

1 BEFORE THE  
2 FLORIDA PUBLIC SERVICE COMMISSION

3 In the Matter of :

: DOCKET NO. 920199-WS

4 Application for rate increase in Brevard:  
5 Charlotte/Lee, Citrus, Clay, Duval, :  
6 Highlands, Lake, Marion, Martin, Nassau, :  
7 Orange, Osceola, Pasco, Putnam, Seminole:  
8 Volusia, and Washington Counties by :  
9 SOUTHERN STATES UTILITIES, INC.; Collier:  
County by MARCO SHORES UTILITIES :  
(Deltona); Hernando County by SPRING :  
HILL UTILITIES (Deltona); and Volusia :  
County by DELTONA LAKES UTILITIES :  
(Deltona) :

10  
11 SECOND DAY - AFTERNOON SESSION

12 VOLUME V

13 Pages 636 through 829

14 PROCEEDINGS:

FINAL HEARING

15 BEFORE:

CHAIRMAN THOMAS M. BEARD  
COMMISSIONER BETTY EASLEY  
COMMISSIONER SUSAN F. CLARK

16 **RECEIVED**

17 DATE: *Division of Records & Reporting* Monday, November 9, 1992

18 TIME: NOV 12 1992 Commenced at 9:30 a.m.

19 PLACE: *Florida Public Service Commission* FPSC, Hearing Room 106  
20 101 East Gaines Street  
Tallahassee, Florida 32399

21 REPORTED BY:

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LISA GIROD JONES, RPR, CM

24 APPEARANCES:

25 (As heretofore noted.)

FLORIDA PUBLIC SERVICE COMMISSION

DOCUMENT NUMBER--DATE

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(Transcript continues in sequence from Volume  
IV.)

(Hearing reconvened at 12:00 noon.)

COMMISSIONER EASLEY: While Mr. Ludsen is  
coming up, the Chairman's daughter is ill.

We're going to go ahead and start without  
him, and he asked to wait until he returned for taking  
the public testimony. If, however, he gets delayed and  
he's not here by 1:00, we will go ahead and start at  
his request. But for now, we'll go ahead and resume  
cross examination on Mr. Ludsen.

Mr. McLean, you were inquiring.

MR. ARMSTRONG: Commissioners, if I may, and  
I request Mr. McLean's consideration here --

COMMISSIONER EASLEY: Hold on just a minute.

Ladies and gentlemen, I'm going to have to  
ask you to take your conversations in the hall, please.  
Thank you.

Go ahead.

MR. ARMSTRONG: If I could just have an  
opportunity to briefly address the concerns which were  
expressed by the Commissioners just prior to the break  
concerning the validity of the MFRs and the Company's  
application in this filing. I would just like to

1 address those concerns very briefly.

2 COMMISSIONER EASLEY: Understanding that this  
3 is not testimony, Mr. Armstrong, go right ahead.

4 MR. ARMSTRONG: First, I would like to dispel  
5 on behalf of the Company, any notion that might exist  
6 that the Company recklessly included nonrecoverable  
7 expenses in this case. That is not accurate.

8 What has been identified are expenses  
9 associated with gas promotional advertising of, perhaps  
10 \$5,000 out of a total Company revenue requirement of  
11 \$27.5 million.

12 Second, Mr. Hoffman, other senior Company  
13 officials, and I worked on this filing for  
14 approximately one year, examining expenses and  
15 investments in detail. Please recall that there are  
16 perhaps hundreds of thousands of individual expense  
17 items which are included in this filing. If a  
18 nonrecoverable item was included in the MFRs, it was  
19 done inadvertently.

20 The Staff Audit Report identifies only seven  
21 exceptions to the Company's filing. This Audit Report  
22 was written after up to five Commission auditors spent  
23 five months at Southern States' headquarters in Apopka.

24 Approximately 100 issues have been identified  
25 by the parties and remain in dispute in this case after

1 months of audits were performed, reams of books and  
2 records were provided for Staff and Public Counsel, and  
3 thousands of discovery requests were responded to.

4           The Company believes that these facts are  
5 indicative of our desire to have a full and fair  
6 disclosure of the facts relevant to our filing. And we  
7 commit to this Commission that we at no time would  
8 knowingly conceal information from either the  
9 Commission or any party to this proceeding.

10           Finally, the Chairman indicated prior to the  
11 break that he continued to believe that discrepancies  
12 existed between the MFRs and the Company's discovery  
13 requests in this proceeding. I would like just to  
14 note, for the record, that Mr. Ludsen resolved those at  
15 first perceived discrepancies, and perhaps that was in  
16 the Chairman's absence this morning, and that no such  
17 discrepancies exist or have been identified to the  
18 Company at this time.

19           With that, I appreciate your permitting me to  
20 speak.

21           COMMISSIONER CLARK: Let me be clear as to  
22 where I am coming from anyway.

23           I don't hold the idea that you knowingly  
24 concealed anything at this point. But I tell you what  
25 I am concerned about is the process that was gone

1 through in order to arrive at these numbers. And it  
2 would seem to me that advertising expense would be  
3 something that you could go through and look at and  
4 know just by looking at it that that ought to be  
5 excluded. It's that sort of concern with regard to the  
6 care with which all these expenses were reviewed.

7 That's my viewpoint on it.

8 MR. ARMSTRONG: Commissioner, could I -- and  
9 this is not testimony, I understand that, but I think  
10 Mr. Ludsen could clarify somewhat.

11 This was an issue that was raised in the  
12 Lehigh case, and I believe, if you recall Mr. Ludsen's  
13 testimony in that case, there were concerns about the  
14 allocation of a significant amount of regulatory  
15 requirement dollars, the dollars associated with the  
16 Company having to deal with revenue requirements, which  
17 were included in our common costs, and that if we  
18 allocate based on number of customers, gas customers  
19 that have significantly higher costs allocated to them,  
20 that -- and I believe this is set forth in the record  
21 there, and I just want to bring that to the  
22 Commission's attention, that was a consideration that  
23 we had. These advertising expenses had been  
24 considered. However, what Mr. Ludsen referred to today  
25 was the fact that after considering that, and the fact

1 that these are only \$5,000, that we were conceding that  
2 you could delete that from A&G expenses.

3 I don't think Mr. Ludsen at all conceded or  
4 indicated that we knowingly saw these costs and said,  
5 "We're going to include them although we know that the  
6 Commission wouldn't agree."

7 COMMISSIONER CLARK: My response is that you  
8 can deal with this on redirect, and again, it's not  
9 that you knowingly did it, it's just my concern about  
10 the process of how we have got there.

11 MR. ARMSTRONG: I appreciate that.

12 COMMISSIONER EASLEY: Well, and further, I  
13 agree with Commissioner Clark. However, even having  
14 said that these may not have occurred knowingly,  
15 willfully, maliciously or any of those other bad words,  
16 if we've identified 5,000, my concern is, is there  
17 anything else that got there the same way? Still not  
18 accusing the Company of anything, but I think there  
19 needs to be some assurance, before this is over with,  
20 that the 5,000 is all we're talking about.

21 And I would hope that there would be -- and  
22 I'm not sure how to do it, how you prove a negative is  
23 very difficult, and I understand that. But I would  
24 hope that there would be a way to find some reassurance  
25 that we're not talking about in excess of the 5,000 and



1 certainly not anything significant.

2 MR. HOFFMAN: Commissioner Easley, if I could  
3 briefly respond to that.

4 COMMISSIONER EASLEY: Uh-huh.

5 MR. HOFFMAN: I think, as you know, sometimes  
6 issues come up that parties are unaware of during the  
7 course of a hearing. But in this case I can tell you  
8 that prior to going to hearing the Company, Public  
9 Counsel, have been involved in an extensive amount of  
10 discovery.

11 This Company has responded to -- apart from  
12 the Lehigh and Marco case -- approximately 1200  
13 discovery requests. There have been over 20  
14 depositions. And the only point of bringing that to  
15 your attention is to let you know that so far as the  
16 Company is aware, all of the issues that have been  
17 discovered through the prehearing proceedings are set  
18 forth in that prehearing order. And that -- and I can  
19 tell you personally, that is my knowledge as we sit  
20 here today. Every issue which disputes, inadvertent or  
21 not -- inadvertent or otherwise, an issue in terms of  
22 investment or expense, has been raised by either the  
23 Staff, Public Counsel and is set forth in that  
24 prehearing order.

25 COMMISSIONER EASLEY: All right. I

1 appreciate that.

2 Mr. Chairman, just to bring you into the  
3 picture, I had just got through telling them that you  
4 were going to be a lot later than this, so you've made  
5 a liar out of me already.

6 Mr. Armstrong asked for -- and no one  
7 objected -- to make a statement, indicating that the  
8 Company had not willfully done anything concerning  
9 these expenses were concerned; that you thought there  
10 was still some discrepancy between the numbers and the  
11 MFRs and thought that Mr. Ludsen had clarified them.  
12 There is probably about \$5,000 that the Company is  
13 agreeing needs to be removed from the O&M  
14 expenses that were there, should not have been there.

15 And the other discussion that you came in on  
16 the tail end of was concerning any potential for any  
17 other above that \$5,000.

18 CHAIRMAN BEARD: Well, I apologize. I had to  
19 go pick up a sick daughter at school and get her home  
20 and put her to bed.

21 I'm not impugning anybody's integrity. I  
22 might be impugning work product, okay, and the scrutiny  
23 and care that went into looking at getting stuff out.  
24 Okay? I'm not concerned about anybody's integrity in  
25 any sense of the imagination. But I see numbers in

1 here that ought not be there; somebody didn't look  
2 close enough; it's just that simple.

3 COMMISSIONER EASLEY: Yeah. And I think we  
4 were ready for Mr. McLean to resume cross unless you  
5 wish to go ahead and interrupt now since we're  
6 interrupted.

7 CHAIRMAN BEARD: I would like to interrupt  
8 now and let's go ahead and get those four people that  
9 have taken their time to come up here. Is that okay?

10 MR. McLEAN: Could I offer one sentence for  
11 the record? It might be to -- with respect to this,  
12 we have the statements that counsel entered into the  
13 record most recently. The Commission ought to assign  
14 the same weight to those representations as they would  
15 to an opening or closing statement. They are the  
16 statements of counsel and not to be confused with  
17 evidence.

18 COMMISSIONER EASLEY: Mr. McLean, that's why  
19 I specifically said at the very beginning, "Knowing  
20 this is not testimony."

21 MR. McLEAN: Thank you, ma'am.

22 CHAIRMAN BEARD: And I think the same weight  
23 probably goes to my statement. It is not evidence  
24 either.

25 MR. McLEAN: Thank you, sir.

1 CHAIRMAN BEARD: Okay. Mr. McLean, you have  
2 the list of individuals that wish to be heard today, is  
3 that correct?

4 MR. McLEAN: I do, sir.

5 CHAIRMAN BEARD: And it is my understanding  
6 that there are four people?

7 MR. McLEAN: Yes, sir.

8 CHAIRMAN BEARD: Okay. Why don't you go  
9 ahead and call if the first one.

10 Let me do this for those of you that weren't  
11 at the Service Hearing or didn't have an opportunity to  
12 speak. Normally, at the Service Hearing we try to keep  
13 this as informal as possible. We want people to be  
14 comfortable and feel free to say whatever is on their  
15 mind. This setting, obviously, is a little more  
16 formal, but, please, we want everyone to be relaxed.

17 Whoever the first person is that Mr. McLean  
18 calls up, when they get there, I will swear them in to  
19 make it a matter of the record, which is the same thing  
20 we do at of the Service Hearing. And those other three  
21 individuals that intended to speak today, if you will  
22 stand, we'll do it all at one time. One, it saves  
23 time; and two, it's a little less imposing, hopefully,  
24 on people so they're more comfortable. Okay? First  
25 person.

1 MR. McLEAN: Citizens call James Lamb.

2 CHAIRMAN BEARD: If you'll come right over  
3 there. And before you sit down, if the other three  
4 people that intend to speak today, if you would also  
5 stand, if you're here. Okay.

6 (Witnesses collectively sworn.)

7 CHAIRMAN BEARD: Thank you. Be seated. And  
8 make yourself comfortable. And welcome.

9 JIM LAMB  
10 was called as a witness on behalf of the Citizens of  
11 the State of Florida and, having been duly sworn,  
12 testified as follows:

13 WITNESS LAMB: Thank you.

14 CHAIRMAN BEARD: Oh, and one last thing, if  
15 you would, state your name and spell your last name for  
16 the court reporter?

17 WITNESS LAMB: My name is Jim Lamb, L-A-M-B.  
18 And I'm from Pine Ridge Utilities, as reflected on this  
19 yellow sheet.

20 In coming up here, some other things were  
21 made aware to me, which was shared to me by the  
22 engineer.

23 In Pine Ridge we're a community of  
24 approximately 5500 acres. In the 5500 acres, we have  
25 128 miles of roads, we have -- I'm sorry, 10,000 acres,

1 5500 lots. We have 3300 lots that are deeded. On  
2 those 3300 lots we have 500 residents. We average  
3 approximately 100 new homes per year. Out of that 100  
4 new homes, we give, to the best of my knowledge,  
5 Southern States Utilities, \$1300 in impact fees to hook  
6 us up to their water supply.

7 In looking at the yellow sheet that was  
8 presented here at the hearing, we have the honor and  
9 the privilege of being the best-paying customer in the  
10 state, on this particular sheet, of \$20.61. And out of  
11 that \$20.61, we get 5,000 free gallons, if you will.

12 One of the main reasons that I'm here is,  
13 naturally, to dispute the high costs that we pay, and  
14 also to try and bring the attention of the Commission  
15 to the fact that the service is not that great.

16 We have homes in Pine Ridge that are on the  
17 fringes, if you will, of the water company's supply  
18 system, that up until a week or so ago they got eight,  
19 ten pounds pressure at different periods of the day.  
20 Sometimes it was lower than that. The water company  
21 was very responsive. They came whenever you called  
22 them, but they did not rectify the problem.

23 As these hearings continued to go on in the  
24 different towns, we noticed different things were  
25 happening. We got a new water line. They finally

1 hooked up some loop systems. Well, that's fine and  
2 dandy considering that we are a customer of theirs.  
3 But what happened to all these high rates we've been  
4 paying for years before the Commission decided to look  
5 into this? The service was less than good.

6 One of the other problems we have that --  
7 well, in looking at the sheet, it shows Pine Ridge  
8 Utilities on Page 82 of this sheet, that we will drop  
9 down to \$9.63. Well, when all of us initially moved  
10 into Pine Ridge, we were encouraged to put in a  
11 one-inch meter, which we all did. The \$9.63 reflects  
12 the price of a five-eighths-inch meter.

13 Now, you have to understand when you look at  
14 this, that Pine Ridge Estates, if you will, the  
15 minimum-sized lot is an acre; a lot of them are five  
16 acres. So, saying you're going to reduce the cost of  
17 our water in this thing to \$9.63 if we're willing to  
18 take a five-eighths-inch meter, I don't know what we're  
19 going to do with that five-eighths-inch meter; maybe  
20 stand out there with a garden hose and water one plant  
21 at a time, I guess.

22 We don't like the wastewater there. We've  
23 tried to be environmentally sound in our landscaping.

24 But your new rate will take us to \$24 and no  
25 water. And that was another complaint that we had.

1 Again, bearing in mind, we're already paying twice as  
2 much as what we think we ought to pay.

3 In looking at the sheet that the engineer  
4 gave me, one of the reflections in the proposed  
5 revenues -- I'm not a rocket scientist, but 500 homes  
6 times \$20 a month, I think, reflects somewhere around  
7 \$12,000, you know. And \$12,000 is \$144,000 a year,  
8 which they're only extending out 95,000. That's a  
9 pretty substantial difference in their proposed  
10 revenues, I would think.

11 And proposed revenues also do not indicate  
12 the average of a hundred homes per year. So you're  
13 walking away with a cool quarter of a 1 million dollars  
14 from 500 or 600 residents, and you're telling me we're  
15 not paying enough money. We need to pay more. And I  
16 really don't have anything else further to say on the  
17 subject. I hope that the Commission, in dealing with  
18 Southern States Utilities -- excuse me -- I did forget  
19 one other thing.

20 They did come in and thank goodness, they put  
21 in an eight-inch main maybe 3,000 or 4,000 feet of it,  
22 if my recollection is correct, this past week to  
23 encourage a loop system, if you will, so some of the  
24 people would go from 10 or 15 pounds of pressure up to  
25 35 to 40 pounds on a five-eighths meter, which they



1 did.

2           But Southern States Utilites has the attitude  
3 that when they come through our community and tear up  
4 our swales, which we spend approximately \$80,000 a year  
5 to mow, that they don't have to return them to the same  
6 condition. The condition of the swales when they  
7 finish is more or less a sand base, which has remained  
8 to that part of Florida, unfortunately, but we would  
9 expect them to, at least, cover it with some type of  
10 grass covering, since we do spend \$80,000 a year to cut  
11 those particular swales. And if they don't cover them,  
12 the first rain that comes, everything that is there  
13 goes south. But we would like to see the Commission,  
14 in their dealings with the Public Service Utilities, if  
15 it's grass and it's of a sod quality, then that's what  
16 we would like returned. We would like sod put back.

17           If they determine that it's not a sod quality  
18 and there's some other way they can remedy the  
19 situation that's satisfactory with everybody, we can go  
20 along with that. But since we are some of the higher  
21 paying customers, we would like our community left in a  
22 very nice condition when they finish and the changes  
23 that they make.

24           And to say to us to go to a five-eighths  
25 meter is rather ludicrous because at the ends of our

1 swales, prior to where our lots stop, that's where  
2 we've done the bulk of our landscaping. And to have  
3 someone come in there, you know how most water companys  
4 attack you with a huge backhow with great big tread  
5 tires on it, and they back up into your lot, and  
6 they're all smiling, and when you leave, youv'e got,  
7 you know, a lot of holes that you have to fix and  
8 repair. But in order for us to change to a  
9 five-eighths meter, certainly it can be done but it's  
10 not a very good solution to the problem of rates.

11 COMMISSIONER BEARD: Let me ask you a  
12 question.

13 WITNESS LAMB: Yes, sir.

14 COMMISSIONER BEARD: Do you have any idea  
15 approximately how many in your community have the  
16 one-inch meter?

17 WITNESS LAMB: I would say that 98.9% have  
18 the one-inch meter.

19 COMMISSIONER BEARD: And they're now wanting  
20 you to switch to a five-eighths meter?

21 WITNESS LAMB: Well --

22 COMMISSIONER BEARD: Or the rates are  
23 encouraging you to do this?

24 WITNESS LAMB: The rates are encouraging us.  
25 The rates would go from \$24, to a proposed rate with no

1 water, to a \$9.53 rate with a five-inch meter. That's  
2 pretty substantial.

3 COMMISSIONER BEARD: Why were they  
4 encouraging you when you first built to put in one-inch  
5 meters?

6 WITNESS LAMB: I think that most of the  
7 people, one of the prime questions they ask, and,  
8 again, we're dealing with people that primarily came  
9 from Connecticut, Massachusetts, and what not, up  
10 through there, if they wanted what grass areas they had  
11 to be nice, and the only way that could be nice is to  
12 have a one-inch meter, that would supply you adequate  
13 gallonage and pressure, if you will, to, you know, have  
14 a small sprinkler system. Most people have only done  
15 like a quarter acre of their lot and the rest has  
16 remained natural. We have a lot of people that have  
17 left a lot of their lots natural down there, and it's a  
18 very nice community.

19 COMMISSIONER EASLEY: Do we have a  
20 calculation of the rate for a one-inch meter, the  
21 proposed final rate?

22 WITNESS LAMB: 2461, I believe, it is.

23 COMMISSIONER EASLEY: 2461?

24 MR. TWOMEY: Without water, though, right?

25 WITNESS LAMB: Without water, that's correct.

1           COMMISSIONER EASLEY: Well, yeah, but both of  
2 these figures are without water. I just wanted to know  
3 what the difference was between the the five-eighths  
4 and the one-inch.

5           COMMISSIONER BEARD: I would like to know  
6 from the Company exactly what percentage of Pine Ridge  
7 Estates; is that correct?

8           COMMISSIONER EASLEY: Utility.

9           WITNESS LAMB: Yes.

10          COMMISSIONER BEARD: Yeah, I got to be  
11 careful because there's a Pine Ridge Estates and  
12 there's a Pine Ridge Utilities.

13          WITNESS LAMB: Pine Ridge Utilities is what  
14 were carried in on your sheet.

15          COMMISSIONER BEARD: I would like to know  
16 what percentage of the residential customers are on a  
17 one-inch meter versus a five-eighths.

18          COMMISSIONER EASLEY: Are there any  
19 requirements for these new customers, Mr. Hoffman?  
20 That's the other thing I would like to know. Are there  
21 requirements for new customers to have one or the  
22 other?

23          WITNESS LAMB: Mr. Chairman, I headed the  
24 architectural committee and I'm now presently the  
25 president of the service corporation in there, and I've

1 been very much involved in the community development  
2 for the past several years, and I know -- I can only  
3 think of three people, to the best of my knowledge,  
4 that had the small meter.

5 COMMISSIONER BEARD: Okay.

6 WITNESS LAMB: If that's -- I know they're  
7 going to search their records and go crazy but in all  
8 the people that I can remember -- and they were people  
9 -- model homes that were built by Deltona originally.  
10 They were small homes.

11 COMMISSIONER BEARD: Well, hopefully, they  
12 won't go too crazy, because if they can computerize  
13 their billing system, surely they would be able to  
14 figure out --

15 WITNESS LAMB: I would think so.

16 COMMISSIONER BEARD: If not, I'll lend them  
17 my laptop and they can plug that in and we'll figure it  
18 out. Then we the get that -- the other question I  
19 would have is in trying to understand relationships,  
20 are there others that have one-inch meters that are not  
21 residential customers. Is there a quote/unquote  
22 "one-inch business" versus a one-inch residential

23 WITNESS LAMB: We only have two customers in  
24 the entire community who are not residential customers.

25 COMMISSIONER BEARD: And who are they, or

1 what are they?

2 WITNESS LAMB: They would be the Pine Ridge  
3 Golf Course and the Pine Ridge Service Corporation.

4 COMMISSIONER BEARD: What is service  
5 corporation? Is that kind of like --

6 WITNESS LAMB: The service corporation  
7 represents the stables, if you will, and also the  
8 community center and the overall community complex.

9 COMMISSIONER BEARD: This would probably be  
10 something lightly bigger than a one-inch meter?

11 WITNESS LAMB: No, I think we're on an inch,  
12 too.

13 COMMISSIONER BEARD: Okay.

14 WITNESS LAMB: But we're the only two  
15 commercial -- it would be the only two commercial  
16 people on the well.

17 COMMISSIONER BEARD: Okay. Yes, sir?

18 MR. TWOMEY: I've got a couple of questions,  
19 if I may?

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## CROSS EXAMINATION

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BY MR. TWOMEY:

Q Mr. Lamb, my name is Mike Twomey. I'm an attorney with the Office of the Attorney General. We're here assisting Citrus County in their intervention. I have a few questions for you, if I may.

Tell me, again, what was the current rates you had or prior to the interim rates, the rates you had for a one-inch meter with 5,000 gallons of free water?

A 20.61.

Q 20.61. Okay, sir. And under the current proposed rates you would get how much with no water?

A You're going to sue me. I don't have it in my pocket. I believe it's 2438, or something like that.

Q Without water?

A Without water.

Q If you figured a total bill, if you got 5,000 gallons of water above that being charged for it?

