less per year for five years can be an indicator that the system is built out.
4. A system should be considered 100 percent U&U if the calculated U&U percentage including growth is 95 percent or greater.
5. A system that is fully developed as planned should be considered 100 percent used and useful, even if the calculated U&U percentage is less than 100 percent. The criteria for determining when a system is fully developed include negative or minimal growth over the past five years, few vacant lots, and small (2") lines throughout the service area.

Cases where the Commission's policy on determining the used and useful were addressed in a fully litigated proceeding:

Order No. PSC-12-0102-FOF-WS, issued March 5, 2012 in Docket NO. 100330-WS, pages 74-78, In re: Application for increase in water/wastewater rates in Alachua, Brevard, DeSoto, Hardee, Highlands, Lake, Lee, Marion, Orange, Palm Beach, Pasco, Polk, Putnam, Seminole, Sumter, Volusia, and Washington Counties by Aqua Utilities Florida, Inc.

Order No. PSC-09-0385-FOF-WS, issued May 29, 2009, in Docket No. 080121-WS, pages 43-50, In re: Application for increase in water and wastewater rates in Alachua, Brevard, DeSoto, Highlands, Lake, Lee, Marion, Orange, Palm Beach, Pasco, Polk, Putnam, Seminole, Sumter, Volusia, and Washington Counties by Aqua Utilities Florida, Inc.

Other similar recent PAA case:

Order No. PSC-14-0626-PAA-WU, issued October 29, 2014, in Docket No. 130265-WU, page 6, In re: Application for staff-assisted rate case in Charlotte County by Little Gasparilla Water Utility, Inc.

<sup>1</sup> Equivalent Residential Connection

Parties/Staff Handout  
Internal Affairs/Agenda  
on 5/4/17  
Item No. 5

### Transmission and Distribution (T&D) Plant Used and Useful

Current residential customers	400
Estimated System Growth 5% (Not provided by Utility)	20
ERCs available to serve	715
Used and Useful Percentage	58.7%

Staff Recommended T&D Plant	T&D Plant	Non-UU %	Non-U&U Rate Base	Non-U&U Depr Exp.
T&D Plant	\$994,345			
Accumulated Depreciation	<u>(\$236,215)</u>			
Net	\$758,130	41.26%	(\$312,795)	
Depreciation Expense	\$23,124	41.26%		(\$9,541)

**DON PEDRO-KNIGHT-PALM ISLAND**  
**ISLANDER PROPERTIES, INC.**  
7025-A PLACIDA ROAD  
ENGLEWOOD, FLORIDA 34224  
941-697-2000

Connect to EWD

Charles County Utilities

Bocilla Utilities Office

ISLANDER (MAINLAND) OFFICE

ISLANDER (COLONY) OFFICE

KNIGHT ISLAND UTILITIES



Parties Staff Handout  
Internal Affairs/Agenda  
on 5/4/17  
Item No. 5

per CC GIS 5-4-2017