A Well, it was \$1.57 a thousand, is what they were proposing, so it would take --

Q Times five --

A It would take you somewhere around \$31 --

1           COMMISSIONER BEARD: Let him answer the  
2 question. You ask it, he answers it, okay?

3           MR. TWOMEY: Yes, sir. Will do.

4           Q     (By Mr. Twomey) So you go from approximately  
5 20.61 to \$30, \$31; is that about correct?

6           A     Yes.

7           Q     Okay. Now, do you see anything that you're  
8 -- aside from the other benefits that you mentioned  
9 about the increase loop, the water pressure as a result  
10 of the looping, do you perceive any benefits that  
11 you'll receive as a result of this increase?

12          A     I can't honestly perceive any benefits at all  
13 that we would gain with the increase.

14          Q     Would you feel --

15          A     And I would like speak personally, if I may,  
16 and not as president of the Service Corporation.

17                 I basically had no objections to the  
18 increase. If the increase would have reflected more  
19 adequate water pressure at the fire hydrants, which  
20 there's not, if it would have reflected all 500  
21 customers in Pine Ridge having basically the same water  
22 pressure at their home, regardless of whether they had  
23 five-eighths meter or one-inch meter, and that the  
24 quality of the water would be consistent and also that  
25 when we had our different power outages and everything,



1 that water would be restored in a more timely manner  
2 than it has been in the past.

3 Q Yes, sir. Let me ask you this: Would you  
4 feel better about this level of rate increase, which  
5 you can expect to experience, if the Company's proposal  
6 is approved, if you knew that it was designed in part  
7 for the ease of administration of the Company's ability  
8 -- Utility's ability to administer some 127 different  
9 utilities. Does that make you feel better?

10 A No, sir.

11 Q Would it make you feel better if it was done  
12 in part to provide greater simplicity in billing?  
13 Everybody's billing?

14 A That is a loaded question. May I answer the  
15 question the way I feel about the question?

16 Q Yes, sir.

17 A I would not object to it simplifying the  
18 billing if the billing, in its infinite wisdom in the  
19 end, would reflect that some people are getting ripped  
20 off and others aren't being ripped off. And, also, I  
21 would like it to determine, we all know that  
22 environmentally speaking in the state of Florida, we  
23 don't have an infinite supply of water, and if by this  
24 billing they can better determine the actual amount of  
25 gallons, if you will, pumped out of the aquifer, then

1 all of these things would have to -- you know, they  
2 would use all this information for the betterment for  
3 the state of Florida and they can convince me that  
4 they're using it for the betterment of the state and  
5 not for the betterment of themselves. And then I could  
6 live with some of it, yes.

7 Q Okay, sir. Would you feel better about the  
8 rate of increase that's being proposed for you if you  
9 knew it was designed in part to avoid rate shock for  
10 other utilities, other systems within this company's  
11 holdings, to avoid rate shock for them because of large  
12 capital improvements they have to make to their  
13 systems, which are likely not connected to yours?

14 A No. I think we have already evidenced rate  
15 shock in our community. We've managed to live with it,  
16 and I would hope that other communities could, too.  
17 But I don't want to pay the difference for their rate  
18 shock to our rate shock.

19 Q And when you first had your water service  
20 installed, do you recall -- when you had the one-inch  
21 meters installed, do you recall the rates that were  
22 being charged at that time?

23 A I would have to say \$19.80-some cents. We  
24 haven't -- I got there right after a very substantial  
25 rate increase. And since you brought that question up,

1 two weeks before I moved in, I had applied to the water  
2 company for service, and at that time it was going to  
3 cost me like \$200, and somehow or another my  
4 application got lost in the stream of things over  
5 there, and I was not aware it was going to cost me  
6 \$1,300 if I didn't pay close attention. And it wound  
7 up costing me \$1,300 for the impact fee on my water.

8 Q The last question. It's your testimony is  
9 that not that -- well, it is physically possible for  
10 yourself and your neighbors to change to a five-eighths  
11 inch meter, in realty it's not practical; is that  
12 correct?

13 A I would have to say it's not practical, yes.

14 Q Okay.

15 MR. TWOMEY: Thank you, Mr. Chairman.

16 COMMISSIONER BEARD: Your current rates for  
17 your utility, you pay the same for a one inch that you  
18 do for a five-eighths inch?

19 WITNESS LAMB: That's correct, sir.

20 COMMISSIONER BEARD: Okay. Thank you.

21 MR. HOFFMAN: Mr. Chairman, may I ask one  
22 question?

23 COMMISSIONER BEARD: Yes.

24 Q (By Mr. Hoffman) Mr. Lamb, one of the issues  
25 has been identified in this proceeding is the

1 possibility of opening up a new docket to address  
2 service availability charges, which I think you've  
3 expressed is a concern of yours. And my question for  
4 you is: In your experience, do you believe that a high  
5 service availability charge inhibits growth?

6 A May I ask who I'm responding to, please? Who  
7 do you represent?

8 Q I'm sorry. My name is Ken Hoffman, and I'm  
9 an attorney, and I represent Southern States Utilites.

10 A Okay. Thank you. Your question was does it  
11 inhibit growth?

12 Q Yes. (Pause)

13 A In our community, I would have to say, no, it  
14 does not inhibit growth because people who come there  
15 sell very expensive homes in the north, and reinvest  
16 most of that capital in homes there. And I think it's  
17 just until they have time to actually assess the cost  
18 of moving to Florida, such as registrating your  
19 vehicles and the impact fees you have to pay, and then  
20 the water impact fees, when they sort it all out, does  
21 hit most people in our community. And it is a topic of  
22 discussion after the fact, not prior to the fact.

23 Q So in your experience, a high service  
24 availability charge has not inhibited growth in your  
25 community that is served by Pine Ridge Utilities

1           A     When I say a high service availability  
2 charge --

3           Q     Your service availability --

4           A     Okay. No.

5           Q     Okay. Thank you.

6                    COMMISSIONER BEARD: Thank you.

7                    MR. McLEAN: Mr. Chariman, every time the  
8 witness would complain about the utility, he'd look  
9 right at me. And that was making me nervous. I wonder  
10 if it would help to tell him who the players are.

11                   COMMISSIONER BEARD: That would be a good  
12 idea.

13                   COMMISSIONER EASLEY: I was going to ask him  
14 to do that, Mr. McLean. You don't want to be falsely  
15 accused, do you?

16                   MR. McLEAN: Least of all by Mr. Shreve.

17                   COMMISSIONER BEARD: Okay. For the  
18 audience's sake, so you'll understand, everybody over  
19 there are Public Service Commission staff that work  
20 with us on this case. Now, if you gentlemen, as we go  
21 down the line, if you'd introduce yourself once again  
22 so everybody will know who you are.

23                   MR. HOFFMAN: My name is Ken Hoffman. I'm an  
24 attorney and I represent Southern States Utilities.

25                   MR. JONES: My name is Harry Jones and I'm

1 president of the Cypress and Oak Villages Association  
2 in Sugar Mill Woods.

3 MR. TWOMEY: Once again, I'm Mike Twomey.  
4 I'm an attorney with the Office of the Attorney  
5 General. We're here helping out Citrus County and  
6 their intervention in this case.

7 MR. McLEAN: I'm here representing the  
8 Citizens of the State of Florida. Mr. Shreve's office,  
9 Mr. Jack Shreve's office and we oppose the rate  
10 increase.

11 COMMISSIONER BEARD: Okay. So when you get  
12 angry at the Company, you look at him, not at him.

13 (Laughter)

14 WITNESS LAMB: I'm not angry with anybody. I  
15 don't envy your position in this transaction here, but  
16 I hope that you do see the light and don't give away  
17 all the money.

18 COMMISSIONER BEARD: We try to keep things on  
19 track, but we try not to be so serious that we just bog  
20 down. We appreciate your testimony.

21 WITNESS LAMB: Thank you.

22 COMMISSIONER BEARD: Thank you very much for  
23 coming.

24 (Witness Lamb excused.)

25 MR. McLEAN: Citizens call Ed Slezak.

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ED SLEZAK

was called as a witness on behalf of the Citizens of the State of Florida, and having been duly sworn, testified as follows:

MR. HOFFMAN: Ms. Chariman, while Mr. Slezak is walking up, in response to Commissioner Easley's first question, which was what percentage of Pine Ridge Utility's customers are on a one-inch meter versus a five-eighths inch meter. That's residential customers. Volume 1, Book 8, Schedule E-2a, Page 63, has number of bills, and dividing that by 12 reaches -- gives you a number of customers. For five-eighths inch it is 54; one inch it was .331.

COMMISSIONER EASLEY: Thank you.

COMMISSIONER BEARD: Let me ask you a question. You've testified before?

WITNESS SLEZAK: I have testified before in Ocala, but I have some new information.

COMMISSIONER BEARD: Testified before once or twice?

WITNESS SLEZAK: The information?

COMMISSIONER BEARD: No. My understanding was you had testified on two occasions?

WITNESS SLEZAK: Yes.

COMMISSIONER BEARD: And you have additional

1 information?

2 WITNESS SLEZAK: Right.

3 COMMISSIONER BEARD: Very briefly.

4 WITNESS SLEZAK: I am representing the people  
5 of Pine Ridge Estates, which is located near Beverly  
6 Hills, Florida. It is no secret the law goes where the  
7 money is, and the utilities have the money.

8 In 1978, the Florida State Legislature  
9 committed a criminal act upon the people of Florida.  
10 They took their voting right away so now they cannot  
11 elect the Public Service Commissioners. I believe this  
12 is against the Constitution of the United States. Now,  
13 the Governor appoints the Public Service Commissioners.

14 The utilities own, operate and pay for the  
15 operation of the Public Service Commission free of the  
16 taxpayers' money.

17 CHAIRMAN BEARD: I'm going to stop you right  
18 there. Your statement is that the utilities own and  
19 operate this Commission?

20 WITNESS SLEZAK: That's right.

21 CHAIRMAN BEARD: Well, let me tell you  
22 something. Your information is not new; and I, for  
23 one, am not going to listen to those kind of  
24 accusations, okay? This government is run by the state  
25 statutes in accordance with the state statutes. And if



1 you have a complaint about something like that, there's  
2 the Attorney General's office right there. You file  
3 the complaint with him or with the Ethics Commission,  
4 and you put your money where your mouth is. Because  
5 I'm not going to sit here and listen to it. It's just  
6 that simple.

7 WITNESS SLEZAK: Pardon?

8 CHAIRMAN BEARD: I said it's just that  
9 simple. If you have a complaint that we're owned and  
10 operated by the utilities, you take it to the Attorney  
11 General's office or to the Ethics Commission, but I'm  
12 not going to sit here and listen to it. I can tell you  
13 that.

14 WITNESS SLEZAK: Don't the utilities pay you  
15 your wages?

16 CHAIRMAN BEARD: No, sir, they do not.

17 WITNESS SLEZAK: Don't the utilities pay for  
18 the operation of the Public Service Commission?

19 CHAIRMAN BEARD: The utilities pay a fee in  
20 that goes into the state government. Your statement  
21 was that they own and operate this Commission and that  
22 is not true. And I'm not going to listen to it. Okay?

23 COMMISSIONER EASLEY: Let me tell you that the  
24 regulatory assessment fee that is paid by the utilities,  
25 to which I assume you refer, is paid by the ratepayers.

1 You're paying those, just like you pay any tax.

2 CHAIRMAN BEARD: And that is not what you  
3 said. You said they own and operate this Commission,  
4 and they do not.

5 WITNESS SLEZAK: They don't own and operate  
6 it, but they pay for it.

7 CHAIRMAN BEARD: According to --

8 COMMISSIONER EASLEY: You pay for it, sir.

9 CHAIRMAN BEARD: You pay for it through the  
10 state statutes.

11 WITNESS SLEZAK: We're paying for it?

12 CHAIRMAN BEARD: That's right.

13 WITNESS SLEZAK: All right. SSU is going for  
14 a twofold rates. First, they are going to charge 24.08  
15 per month for a one-inch meter. Then, second, they are  
16 taking away the 5,000 gallon allowance away from us.  
17 This gives them a double raise.

18 The truth of the matter is in 1978 our water  
19 rates were close to \$10 per month for 5,000 gallons  
20 allowance. Under Deltona, along came Minneapolis Power  
21 and Light, bought out Deltona water rights. At that  
22 time, they better than doubled our water rates from \$10  
23 to 21.62, which is our present-day rate.

24 They told us our homes are few and far  
25 between and they have to lay pipes and put in hydrants.

1 Also, by law, they are entitled to 11 to 12% return on  
2 their investment. It has been brought to my attention  
3 from a good source they are now making as high as 20%  
4 on their investment in some areas.

5 The law is behind the times. The banks are  
6 only paying 2 to 3% on our money. Where in the world  
7 is SSU entitled to 11 or 12% return?

8 It was also promised to us once we had more  
9 homes built in Pine Ridge Estates our water rates would  
10 come down. When these rates went into effect in 1987,  
11 we had 125 homes. Now, we have nearly 500 homes. SSU  
12 is tripling our water rates instead of lowering them.  
13 This is how SSU keeps their word.

14 If you'll notice in your records, we are  
15 paying the highest rate in Citrus County right now  
16 before any of these new raises come into effect. These  
17 raises have to stop, as most of Florida is populated by  
18 retirees. Their incomes are fixed, interest rates are  
19 low, and there is no such thing as a raise for  
20 retirees. Most of them are barely getting by now.

21 SSU asked for a raise of \$1.46 each 1,000  
22 gallons used; and you, the PSC, allowed them to raise  
23 the rate to 1.57 per each 1,000 gallons used. Which  
24 side are you clearly on?

25 If you take a glass of water, let it set for

1 a few days, you will find slime inside the glass. Try  
2 it yourself, you don't have to take my word for it. I  
3 don't think this is a good quality of water by SSU.

4 I am a volunteer firefighter. And we used to  
5 flush the hydrants about every six months; the hydrant  
6 on Buffalo Drive, the water only trickled out of it.  
7 How are you going to fight a fire if the water only  
8 trickles out of it?

9 On Apricot, we opened the hydrant and you  
10 could smell it for three blocks. It smelled like a  
11 septic tank.

12 I also sent in a petition of about 140 names  
13 protesting these outrageous water rates and am still  
14 waiting for a response from PSC. I have attended  
15 several informative meetings held by PSC and SSU. I  
16 also informed the people of Pine Ridge Estates at the  
17 Civic Association meeting of what is going on. As a  
18 result, a bus load of residents are here today to  
19 protest the increase.

20 This is a hardship for these people and they  
21 have traveled a long distance to protest.

22 CHAIRMAN BEARD: Thank you.

23 COMMISSIONER EASLEY: Thank you, sir. Any  
24 questions?

25 THE REPORTER: Would you spell your last name

1 for me, please, sir?

2 WITNESS SLEZAK: S-L-E-Z-A-K. Any questions  
3 or anything?

4 CHAIRMAN BEARD: No, sir. Next witness?

5 (Witness Slezak excused.)

6 - - - - -

7 MR. McLEAN: Carlette Max.

8 CARLETTE MAX

9 was called as a witness on behalf of the Citizens of  
10 the State of Florida and, having been duly sworn,  
11 testified as follows:.

12 WITNESS MAX: I spoke off the cuff --

13 CHAIRMAN BEARD: Could you give us your name  
14 and spell your last name, please, ma'am?

15 WITNESS MAX: Carlette Max, M-A-X. I spoke  
16 in Ocala for a few moments off the cuff, and since then  
17 I have been educated on this subject, I think. And I  
18 just wanted to bring out a couple of points that I  
19 didn't then.

20 In regard to the water meter size, I wanted  
21 to point out that up until now -- and I've only been  
22 around up here about five years, I don't know how long  
23 back this goes.

24 But the past practices of our water company  
25 and certainly SSU has been that all meter sizes are the

1 same rates, period. And when we went up, my husband  
2 and I, to have our water meter installed, we were told,  
3 you know, "Get a one-inch." Okay. You know, you have  
4 other things on your mind, forget it. Now, everybody  
5 -- the majority of Pine Ridge are sitting there with a  
6 one-inch meter. And you've heard that story before.

7           Since past practices has been that, I think  
8 the least that this committee could do would be to  
9 grandfather in -- the least would be to grandfather in  
10 our meters. I don't know how SSU could bill or process  
11 it, but with computers, I'm sure they could arrange it.

12           I do understand that the PSC feels a great  
13 difference is due in order for the number of gallons  
14 per minute that may have to be supplied for each home.  
15 Tom Walden was kind enough to educate me on this one.

16           So with a potential, a maximum potential, of  
17 50 gallons per minute for a one-inch meter, my husband  
18 and I did a test. We turned on everything in the  
19 house, flushed the toilets, everything at one time; and  
20 we drew on our one-inch meter 10.5 gallons per minute,  
21 not 50. That's not even close. And then on the  
22 three-quarter-inch line, I forget what the amount is, I  
23 think it drops to 20 or something. But even so, it's  
24 just not there.

25           I wanted to call your attention, you probably

1 already heard this, that there is no local office where we  
2 can pay our bills or get any assistance. The closest to  
3 us in Pine Ridge is Citrus Springs maintenance office; and  
4 it's off on a badly developed back road, a dirt road. It  
5 is a long distance phone call. We have a 1-800 number  
6 which we can call and leave messages and, if we're lucky,  
7 somebody will call us back. But when you call them, those  
8 people have so many communities they service, they can't  
9 tell you anything about your personal problems or an  
10 outage that's going on right now. At least, with Florida  
11 Power, they'll tell you what's going on, but SSU does not.

12           Now, we've lived here about five years now  
13 and we have terrible low, the water pressure is  
14 terrible. We were first told that the new well would  
15 be in six months after we moved in or four and-a-half  
16 years ago, and that that would change our pressure and  
17 we could live with it. It went in on September 16th of  
18 '92, four-and-a-half years later.

19           It has made no difference, no difference  
20 whatsoever. If my husband is showering, I can't wash  
21 my hands, period. You can turn on the water, there's a  
22 gauge on our house, you can turn on one faucet; usually,  
23 you're not going to get 20 pounds of pressure, period.  
24 And you should at least have more than 20 when the water  
25 is running.

1           And it's there to be seen, too.

2           For two years, the first two years we were  
3 there, every time the power went out -- I mean the well  
4 went out, the water would run down the hill and we  
5 would get air in our line that was outrageous. And for  
6 two years we'd call and they'd have to flush this line  
7 or flush that line or open a hydrant or something. Two  
8 years later and after a major problem with this Company  
9 when some of the higher-up supervisors got involved did  
10 they put in a check valve for us which is working. Why  
11 couldn't they have done that two years ago? The  
12 service is terrible. Just makes me so mad.

13           I just feel this Company needs to straighten  
14 out a lot of things before a rate increase should be  
15 allowed. They need better pressure, better service,  
16 and better communications with their customers.

17           In the fall of '87, when we started building,  
18 the rates were \$10 a month which included 5,000 gallons  
19 of water. By February of '88, just a few months later,  
20 they double to 20. And, now, four years later they're  
21 going to go to 30; they're going to triple these rates.  
22 They haven't tripled their service. What can I say?

23           I want to bring up two points. Fire  
24 hydrants. The National Fire Protection Association  
25 Code 24 has been adopted by Citrus County. It says, "A



1 fire hydrant should be 12 inches above the surface of  
2 the ground at the center of the valve for proper  
3 usage." Because, as I understand it, the firefighters  
4 have to use a big gizzie to put the hose in.

5 You drive up and down our streets, and I bet  
6 you over half of our fire hydrants, which are supposed  
7 to be serviced by the water companies, are illegal.  
8 Now, I don't know that that percent is right. And I  
9 don't mean just the old fire hydrants, some of the new  
10 ones.

11 The Public Service Commission decided not to  
12 have a hearing in our county and a lot of people  
13 couldn't make it to Ocala or Brooksville or up here. I  
14 bring with me a letter from another resident that I  
15 would like to read or at least put in the record  
16 somehow.

17 CHAIRMAN BEARD: Sure.

18 WITNESS MAX: He's a businessman; he's a  
19 neighbor. It's dated November 7, '92.

20 "To Whom It May Concern:

21 "As a Pine Ridge resident, I am very  
22 concerned about the water pressure at my residence.  
23 After paying over \$1,500 to hook up, I expected to get  
24 something for this expense. I was informed by SSU that  
25 the new well would increase my pressure. It has not.

1 As a professional," -- by the way, excuse me, he is  
2 Rain Drop Irrigations, Gary Marks, M-A-R-K-S, owner.  
3 He's a businessman and also lives there.

4 "As an irrigation contractor, this has a  
5 negative effect on my business. A properly installed  
6 irrigation system should have 60 pounds of pressure at  
7 the main line. Pressure at the sprinkler head should  
8 be 50 to 60 PSI to function properly. When sprinkler  
9 pressure drops below 50, water distribution is  
10 adversely affected. The result is long watering time  
11 to keep the grass green. This also wastes water  
12 because the sprinkler cannot perform to specifications  
13 with low pressure.

14 "Residents with low pressure have to install  
15 up to twice as many zones to cover the area as someone  
16 with normal pressure. This is a financial burden on  
17 the homeowners because of the cost. In many cases, I  
18 recommend not installing a sprinkler system because it  
19 will not perform properly."

20 Now, he's referring to Pine Ridge.

21 "Homes and properties cost approximately  
22 \$100,000 or more in Pine Ridge. It seems to me that  
23 SSU should be able to supply enough pressure to  
24 residents so that they can keep their landscape alive  
25 without wasting water.

1 "Sincerely, Gary C. Marks."

2 I have his card here. He's licensed,  
3 insured.

4 CHAIRMAN BEARD: If you will give that to the  
5 court reporter, that way we're sure we'll have it in  
6 the record.

7 WITNESS MAX: Okay. And I guess I just want  
8 to thank you for listening to me spout off.

9 CHAIRMAN BEARD: We're glad you came.

10 WITNESS MAX: I don't know, I have a list of  
11 some of the problems I've had with the Company since  
12 1988. I don't know, it's past history, I don't know if  
13 it's of any -- I guess you believe me that I had those  
14 problems.

15 CHAIRMAN BEARD: Yes, ma'am.

16 WITNESS MAX: So you don't need it. Okay.

17 CHAIRMAN BEARD: Why don't you go ahead,  
18 though, and give that to the court reporter. Because  
19 what we will be doing is getting some information back  
20 from the Company as to what has happened with these  
21 problems, what is being done, what they intend to do.  
22 If we can have that, then we can follow up on this for  
23 you.

24 WITNESS MAX: As I say, it is past history.

25 CHAIRMAN BEARD: We like to check on past

1 history, too, because that sometimes is an indicator of --

2 WITNESS MAX: Well, it tells you what we have  
3 been going through in Pine Ridge, so I don't know.

4 CHAIRMAN BEARD: Okay.

5 WITNESS MAX: Thank you.

6 CHAIRMAN BEARD: Thank you.

7 MR. FEIL: Mr. Chairman, should we assign an  
8 exhibit number to that information or should we just  
9 put it on the correspondence --

10 CHAIRMAN BEARD: It will be on the  
11 correspondence side, but we'll want to follow up just  
12 like we do on any other service question or complaint.

13 (Witness Max excused.)

14 - - - - -

15 CHAIRMAN BEARD: Next witness?

16 MR. McLEAN: Christine E. Sheridan.

17 CHRISTINE E. SHERIDAN

18 was called as a witness on behalf of the Citizens of  
19 the State of Florida and, having been duly sworn,  
20 testified as follows:

21 CHAIRMAN BEARD: I am assuming this also is  
22 new information?

23 WITNESS SHERIDAN: Yes, it is. Thank you.

24 CHAIRMAN BEARD: Briefly, please, ma'am.

25 WITNESS SHERIDAN: The last name is spelled

1 S-H-E-R-I-D-A-N. I appreciate the time that you have  
2 put into this hearing, and I only have one brief  
3 article that I would like to read and ask if someone  
4 can answer a question on it for me.

5 "Rolling Oaks owner, Beverly Hills developer,  
6 Ron Collins, wants to sell his utility and pay off more  
7 than 7.6 million in loans and interest owned on the  
8 operation. His creditor, GE Public Financing Company,  
9 Inc., is suing Collins for lack of payment and breach  
10 of contract. To pay off the debt, he has asked 10  
11 million for Rolling Oaks. However, county officials  
12 contend the Utility is worth less than 4 million  
13 because of the number of customers it services and the  
14 age and disrepair of the plant.

15 "Talks between Collins and the County have  
16 stalled, Shoemaker said. But if the Public Service  
17 Commission allows Southern States the rate hike,  
18 officials there would not have to worry about how much  
19 revenue Rolling Oaks and other small utilities can  
20 generate by themselves.

21 "Currently, the price a company can charge a  
22 customer for utility service is based on the worth of  
23 each individual utility or rate base. Southern States'  
24 rate increase proposal would change that and allow for  
25 other more profitable utilities in the system to help

1 pay for other less profitable ones by giving one rate  
2 base instead of 127. That scenario, Shoemaker said,  
3 could allow Southern States to pay more for Rolling  
4 Oaks than it actually is worth with the hope of future  
5 profits."

6 My question would be, if this Company,  
7 according to the newspaper -- and I know everything you  
8 read in the newspaper isn't gospel -- is only worth 4  
9 million, is it really feasible that this Company is  
10 considering paying so much more for it than it is  
11 worth, and then turn around probably and ask us for  
12 another rate increase because they, of course, need to  
13 get their rate of return? So my question would be to  
14 anyone who can answer it: Is this a possibility that  
15 they would be considering purchasing this company which  
16 is only worth 4 million?

17 MR. FEIL: Mr. Chairman, if I may? I met  
18 with the Citrus County County Attorney two weeks ago, I  
19 believe, or three weeks ago a regarding this very  
20 problem. The situation Ms. Sheridan is describing is  
21 there is a utility named Rolling Oaks whose owner  
22 wishes to see it. Southern States is rumored to have  
23 been a prospective buyer. Perhaps it would be best if  
24 I spoke with Ms. Sheridan after she gets off the stand  
25 so maybe I could give her a little more information

1 about it; or perhaps it would be even better if she  
2 spoke with the County Attorney for Citrus County, who  
3 is a little more familiar with the situation.

4 COMMISSIONER EASLEY: And the problem being  
5 that -- I was just looking -- Rolling Oaks is not in  
6 this case.

7 WITNESS SHERIDAN: True. But it does say  
8 also that if it's passed by Southern States, then it  
9 would affect the rate base of the other 127 --

10 COMMISSIONER EASLEY: Well, it can't unless  
11 we do something about it. And it couldn't until after  
12 a purchase was done anyway --

13 WITNESS SHERIDAN: Okay.

14 COMMISSIONER EASLEY: -- and we do look at  
15 purchase price. But, I think, Mr. Chairman, I think  
16 Mr. Feil's suggestion is a good one. It is not  
17 something we can answer in this context.

18 WITNESS SHERIDAN: But someone will look into it  
19 so that, hopefully, our rates won't be affected by it.

20 CHAIRMAN BEARD: If --

21 COMMISSIONER EASLEY: If it occurs, and --  
22 there's all kinds of ifs connected with that one.

23 WITNESS SHERIDAN: Okay.

24 MR. McLEAN: Maybe Mr. Feil can throw in a  
25 little treatise on acquisition adjustments while he's

1 at it.

2 MR. FEIL: I think the research on that's  
3 been done already.

4 MR. McLEAN: So I hear.

5 CHAIRMAN BEARD: Gentlemen, we're not going  
6 to get into a debate here. Okay. That's what briefs  
7 are for and you all can have your fun then.

8 WITNESS SHERIDAN: Thank you.

9 CHAIRMAN BEARD: Thank you very much.

10 (Witness Sheridan excused.)

11 - - - - -

12 MR. McLEAN: Mr. Chairman, that's all the  
13 customers we have signed up to speak.

14 CHAIRMAN BEARD: Okay. Well, then let's  
15 bring the witness back up on the stand and we will  
16 proceed.

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1 FORREST L. LUDSEN

2 resumed the stand as a witness on behalf of Southern  
3 States Utilities, Incorporated and testified as  
4 follows:

5 CONTINUED CROSS EXAMINATION

6 BY MR. McLEAN:

7 Q Mr. Ludsen, would you refer back to Exhibit  
8 26 for a moment? I'm sorry, 46, that's OPC 85. And  
9 would you refer to Page 26 of 29 of that exhibit?

10 (Pause)

11 I think in our earlier discussion you were  
12 not sure whether condemnation of Parcel 137 related to  
13 University Shores. Do I recall that correctly?

14 A Yes.

15 MR. McLEAN: I have just arranged for you to  
16 be handed an exhibit, sir.

17 Mr. Chairman, may I have it marked for  
18 identification?

19 CHAIRMAN BEARD: It will be Exhibit No. 52.

20 MR. McLEAN: "OPC 113-R."

21 CHAIRMAN BEARD: Okay.

22 (Exhibit No. 52 marked for identification.)

23 Q (By Mr. McLean) Would you take a moment and  
24 familiarize yourself with the exhibit, please, and  
25 particularly with Page 2. And it is my impression,

1 anyway, that the language on Page 2, Item 4 there, ties  
2 that Parcel 137 to University Shores. Would you agree?

3 A Yes.

4 Q All right, sir. That's the only question I  
5 have on the exhibit. Okay. I may not have asked you,  
6 that is the Parcel 137 which is referred to in Exhibit  
7 No. 46 that I referred to earlier, correct?

8 A Yes, sir.

9 Q Okay. Mr. Ludsen, would you refer to the  
10 MFRs, Volume I, Book 3 of 4, Page 10?

11 COMMISSIONER EASLEY: Page what?

12 MR. McLEAN: Page 10.

13 COMMISSIONER EASLEY: 10?

14 MR. McLEAN: Yes, ma'am.

15 Q (By Mr. McLean) Do you have the page, sir?

16 A Yes.

17 Q Notice, if you will, please, about halfway  
18 down the page where it says "Developer agreement,  
19 \$9,000," and an attending number, 5,734. Does that  
20 mean that during the test year that the Company  
21 incurred contractual services for legal in total of  
22 9,000; 5,734 of which was incurred -- which is  
23 represented in the test year?

24 A That's correct.

25 Q Okay. Page 11, sir, the next page of the

1 MFRs, the fifth paragraph down is a bit of an  
2 explanation about where that number came from, is that  
3 correct?

4 A Yes.

5 MR. McLEAN: All right, sir. I pass you an  
6 exhibit out here, it will take a moment. (Pause)

7 May I have it marked for identification,  
8 please, sir?

9 CHAIRMAN BEARD: It will be Exhibit No. 53.

10 MR. McLEAN: Thank you, sir.

11 CHAIRMAN BEARD: "OPC 272"?

12 MR. McLEAN: Yes, sir.

13 CHAIRMAN BEARD: I like your short titles  
14 better than any of the others I can find.

15 MR. McLEAN: Much better.

16 (Exhibit No. 53 marked for identification.)

17 Q (By Mr. McLean) Mr. Ludsen, do you have the  
18 exhibit?

19 A Yes.

20 Q Would you refer to Paragraph D, please.

21 COMMISSIONER EASLEY: "D" as in David?

22 MR. McLEAN: Yes, ma'am.

23 Q (By Mr. McLean) A request by our office for  
24 you to respond to why it's appropriate to include in  
25 test year expenses legal expenses related to developer

1 agreement, is that correct?

2 A Yes.

3 Q And your response, I believe, which is found  
4 on Page 6, listed a variety of reasons. But there is  
5 one that has our interest, which reads, "The majority  
6 of the legal fees expended on preparation of developer  
7 agreements were for the drafting of a form effluent  
8 disposal agreement which will allow the Company to  
9 spray effluent on golf courses located in various  
10 developments throughout the state of Florida."

11 So does that mean -- should that mean to me  
12 that of that \$5,000 number that I mentioned earlier  
13 that the majority of it is associated with the drafting  
14 of the form for effluent disposal agreements?

15 A I didn't prepare this response, but based on  
16 what it says, I would agree with that statement.

17 Q That's what it would mean if you received it,  
18 wouldn't it?

19 A Yes.

20 Q All right, sir. So there was approximately  
21 \$9,000 of legal fees incurred during the test year  
22 associated with developer agreements, some of which are  
23 in this rate case, correct?

24 A Yes.

25 Q All right. Okay, Mr. Ludsen, I'm going to

1 arrange for you to be handed two exhibits this time.

2 (Pause)

3 MR. McLEAN: Mr. Chairman, when you get  
4 yours, may we have marked for identification -- the  
5 first page looks like a deposition, and the second one,  
6 it has large print. They need to be marked separately,  
7 I think.

8 CHAIRMAN BEARD: Commissioner Easley will not  
9 let me mark them until I get them.

10 COMMISSIONER EASLEY: That's right.

11 MR. McLEAN: I understand. I jumped the gun,  
12 but this is just one time so far, twice --

13 COMMISSIONER EASLEY: At least he didn't have  
14 it printed in crayon. It's just large print.

15 CHAIRMAN BEARD: Okay. The first one that  
16 looks like a deposition, because it probably is part of  
17 one, will be Exhibit No. 54. And the one in the large  
18 crayon print will be No. 55.

19 (Exhibit Nos. 54 and 55 marked for  
20 identification.)

21 Q (By Mr. McLean) Mr. Ludsen, do you represent  
22 -- I'm sorry, do you recognize 54 as being an excerpt  
23 from a deposition which you and I attended, with  
24 others, in Apopka?

25 A Yes.

1 Q I believe it is your deposition, sir,  
2 correct?

3 A Yes.

4 Q And in that deposition, if you'll refer to  
5 Page No. 38, we asked you for a late-filed exhibit,  
6 referencing the double -- I'm sorry, the developer  
7 agreements, correct? (Pause)

8 A Yes.

9 Q Mr. Ludsen, tell me whether your recollection  
10 is the same as mine.

11 I recall that we had an off-record discussion  
12 in which I explained that the reason for our requesting  
13 that is so that we could look at those developer  
14 agreements and see whether we thought they were  
15 incurred for reasons associated with the provision of  
16 water and sewer service. Do you remember such a  
17 discussion?

18 A No, I don't, but I'll take your word for it.

19 Q I'm not sure that I do either. I meant to  
20 say that if I didn't, but I think we may have talked  
21 about it.

22 Aside from that, Mr. Ludsen, would you refer  
23 to Exhibit No. 55? That's the late-filed exhibit which  
24 you furnished, isn't it?

25 A Yes.

1           Q     Now, your earlier testimony said that there  
2 was -- there were legal expenses incurred relating to  
3 developer agreements, and your late-filed says, if my  
4 interpretation is correct, that there is not. Which of  
5 the two points of view is true?

6           A     I would accept what was filed in the MFRs.

7           Q     Well, does that say anything to us about the  
8 extent to which you went to determine the answer to our  
9 request for a late-filed exhibit?

10          A     To the best of my knowledge, at the time I  
11 prepared this, I was not aware of any legal expenses  
12 relating to developer agreements.

13               MR. McLEAN: Commissioners, I'm going to move  
14 to strike the evidence, any evidence which would  
15 support the \$5,700 number to which I referred earlier.  
16 There is a representation in response to discovery that  
17 no such expenses were even incurred. And the  
18 information could have been found by looking at the  
19 MFRs.

20               Now, you might observe, well, why didn't we  
21 look at the MFRs? Our question was broader than that.  
22 We wanted to look at the developer agreements to see  
23 what they said. Yet, the answer that the Company gives  
24 us is patently false and deprives us of an opportunity  
25 to examine the developer agreements. And I think it's

1 a fairly serious violation of their obligation under  
2 discovery.

3 So to make it clear, I move that the \$5700  
4 number and any evidence supporting it be stricken from  
5 the record.

6 MR. ARMSTRONG: Commissioners, if I might  
7 address that motion on behalf of the Company.

8 I believe -- this might be a misunderstanding  
9 on behalf of the Public Counsel and the Company, but I  
10 believe in a deposition of Lisa Schutz, she indicated  
11 that the developer agreements referred to in prior  
12 responses were, indeed, the effluent agreements. And  
13 in discovery in this case we have provided Public  
14 Counsel with those effluent agreements that relate to  
15 the costs in the MFRs. Those effluent agreements are  
16 the quote "developer agreements."

17 I regret mislabeling that occurred, but that  
18 did occur. And I believe that the Public Counsel has  
19 been informed of that and maybe they didn't understand  
20 that, and I believe that was in the deposition of Ms.  
21 Schutz. But certainly we have provided all of the  
22 effluent agreements that the Company entered in 1991  
23 for which expenses are included in the MFRs.

24 MR. McLEAN: That doesn't seem to explain  
25 away the plain and simple statement on Exhibit No. 55



1 that those expenses were not incurred.

2 Why should we inquire further about the legal  
3 expenses when we have that representation from the  
4 Company?

5 MR. ARMSTRONG: Again, the misunderstanding  
6 is developer agreements. Developer agreements have a  
7 general understanding of an agreement you enter into  
8 with the developer when he builds a new subdivision.

9 Here, the developer agreements that Ms.  
10 Schutz was talking about, what is included in the MFRs,  
11 are effluent agreements as is indicated in this  
12 response to the interrogatory, which has been passed  
13 out.

14 COMMISSIONER EASLEY: Could I ask you a  
15 question, Mr. Armstrong? Or maybe I need to ask Mr.  
16 Ludsen. Let me ask Mr. Ludsen a question.

17 Looking at the language, Page 11 of the MFR,  
18 Volume -- Book 1 of Volume 3 -- Book 3 of Volume 1,  
19 Page 10 -- got me doing it, Mr. McLean.

20 MR. McLEAN: Sorry.

21 COMMISSIONER EASLEY: In that fifth  
22 paragraph, it says, "8% of the costs relate to various  
23 developer agreements, specialized developer agreements,  
24 primarily those relating to effluent disposal  
25 agreements."

1           Is an effluent disposal agreement the same  
2 thing as a developer agreement?

3           WITNESS LUDSEN: I guess I --

4           COMMISSIONER EASLEY: Try just to go with me  
5 on the question. Are they the same thing?

6           WITNESS LUDSEN: To my knowledge they're not.  
7 But I don't consider them the same thing, but I suspect  
8 it's a matter of interpretation by the individual.

9           COMMISSIONER EASLEY: Oh, wonderful. Okay.

10          CHAIRMAN BEARD: This response is true and  
11 correct to the best of your knowledge?

12          WITNESS LUDSEN: It was at the time I  
13 prepared it.

14          CHAIRMAN BEARD: So you've had some of the  
15 test year since then? Since the test year was over  
16 when you prepared this response, I don't think that's  
17 possible.

18          WITNESS LUDSEN: Yes. To the best of my  
19 knowledge at the time I prepared it, I thought that was  
20 a true and correct answer.

21          COMMISSIONER CLARK: What is the sequence of  
22 events? When was your deposition taken?

23          WITNESS LUDSEN: That was taken in September;  
24 September 16th.

25          COMMISSIONER EASLEY: And when were the MFRs

1 prepared?

2 WITNESS LUDSEN: They were filed in May.

3 COMMISSIONER EASLEY: Did you look at them  
4 after they were prepared?

5 WITNESS LUDSEN: I spent many hours --

6 COMMISSIONER EASLEY: Well, I know, but I was  
7 being a little bit sarcastic.

8 It would seem to me that in the preparation  
9 of your responses to the interrogatories, the first  
10 thing you would do would be look at the MFRs, or at  
11 least to make sure you're saying the same thing twice.

12 WITNESS LUDSEN: Well, the situation that  
13 happened was that during the deposition, Ms. Lisa  
14 Schutz was designated as the individual to respond to  
15 questions relating to the Legal Department.

16 I came into the deposition, and the question  
17 was asked relating to the developer agreements. I was  
18 not familiar with developer agreements. I am still not  
19 familiar with the developer agreements, and --

20 CHAIRMAN BEARD: Well, let me read to you --  
21 let's back up a little bit:

22 "Mr. Ludsen, would you refer to Part D of the  
23 response which is to be found on the last page?

24 In part D the Company says "that costs  
25 associated with the developer agreements are proper to

1 be included in the test year expense, is that a fair  
2 statement?"

3 Your response: "Yes.

4 "Question: Do you know, did the Company  
5 receive any guaranteed revenues as a result of these  
6 developer agreements?"

7 "Answer: I couldn't tell you without looking  
8 at the specific agreements.

9 "Question: Mr. Ludsen, there are a number of  
10 -- throughout this exhibit there are a number of  
11 instances of litigation which the Company has been  
12 involved in. Is the Company planning to produce a  
13 witness at the hearing who will know the substance of  
14 these instances of litigation?"

15 "Yes" is the answer.

16 "And did I understand you earlier to say you  
17 don't know who that witness will be?"

18 "Answer: No, I don't.

19 "Question: All right. Referring again to  
20 Part D, the reference to developer agreements. Can you  
21 provide the agreements which are referenced there in  
22 the late-filed exhibit?"

23 Okay. So you're talking about the specific  
24 agreements. You said you don't know, you'd have to  
25 look at them. They're asking can you provide them, and

1 ultimately, I think you did say yes, you could provide  
2 those. Is that correct? (Pause) Is that a fair  
3 assessment of the conversation that was taking place at  
4 the time?

5 WITNESS LUDSEN: Yes.

6 CHAIRMAN BEARD: Okay. And in response to  
7 that you provided this. Now I'm confused. I mean, you  
8 all were talking about specific agreements. And I'm  
9 taking this exhibit in the context of the conversation  
10 that was occurring. So I'm not sure I understand where  
11 the confusion was, because you all were having a  
12 conversation and you were talking about the specific  
13 agreements. And if you can help me out, I'd appreciate  
14 it.

15 WITNESS LUDSEN: Again, at the time my  
16 deposition was taken, I was not the designated person  
17 to testify -- or testify on this -- on developer  
18 agreements, and I was not familiar with them.

19 CHAIRMAN BEARD: Didn't you take on an  
20 obligation when you said you would get them?

21 WITNESS LUDSEN: Yes, I did. We did provide  
22 all the developer agreements as part of an  
23 interrogatory.

24 COMMISSIONER CLARK: Is it your -- is part of  
25 the confusion that what was listed as developer

1 agreements are not what is traditionally referred to as  
2 developer agreements because it's with respect to  
3 disposal of effluent, is that right?

4 WITNESS LUDSEN: Yes, I believe that's part  
5 of the confusion. Basically, we have what we call a  
6 standard developer's agreement, which is applicable to  
7 -- well, it's a standard agreement applicable to --

8 COMMISSIONER CLARK: To hooking up pumps and  
9 things like that?

10 WITNESS LUDSEN: Right.

11 COMMISSIONER CLARK: Right. I'm not  
12 familiar, or I didn't even know effluent disposal was  
13 considered to be a developer agreement, or I suppose it  
14 can be part of it. But I think what the Commission is  
15 struggling with is the fact that -- what appears to me  
16 is you have a prior interrogatory response that  
17 indicates it is appropriate to include legal expenses  
18 related to in a developer's agreement and, in fact, it  
19 specifically refers Public Counsel to the MFRs. And my  
20 question is, you seem to say Lisa Sshutz was the person  
21 who took care of that. Didn't you talk to her before  
22 you put together this exhibit?

23 WITNESS LUDSEN: Yes, I did talk to the Legal  
24 Department. And the information I received was that,  
25 you know, we have a standard developer's agreement and

1 then there weren't any legal expenses associated with a  
2 developer's agreement. And, again, I think there is  
3 some misinterpretation over --

4 COMMISSIONER CLARK: But you didn't talk to  
5 Lisa about it?

6 WITNESS LUDSEN: I don't recollect if it was  
7 Lisa, but I did talk to -- in fact, I did request that  
8 they assist with this response to the late-filed.

9 COMMISSIONER CLARK: Well, it's confusing, to  
10 say the least.

11 COMMISSIONER EASLEY: It's also frustrating,  
12 to say the least. Go ahead.

13 CHAIRMAN BEARD: Have you got any sage  
14 advice, Mr. Pruitt?

15 MR. PRUITT: Mr. Chairman, if a response to  
16 an interrogatory is not responsive to the question  
17 asked, it should be stricken.

18 COMMISSIONER EASLEY: Well, the only trouble  
19 is, I think what Mr. McLean's motion went beyond just  
20 the answer to the interrogatory, did it not, Mr.  
21 McLean?

22 MR. McLEAN: Yes, ma'am. Well, yes, I'm not  
23 sure -- yes, it did. It says, essentially, we want to  
24 look at those developer agreements and the substance of  
25 them to see whether we think they're allowable.

1 COMMISSIONER EASLEY: No, your motion to  
2 strike --

3 MR. McLEAN: Yes. We get an answer back that  
4 says, "Ain't no such thing; it's not the case." So why  
5 should we inquire further? That puts us at somewhat of  
6 a disadvantage in attacking the \$5700 number because we  
7 didn't look any further.

8 Yes, ma'am, the answer to your question is,  
9 my motion does go to strike the evidence which supports  
10 the \$5700. That is an appropriate --

11 COMMISSIONER EASLEY: And that's the \$5700  
12 shown in the MFRs on Page 10?

13 MR. McLEAN: Yes, ma'am.

14 COMMISSIONER EASLEY: So it goes beyond just  
15 the deposition or interrogatories?

16 CHAIRMAN BEARD: He's willing to accept the  
17 response.

18 MR. ARMSTRONG: Commissioner, I think it's  
19 the Company's position, as I stated, that we did  
20 provide information which informed Public Counsel of  
21 this discrepancy, and that we did provide them with the  
22 effluent disposal agreements at the time that this  
23 discovery was ongoing.

24 So if there was any confusion, it would have  
25 appeared to us that that would have been resolved at



1 the time.

2 MR. PRUITT: Mr. Chairman, my observation,  
3 that is one of the issues that ought to be briefed and  
4 presented to the Commission.

5 COMMISSIONER EASLEY: Well, in addition to  
6 that, I would think it would be something we would have  
7 to take under advisement at this point.

8 MR. McLEAN: I can live with briefing the  
9 issue. I think the record will show a discovery  
10 violation and the remedy is up to you all.

11 CHAIRMAN BEARD: I think that's a reasonable  
12 approach. Moving right along.

13 COMMISSIONER EASLEY: Same thing.

14 Q (By Mr. McLean) I do have one more question,  
15 particularly with respect to Mr. Armstrong's  
16 representation that we were furnished with those  
17 agreements. And the witness is the only person I can  
18 ask.

19 So when did you do that? When did we get the  
20 agreements?

21 A I recall that we did provide a standard  
22 developer's agreement. I don't recall the exact date  
23 of that.

24 COMMISSIONER EASLEY: What about -- the  
25 effluent disposal agreements were the ones that I was

1 understanding in addition to any standard.

2 CHAIRMAN BEARD: The whole discussion in that  
3 deposition was revenues associated with agreements.

4 COMMISSIONER EASLEY: Right.

5 CHAIRMAN BEARD: And the response from you  
6 was that you would have to look at the specific  
7 agreements. So providing a standard agreement doesn't  
8 relate to specific agreements and the revenues  
9 associated with those. I think Mr. McLean's question  
10 relates to the specific agreements that were being  
11 discussed at the time, in the deposition, and the  
12 revenues associated with those.

13 Now, when did you provide those?

14 WITNESS LUDSEN: It was my -- the information  
15 I was provided was that there was not any guaranteed  
16 revenues as a result of these developer agreements. I  
17 don't remember the exact date when we did provide the  
18 standard developer agreement. And I believe we did  
19 provide all the effluent agreements.

20 COMMISSIONER EASLEY: Do you have any idea of  
21 the date for the effluent agreements?

22 WITNESS LUDSEN: I could find out exactly.

23 CHAIRMAN BEARD: I think that would be  
24 responsive.

25 COMMISSIONER EASLEY: We're about due for a

1 break --

2 MR. McLEAN: Shall we have the answer as  
3 late-filed or what?

4 CHAIRMAN BEARD: No, I think you can do that,  
5 but we're going to take a break --

6 COMMISSIONER EASLEY: -- now. We need to do  
7 it anyway.

8 CHAIRMAN BEARD: Which is about now.

9 MR. McLEAN: I have one more question and  
10 then we can leave the area entirely.

11 Q (By Mr. McLean) There has been talk about  
12 the confusion between developer agreements on the one  
13 hand and effluent disposal agreements on the other.  
14 And with respect to that issue, I want to refer you to  
15 the MFR, Page 11, to which we earlier referred.

16 (Pause)

17 Do you have the page, sir?

18 A Yes.

19 Q Now, the fifth paragraph down, that is  
20 language chosen by Southern States Utilities, is it  
21 not?

22 A Yes.

23 Q And it refers to developer agreements in  
24 general, and then it happens to mention the effluent  
25 disposal agreements.

1           Does a plain reading of that sentence show  
2 effluent disposal agreements to be within the category  
3 set forth as developer agreements?

4           A     Yes, it does.

5           Q     Thank you, sir. I have no further questions.  
6 I'm sorry -- before the break.

7           CHAIRMAN BEARD: On this subject.

8           COMMISSIONER EASLEY: On this subject.

9           MR. McLEAN: Yes, indeed.

10          CHAIRMAN BEARD: We'll take a break.

11          (Brief recess.)

12                                   - - - - -

13          COMMISSIONER EASLEY: And you were inquiring.

14          MR. McLEAN: I don't know if the Company's  
15 position is to respond or not, but my question was when  
16 do we get those effluent agreements?

17          COMMISSIONER EASLEY: Have we had a chance to  
18 get a response, Mr. Hoffman?

19          MR. HOFFMAN: We're looking at that and we  
20 haven't been able to come up with an exact date yet. I  
21 do know that they were requested by Public Counsel in  
22 there, I think, it's their ninth set of document  
23 requests, which are due on the 12th of November and  
24 we're producing today.

25          COMMISSIONER EASLEY: You all just keep going

1 and when you have the information, let us know, if  
2 there's anything more definitive than that to be had.  
3 Thank you. Go ahead, Mr. McLean.

4 MR. McLEAN: Thank you, Commissioner.

5 I have an exhibit about ready to be passed  
6 out.

7 COMMISSIONER EASLEY: Is this one exhibit or  
8 two?

9 MR. McLEAN: Two, please, ma'am.

10 COMMISSIONER EASLEY: I'm sorry, you did say  
11 two.

12 MR. McLEAN: Two, please. The one that looks  
13 like a check.

14 COMMISSIONER EASLEY: It will be No. 56.  
15 Short title?

16 MR. McLEAN: "Check for transportation." And  
17 the second, "Minutes of Internal Affairs."

18 COMMISSIONER EASLEY: Of December 2, 1991;  
19 Exhibit 57.

20 MR. McLEAN: Mr. Ludsen, we all ready know  
21 what the dispute is here --

22 MR. HOFFMAN: Excuse me, Mr. McLean, we're  
23 still waiting.

24 MR. McLEAN: Oh, I'm sorry.

25 MR. HOFFMAN: Have these document been marked

1 yet?

2 COMMISSIONER EASLEY: Yes. The larger of the  
3 two documents with the check copy on the front is  
4 Exhibit 56. The other is Exhibit 57.

5 MR. HOFFMAN: Thank you.

6 COMMISSIONER EASLEY: Uh-huh.

7 (Exhibit Nos. 56 and 57 marked for  
8 identification.)

9 Q (By Mr. McLean) Mr. Ludsen, isn't it true,  
10 that these documents relate to a trip some of you all  
11 made up to talk to the Commission at Internal Affairs?

12 A Yes.

13 Q Was that trip occasioned at the request of  
14 Southern States or someone else?

15 A At the request of Southern States.

16 Q Okay. The first document, Exhibit No. 56, it  
17 shows some of the expenses associated with that trip,  
18 doesn't it?

19 A Which page are you referring to?

20 Q All the pages in general, I mean, doesn't it  
21 show the price of the airline -- I'm sorry, the  
22 airplane ride up and back. And the attendees from  
23 Southern States' point of view is represented on Page  
24 6, isn't it? Namely Mr. Phillips, yourself, Mr.  
25 Sandbulte, Mr. Armstrong?

1 A Yes.

2 Q Okay. And before I leave this exhibit, I  
3 want to ask you about the last page of this exhibit  
4 because it was confusing to us. It appears to be an  
5 invoice or a service -- a purchase order dealing with  
6 copying. Do you all rent the airplane from a copying  
7 service or something like that? I'm not sure what's  
8 going on there.

9 A Not that I'm aware of. Gerald Jaeb has a  
10 service, pilot service.

11 Q Okay. Does he rent the aircraft to you all  
12 for the charter service; is that what's going on?

13 A Yes.

14 Q Okay. Now, there's a notation there, and it  
15 says "Private airplane service annual blanket for  
16 1991." I don't have reason to believe, but I have to  
17 ask you anyway, do you all have any continuing  
18 agreement with the provider of an airplane for  
19 transportation?

20 A This is a blanket -- this is a blanket  
21 purchase order, so apparently we do have some agreement  
22 with Mr. Jaeb for service.

23 Q Okay. Do you have -- okay, with respect to  
24 this trip, then, is the \$1,600 each way, the entire  
25 cost or do you have reason to believe, from that last

1 page, that there may be other costs associated with  
2 that transportation?

3 A To the best of my recollection, we flew up here  
4 and then we turned around and flew right back, so --

5 COMMISSIONER EASLEY: Well, let me ask it a  
6 different way: Blanket purchase order, is that the  
7 same as kind of like a letter of credit in a way?  
8 Would you have deducted the cost of that flight against  
9 this \$17,000?

10 WITNESS LUDSEN: Well, that would be -- yes,  
11 that would be a limit as to -- the blanket purchase  
12 order sets a limit as to what can be charged to that --

13 COMMISSIONER EASLEY: I mean, I'm not to look  
14 at this page and see that you all paid \$17,000 to fly  
15 up here and back, am I?

16 WITNESS LUDSEN: No, you're not.

17 COMMISSIONER EASLEY: Thank you so much. And  
18 the amount is for one year, it's not for --

19 WITNESS LUDSEN: That's correct.

20 COMMISSIONER EASLEY: -- one or two trips.  
21 The other invoices would be netted against this 17,000,  
22 would they not?

23 WITNESS LUDSEN: That's correct.

24 COMMISSIONER EASLEY: Okay. I'm reading it  
25 right. Now go ahead, thank you.



1 Q (By Mr. McLean) Okay. So from looking at  
2 the last page, there is no reason to believe there are  
3 any expenses other than the two checks for \$3,200,  
4 correct? I'm sorry, I misspoke. The one check for  
5 \$3,200. (Pause)

6 A I'm trying to figure out these invoices,  
7 because it looks like there's duplicate copies here of  
8 the invoice.

9 Q Let's go through them one page at a time. I  
10 gave this some thought. The front one is a check, do  
11 you agree, or a copy of the check, is that correct?

12 A Yes.

13 Q Okay. And the second is your accounts  
14 payable voucher obviously. The third, appears to be a  
15 trip from Orlando to Tallahassee, and notice, if you  
16 will, at the top, it's AVA164 in the right-hand corner.

17 A Yes.

18 Q And the date is 12-1-91.

19 A Yes.

20 Q Okay. And the next page looks to be  
21 something that the Company developed to tell who was on  
22 the plane, is that correct? The invoice itself?

23 A It looks like it, yes.

24 Q Okay, now the fifth page is AVA165, up at the  
25 right top, and given that it's 12-2-91, it looks like

1 that was the trip home.

2 A Yes. And as I look at these now, there would  
3 be other charges associated with this because -- I  
4 believe we did stay overnight.

5 Q Okay. So there were some other expenses  
6 associated with the trip up here, correct?

7 A It would have been the hotel rooms.

8 Q Okay. Now, whether any of those expenses,  
9 travel, meals and the transportation itself ought to be  
10 covered, that is, paid by the ratepayers, should turn  
11 on whether that trip was a -- if you will, a  
12 permissible purpose; in other words, was it related to  
13 the provision of water and sewer? And on that point we  
14 disagree, correct? Whether it is related --

15 A That's correct. I think the prehearing  
16 statement referenced lobbying.

17 Q Yes, sir.

18 A And we don't consider this lobbying.

19 Q But given our disagreement on that, you agree  
20 that all the expenses ought to rise or fall, based upon  
21 that question, correct?

22 A I would agree to that, yes.

23 Q Okay. Now, the last page gives rise to --  
24 hopefully, the last question on the issue. Do you all  
25 have any continuing liability for an airplane which is

1 not related to your use of the airplane, a take-or-pay  
2 sort of contract? Do you have a pilot or an airplane  
3 on retainer?

4 A No. I'm not aware of anything like that.

5 Q Okay. Thank you, sir.

6 COMMISSIONER EASLEY: Who wrote on here, "Do  
7 not charge rate case per RPA 12-31-91," on the two  
8 copies of the 164 invoice, I mean, those are the  
9 numbers. The AVA165 invoice, and --

10 WITNESS LUDSEN: That would have been written  
11 by probably accounts payable, and the person's initials  
12 that that's referring to is Richard B. Osborne, (ph)  
13 who is our vice president Finance.

14 COMMISSIONER EASLEY: Well, when it says "do  
15 not charge rate case," what does that mean?

16 WITNESS LUDSEN: That means we're not  
17 charging it -- the instructions are not to charge it  
18 specifically to the rate case --

19 COMMISSIONER EASLEY: To the rate case  
20 expense or include it in the rate case request?

21 WITNESS LUDSEN: It would be charged to a  
22 general expense because it wasn't specifically for a  
23 rate case, so it wouldn't get the amortization.

24 COMMISSIONER EASLEY: All right. So it's  
25 included in expenses for the rate case, but it is not

1 in rate case expense.

2 WITNESS LUDSEN: That's correct.

3 COMMISSIONER EASLEY: All right. Thank you.

4 Q (By Mr. McLean) Now, if it was in rate case  
5 expense, as you pointed out, it would be amortized over  
6 a period of about four years, wouldn't it?

7 A That's right.

8 Q But as is, if it's included in the test year,  
9 doesn't it presume that you all are going to come up  
10 every year for whatever purpose you came up?

11 A Well, it was an annual expense that occurred  
12 in the year, and it doesn't necessarily imply that it  
13 was going to incur every year, but that was an expense  
14 that occurred in that particular year.

15 Q Well, the thing that we do know is that the  
16 customers will pay for it every year if the Commission  
17 should approve the request, correct?

18 A It will be included in the rates but then  
19 there's changes in other expenses also which -- if we  
20 weren't to go the next year, would offset those costs  
21 presumably.

22 Q Doesn't that pretty much amount to an  
23 observation: If it ain't one thing it's another?

24 A Well, I think, you know, again, we're talking  
25 about -- you have a certain level of expenses, and

1 you'd expect those expenses to remain fairly consistent  
2 from year-to-year. And you're going to have some  
3 nonrecurring expenses that are traditionally  
4 nonrecurring in nature, but you have nonrecurring  
5 expenses every year.

6 COMMISSIONER CLARK: I think we all can  
7 relate to, "if it's not one thing it's another."

8 MR. McLEAN: Yeah, really.

9 Q (By Mr. McLean) But you don't bring evidence  
10 to the Commission to show what particular item might  
11 substitute for this expense in any of the next three  
12 years, do you?

13 A Well, we have -- well, there's many things  
14 that we haven't included in the test year. Number one,  
15 we filed an average test year -- average rate base  
16 based on 1991, and obviously 1991 is over, so we're  
17 losing half the additions we put into 1991. We know  
18 that there's going to be an increase in our health  
19 insurance of approximately \$300,000. We know that  
20 there's going to be an increase in our cost if we go to  
21 monthly billing, so there are several items which would  
22 offset this cost.

23 Q Does that amount to a request to the  
24 Commission that since you didn't take your best hold,  
25 they ought to give you something else?

1           A     No, that's not it all. All I'm saying is  
2 that if costs are expected to be nonrecurring, there's  
3 also other costs which are going to be occurring which  
4 are going to go up, and so there is offsets to these  
5 types of costs. I mean, if you're going to pick and  
6 choose costs, you know, you have got to pick and choose  
7 on both sides of the equation, I would think.

8           Q     Well, let me offer you this observation and  
9 ask you to criticize it: When you talk about buying  
10 some chlorine at one plant one year, it's in the test  
11 year, Commissioners can reasonably presume you might  
12 need it for another plant next year, so the argument  
13 has some appeal to it, you would agree with that? But  
14 how about when it's really a trip to come up, and  
15 accepting, hypothetically, if it was to soften up  
16 resistance for the next rate case, is there any reason  
17 to presume that that needs to happen on an annual  
18 basis?

19           A     I don't -- You know, I don't think it was to  
20 soften up resistance for the rate case, first of all.

21                     I mean, it was an informational meeting. The  
22 Commission had never met the owners of the Company. It  
23 was an opportunity for them to meet the owner after the  
24 1989 reorganization. And with respect to your comments  
25 on the costs, I think that, again, you're always going

1 to have a certain level of nonrecurring costs, and  
2 we're not saying that these are nonrecurring either,  
3 but you will have certain costs which are nonrecurring  
4 from year-to-year which are going to be offset by other  
5 nonrecurring costs from year-to-year. And there's also  
6 going to be costs that are going to increase. For  
7 instance, we know we're going to have increased sludge  
8 hauling costs and we are going to have to test for 23  
9 additional contaminants next year.

10 Q Okay. Well, let's look a bit at the purpose  
11 of the meeting and then move on. State it as simply as  
12 you can, what was the business purpose of the meeting  
13 for which you incurred at least \$3,200.

14 A It was an informational meeting to the  
15 Commission, and to the general public also, about  
16 Minnesota Power, who we were; to respond to any  
17 questions that the Commission might have of the  
18 Company. The Commission does regulate us, and it was  
19 an opportunity to respond to any questions they might  
20 have of the Company.

21 Q Did you have reason to believe that they had  
22 questions?

23 A Not necessarily but --

24 Q Would you accept, subject to check, that the  
25 Commission regulates more than 400 water and sewer

1 companies?

2 A I would accept that, subject to check.

3 Q And if each of them saw the need to come up  
4 and visit, the Commission would have longer internal  
5 affairs agendas, wouldn't they?

6 A Well, I don't know if the Commission  
7 discourages these people from coming up to meet with  
8 them, but I think Southern States is unique in the  
9 sense that it is the largest owned -- investor-owned  
10 water and wastewater utility in the state, and it  
11 probably is the largest water and wastewater utility  
12 that they regulate. So I would say that we're not  
13 necessarily the same as the other 400 utilities.

14 Q Okay. Mr. Ludsen, I have the impression that  
15 the Company came up to lobby the Commission. Why don't  
16 you correct that for me.

17 A I don't feel --

18 MR. HOFFMAN: I'm going to object to that  
19 question because it presumes facts which are not in  
20 evidence. Mr. McLean's question is based on what he  
21 believes to be a fact; that is not a fact. That, in  
22 fact, is the issue, on which we disagree.

23 MR. McLEAN: Well, the witness doesn't agree,  
24 why don't you let him go ahead and say why he  
25 disagrees. I'd like to know why. I think it's at the



1 central -- I think it's at the kernel of the issue.

2 Well, I could ask the question differently.

3 CHAIRMAN BEARD: Well, I'm just trying to  
4 figure out how many different ways we're going to ask  
5 this question, because I thought it had been asked and  
6 answered, and I thought I understood the disagreement  
7 between the two parties. But, ask it again so we can  
8 get it a third time.

9 Q (By Mr. McLean) Contrast, if you will,  
10 between lobbying expenses and the expenses which you  
11 incurred for this trip.

12 A Basically it was -- again, it was a meeting  
13 where there was an opportunity for the Company to  
14 introduce the Commission to the owners of the Company.

15 We are the largest utility in the state. I  
16 don't see that we're directly trying to influence the  
17 Commission on any particular matter relating to SSU,  
18 other than to be informative and respond to any  
19 questions which they might have of the Company. It was  
20 a very short presentation and we came in and we left,  
21 so --

22 Q Well, sir, assuming that -- if customers do  
23 that, do they get to send you the bill?

24 A If customers do what?

25 Q Come up and familiarize themselves with the

1 Commission and vice-versa.

2 A Well, I think we have a little bit different  
3 relationship.

4 Q I'll join in that.

5 Let's look to Pages 2 and 3 of your rebuttal  
6 testimony, if you will, please. (Pause) In this area,  
7 Mr. Ludsen, you express the Company's belief, I think,  
8 that the Commission had very negative feelings about  
9 allocation based upon labor; is that correct?

10 A That's correct.

11 Q And you base that opinion on the order which  
12 they issued?

13 A Yes.

14 MR. McLEAN: Mr. Chairman, I'm going to ask  
15 the Commission to take official notice of that  
16 particular order, which is 24715.

17 CHAIRMAN BEARD: Okay. (Pause)

18 Q (By Mr. McLean) Do you have the order, sir?

19 A No, I don't.

20 Q I'm going to read you a selected sentence  
21 from the order, which says, "This not only raises the  
22 question of the correctness of the allocation method  
23 but whether such allocations are in the public  
24 interest," and ask you if my impression that the  
25 Commission may have been expressing disdain for

1 allocations in general isn't a fair impression?

2 MR. HOFFMAN: Mr. Chairman, could the witness  
3 and counsel be provided copies of the document Mr.  
4 McLean is reading from?

5 MR. McLEAN: I can hand the witness and Ms.  
6 Dismukes has one for counsel.

7 (Witness provided a document) (Pause)

8 A I'd like to read the section that I have  
9 highlighted here.

10 Q (By Mr. McLean) Of course, please do.

11 A "The Utility's allocation method used for  
12 administration and general A&G expenses of the Apopka  
13 office overhead was also troublesome. Using the Utility's  
14 method results in the Sunny Hills system, which has  
15 approximately 400 water and 180 wastewater customers being  
16 allocated approximately \$36,000 in A&G expenses. This not  
17 only raises the question of the correctness of the  
18 allocation method but whether such allocations are in the  
19 public interest. Out of over 5 million in A&G expenses  
20 for the Utility as a whole, approximately 2 million is  
21 allocated to the 34 systems --"

22 COMMISSIONER EASLEY: Mr. Ludsen, don't  
23 forget you're reading out loud to us, too. Start back  
24 with that --

25 A "Out of over 5 million in A&G expenses for

1 the Utility as a whole, approximately 2 million is  
2 allocated to the 34 systems in this case. The Utility  
3 has not justified this level of expense or allocation  
4 in our view."

5 Q All right, sir. Now, correct me if I'm  
6 wrong, but it is my impression that the Company was  
7 moved somewhat by that expression of disagreement with  
8 your having used direct labor in the past and you  
9 sought to use a method which would become -- which  
10 could be more acceptable to the Commission this time.  
11 Correct?

12 A Well, we were trying to file a case which is  
13 as uncontroversial as possible. And in previous SSU  
14 filings, customers have been used as the allocation  
15 basis. And since we did want to have an  
16 uncontroversial filing, since our interim rates that  
17 were in effect at the time of this filing were based on  
18 the number of customers, we felt that customer  
19 allocations should be looked at again and, based on our  
20 review of the allocation factors, felt that those would  
21 be the appropriate method to use.

22 There was nine reasons which I stated in my  
23 rebuttal testimony as to why customer allocations were  
24 appropriate in this proceeding.

25 Q All right, sir, we'll probably get to that.

1           You're not suggesting in any way, are you,  
2 that having rejected direct labor in the last case that  
3 the Commission is somehow estopped now from criticizing  
4 the method which you ultimately selected, are you?

5           MR. HOFFMAN: I object, Mr. Chairman. I  
6 think that calls for a legal conclusion on the witness'  
7 part.

8           MR. McLEAN: I don't know -- if anything,  
9 it's a legal notion, I can --

10          CHAIRMAN BEARD: Ask the question again, it  
11 started out, "You aren't suggesting," right?

12          MR. McLEAN: Okay.

13          Q     (By Mr. McLean) You aren't suggesting that  
14 because the Commission didn't like direct labor the  
15 last time that they're somehow now prevented in some  
16 way from criticizing your selection of the number of  
17 customer allocations, are you?

18          A     I think the Commission is always open to  
19 criticize the methodologies that we use in the filing.

20          Q     All right. Now, you read Ms. Dismukes'  
21 testimony, did you not?

22          A     Yes.

23          Q     You know she didn't particularly favor a  
24 methodology based upon a number of customers?

25          A     That's correct.

1 Q Okay. Now, you don't know or do you know  
2 whether her methodology is the same as that which the  
3 Commission criticized in the last case?

4 A My recollection is that the methodology that  
5 she is proposing -- which it is also my understanding  
6 that she is not proposing a methodology for this case.  
7 That the methodology that she is proposing is a 50%  
8 allocation or allocation based on 50% ERC use and 50%  
9 direct labor.

10 Q Okay. But the Commission didn't express any  
11 opinion about that methodology in the last case, did it?

12 A The Company didn't file that methodology in the  
13 last case and that wasn't an issue in the last case.

14 Q Okay. Let me ask you something about  
15 allocation methodologies in general, given the two  
16 we've discussed, direct labor on the one hand, number  
17 of customers on the other. Neither one of those  
18 allocation methodologies prevents you from assigning  
19 direct costs where those direct costs are incurred,  
20 does it?

21 A No.

22 Q Okay. Now, do you remember those gas  
23 promotional ads and so forth? Had you all directly  
24 assigned those costs -- let me see if I understand the  
25 problem. The problem is that, since you're going to

1 allocate A&G costs, advertising is normally a part of  
2 the A&G costs so you send those to the pot up in Apopka  
3 and then you allocate them back down, right?

4 A That's correct. We pool all the A&G costs  
5 and allocate them.

6 Q Okay. Now, but you could have directly  
7 charged the advertising costs to the gas operations,  
8 couldn't you?

9 A The advertising costs, the way I would do it  
10 for ratemaking purposes would be to pull out the  
11 promotional type advertising costs before I allocated.

12 Q Even before they were allocated?

13 A Yes.

14 Q But my question is: If you were, on those  
15 costs which can be directly assigned, had you done so,  
16 you wouldn't have run into the problem of allocating  
17 the impermissible expenses back down to the Company,  
18 would you? Or back down to the Utility?

19 A Well, I think you have got to look at the  
20 magnitude of these costs. We're talking about  
21 advertising expense of \$11,000 total Company out of \$28  
22 million and we're talking about 7,000 being assigned to  
23 the FPSC jurisdictional systems.

24 Those costs could be assigned directly; but I  
25 think when you -- the preferable method is to pull

1 those costs out before you allocate. And I think what  
2 happens if you start trying to directly assign these  
3 costs is that the whole system or whole process becomes  
4 very confusing, it becomes not necessarily any more  
5 fair than an allocation across the board based on some  
6 consistent allocation methodology which can be  
7 understood by everybody, and which can be used  
8 consistently from year-to-year, and which you know is  
9 going to produce similar results in these small systems  
10 from year-to-year.

11 Q Well, there is, of course, benefit and costs  
12 on both sides of the equation. For example, if you  
13 don't directly assign them, then you wind up with Sunny  
14 Hills customers paying for defense of condemnation in  
15 Marco Island.

16 A Well, I think you have the danger of double  
17 assigning when you directly assign some of these costs,  
18 too. Which, if you allocate across-the-board, you  
19 don't have this problem.

20 For instance, if you take customer service  
21 costs, for instance. If we have customer service  
22 offices -- and we do have customer service offices at  
23 various locations throughout our Company. Under your  
24 methodology, you would be saying we should assign those  
25 customer service costs directly to the systems that



1 they're located in. However, what happens is that  
2 these customer service offices serve more than just  
3 that one location and you do have the danger of  
4 over-allocating because what you do is you allocate the  
5 Apopka costs across-the-board to all the systems, so  
6 you could end up with a doubling of customer service  
7 costs. Where the purpose of the customer service costs  
8 out in these locations is to provide those areas direct  
9 access to the customer service office. And to the  
10 extent -- and they do offset the customer service costs  
11 which come out of the Apopka office.

12           So that was a part of the problem I think  
13 that we had in the last case was that in some of these  
14 situations, I think, by directly assigning these costs  
15 you ended up perhaps double allocating some of these  
16 costs. And under the pooling method, you don't have to  
17 worry about any type of double allocation.

18           Q     Well, I don't want to belabor the point but I  
19 will ask you maybe one more question on the point. And  
20 that is that wouldn't you expect that every customer of  
21 Southern States ought to pay some customer service  
22 costs every year?

23           A     I agree that based on our allocation  
24 methodology every customer would pay customer service  
25 cost and every customer is going to pay exactly the

1 same customer service cost that ever other customer is  
2 going to pay, whether they're on a large system or  
3 whether they're on a small system. And by doing so,  
4 those customers are benefitting from the economies of  
5 scale in the small systems as well as the large  
6 systems.

7           The problem I have with direct labor  
8 allocation is that, for the water and wastewater  
9 business, is that you have a situation where you have a  
10 lot of very small systems, most of our systems are  
11 under 500 customers, they are very labor intensive.  
12 You allocate on direct labor, you end up assigning more  
13 cost to those small systems than you do to other  
14 systems just because they're not getting the benefits  
15 of economies of scale. And they're also very sensitive  
16 to any changes in labor costs within a system; so then  
17 when you allocate on that method, it just accentuates  
18 the assignment of costs even more.

19           Q     Well, Mr. Ludsen, Mr. Cresse is going to tell  
20 this Commission that if you're going to allocate, you  
21 ought to do it up front by putting a cap and then  
22 everybody knows that they're going to pay 32 cents or  
23 whatever the contribution is toward that subsidy -- I'm  
24 sorry, I used the term "allocate." Let me strike that  
25 and re-ask the question.

1           Mr. Cresse is going to tell the Commission  
2 that if they're going to subsidize that they ought to  
3 be up front about it and do it with a cap, and then  
4 they can be assured that the customer is only paying  
5 about 32 cents a month to subsidize these small  
6 systems. Is that roughly correct?

7           A     I believe, yes, that's correct.

8           Q     So now, if you start -- your testimony, as I  
9 understood it, was just that if you allocated on direct  
10 labor, well, since the small systems are much more  
11 labor-intense, that what you ought to do is allocate on  
12 the number of customers so you can kind of smooth that  
13 out and it is not reflected.

14          A     Well, I think it's more than that. It's the  
15 fact that you also have mandated labor hours, which I  
16 think disrupts the natural flow of labor in the  
17 business. Wastewater systems have mandated operating  
18 requirements; and in a lot of cases these are very  
19 small systems and that tends to distort the natural  
20 allocation of costs that you use for labor as compared  
21 to the water systems, which have less requirements with  
22 respect to operation.

23          Q     Well, Mr. Ludsen, I'm not sure that I have a  
24 position on this but I want to ask you anyway: Why  
25 should the customers of those small systems which have

1 much more labor intensity escape the attending costs?

2           A     Well, to make that assumption, you're  
3 assuming that labor is the correct allocation method to  
4 start off with. And there is nothing to say that any  
5 labor allocation method is the correct allocation  
6 method or is the perfect allocation method.

7                     The goal of the allocation method should be  
8 to try to establish a method which is simple, which is  
9 reasonable, which is easy for the Commission to  
10 understand, and which is fair to the customers. And I  
11 think, you know, my review overall for this industry I  
12 think customers meets that criteria.

13           Q     Mr. Ludsen, I'm concerned about a flow of  
14 value from large system customers to the customers of  
15 small systems which may be occasioned by the allocation  
16 methodology that the Company has chosen. Can you tell  
17 the Commission that there simply is no such thing, that  
18 there is no flow of value in that direction?

19           A     I think by using the customers you do get an  
20 economies of scale benefit in our smaller systems. And  
21 I think the bottom line is that there isn't one  
22 customer in the Company that can say they're paying any  
23 more or any less than any other customer for the  
24 services rendered through A&G expenses and customer  
25 service expenses.

1           Q     Okay. Let's move along here and look at  
2 allocation based on the number of customers a little  
3 more carefully just for a moment. I want you to assume  
4 two apartment complexes, each has 20 apartments; one  
5 has a master meter, the other one has 20 meters.  
6 Presumably, all else being equal, but for the billing,  
7 the costs occasioned by those two apartment complexes  
8 would be roughly the same, wouldn't it?

9           A     Not necessarily. You have 19 more customers  
10 to deal with in the one complex than you do in the  
11 other complex. So, from a billing standpoint, from a  
12 Company standpoint, those are 20 customers; the master  
13 meter is one customer from our standpoint.

14          Q     But with respect to A&G, wouldn't they be the  
15 same?

16          A     Well, again, you've got, you know, you've got  
17 19 units; there could be a slight difference in A&G but  
18 I suspect that they would be fairly close.

19          Q     They need about the same number of general  
20 counsel, don't they?

21          A     Well, there's a potential to have more  
22 because you've added 19 customers to our Company; 19  
23 more customers to our Company, so the potential is  
24 there to have more involvement with that apartment  
25 complex.

1 Q You're not telling the Commission that it's  
2 your habit to litigate with customers, are you?

3 A No. I'm just saying that it does -- you  
4 know, generally I'll say that there probably isn't that  
5 much difference with respect to A&G but I'm just saying  
6 potentially there could be, because there are  
7 additional customers.

8 COMMISSIONER EASLEY: Let me try that  
9 hypothetical a different way. You've got two apartment  
10 buildings in System A with the 20 apartments per  
11 building with 20 meters per building.

12 In System B, you've got two apartment  
13 buildings of 20 apartments each, both having master  
14 meters. Two different systems.

15 Under the allocation, do you have two  
16 customers in System B and 40 customers in System A? Is  
17 that what you're telling me?

18 WITNESS LUDSEN: Yes.

19 COMMISSIONER EASLEY: So that the two  
20 customers in System B would pay each the same as each  
21 of the 40 customers in System A?

22 WITNESS LUDSEN: That's correct.

23 COMMISSIONER EASLEY: And that then is  
24 collected from their renters how? I mean, you don't  
25 care, but they would put it out based on \$10, if that's

1 what it is, just for the sake of \$10-ing it. So it  
2 would be 50 cents per user instead of \$10 per user in  
3 System A. And that's equitable?

4 WITNESS LUDSEN: Right. Let's see, System B,  
5 was that the one?

6 COMMISSIONER EASLEY: System B has would  
7 master meters, System A has 40 apartments and 40  
8 meters.

9 WITNESS LUDSEN: We'd have two bills in  
10 System B and we'd have 40 --

11 COMMISSIONER EASLEY: I said if the charge  
12 for A&G was \$10 per customer, in System A you'd have?

13 WITNESS LUDSEN: 400.

14 COMMISSIONER EASLEY: 400 and in System B you  
15 had 20?

16 WITNESS LUDSEN: Right.

17 COMMISSIONER EASLEY: Even though you had the  
18 same number of users?

19 WITNESS LUDSEN: That's correct. Basically,  
20 what we're dealing with is, you know, one customer on  
21 that master meter.

22 COMMISSIONER EASLEY: And you don't care what  
23 that customer, whether he's a many-headed hydra or a  
24 little amoeba?

25 WITNESS LUDSEN: Right. For administrative

1 costs, that's correct.

2 COMMISSIONER EASLEY: Okay. I just wanted to  
3 be clear. Thank you.

4 MR. McLEAN: Thank you, ma'am.

5 Q (By Mr. McLean) Mr. Ludsen, would you refer  
6 to Page 6 of your testimony, please? Rebuttal  
7 testimony, I'm sorry. (Pause)

8 Look to Line 22. It says, "Trim rates in  
9 effect at the time this case was filed were established  
10 in part on allocations of A&G based on the number of  
11 customers." "In part" appears to me to be some sort of  
12 qualification. I would like you to tell me what "in  
13 part" means there.

14 A "In part" would be -- the interim rates would  
15 be the total rate and the "in part" would be the A&G  
16 and customer accounts portion of the rate.

17 Q Okay, sir. Refer back to Page 1 of your  
18 rebuttal testimony, please. You address the general  
19 notion that Ms. Dismukes is proposing that allocation  
20 be changed in the future, correct?

21 A It is my understanding that she advocated  
22 this for future proceedings.

23 Q But if the Commission found that that was a  
24 better allocation method, more fair and more accurately  
25 reflected costs, perhaps, there's nothing to stop them



1 from doing it in this case, is there?

2 A No, there isn't.

3 Q Now, refer to page -- do you have Ms.

4 Dismukes' testimony with you, sir? (Pause)

5 A Yes, I do.

6 Q Okay. Refer to Page 18, Lines 3 through 4,  
7 if you would. Do you have it, Mr. Ludsen?

8 A Yes.

9 Q Do you agree with me that Ms. Dismukes  
10 references her difficulty with discovery as the reason  
11 why she couldn't implement it this time? Correct?

12 A Well, I don't think it was necessary to  
13 discovery because direct labor ratios were filed with  
14 the case in Book 3, Volume 1, with respect to the  
15 ERC's. We do not have that information on a total  
16 company basis, that I'm aware of, or in a -- we don't  
17 have that information developed in a fashion that would  
18 be what I would consider suitable for filing.

19 Q But you do use direct labor for internal  
20 purposes, right?

21 A We're currently using number of customers.  
22 We did file the direct labor factors with the filing.

23 Q Okay. So are you telling me that -- are you  
24 telling the Commission that you all just couldn't get  
25 the data up that way to do it?

1           A     Well, our response was that we advised  
2 Ms. Dismukes that the direct labor information was  
3 contained in Book 3 of Volume 1. And to the best of my  
4 recollection, that the ERC information was not  
5 available on a total Company basis. We do not have  
6 that information, to the best of my knowledge, worked  
7 up for the counties or the systems that weren't filed  
8 in this case.

9           Q     Pardon me a moment while I come up with an  
10 exhibit here, Mr. Ludsen. (Pause)

11                     Mr. Ludsen, let me make sure I understand  
12 your answer.

13                     We asked for the allocations, "Please provide  
14 the data necessary to reallocate the Company's test  
15 year administrative and general expenses using direct  
16 labor."

17                     Your answer is, "Look in the MFRs."

18                     And then we say, "That doesn't deal with your  
19 systems which are not in the filing."

20                     Your answer now is, "We didn't develop the  
21 information for the systems that isn't in the filing,"  
22 right?

23           A     That's not what I said. I said that the  
24 direct labor information was included with the filing.  
25 Volume 1, Book 3 does provide the total Company direct

1 labor and the direct labor for the systems that we  
2 filed in this case.

3           The ERC information was not available for the  
4 total Company.

5           Q     What --

6           A     The ERC information was available as part of  
7 the MFRs for the systems filed in this case --

8           Q     Okay.

9           A     -- but not available for the County systems  
10 and nonregulated systems. We did not -- to the best of  
11 my knowledge, we did not have that information.

12          (Pause)

13          Q     Okay. Mr. Ludsen, let's change focus a  
14 little bit.

15                I want to ask you about gas merchandising and  
16 jobbing operation. And ask you, first of all, do you  
17 know what I'm referring to, hopefully better than I do,  
18 when I say "gas merchandising and jobbing operations"?  
19 What does that mean?

20           A     Our customer -- customer offices that have  
21 gas -- or our offices that have gas customers also sell  
22 gas appliances, and that would be the merchandising,  
23 what you would call merchandising, gas merchandising.

24           Q     So they're trying to sell appliances which,  
25 in turn, consume gas that you sell, right?

1           A     That's correct.

2           Q     Okay. Let me ask you a question almost as an  
3 aside to make one clear.

4                     We're dealing here with the -- you're in the  
5 LP gas business; you don't sell bottled gas, you sell  
6 gas distributed through distribution lines and so  
7 forth, right?

8           A     I believe we also sell bottled gas. The  
9 majority of it, though, is lines.

10          Q     Lines. Just like natural gas except for --  
11 it's distributed the same way that natural gas is but  
12 it is essentially LP gas as opposed to natural gas.

13          A     Right. Then you have centralized tanks that  
14 provide the gas rather than through a long distance  
15 pipeline.

16          Q     And to state the obvious, that activity is  
17 not regulated by this Commission, is it?

18          A     That's correct.

19          Q     Okay. Now, you -- with respect to A&G costs,  
20 are any A&G costs allocated -- let me ask the question  
21 differently.

22                     With respect to the cost of jobbing and  
23 merchandising, does any of that wind up in the water  
24 and sewer rate case through A&G or through allocation  
25 or a combination? Do you understand the question at

1 all?

2 A I'm not aware of any that ends up in it, no.

3 Q Okay. You --

4 COMMISSIONER EASLEY: Was this the purpose of  
5 the exchange immediately after what I will laughingly  
6 refer to as "lunch break" in which we -- your counsel  
7 was talking about the \$5,000?

8 WITNESS LUDSEN: No.

9 COMMISSIONER EASLEY: Is that even related?

10 MR. McLEAN: No. This is pretty much a  
11 different issue, I think, Commissioner.

12 COMMISSIONER EASLEY: Well it's a different  
13 issue, but I'm having trouble -- well, all right, go  
14 ahead. The reason I asked the question is because I  
15 don't have the foggiest idea what you're talking about,  
16 and I'm trying to understand.

17 MR. McLEAN: If you're on to something, I  
18 don't want to stand in the way.

19 COMMISSIONER EASLEY: No, you ain't got me on  
20 to something. I was trying to make some sense out of  
21 it. Go ahead.

22 Q (By Mr. McLean) You, in your customer service  
23 offices, are in the business of gas jobbing and  
24 merchandising, right?

25 A Yes.

1           Q     Okay.  Is there anything in the nature of A&G  
2 or other common expenses, which is sent up in Apopka,  
3 which is you're eventually going to allocate back out?

4           A     The costs related to merchandising are  
5 charged to a separate account and are incurred below  
6 the line.

7           Q     Okay.  So with respect to the common costs  
8 that are incurred in Apopka, you don't allocate any of  
9 those costs to the jobbing and merchandising effort, do  
10 you?

11          A     In a sense we do, yes, because the gas  
12 business is a separate business unit, and the gas  
13 merchandising business is an activity within the gas  
14 business.  We allocate costs based on number of  
15 customers to the gas business.  So they are getting  
16 allocated a portion of those costs.

17          Q     Do you use -- are there different persons at  
18 these offices which are used for the jobbing and  
19 merchandising effort?  (Pause)

20          A     I'm not certain about that.

21               MR. McLEAN:  Mr. Chairman, this might be a  
22 good time for five minutes.  I'm afraid I'm going to  
23 consume more time just by sitting here like this than  
24 we would by taking a break.

25               CHAIRMAN BEARD:  Okay.

1 MR. McLEAN: Thank you, sir.

2 (Brief recess.)

3 - - - - -

4 COMMISSIONER EASLEY: Are you ready?

5 CHAIRMAN BEARD: I'm ready, sure.

6 Q (By Mr. McLean) Mr. Ludsen, during the break  
7 your counsel distributed the discovery, which was the  
8 subject of some discussion earlier this morning. Do  
9 you know whether that's true?

10 A No.

11 Q Sir?

12 A Would you repeat the question?

13 Q Sure. Did you know that there was a major  
14 exchange of discovery during the break?

15 A No, I didn't.

16 Q Would you accept, subject to check, that  
17 those effluent agreements, developer agreements and so  
18 forth, to which we earlier referred, were actually  
19 furnished to Public Counsel with this set of discovery  
20 as opposed to any time before?

21 A Yes, I would.

22 Q Change focus a good bit here and ask you  
23 about some -- the Commission has an ongoing docket and  
24 major rewrite of water and sewer rules, do they not?

25 A Yes.

1 Q All right, sir. And Southern States has  
2 taken some positions in that docket, haven't they?

3 A Yes.

4 Q Now I've arranged for you to be handed an  
5 exhibit. Do you have it, sir?

6 A Yes.

7 MR. McLEAN: Mr. Chairman, may I have the  
8 exhibit marked as an exhibit in the case?

9 CHAIRMAN BEARD: It will be Exhibit No. 58.

10 MR. McLEAN: It appears to be an invoice from  
11 Mr. Hoffman's firm.

12 CHAIRMAN BEARD: Appears to be.

13 (Exhibit No. 58 marked for identification.)

14 Q (By Mr. McLean) Mr. Ludsen, I won't continue  
15 to say whether the expenses represented by the Messer  
16 firm's billings here. Can you say whether those  
17 expenses are in the test year?

18 A No, I can't. There's not a sheet here, which  
19 shows the charges, accounts charged.

20 Q All right, sir.

21 Q Who would be a good witness for that  
22 question?

23 A Ms. Kimball looked these up.

24 Q All right, sir. Let's proceed on the  
25 assumption that they are in the test year and maybe



1 Ms. Kimball can clear that point up for us.

2           These expenses, presumably, were incurred in  
3 your making your case before the Commission for what  
4 the rules ought to ultimately say. Is that correct?

5 (Pause)

6           A     Yes.

7           Q     Now, do you know whether public counsel  
8 happens to be in that docket?

9           MR. HOFFMAN: Object to the relevancy of the  
10 question.

11           MR. McLEAN: The relevance is it intended to  
12 demonstrate and anticipate the answer that the Southern  
13 States was looking out for the customers, that there  
14 was already someone there doing that. So I can reverse  
15 order the questions, if you wish.

16           CHAIRMAN BEARD: Do that.

17           Q     (By Mr. McLean) Mr. Ludsen, what was the  
18 business purpose of the Company's appearance at the  
19 water and sewer rule hearing?

20           A     To participate in the rule hearing.

21           Q     All right, sir. And whose interests were you  
22 looking out for there?

23           A     We were looking out for -- we were looking  
24 out for both the customers and the shareholders.

25           Q     All right, sir. Should there be an

1 allocation of that cost, some to customers and some to  
2 shareholders?

3 A Well, I think -- I think this is a legitimate  
4 cost of doing business. It's an activity which was  
5 initiated by this Commission. And I would expect that  
6 they would expect our participation. So I would  
7 consider this a normal cost of doing business recovered  
8 through our normal rates.

9 Q Okay. You took a position, I believe, that  
10 supported the notion of fill-in lots to be included in  
11 used and useful; didn't you all do that?

12 A I didn't personally.

13 Q Well, the Company, SSU.

14 A Yes.

15 Q Okay. Now, can you tell me how that benefits  
16 customers?

17 A I'm not a witness on fill-in lots. I can't  
18 tell you that.

19 Q You're a witness that, I think you just said  
20 that if these expenses are in the test year, that they  
21 represent legitimate costs of doing business. Now, if  
22 that's one of the positions they took, how is that a  
23 legitimate cost of doing business?

24 A Well, I think this is a different issue than  
25 fill-in lots, but this is an activity initiated by the

1 Commission which I believe, as a utility being  
2 regulated by the Commission, that we should participate  
3 in and I consider it a normal cost of doing business.

4 Q There's no requirement that you participate,  
5 is there?

6 A No.

7 Q Do you know whether the Company attended any  
8 other -- or participated in any other rulemaking before  
9 the Commission during the test year?

10 A I'm not aware of which ones were participated  
11 in.

12 Q Can you tell me any of the particular  
13 positions that you all took in that rulemaking docket  
14 which directly enhance the interest of the ratepayers?

15 MR. HOFFMAN: I'm going to object to the  
16 relevancy, Mr. Chairman. I think he's already  
17 testified that he believes these expenses on rulemaking  
18 proceedings are a legitimate business expense.

19 MR. McLEAN: My question sort of addresses  
20 why.

21 MR. HOFFMAN: I think he's already answered  
22 that.

23 COMMISSIONER CLARK: Are you suggesting that  
24 with respect to a utility's participation in  
25 rulemaking, which affects them, that we ought to go

1 through and determine whether or not this can be -- can  
2 result in a direct benefit to the current ratepayers as  
3 opposed to an indirect benefit of the long-term  
4 viability of the utility?

5 MR. McLEAN: Yes. The posture is this: On  
6 one side of the room in your rulemaking proceeding, you  
7 have the Public Counsel who is paid for by the  
8 customers --

9 COMMISSIONER CLARK: Not always.

10 MR. McLEAN: It certainly was true in this  
11 one.

12 COMMISSIONER CLARK: Yes, but you'll agree  
13 that we don't always have Public Counsel's  
14 participation in rulemaking.

15 MR. McLEAN: Of course I'd have to agree to  
16 that.

17 COMMISSIONER EASLEY: I was going to ask you  
18 how you determine -- does that mean if your office is  
19 not participating, that there is no consumer interest  
20 to be considered?

21 MR. McLEAN: Certainly not. We have to  
22 allocate our resources as we see best. Actually, Jack  
23 does most of that.

24 But my point is that in this particular case  
25 in which the customer is being asked to pay about \$661,

1 subject to check, that the customers were already  
2 represented first of all in you Commissioners;  
3 secondly, in the Public Counsel; and third, in the  
4 Company itself. I rather think the customers would  
5 choose someone else to do their talking for them.

6 COMMISSIONER CLARK: Other than the Company?

7 MR. McLEAN: Yes, ma'am. By the witness' own  
8 testimony, it benefits them both. So where is the  
9 allocation?

10 MR. HOFFMAN: Commissioner Clark, I think  
11 this is a very convoluted line of questions. Because,  
12 first of all, some of the proposals that the Company  
13 makes in these rulemaking proceedings do, in fact,  
14 benefit the Company and the customer, at least in the  
15 Company's opinion.

16 Second of all, to my knowledge, and I've been  
17 somewhat involved in those rulemaking proceedings,  
18 Public Counsel has not shown up at some of the  
19 workshops that I've been at.

20 Third, I don't see how you can go into those  
21 expenses. Take a number, say it's, in this case, \$600  
22 and try and allocate how much the ratepayer should pay  
23 for and how much the Company should pay for on an  
24 issue-by-issue basis, particularly with the evolving  
25 manner of issues in that rulemaking proceeding.

1 MR. McLEAN: Well, if you can't do that,  
2 you've got to do one of two extremes: One, is let the  
3 ratepayers pay for everything or let the Company pay  
4 for everything.

5 COMMISSIONER CLARK: And I think that the  
6 interaction in docketed rulemaking matters, you have a  
7 hard row to hoe to disallow that kind of expense.

8 MR. McLEAN: Commissioner --

9 COMMISSIONER CLARK: Go ahead and complete  
10 your line of questioning and argue it in your legal  
11 brief. At this point I'm not very convinced.

12 MR. McLEAN: I think the point is before the  
13 Commission. Actually, if you're not convinced, then  
14 perhaps you should hear from the witness exactly what  
15 they did that helps the customers.

16 COMMISSIONER EASLEY: I would allow the  
17 question as being relevant. To the extent that it  
18 affects the decision one way or the other, the answer  
19 may impact that. You know, we can spend all day doing  
20 this. I know.

21 MR. McLEAN: I agree, Commissioner. I think  
22 the point is fairly before the Commission.

23 COMMISSIONER EASLEY: Thank you. (Pause)

24 Q (By Mr. McLean) Pardon me, Mr. Ludsen, I'm  
25 going to pass out an exhibit. (Pause)

1 Mr. Ludsen, let me ask you a preliminary  
2 question. In response to one of our interrogatories,  
3 we asked you to identify all legal costs incurred  
4 during 1991 associated with EPA and DER violations,  
5 correct? Do you remember that?

6 A No. (Pause)

7 COMMISSIONER EASLEY: I notice you didn't  
8 highlight on this exhibit my comment that I was going  
9 to put a stopwatch on you, Mr. McLean.

10 MR. McLEAN: Well, I knew you'd find it anyway.

11 COMMISSIONER EASLEY: It's a good reminder.

12 Q (By Mr. McLean) Mr. Ludsen, the second of two  
13 exhibits that you were passed, one is Interrogatory No.  
14 307. Do you see that?

15 A Yes, this was not prepared by me.

16 MR. McLEAN: All right. Mr. Chairman, may I  
17 have that marked for identification?

18 CHAIRMAN BEARD: This is the interrogatory  
19 response, is that correct?

20 MR. McLEAN: Yes, sir, I'm sorry.

21 CHAIRMAN BEARD: It will be Exhibit No. 59.

22 (Pause) Short title would be "Response to  
23 Interrogatory No. 307, OPC."

24 (Exhibit No. 59 marked for identification.)

25 Q (By Mr. McLean) Mr. Ludsen, those are

1 represented by Judy Kimball to be the expenses  
2 associated with the defense from those activities, is  
3 that correct? You understand the question?

4 A Yes. (Pause)

5 Q Okay. Now, do you know whether those  
6 expenses were allocated to the various systems of  
7 Southern States which are filed in this case? (Pause)

8 A I believe these are charged below the line,  
9 which means they would not be included in the test  
10 year.

11 Q My question addresses the expenses, not the  
12 fines, the expenses associated with the defense. I  
13 think the confusion was mine, I apologize.

14 I'm looking for you to tell me what becomes  
15 of the expenses associated with the defense of these  
16 matters?

17 A The defense would be included as part of  
18 legal?

19 Q Yes, sir. And you all are requesting to  
20 recover those?

21 A If they're under contract or contractual  
22 services, it would be included in Contractual Services,  
23 Legal.

24 Q Yes, sir. And then they will be allocated to  
25 the whole system?



1 A Correct.

2 Q Okay. And the principle of that -- and we  
3 had the disagreement at Lehigh about this -- the  
4 principle is that if the Company is defending itself  
5 from the aggressive activities of perhaps DER or -- or  
6 the EPA, that you believe that the legal expenses  
7 associated with that defense ought to be recovered from  
8 ratepayers ultimately, is that correct?

9 A That's correct.

10 Q Speaking of Lehigh case, did you all offer  
11 Mr. Bob Nixon as an expert in regulatory accounting, do  
12 you recall?

13 A Yes.

14 MR. McLEAN: All right, sir. Would you take  
15 a look at the second exhibit you were handed. Mr.  
16 Chairman, may I have that marked or have you already  
17 marked it?

18 CHAIRMAN BEARD: Exhibit 60.

19 (Exhibit No. 60 marked for identification.)

20 Q (By Mr. McLean) Mr. Ludsen, what I've handed  
21 you appears to be a page from a transcript before this  
22 Commission in which that same Mr. Nixon was a  
23 participant, do you agree?

24 A It looks like it is, yes.

25 Q Now, if you will, turn to Page 959 of that

1 transcript, and refer to the question I asked Mr. Nixon  
2 on Page 13.

3 MR. HOFFMAN: Mr. Chairman, I'm going to  
4 enter an objection and ask that there be no further  
5 questioning on this document. This document is a  
6 transcript from another hearing before the Commission.  
7 Mr. Nixon is not a witness in this case.

8 MR. McLEAN: Mr. Nixon is a recognized expert  
9 in the field of regulatory accounting. His expertise  
10 is endorsed by that of the Company as recently as about  
11 five minutes ago, and I think what he has to say is  
12 fairly relevant.

13 MR. HOFFMAN: Well, Mr. Chairman, it may have  
14 been relevant in the Lehigh case when he was a witness,  
15 but he is not a witness in this case.

16 COMMISSIONER CLARK: If a company uses a  
17 witness, they necessarily charged with every viewpoint  
18 that witness holds on any utility-related issue?

19 MR. McLEAN: I should hope so.

20 We kind of gloss over things like this. Mr.  
21 Ludsen is being offered by the Company as an expert in  
22 regulatory accounting, else he couldn't offer an  
23 opinion on such matters as whether these things should  
24 be above or below the line. Mr. Nixon is not only a  
25 recognized expert in the field but he is an expert that

1 the Company occasionally sponsors, and has done so --

2 COMMISSIONER CLARK: But not on this issue in  
3 this case.

4 MR. McLEAN: Well, that's true. He's a  
5 recognized expert in the field. I can always impeach  
6 any expert by introducing opinions of another expert  
7 which are inconsistent with this expert.

8 CHAIRMAN BEARD: But if it were --

9 COMMISSIONER EASLEY: But if it were in the  
10 same case, I could understand your argument; but I  
11 don't understand it in a different case. How do you  
12 impeach from a different docket?

13 MR. McLEAN: Given -- because the witness  
14 said something different at another time.

15 COMMISSIONER EASLEY: This witness didn't say  
16 it, another witness said it.

17 MR. McLEAN: This witness is an expert, and  
18 he disagrees with another expert. You should take that  
19 into consideration when you weigh the testimony of this  
20 expert -- and, for that matter, the other one as well.  
21 But the point is the way you impeach expert testimony,  
22 about the only way you can do it, is to show what other  
23 experts in the field think.

24 COMMISSIONER EASLEY: But generally you're  
25 doing it in the same case on the same issue, aren't

1 you, Mr. McLean?

2 MR. McLEAN: No, ma'am. I'm not talking  
3 about a prior inconsistent statement of this witness.  
4 This witness --

5 COMMISSIONER EASLEY: I know that. You and I  
6 are talking like this right at the moment.

7 MR. McLEAN: This witness is an expert.  
8 There's another expert somewhere, he may or may not  
9 have testified in any other case ever, but if he has an  
10 expressed view that is inconsistent with this expert,  
11 then you have to weigh his testimony and compare it  
12 with the others.

13 CHAIRMAN BEARD: Do you intend to present  
14 this expert for cross examination?

15 MR. McLEAN: No, sir.

16 CHAIRMAN BEARD: Well, I think it presents a  
17 problem.

18 MR. McLEAN: Doesn't at all. Not for me.

19 CHAIRMAN BEARD: Well, it may not for you.  
20 But you're presenting a testimony of a witness that's  
21 not here to be cross examined. The context upon which  
22 that testimony was made -- and I can think back to a  
23 recent case where, if memory serves me correct, Mr.  
24 DeWard had made some testimony in another state that  
25 was raised.

1                   COMMISSIONER EASLEY: That's right, by Public  
2 Counsel.

3                   CHAIRMAN BEARD: And as a matter fact, I  
4 think we talked about that and said, in fact, that Mr.  
5 DeWard's testimony for another entity in another state  
6 would not necessarily be relevant here because of  
7 different circumstances and what that particular  
8 employer wanted.

9                   MR. McLEAN: Sure, you know. One expert  
10 might be talking about a broken leg and the other one  
11 talking about a domestic crisis. That's not what we're  
12 dealing with here. We're dealing with the general  
13 notion of whether legal expenses incurred in defense of  
14 DER or us ought to be recovered above or below the  
15 line. You got an expert here that says above the line,  
16 their expert in some other case -- or even a stranger  
17 to this docket, who is a recognized expert -- says it  
18 should be below.

19                  CHAIRMAN BEARD: Now, I don't have the  
20 context upon which that was done and I don't have the  
21 witness with which to question, at least in the  
22 previous case -- and if my memory is correct, I think  
23 we disregarded what happened in another state,  
24 generally speaking, with the same witness. And I don't  
25 even have that witness available to cross examine them

1 or ask them to put it in context.

2 COMMISSIONER EASLEY: Didn't we uphold Public  
3 Counsel's objection at that point?

4 MR. McLEAN: I hope it wasn't my objection --

5 COMMISSIONER EASLEY: I don't know, but I'm  
6 pretty sure it was Public Counsel's, and I think it was  
7 upheld.

8 MR. McLEAN: As with the other point, it's  
9 fairly before the Commission and I'm prepared to brief it.

10 CHAIRMAN BEARD: Brief it.

11 COMMISSIONER EASLEY: Move on.

12 MR. McLEAN: I want to offer a proffer. If  
13 the objection is being sustained, I want to offer a  
14 proffer as to what the witness would say.

15 COMMISSIONER EASLEY: That's the second time  
16 you've done that. What do you mean when you say "the  
17 point is fairly before the Commission" because the last  
18 time you said that you simply moved on, we never got an  
19 answer to the question and nothing happened. What did  
20 you mean this time when you said "the point is fairly  
21 before the Commission"?

22 MR. McLEAN: Well, this time there's an  
23 objection on a specific question, and I assume the  
24 instruction is for the witness not to answer it.

25 COMMISSIONER EASLEY: Well, see, there was an

1 objection last time and I thought the witness was going  
2 to answer it --

3 CHAIRMAN BEARD: Well, there is an objection  
4 to the question. And whether or not -- I don't think  
5 he's being instructed not to answer it. That would be  
6 our job, I think.

7 COMMISSIONER EASLEY: We haven't done that yet.

8 CHAIRMAN BEARD: We haven't done that yet.  
9 But, the question is being asked about testimony about  
10 which I can't get at, to put it in context.

11 MR. McLEAN: Okay. Well, let me try again,  
12 and then maybe we can get a specific objection.

13 Q (By Mr. McLean) Mr. Ludsen, do you generally  
14 agree with Mr. Nixon in his philosophy of regulatory  
15 affairs. (Pause)

16 COMMISSIONER EASLEY: Excluding the Mad  
17 Hatter case, of course. (Laughter)

18 A I think Mr. Nixon is a good consultant.

19 Q Good. In fact, he prepared some of your MFRs  
20 in this case, didn't he?

21 A Yes, he did.

22 Q Now, do you see the exhibit before you there  
23 which looks like Mad Hatter testimony?

24 MR. HOFFMAN: Same objection.

25 MR. McLEAN: I haven't even asked him a

1 question.

2 MR. HOFFMAN: That's my objection. I don't  
3 think there's anything that Mr. McLean can ask arising  
4 out of this document. We don't know the factual  
5 context, you know, behind the one or two pages in this  
6 document; I think it's inappropriate, because Mr. Nixon  
7 is not here to be cross examined; and I don't think he  
8 can use two pages out of a different hearing to cross  
9 examine Mr. Ludsen.

10 CHAIRMAN BEARD: Well, we don't even know  
11 that he's going to do that yet because all he's asking  
12 is if he recognizes this as something. So, what is the  
13 question?

14 COMMISSIONER CLARK: What are you using this  
15 for? Do you want to introduce this testimony to  
16 impeach this witness?

17 MR. McLEAN: Yes, ma'am.

18 COMMISSIONER CLARK: I don't think you can do  
19 that. Because just because he used an expert in a  
20 particular docket doesn't mean he espouses the  
21 testimony of that expert --

22 MR. McLEAN: I agree.

23 COMMISSIONER CLARK: -- for every point or  
24 opinion the expert may hold. And it seems to me if  
25 you're -- what you're really providing is not



1 impeachment but competing testimony.

2 MR. McLEAN: For experts, that's fair game.

3 COMMISSIONER CLARK: Well, if it's competing  
4 testimony, you've got to put him on the stand so he can  
5 be cross examined as to why he holds that view.

6 MR. McLEAN: Well, I don't agree with that.  
7 Probably the best thing to do is rule on the objection  
8 and I have a proffer if I lose it.

9 CHAIRMAN BEARD: Well, I'm going to uphold  
10 the objection. And the reason is, very simply, in the  
11 case of Mr. DeWard his testimony was that in that other  
12 state he was taking the position that he was basically  
13 told to take by his employer at that time; and even  
14 though he didn't fully agree with that position -- and  
15 that was to take no position because they had things in  
16 that state. And we very clearly were not going to hold  
17 him to that test in the state of Florida in a different  
18 situation. Now, this may be in the state of Florida,  
19 it's in a different case, and it's out of context.

20 MR. McLEAN: Okay. Well, I have a proffer  
21 for the record, if you please. If allowed to ask, I  
22 would ask if the witness can tell what Mr. Nixon said  
23 there. The witness would say, Yes, and it says that  
24 Mr. Nixon agrees that those expenses, which have been  
25 at issue here, would be below the line.

1 Thank you.

2 COMMISSIONER EASLEY: Are you moving on?

3 MR. McLEAN: Yes, ma'am.

4 COMMISSIONER EASLEY: I need to ask a  
5 question.

6 On Exhibit 59, which is the Interrogatory  
7 307, when I look at this -- and without anticipating  
8 what your answer might have been had the question been  
9 allowed on the last issue -- the interrogatory was  
10 asking for all legal costs incurred associated with EPA  
11 and DER -- I beg your pardon, not 307, looking at 93.  
12 Interrogatory 93, the second page of that exhibit, "The  
13 amount, and describe any and all penalties and fines in  
14 the test year."

15 I guess the question really goes to both, but  
16 the one for Interrogatory 93, the way the question is  
17 phrased, and I want to make sure the answer is in the  
18 same context, there's no distinguishing between that  
19 which has been entered as an expense and that which has  
20 been requested to be recovered in the rate case, is  
21 there? It says "any and all," and that's what you've  
22 listed?

23 WITNESS LUDSEN: Yes, all --

24 COMMISSIONER EASLEY: Have all of these been  
25 requested for recovery in the rate case?

1 3 WITNESS LUDSEN: No. These have been  
2 charged to Account 426.110, which is below the line, which  
3 is --

4 COMMISSIONER EASLEY: That's a below-the-line  
5 account?

6 WITNESS LUDSEN: Yes.

7 COMMISSIONER EASLEY: All right. What about  
8 307, Interrogatory 307. There's an Account No. 806?

9 WITNESS LUDSEN: That would be an above-the-  
10 line amount.

11 COMMISSIONER EASLEY: All right. Thank you.

12 Q (By Mr. McLean) Mr. Ludsen, it is the  
13 Company's position that legal fees associated with  
14 legal research concerning the acquisition policy is  
15 appropriate to pass on to the customers. Is that  
16 correct? You might refer to Issue 68 in the Prehearing  
17 Order.

18 A Yes.

19 MR. MCLEAN: Okay. I've arranged for you to  
20 be handed an exhibit, which is Staff -- FPSC Staff  
21 Interrogatory No. 36. May I have it marked for  
22 identification, Mr. Chairman?

23 CHAIRMAN BEARD: It will be Exhibit No. 61.

24 (Exhibit No. 61 marked for identification.)

25 Q (By Mr. McLean) Mr. Ludsen, Part B of that

1 interrogatory asks SSU to explain how research  
2 concerning the acquisition policy of other states  
3 benefits SSU's ratepayers in Florida, is that correct?

4 A Yes. Again, I didn't prepare this response.

5 Q I understand. And the Company is not  
6 offering Ms. Schutz as a witness, is that correct?

7 A That's correct.

8 Q And with respect to Issue No. 68 in the  
9 Prehearing Order, doesn't it list your name as the  
10 appropriate witness to ask?

11 A That's correct.

12 Q Thank you, sir. (Pause)

13 Mr. Ludsen, let me ask you then generally  
14 what benefit do customers in Florida enjoy as a result  
15 of SSU's doing legal research on acquisition policy of  
16 other states? (Pause)

17 A Would you repeat that question, please?

18 Q Yes, sir. You all offered the Commission's  
19 order in answer to Part B of the Staff's interrogatory?

20 A Yes.

21 Q And probably what I should have asked you is  
22 to give me a summary of why you believe SSU's research  
23 concerning the acquisition policy of other states, how  
24 that benefits ratepayers in Florida. (Pause)

25 A I'll go to the letter which is attached dated

1 September 9; and the position, I believe, is stated in  
2 that letter.

3 Q All right, sir -- I'm sorry.

4 A It says, "Southern States participated in the  
5 above referenced docket and the Commission issued Order  
6 No. 25729 which rejected the Public Counsel's proposal  
7 and retained the existing acquisition adjustment policy,  
8 as advocated by Southern States. Legal research of this  
9 nature is often persuasive, and perhaps just as often,  
10 required, to convince the Commission that its policies are  
11 consistent with not only the law but also the policies of  
12 other jurisdictions. Please note that Public Counsel also  
13 conducts such research as confirmed in the testimony of  
14 its witnesses in the Lehigh rate case in which precedent  
15 established by the Federal Communications Commission is  
16 cited by Public Counsel in support of one of Public  
17 Counsel's positions in that docket. To disallow the  
18 Company's recovery of these type of legal costs would be  
19 arbitrary and would permit Public Counsel to perform this  
20 research, at taxpayer (including our ratepayers) expense,  
21 while depriving the Company of recovery of such costs.  
22 Finally, given the Company's dire financial situation,  
23 disallowance of such costs possibly would prohibit the  
24 Utility's ability to perform such research to the  
25 detriment of the Commission (which should be provided both

1 sides of an issue) as well as the Company. There's parents  
2 around "which should be provided both sides of an issue."

3 Q I understand. Now, do you know -- I suppose  
4 the only way I can ask the question is do you know  
5 whether Mr. Armstrong knew whether Public Counsel  
6 incurred any costs in that particular position as  
7 expressed in Lehigh?

8 A I do not definitely know, no.

9 Q And you don't know yourself, do you?

10 A No, I don't.

11 Q So the general notion here that Mr. Armstrong  
12 was trying -- part of the general notion that he was  
13 trying to express is, "Well, if we don't get to recover  
14 our cost, that will put us at a disadvantage vis-a-vis  
15 Public Counsel's being able to express their view," is  
16 that correct?

17 A Well, I would say that generally, again, this  
18 is a Commission-initiated hearing process. And I feel  
19 it is our duty as the Utility, the major utility in the  
20 state, to participate in this process.

21 Q And the general notion is that supports the  
22 interests of the ratepayers, therefore, the ratepayers  
23 should support it?

24 A Well, I think if you have a -- I think the  
25 interests of the ratepayers is supported by our

1 participation.

2 Q And particularly in acquisition adjustments?  
3 Or at all in acquisition adjustments?

4 A Well, I think that, again, you know, it's a  
5 part of doing business. The Commission has established  
6 a proceeding and I feel it's our obligation to  
7 participate in that proceeding, and we did.

8 Q Mr. Ludsen, one of the positions advocated by  
9 the Office of Public Counsel in that docket was that if  
10 Southern States buys -- or any utility buys -- a system  
11 for considerable less than its book value, that that  
12 adjustment should be reflected in the rate base for the  
13 Utility; isn't that correct?

14 MR. HOFFMAN: I'm going to object, Mr.  
15 Chairman. I think we're getting into the same type of  
16 questioning we had with respect to the rulemaking  
17 proceedings, which is trying to evaluate whether or not  
18 some portion of the legal expenses ought to be divvied  
19 up issue-by-issue, depending on the proceeding; and I  
20 just don't think that's realistic.

21 MR. McLEAN: Well, the issue recurs whether  
22 the customers would opt to have Southern States speak  
23 for them on that issue.

24 COMMISSIONER CLARK: Let me ask a question.  
25 I have not read Ms. Dismukes' testimony, is this

1 covered in her testimony?

2 MR. McLEAN: No, ma'am. Legal expenses in  
3 general certainly are, though. They're covered in the  
4 Prehearing Order, I hope.

5 MR. HOFFMAN: Yes, they are, Issue 68.

6 COMMISSIONER CLARK: Well, it just seems to  
7 me if the argument in the rulemaking is, unless they're  
8 coming forward to specifically protect an identified  
9 ratepayer interest, that they shouldn't be allowed to  
10 recover that expense to participate in rulemaking. Is  
11 that the position Public Counsel is taking?

12 MR. McLEAN: Yes. But, of course, I'd state  
13 it quite a bit differently. I'd say do the customers  
14 -- are you going to approve a situation whereby the  
15 customers speak to Commission through the Utility at  
16 the customers' expense? My guess is that the customers  
17 would prefer not to have the Utility speak on that issue.

18 COMMISSIONER CLARK: All right. Let's  
19 suppose they're only going in to protect their  
20 interest, and then it would be your view or the Public  
21 Counsel's position that they should not be allowed to  
22 recover that?

23 MR. McLEAN: Correct.

24 COMMISSIONER CLARK: Well, let's take that a  
25 step further. If the Public Counsel comes in and



1 initiates a -- requests the Commission to show cause  
2 the Utility as to why their rates shouldn't be lower  
3 because they're overearning, wouldn't your view also be  
4 that they can't come in and defend themselves because  
5 they're necessarily taking a view contrary to the  
6 Citizens?

7 MR. McLEAN: I don't think it's quite so  
8 clear. Acquisition adjustments have a fairly clear  
9 point of demarcation between what's in the customer  
10 interest and what is not.

11 COMMISSIONER CLARK: And a rate case does  
12 not.

13 COMMISSIONER EASLEY: So you'd limit this  
14 acquisition adjustment?

15 MR. McLEAN: This particular observation, I  
16 would. But, you know, your question is getting kind  
17 of in close to the policy of how the Office of Public  
18 Counsel is run and I obviously don't have my fingers on  
19 this. But with respect to acquisition adjustment and  
20 this Company's participation in this docket, I think  
21 that it is pretty farfetched to think their position  
22 there advocates the customers' interest in any way,  
23 shape, manner or form.

24 COMMISSIONER CLARK: And their position in  
25 fighting a rate decrease, how would you argue that that

1 is a position which advocates customers' interests?

2 MR. McLEAN: If you ask me personally, I'd  
3 say if they lose that issue they should foot the cost.

4 COMMISSIONER CLARK: I see.

5 MR. HOFFMAN: Commissioner Clark, could I  
6 just say one thing? And that is that the position the  
7 Company took in that docket was the position ultimately  
8 adopted by the Commission in its Order. And its Order  
9 was designed to benefit the ratepayers and the Citizens  
10 and the public interest of this state.

11 CHAIRMAN BEARD: Well, my problem is you say  
12 it's dealing with acquisition adjustments here but it  
13 was rulemaking; and I still think in this instance it's  
14 an issue that may ought to be briefed, but I don't know  
15 that this individual is a lawyer. Are you a lawyer?

16 WITNESS LUDSEN: No, sir.

17 CHAIRMAN BEARD: Then probably this is not  
18 the time or the place to deal with that issue.

19 MR. McLEAN: Okay. Well, Commissioner  
20 Easley, let me say that the issue is fairly before the  
21 Commission. When I say that, what I mean is you're  
22 aware of what the issues are, we're not going to  
23 educate you any more, but we'll argue it.

24 CHAIRMAN BEARD: It's not over --

25 COMMISSIONER EASLEY: And you're going to

1 move on?

2 MR. McLEAN: Yes.

3 CHAIRMAN BEARD: It's not unfairly before the  
4 Commission?

5 MR. McLEAN: Correct.

6 COMMISSIONER EASLEY: Well, now, I might  
7 disagree with that on occasion but go right ahead.

8 COMMISSIONER CLARK: But you're not putting  
9 on testimony that specifically refutes the benefit --  
10 that the customers received no benefit from the Utility  
11 having participated in the rule on acquisition  
12 adjustment, you're not going to present evidence with  
13 respect to the affirmative of that -- or the negative  
14 of that?

15 MR. McLEAN: No, I don't think I'd undertake  
16 to prove the negative of anything, but --

17 COMMISSIONER CLARK: Well, you're not going  
18 to undertake to put on evidence that says this expense  
19 should be disallowed because it in no way benefits the  
20 customers.

21 MR. McLEAN: No. I'll rely on the  
22 Commission's review of acquisition adjustments to deal  
23 with that issue.

24 COMMISSIONER CLARK: Okay.

25 MR. McLEAN: The Company comes before you

1 asking for money to finance their -- expressing their  
2 position to you on acquisition adjustment. I think  
3 whether they should recover that should rise and fall  
4 on whether they were looking out for the ratepayers or  
5 the stockholders or, perhaps, some combination.

6 COMMISSIONER EASLEY: And, you know, perhaps  
7 that's a better way to leave this issue sitting.  
8 Because, frankly, to make it sound like only Public  
9 Counsel can speak for the ratepayers is a little edgy  
10 when Public Counsel isn't in every docket.

11 MR. McLEAN: Sure.

12 CHAIRMAN BEARD: I've got it. Do you want me  
13 to identify it?

14 MR. McLEAN: Yes, sir, please.

15 CHAIRMAN BEARD: It will be Exhibit No. 62.  
16 Short title is "OPC Document Request No. 18, and  
17 Response."

18 (Exhibit No. 62 marked for identification.)

19 Q (By Mr. McLean) Mr. Ludsen, would you  
20 familiarize yourself with this exhibit please, sir?

21 A Again, I didn't prepare this exhibit.

22 Q I understand.

23 MR. HOFFMAN: Mr. Chairman, I think  
24 Mr. Ludsen may need a few minutes on this one. He did  
25 not prepare it and it looks to be pretty voluminous.

1 And I don't know if this is directed --

2 COMMISSIONER EASLEY: Are you going to be  
3 going through the whole document, Mr. McLean, or can  
4 you point him to a few pages, or otherwise I'm going to  
5 ask the chairman if we can take a break.

6 MR. McLEAN: That's fine. I think he should  
7 be reasonably familiar with the whole document.

8 CHAIRMAN BEARD: Okay. We'll be back  
9 tomorrow morning at eight o'clock. How familiar do you  
10 want him to be?

11 I read pretty fast, but I'm not sure how fast  
12 I could familiarize myself with this.

13 MR. McLEAN: Familiar with Page Nos. 10, 11, 23  
14 and 29. But I have a general question. Let's ask him and  
15 see if he's familiar enough with that. Mr. Ludsen, is it  
16 -- this document fairly represents the Company's mission  
17 statement which sets forth its goals in 1992, 1992?

18 A Yes, it does.

19 Q Thank you, sir. Would you turn to Page 10  
20 please?

21 MR. FEIL: Mr. McLean, are you referring to  
22 the circled numbers at the bottom for page numbers?

23 MR. McLEAN: Correct.

24 COMMISSIONER EASLEY: The circled numbers.

25 MR. McLEAN: The circled numbers.

1 Q (By Mr. McLean) Mr. Ludsen, what does it  
2 mean to "Establish a data base of all governmental  
3 stakeholders who make initial contact?" First of all,  
4 what is a "governmental stakeholder"?

5 A It would be -- my understanding would be  
6 county or state legislative officials, county  
7 commissioners, et cetera.

8 Q And did you all ever establish such a data base?

9 A I haven't seen it, but I believe we do have one.

10 Q All right, sir. Turn to Page 11, if you would  
11 please. It says down on the list a bit, 6th item down, it  
12 says that you all want to "Broaden and increase formal  
13 contact with public officials" and you want to get that  
14 done by December 31, 1991. Can you tell us what efforts  
15 were undertaken to accomplish that?

16 MR. HOFFMAN: Mr. Chairman, I'm going to  
17 object to the relevancy. I don't know what issue this  
18 is directed to.

19 COMMISSIONER EASLEY: You want to respond?

20 MR. McLEAN: We've identified legal expenses  
21 associated with lobbying, and I think the questions are  
22 generally designed to tell how much of this is lobbying  
23 and how much of it is not lobbying.

24 CHAIRMAN BEARD: I'm going to allow it.

25 Q (By Mr. McLean) So the question, Mr. Ludsen,

1 is with respect to broadening and increasing formal  
2 contact with public officials, what that means, what  
3 did you all do to get that done?

4 A Well, according to this, the goal is to  
5 establish 7 to 12 meetings with state legislators,  
6 20 meetings/letters to county officials, letters of  
7 introduction to regulators, and visits and letters of  
8 introduction to city officials.

9 Q All right. Now, that appears to be --  
10 Mr. Armstrong is the coordinator of that have function,  
11 correct?

12 A That's correct.

13 Q Okay. Now, do you know whether Mr. Armstrong's  
14 salary and overhead associated with his employment is, of  
15 course, take than above the line, isn't it?

16 A That's correct.

17 Q Who does all these things? Who is Mr. Armstrong  
18 coordinating?

19 A I, you know, again, wasn't involved with it,  
20 so I can't specifically say. Obviously, Mr. Armstrong  
21 is involved in it.

22 Q All right, sir, but you don't know who he was  
23 coordinating with?

24 A No.

25 Q Let's turn to Page 23, if you would please.

1 CHAIRMAN BEARD: Page what?

2 MR. McLEAN: Page 23.

3 Q (By Mr. McLean) Look down to the second item  
4 under "Key Result Area," Mr. Ludsen. Tell me if you  
5 can why it's in the customer's interest to encourage  
6 interdepartmental cooperation to ensure high quality  
7 rate filings?

8 A Because high quality rate filings produce  
9 positive results, produce a healthy company which  
10 ultimately is to the benefit of the ratepayer, if the  
11 Company is healthy and is able to obtain financing,  
12 provide a high quality of service and so on.

13 CHAIRMAN BEARD: Do they in anyway contribute  
14 to a more efficient hearing?

15 WITNESS LUDSEN: Pardon?

16 I think the idea here was to, you know,  
17 establish interdepartment -- like it says,  
18 interdepartmental cooperation to work together on these  
19 rate filings so, you know, the whole company is focused  
20 to a common goal.

21 COMMISSIONER CLARK: One would certainly  
22 conclude if you can be more efficient through that  
23 endeavor, it would cost less?

24 WITNESS LUDSEN: Yes.

25 COMMISSIONER EASLEY: That's provided all



1 parties are more efficient through that endeavor.

2 MR. McLEAN: It reminds me of what Judge Hal  
3 McClamma said. He said, "If you like efficient  
4 government, you'll love the Third Reich." That gave me  
5 cause for concern.

6 COMMISSIONER EASLEY: The trains run on time;  
7 is that what you're telling me?

8 MR. McLEAN: Yeah. That's about all.

9 COMMISSIONER EASLEY: Yeah. Okay.

10 MR. McLEAN: What you've just been told is  
11 what's good for Southern States is good for customers.

12 COMMISSIONER EASLEY: Keep going, Mr. McLean.

13 MR. McLEAN: Thank you, ma'am.

14 Q (By Mr. McLean) Mr. Ludsen, would you turn to  
15 Page 29 please? And turn to the third item under "Goal,"  
16 if you would please. Do you know whether you all have  
17 established that employee political committee?

18 A Yes.

19 Q That is established now?

20 A Yes.

21 Q And have you all made political contributions  
22 from the PAC?

23 A Yes.

24 Q Okay. Now, my question is a rather general  
25 one. With respect to all these issues, don't Southern

1 States' day-to-day employees participate in each of  
2 these?

3 A There is participation by Company employees,  
4 yes.

5 Q Doesn't each one of those things that I asked  
6 you about pretty much come to lobbying expense,  
7 lobbying activities, I'm sorry?

8 A Yes. But I think you also have to remember  
9 that most of these people are on salary, and they are  
10 working extensive amounts of extra time within the  
11 Company. But in direct response to your question, yes.

12 Q You're not telling -- are you telling the  
13 Commissioners that the time they spend on these efforts  
14 are always done after hours?

15 MR. HOFFMAN: Mr. Chairman, I'm going to enter  
16 an objection just for clarification. Is Mr. McLean  
17 referring to each of the activities he's referenced on the  
18 four pages in this document, and whether that is a  
19 quote/unquote a "lobbying activity"?

20 MR. MCLEAN: Yes.

21 MR. HOFFMAN: Thank you.

22 WITNESS LUDSEN: In that regard, I would  
23 disagree then. I was referring specifically to the  
24 third item under the goal on Page 29.

25 Q (By Mr. McLean) All right. So you don't

1 regard, then, back to Page 10. "Establishing a data  
2 base of all government stakeholders and making initial  
3 contact," you don't regard that as lobbying?

4 A Yes, I do.

5 Q You do. Now, with regard to Page 11.

6 A Yes.

7 Q Yes, with respect to Page 11, and the  
8 questions I asked you about that page?

9 A Yes, with regard to the contact with public  
10 officials.

11 Q All right, sir. And how about -- okay, so --  
12 and how about "Encourage interdepartmental cooperation  
13 to ensure high quality rate funds," that's obviously  
14 not a lobbying expense, correct?

15 A That's not a lobbying expense.

16 Q Okay. But now setting up the PAC and doling  
17 money out from the PAC, that is, isn't it?

18 A Yes.

19 Q All right, sir. Would you turn to Page 30  
20 please. Now, there is reference there, down below "Key  
21 Indicator Item No. 2. Speakers Bureau to represent 20  
22 Company programs, conservation," et cetera. Of course,  
23 conservation is a laudable goal and the Commission  
24 approves expenses with respect to conservation. Our  
25 interest is drawn to the term "et cetera." What et

1 cetera? What does "et cetera" mean there, do you know?

2 WITNESS LUDSEN: Well, if homeowners ask us  
3 to come out and give a presentation on any topic  
4 related to the water and wastewater industry, we'll do  
5 that. And it may not necessarily be conservation, they  
6 may want us to come out and talk to them about rates or  
7 any other type of topic. But, we do have a formalized  
8 program for presenting conservation -- conservation  
9 information to the customers.

10 Q All right, sir, let me skip -- let me change  
11 focus first of all and then skip a few questions, if I  
12 may. Relocation expense. Can you tell us to date or  
13 can you furnish us a late-filed exhibit what the  
14 relocation expense the Company has -- did actually  
15 occurred in 1991?

16 A Yes.

17 COMMISSIONER EASLEY: Is that a yes, you can  
18 do it today or yes, you can do it as a late-filed?

19 WITNESS LUDSEN: Yes, I can do it as a  
20 late-filed.

21 MR. McLEAN: Mr. Ludsen, I misspoke entirely.  
22 And I apologize. It never helps to skip forward  
23 sometimes.

24 We're looking to see how much relocation  
25 expense you have suffered in 1992. And the relevance

1 of that question is to determine whether the relocation  
2 experience you had in 1991 is representative. So can  
3 you give us a late-filed exhibit on what you have  
4 experienced so far in 1992?

5 CHAIRMAN BEARD: That will be Exhibit No. 63.

6 MR. McLEAN: Thank you, sir, it would be  
7 late-filed.

8 CHAIRMAN BEARD: "1992 Relocation."

9 (Late-Filed Exhibit No. 63 identified.)

10 WITNESS LUDSEN: Again, I think that, you  
11 know, this is a situation where you're picking out  
12 selected items. This is an issue in the Lehigh case.  
13 You're picking out selected items which you feel are  
14 nonrecurring in nature and we feel they are  
15 nonrecurring in nature. Our total actual 1991  
16 relocation expenses were --

17 COMMISSIONER EASLEY: Mr. Ludsen, what  
18 question are you answering?

19 WITNESS LUDSEN: I'm just --

20 COMMISSIONER EASLEY: Yeah.

21 CHAIRMAN BEARD: We know.

22 COMMISSIONER EASLEY: Thank you.

23 CHAIRMAN BEARD: We appreciate your feelings.  
24 We just want the exhibit. We are aware that no matter  
25 where you go, there you are.

1 Q (By Mr. McLean) Mr. Ludsen, we're just  
2 wrapping it up here so give us just a moment if you  
3 would. (Pause)

4 MR. McLEAN: Mr. Chairman, may we have that  
5 marked for identification if you have it?

6 CHAIRMAN BEARD: 64, Excerpt from the -- or  
7 correction, "The SSU Services, A Handbook, An Opening  
8 Word."

9 (Exhibit No. 64 marked for identification.)

10 Q (By Mr. McLean) Mr. Ludsen, are you familiar  
11 with the exhibit?

12 A No.

13 COMMISSIONER CLARK: What did you say?

14 WITNESS LUDSEN: It looks like it's a portion  
15 out of a handbook that the Company has.

16 COMMISSIONER CLARK: But did you say no?

17 CHAIRMAN BEARD: You're not familiar with the  
18 handbook? (Laughter)

19 WITNESS LUDSEN: Well, I'm aware of the  
20 handbook, but I don't have it committed to memory or  
21 anything.

22 CHAIRMAN BEARD: Okay.

23 Q (By Mr. McLean) Well, I didn't ask that  
24 question. For whose consumption is that handbook  
25 intended, do you suppose?

1 COMMISSIONER EASLEY: Obviously not his.

2 WITNESS LUDSEN: It's provided to anybody who  
3 wishes information about the Company.

4 MR. McLEAN: Okay.

5 CHAIRMAN BEARD: I hope the boss didn't sign  
6 this on the second page where it says "An Opening  
7 Word."

8 Q (By Mr. McLean) Okay. Turn to the second  
9 page of the exhibit. I see there that you all are  
10 proud of your acquisition program. Is that a fair  
11 assessment?

12 A What was the question please?

13 Q It says here, "Our acquisition program has  
14 continually concentrated on purchasing utilities to  
15 provide economies of scale, and to assist our state and  
16 local government in comprehensive regional land use  
17 planning." I take it that you all are proud of your  
18 acquisition program. That's the question.

19 A I believe we are, yes. (Pause)

20 MR. McLEAN: May I have the exhibit marked  
21 for identification, Mr. Chairman?

22 CHAIRMAN BEARD: It will be Exhibit 65 and it  
23 is "The Response to Interrogatory 304, OPC."

24 (Exhibit No. 65 marked for identification.)

25 Q (By Mr. McLean) Mr. Ludsen, do you know how

1 many water or wastewater systems SSU attempted to  
2 acquire in 1989?

3 A No, I don't.

4 Q How about 1990?

5 A No.

6 Q 1991?

7 A No.

8 Q Do you know whether this exhibit addresses  
9 any of those questions I just asked?

10 A This exhibit was prepared by Judy Kimball and  
11 Charles Sweat of -- I've seen it before; I didn't  
12 prepare it.

13 Q All right, sir. Would you have a look at  
14 Page 1 of 4?

15 MR. HOFFMAN: Mr. Chairman, let me object.  
16 This is another exhibit that this witness did not  
17 prepare and just looking at the subject matter that it  
18 covers, I don't know that this is even one of his  
19 issues. It certainly doesn't appear to be part of his  
20 testimony. Ms. Kimball and Mr. Sweat are both  
21 witnesses in this case.

22 CHAIRMAN BEARD: There would seem to be some  
23 logic to that.

24 MR. McLEAN: The acquisition adjustment, we  
25 think, doesn't have enough cost associated with it or



1 allocated to it. The allocation is an identified issue  
2 in the case. Mr. Ludsen, I believe, supports the  
3 Company's allocation method, as well as its entire  
4 implication. So I'd like to know whether Mr. Lud --  
5 the line of questions will be designed to show that  
6 there is a very substantial acquisition effort on the  
7 part of the Company and that there should be costs  
8 allocated to it, and Mr. Ludsen directly identifies  
9 that issue in his testimony.

10 COMMISSIONER EASLEY: For the allocation part  
11 of it?

12 MR. McLEAN: Yes, ma'am.

13 COMMISSIONER EASLEY: But is that not only --  
14 or not just the allocation methodology?

15 MR. McLEAN: No. He says there's not enough  
16 costs associated. My recollection of his testimony is  
17 he says don't worry too much about allocation of  
18 expenses to acquisition efforts because acquisition  
19 effort isn't all that much. That's paraphrasing  
20 obviously

21 COMMISSIONER EASLEY: Okay. All right.

22 CHAIRMAN BEARD: Well, and it's your position  
23 that they're aggressive?

24 MR. McLEAN: I'm sorry.

25 CHAIRMAN BEARD: It was you position they're

1 aggressive in their acquisitions?

2 MR. McLEAN: It's my position that acquisition  
3 adjustments are a very substantial part of what this  
4 Company does and to decline to allocate expenses, common  
5 expenses to acquisition adjustment is an error.

6 CHAIRMAN BEARD: I guess I'm just trying to  
7 understand. This is the exhibit you brought out, and  
8 on the second page of it, it shows none in '90; one in  
9 '91; and none in '92. I'm trying to figure out where  
10 we are. I just want to understand this.

11 MR. McLEAN: Are you looking at successful  
12 acquisitions?

13 CHAIRMAN BEARD: I'm just reading on the  
14 second page what it says. No acquisitions in '90, one  
15 acquisition in '91, if I'm reading this correctly, and  
16 none in '92.

17 MR. McLEAN: Okay. I don't want to testify,  
18 but the objection is, I take it, on relevance or  
19 whether this is the correct question --

20 COMMISSIONER EASLEY: Best witness.

21 MR. McLEAN: Witness. I want to go back to  
22 that.

23 CHAIRMAN BEARD: Okay. We can go back to  
24 that. I'm sorry. I made a mistake of trying to  
25 understand the content. I won't do that again. Go

1 ahead.

2 MR. McLEAN: Okay. The point that we're  
3 trying to make, and the relevance it has and the reason  
4 we use this witness to do it is that the acquisition  
5 efforts of the Company are substantial. Whether  
6 they're successful or not is a different question, but  
7 the efforts are substantial, is there A&G allocated to  
8 the process?

9 CHAIRMAN BEARD: Go ahead.

10 Q (By Mr. McLean) Mr. Ludsen, given your brief  
11 review of the exhibit, do you agree with me that the  
12 acquisition efforts of Southern States are substantial?

13 A No.

14 Q Why so?

15 A I think Mr. Phillips testified last Friday  
16 that basically the only acquisition efforts which we've  
17 had in 1991 was Lehigh, and that was basically  
18 conducted by the Topeka Group, and that I would -- and  
19 that based on what he said the acquisition efforts  
20 haven't been expensive.

21 Q Do you remember that my question to him was  
22 how many utilities did you acquire?

23 A No.

24 Q Okay. My question to you is, for example,  
25 for 1991, how many did you try to acquire?

1           A     I am not the person to ask that question.

2 I'm not involved in that.

3           Q     Mr. Ludsen, would you look at Page 3 of 4.  
4 First of all, is there any doubt that this is what you  
5 all provided OPC in response to the questions that  
6 appear on the front? (Pause)

7           A     No.

8           Q     All right, sir. Now, this --

9           COMMISSIONER BEARD: Before we go any  
10 further, again, I don't want to be confused with the  
11 facts, but what was the one acquisition that was  
12 successful in '91?

13           WITNESS LUDSEN: Lehigh.

14           COMMISSIONER BEARD: And it's not listed in  
15 here; is that correct? These are the written off ones?

16           WITNESS LUDSEN: These were, according to the  
17 title, these were possible acquisitions that were  
18 written off.

19           COMMISSIONER BEARD: Uh-huh.

20           WITNESS LUDSEN: Or potential acquisitions.

21           COMMISSIONER BEARD: I don't want to steal  
22 your thunder, Mr. McLean, but, for example, in Sebring  
23 on the second page, 44. What kind of acquisition  
24 effort do you make for \$21.12?

25           WITNESS LUDSEN: Again, I'm not --

1           COMMISSIONER BEARD: I'm sorry. I asked the  
2 wrong witness. I'm guilty of the very thing I was  
3 talking about. I'll ask somebody later. Go ahead, Mr.  
4 McLean, I apologize.

5           Q       (By Mr. McLean) Refer to Page 3 of 4, and  
6 let's back up a little bit because we've got some  
7 history to deal with.

8                    You told me that you don't think the  
9 acquisition efforts of the Company are substantial  
10 because they only acquired one company in 1991, is that  
11 fair?

12           A       That's my understanding.

13           Q       Okay. Now, don't you think that the  
14 unsuccessful acquisitions are worthy of consideration  
15 by the Commission as well?

16           A       Yes.

17           Q       Okay. Now, the context of the question, of  
18 course, is: Is it a significant effort in terms of  
19 allocation? So let me ask you that. Do you regard the  
20 acquisitions or the acquisition activity, as reflected  
21 on Page 3 of 4 of the exhibit, to be significant in  
22 terms of the allocation procedure? (Pause)

23           A       Not -- I don't consider that to be  
24 particularly significant when you consider that there's  
25 approximately 3,500 of payroll, or direct payroll is

1 \$2,892 and we've got \$10.2 million in payroll cost.

2 Q Do you tell the Commission that the expenses  
3 for the year 1991, which appear to be \$15,000, are  
4 insignificant then?

5 MR. HOFFMAN: Objection. Asked and answered.

6 COMMISSIONER BEARD: I think he said they  
7 were not significant previously. Did I misunderstand  
8 you?

9 WITNESS LUDSEN: That's correct. That's what  
10 I said.

11 Q (By Mr. McLean) So to be no mistake about it,  
12 it's your testimony that \$15,000 --

13 MR. HOFFMAN: The same objection.

14 WITNESS LUDSEN: My statement was that  
15 payroll costs related to these potential acquisitions  
16 were not significant, and those costs were written off  
17 below the line.

18 Q (By Mr. McLean) Are you saying that these  
19 pages, the costs represented on these pages, are  
20 written off, correct?

21 A That's what the title says, "Written off in  
22 1991."

23 Q Fine. Do you testify to the Commission that  
24 there are no A&G expenses associated with these  
25 efforts?

1           A     No. I'm not going to say there are no A&G  
2 costs associated with these efforts, but I'm going for  
3 say that there's minimal A&G costs. They should not --  
4 these efforts are, again, are not a business unit.  
5 They are an activity within a unit, and they do not  
6 require the full use of all our resources like a  
7 business unit would. They do not require billing  
8 services, they do not require our accounts payable, our  
9 engineering, and if they do require these services,  
10 there are charged below the line; they are of a limited  
11 nature.

12           Q     Well, do they require a building in which to  
13 do the work?

14           A     Yes, they do.

15           Q     And computers upon which to do the work?

16           A     They do require some computer time, yes.

17           Q     Secretaries and so forth?

18           A     Yes, they do, but it's not a full -- it  
19 wouldn't require -- as a business unit would, it  
20 wouldn't require full cost of the A&G and customer  
21 service. And that's what I'm saying. It's of a  
22 limited -- the cost associated with this time is of a  
23 limited nature.

24           MR. MCLEAN: No further questions, Mr.  
25 Ludsen, thank you.

1 WITNESS LUDSEN: Thank you.

2 COMMISSIONER BEARD: Mr. Twomey, how much do  
3 you have?

4 MR. TWOMEY: I would say probably 45 minutes,  
5 Mr. Chairman, depending upon the length of the answers.

6 MR. FEIL: Commissioner, anywhere from an  
7 hour to an hour and a half.

8 COMMISSIONER BEARD: I'm going to take a  
9 break and then we'll come back and work until 5:30, and  
10 we'll break from 5:30 to 6:30 for dinner, and we'll  
11 come back and we'll see what time lay our heads down to  
12 rest.

13 (Brief recess)

14 - - - - -

15 COMMISSIONER BEARD: Mr. Twomey.

16 MR. TWOMEY: Thank you, Mr. Chairman.

17 CROSS EXAMINATION

18 BY MR. TWOMEY:

19 Q Good afternoon, Mr. Ludsen.

20 A Good afternoon.

21 Q I'm going to try to be brief, Mr. Ludsen, and  
22 concentrate on your prefiled direct testimony,  
23 particularly with resepect to the implementation of the  
24 new programs or recommendations from the Staff audit.

25 Is it correct that the bulk of your direct



1 testimony addresses ramifications of complying with the  
2 recommendations of Staff management audit report?

3 A That's correct.

4 Q Okay. If I understand it, the September 1988  
5 PSC Staff Audit Report makes 79 specific  
6 recommendations for your utility?

7 A That's correct.

8 Q And that you apparently determine that 62 of  
9 these recommendations were then consistent with your  
10 plans for growth and in meeting your goal providing the  
11 highest quality service at the lowest possible cost;  
12 is that correct?

13 A We ended up agreeing with all but two of  
14 these recommendations.

15 Q Yes, sir. But if I understand your testimony  
16 correctly, you initially --

17 A Yes.

18 Q -- bought off on some 62 of them; is that  
19 correct?

20 A Yes.

21 Q Because you found them consistent with those  
22 goals?

23 A Yes.

24 Q Okay. Now, Mr. Ludsen, have you calculated  
25 the total annual increase in expenses to implement the

1 Staff's 77 recommendations that you ultimately  
2 implemented?

3 A No, I haven't.

4 Q Do you have -- is it any place in your  
5 filing?

6 A No.

7 Q Okay. Do you have a ballpark figure?

8 A No.

9 Q What total increase in capital expenditures  
10 did you have to implement the Staff's 77  
11 recommendations, and what annual return on investment,  
12 at your requested on return on investment, is including  
13 in this filing?

14 MR. HOFFMAN: Ms. Chairman, let me before Mr.  
15 Twomey gets going, let me pose an objection and ask for  
16 a ruling. And it is based on the order establishing  
17 procedure.

18 Citrus County, whom he is representing as  
19 co-counsel, did not file a prehearing statement. They  
20 did not even show up for the prehearing conference. On  
21 Page 6 of the order establishing procedure, I think the  
22 order is pretty clear that in a situation such as this  
23 that Citrus County has waived a position on all issues,  
24 so I don't know what benefit it is to be gained by  
25 cross examination of Mr. Ludsen or any of the other

1 Southern States' witnesses. I believe that pursuant to  
2 the terms of order establishing procedure, they've  
3 waived their positions on every issue in the prehearing  
4 order.

5 MR. TWOMEY: Is your position that Citrus  
6 County can't take positions at the conclusion of the  
7 case and adopt the positions of others?

8 MR. HOFFMAN: I think that's the position of  
9 the Prehearing Officer as outlined in the ordering  
10 establishing procedure. That's --

11 MR. TWOMEY: What language are you referring  
12 to?

13 MR. HOFFMAN: On Page 6, the bottom.

14 MR. TWOMEY: Well, I don't see the language  
15 he's speaking to, Madam Prehearing Officer, but it  
16 would be my position that irrespective of whether  
17 Citrus County raised issues or took specific positions  
18 on each, that they should be entitled to liberal  
19 latitude and cross examining this witness, and that  
20 they should be allowed to adopt the positions of others  
21 in their post-hearing brief.

22 COMMISSIONER EASLEY: In the post-hearing  
23 brief, that's correct, Mr. Twomey, but that's  
24 different, as I recall, and I don't have the order  
25 establishing procedure in front of me, if somebody

1 would be so inclined as to bring me one real quick.  
2 But you were not at the prehearing, but neither was the  
3 regular Citrus County attorney, and it seems to me this  
4 was discussed at that time.

5 MR. TWOMEY: Yes, ma'am, but I guess the  
6 distinction I would ask you to make, or recognize, is  
7 that I'm not here taking positions now, nor am I  
8 attempting to raise issues. I'm attempting to cross  
9 examine this witness as a party to this case, and I'm  
10 not familiar with a Commission proceeding in the some  
11 15 or 16 years that I've been associated --

12 COMMISSIONER EASLEY: Well, the distinction  
13 is being made between raising an issue -- the waiver of  
14 issues is talking about "Shall have waived all issues  
15 and positions raised in that party's prehearing  
16 statement." I can't remember the discussion. Mr.  
17 Pruitt, help.

18 COMMISSIONER BEARD: Before you do that, I  
19 want you again tell me -- because what I'm reading  
20 here, and I'm trying to refresh myself, any issue not  
21 raised by a party prior to the issuance of the  
22 prehearing order should be waived by that party. That  
23 deals with raising an issue that otherwise hasn't been  
24 previously raised, okay? And a party seeking to raise  
25 a new issue after the issuance of a prehearing order

1 shall demonstrate that.

2 MR. HOFFMAN: And they haven't done that.

3 COMMISSIONER BEARD: Well, is he raising a  
4 new issue that's not in the prehearing?

5 MR. HOFFMAN: No.

6 MR. TWOMEY: I'm not.

7 COMMISSIONER BEARD: Then I don't understand  
8 what your objection is.

9 MR. HOFFMAN: My objection is, my  
10 understanding of the terms of that order, is that a  
11 party is required to come in, file a prehearing  
12 statement: if they don't do that, at least show up at  
13 the prehearing conference and give some notice to the  
14 other parties as to what their positions are. If you  
15 look at the prehearing order, Mr. Chairman, they're not  
16 even listed. They have no positions under each issue.

17 COMMISSIONER EASLEY: So what you're going to  
18 is the last paragraph on Page 6.

19 MR. HOFFMAN: Yes.

20 COMMISSIONER EASLEY: In which you're talking  
21 about that a party that has not taken -- the parties  
22 failure to take a position, blah, blah, blah, in  
23 the absence of such finding by the prehearing officer,  
24 which refers to the good faith showing and a  
25 no-position-at-this-time business, the party will have

1 waived the entire issue.

2 MR. HOFFMAN: Right.

3 COMMISSIONER EASLEY: And any party may adopt  
4 that issue and position in the post-hearing statement,  
5 which directly supports your last statement.

6 But now, Mr. Pruitt, we had a discussion  
7 about this as I recall, at the prehearing, because  
8 somebody did raise what could be the role of an  
9 intervenor who did not attend the prehearing conference  
10 and who did not supply a prehearing statement or take  
11 positions on issues.

12 MR. PRUITT: Madam Chairman, I was not at the  
13 prehearing conference either, but I've been through  
14 quite a few of these things. And it's my judgment that  
15 the intervenor does not waive his right to cross  
16 examine.

17 COMMISSIONER EASLEY: Right.

18 MR. PRUITT: He waives his right to present  
19 new issues and to take positions on those issues, but  
20 he is not precluded from participating in cross  
21 examination of a company witness.

22 COMMISSIONER EASLEY: So it was those two  
23 things, it was the right to cross examine and the right  
24 to file a brief that remains to a party who does  
25 intervene?

1 MR. PRUITT: That is correct.

2 COMMISSIONER EASLEY: Okay.

3 MR. TWOMEY: Thank you very much.

4 MR. HOFFMAN: Clarification then, Mr.

5 Chairman, because I think that the first two -- I think

6 Mr. Twomey has raised two subject matters that I don't

7 think are issues in the prehearing order.

8 COMMISSIONER BEARD: What are they?

9 MR. HOFFMAN: Well, one dealt with the  
10 management audit, and I don't think there are any  
11 issues listed in the prehearing order which addressed  
12 the management audit. Secondly, it's a general plant  
13 from the management audit.

14 MR. TWOMEY: Mr. Chairman, I am -- this  
15 witness has filed, on behalf of his company, prefiled  
16 written testimony. Now, I believe that it is within  
17 the scope and the rights of the party to cross examine  
18 a witness on the testimony that he's presented in the  
19 case.

20 I'm not going to be raising any numbers out  
21 of the blue or exhibits or anything else. I want to  
22 ask this witness about the questions, or about the  
23 testimony that he's filed in this case upon which he  
24 expects this Commission to rely in making its  
25 decisions.

1           COMMISSIONER BEARD: It's your position that  
2 the questions that's he's asking are not covered in the  
3 direct testimony of this witness?

4           MR. HOFFMAN: No, they are in his testimony.  
5 They are not --

6           CHAIRMAN BEARD: If they're in his testimony,  
7 we're going to listen to the questions.

8           MR. HOFFMAN: Fine, okay.

9           CHAIRMAN BEARD: That was his testimony you  
10 filed.

11           MR. TWOMEY: Since it is Mr. Hoffman, from  
12 now on I'll describe the page and line number of the  
13 testimony I'm concerned with.

14           CHAIRMAN BEARD: I think that would be  
15 helpful for everybody.

16           MR. TWOMEY: Yes, sir.

17           COMMISSIONER CLARK: Mr. Chairman, I have  
18 just one concern. It seems to me this came up in the  
19 General Telephone case where we had a number of issues  
20 where nobody took a position on them. And the concern  
21 was that the parties wanted to cross examine with the  
22 idea that possibly they would be taking a position on a  
23 particular issue. And I don't think you should be  
24 precluded from cross examination; but I do think to the  
25 extent you intend to take a position on any issue that,



1 as soon as you know you're going to take a position,  
2 you need to communicate that to the Company.

3 CHAIRMAN BEARD: That's correct.

4 MR. TWOMEY: Well, you mean now?

5 COMMISSIONER CLARK: Well, if you are -- I  
6 assume you're cross examining on the information in  
7 here to reach some sort of conclusion in your own mind  
8 as to the appropriateness of an expense to be included  
9 in rates. And to the extent that conclusion results in  
10 you taking a position on a particular issue, then as  
11 soon as you know you're going to do that, you need to  
12 tell Mr. Hoffman or Mr. Armstrong.

13 MR. TWOMEY: I understand.

14 COMMISSIONER CLARK: So that they can address  
15 the position you're taking in their brief.

16 COMMISSIONER EASLEY: The other concern I  
17 would have is that we not use this to do discovery.

18 MR. TWOMEY: Commissioner, I understand that,  
19 I'll respect that.

20 COMMISSIONER EASLEY: All right. Thank you.

21 MR. HOFFMAN: Mr. Chairman, so you'll  
22 understand --

23 CHAIRMAN BEARD: And even more specifically,  
24 before we get to that, more specifically, the point is  
25 that ultimately taking a position in the brief is too

1 late when you have taken no position. Because that  
2 affords them no opportunity and it takes them out in  
3 the cold.

4 MR. TWOMEY: Yes, sir, I understand that. If  
5 you thought I said that, you misunderstood me.

6 CHAIRMAN BEARD: I did not, I was just simply  
7 clarifying. Because that's the thought process that  
8 went into the GenTel case and I am just carrying that  
9 forward.

10 MR. TWOMEY: Yes, sir. I'm --

11 CHAIRMAN BEARD: No problem.

12 MR. TWOMEY: -- to adopting a position --

13 CHAIRMAN BEARD: What was it you were going  
14 to say?

15 MR. HOFFMAN: All I was going to say, Mr.  
16 Chairman, is I guess I am asking that you briefly  
17 reconsider what you just said, your ruling regarding  
18 the fact that something may have been mentioned in  
19 testimony. And here's why.

20 The process begins with the Company filing  
21 the MFRs and its direct testimony; then the intervener  
22 testimony comes in; then the Company files its rebuttal  
23 testimony. During that process, stipulations are  
24 reached. Issues which originally began in testimony  
25 are eliminated. And what can happen in a situation

1 such as this is that in fact new issues may be raised  
2 when a certain party was not present at the prehearing  
3 conference, even though they originally started out in  
4 the prefiled testimony.

5 CHAIRMAN BEARD: I'm not -- if you filed --  
6 correct me if I'm wrong. If you filed direct testimony  
7 and you have in that testimony issues, that is not a  
8 new issue. Now, if it has since become a stipulated  
9 issue, I really don't want to waste my time hearing  
10 cross examination on that issue. If you got here and  
11 when you got here it was stipulated, tough, you got  
12 here too late.

13 Now, To the extent that there is no position  
14 on that issue and a party might ultimately decide they  
15 want to take a position on that issue, they have an  
16 opportunity to look at that in cross examination; but  
17 then they have the obligation to notify you as soon as  
18 they reasonably see they're going to do that. Okay?  
19 So that clarifies what I was saying. But to the extent  
20 that it is not a stipulated issue and it's in the  
21 direct testimony, Mr. Twomey, you can ask questions.

22 MR. TWOMEY: Thank you, sir.

23 Q (By Mr. Twomey) Mr. Ludsen, so you don't, if  
24 I understand your responses correctly, you don't have  
25 even a ballpark figure for the amount of additional

1 expense necessitated by implementing the audit report  
2 recommendations?

3 A No, I don't.

4 Q Nor the capital expenditures?

5 MR. HOFFMAN: Objection, that's not an issue.

6 COMMISSIONER EASLEY: Well, we're going to  
7 have to -- this is going to get really ridiculous. I  
8 understand where you're going and I understand his  
9 objection; and Mr. Chairman, I don't know what you're  
10 going to do with it.

11 CHAIRMAN BEARD: I'm glad you do, because I  
12 don't.

13 COMMISSIONER EASLEY: Well, the trouble is,  
14 in order for him to form an opinion, he wants to know  
15 does he have any figures. Mr. Hoffman says that's  
16 fine, it's in his testimony -- the basic issue is in  
17 his testimony but the subject matter or the detail is  
18 not at issue in the case. Now, we're going to spend  
19 the next two days doing this if we're not careful.

20 CHAIRMAN BEARD: Well, I guess I'm a little  
21 troubled by the fact he said, "No, I don't know." Now,  
22 maybe I'm not complex enough to understand this, but he  
23 doesn't have a figure so you ain't going to get into  
24 much detail on no figures.

25 MR. ARMSTRONG: Mr. Chairman, if I may

1 address that? There has been a significant amount of  
2 discovery by both the Office of Public Counsel and  
3 Staff. One of the issues that preliminarily was raised  
4 was a question about computers included in general  
5 plant; and I believe we provided the parties with  
6 information about that general plant and that issue was  
7 dropped.

8           We also have provided the parties who have  
9 been active in this case with information regarding  
10 other general plant additions and numerous other  
11 additions which would have been related to the  
12 management audit. And had we known that was an issue,  
13 I think the Company could have addressed specifically  
14 certain issues. But without those being identified in  
15 this prehearing order, right now our witness is sitting  
16 on the stand not knowing -- and this is generally what  
17 due process requires -- what is that issue in the case  
18 and what he's going to be required to testify to today.

19           Now to sit there and ask him -- I don't think  
20 the witness is going to testify that we could not have  
21 provided that information, we would not have it in a  
22 clearly comprehensive form at this point. But to have  
23 a party who has never participated at all in the  
24 proceeding to come in and take us unawares and raise  
25 new issues, I think that's the problem that we have.

1 MR. TWOMEY: May I respond, Mr. Chairman?

2 CHAIRMAN BEARD: Yeah, you can.

3 MR. TWOMEY: Just briefly and maybe I'll drop  
4 the question.

5 The thrust of my question was that this  
6 witness, as I understand his testimony, had some 33  
7 pages of testimony talking about the significance of  
8 the programs, the procedures, they've implemented as a  
9 result of accepting and implementing 77 recommendations  
10 proposed by your Staff. How they were necessary,  
11 presumably to increase the expense to the customers and  
12 so forth, but nonetheless, they're reasonable and  
13 prudent.

14 This gentleman, who the Company has put  
15 forth, as I understand, is the Vice President of this  
16 Company. I asked him does he have even a ballpark  
17 figure of the cost? Now, if he doesn't know, that's  
18 fine.

19 COMMISSIONER CLARK: To what issue does this  
20 relate?

21 MR. TWOMEY: It relates to allocation.  
22 Issues 7 and 44.

23 CHAIRMAN BEARD: Well, let's see. Issue 7  
24 deals with how you allocate the expenses as opposed to  
25 what the expense is. Issue 44 is allocation of

1 expenses as opposed to the detail of the expense.

2 MR. TWOMEY: Yes, sir. But just to let you  
3 know where I'm going, if it is of any interest, is that  
4 -- or where I want to go -- is that the allocation,  
5 whether the allocation that this Company proposes is  
6 appropriate or not depends in part, and that is, as I  
7 understand it, is based on a per-customer, whether it  
8 is appropriate or not should be based in part on  
9 whether you decide all the customers deserved a pro  
10 rata allocation of those expenses. And inherent in  
11 understanding that is the level of expense and the --  
12 that is, the costs, the level of expense, the costs  
13 associated with those new services and procedures  
14 versus the benefits provided.

15 CHAIRMAN BEARD: Was this information  
16 provided in discovery by the Company to Staff and OPC?

17 MR. FEIL: Which information was that? I'm  
18 sorry.

19 CHAIRMAN BEARD: The details associated with  
20 these audits, findings, et cetera? Implementation of  
21 audit findings?

22 MR. FEIL: Not to the best of my  
23 recollection. I don't recall any discovery -- there  
24 was so much discovery, I couldn't tell you for certain,  
25 but I don't recall any discovery pertaining to costs

1 attributable strictly to the Staff audit. There may  
2 have been one interrogatory that I remember, that's  
3 about all.

4 CHAIRMAN BEARD: Well, I'm going to proceed  
5 along just a little but further. The answer to your  
6 first question was, "I don't know;" so go on to your  
7 next question and we'll see what it is.

8 MR. TWOMEY: Okay sir.

9 Q (By Mr. Twomey) Let me ask you if there was  
10 any cost, to your knowledge, associated with  
11 implementing those programs?

12 A Yes, there was.

13 Q Okay. Which of those recommendations, Mr.  
14 Ludsen, generally did you find consistent with your  
15 plans for growth?

16 A Well, I think the purpose of the audit was to  
17 maximize the efficiency of the Company and to determine  
18 what needed to be done to the Company to serve our  
19 customers the best. And I think all the audit  
20 recommendations go hand-in-hand towards providing a  
21 better organization to serve our customers.

22 Q Do I take it, then, that your answer is that  
23 all of the recommendations being implemented benefited  
24 both your plans for growth and providing or meeting  
25 your goal of providing higher quality service at the



1 lowest possible cost?

2 A Yes.

3 Q Okay. Let me ask you this. Is your  
4 testimony intended to support the reasonableness and  
5 prudence of all the increased expenditures of  
6 implementing the Staff report or the audit report  
7 recommendations?

8 A The Staff report basically mandated that we  
9 implement these recommendations. And we did implement  
10 those recommendations. So, basically, we were told we  
11 had to implement those recommendations, and the Staff  
12 followed up on a quarterly basis to make sure that we  
13 were recommending those recommendations.

14 So the answer is that we're required to  
15 implement these recommendations.

16 Q And my next question would be is it your  
17 position then, or the position of your Company, that,  
18 because you were required to implement these  
19 recommendations, that, therefore, you should get the  
20 recovery for the expenses?

21 A Well, we believe that the recommendations are  
22 valid. I mean, we felt that those recommendations are  
23 good recommendations and we probably would have  
24 implemented those recommendations anyway, because that  
25 is what is necessary to -- the improvements are what is

1 necessary to run a larger utility in a efficient manner  
2 and provide the quality of service which the customers  
3 expect.

4 Q Okay. Were you providing less than high  
5 quality of service in the latter part of 1988?

6 MR. HOFFMAN: Objection, it is not at issue.

7 MR. TWOMEY: Okay.

8 Q (By Mr. Twomey) Is it your position, Mr.  
9 Ludsen, that the benefits that were accrued from  
10 implementing those recommendations were shared equally  
11 by all the customers? That is, the customers of each  
12 of the systems?

13 A Yes, I think they're shared equally by all  
14 the customers of the systems.

15 Q You state in your testimony that you  
16 initially accepted 62 of the 79 audit recommendations  
17 but that the Staff aggressively pursued implementation  
18 of the rest, is that correct?

19 A That's correct.

20 Q Why did you describe the Staff's action as  
21 aggressive?

22 A Because they did follow up on a quarterly  
23 basis to make sure that we were implementing these  
24 recommendations. And we had to file quarterly reports  
25 with them; and they either accepted our reports or the

1 recommendations being complete, or they came back and  
2 told us to do more on those recommendations. So it was  
3 being followed up by the Staff on a regular basis.

4 Q So ultimately you accepted all but two, is  
5 that correct?

6 A That's correct.

7 Q Or you determined to implement all but two?

8 A That's correct.

9 Q Okay. On Page 7 of your prefiled testimony,  
10 you talk about the Staff's or the Commission's  
11 guidelines for various expenses. Do you know whether  
12 your -- do you see that?

13 A Yes.

14 Q At Line 15? Do you know whether any of your  
15 A&G expenses -- whether your A&G expenses are above or  
16 below the guidelines?

17 A Yes.

18 Q Which? (Pause)

19 A We have several categories of expenses that  
20 were above the guideline and several categories which  
21 were below. Above the guidelines we had salaries;  
22 pension and benefits; sludge removal; chemicals; some  
23 contractual service costs; workmen's comp; advertising;  
24 some miscellaneous expenses.

25 Below, we had purchased power purchased;

1 materials and supplies; contractual service for  
2 management fees; rental of buildings; rate case  
3 amortization; Regulatory Commission expense, other.

4 Q Thank you. Mr. Ludsen, will you turn to Page  
5 9 of your prefiled testimony? At Line 19, I believe it  
6 is, you indicate that, "The objectives clearly  
7 establish the less-than-permissive character of the  
8 Commission's recommendations contained at the audit  
9 report." You go on at the bottom of the page to again  
10 note that the implementation of the recommendations  
11 were aggressively pursued.

12 A Yes.

13 Q My question is by "less than permissive" do  
14 you mean to imply that your Company's compliance or  
15 implementation of those recommendations was mandatory?

16 A Yes.

17 Q Okay. Did you ever feel that you were being  
18 micromanaged through the recommendations that were  
19 pressed upon you?

20 A I wasn't here at the time that the original  
21 report was issued. But as I indicated earlier, I think  
22 the recommendations were good and I think that we would  
23 have implemented those recommendations anyway.

24 Q All 77 of them that you implemented?

25 A Well, I mean, if there hadn't been a report I

1 don't know if all 77 would have been implemented. But  
2 basically our feeling was that those recommendations  
3 were good solid recommendations and we would have  
4 certainly initiated or completed a majority of them.

5 Q You've increased your computer capability  
6 substantially, is that correct, as a result of  
7 implementing the audit report recommendations?

8 A That's correct.

9 Q Earlier this morning, I think it was,  
10 Chairman Beard asked you about the ability to add an  
11 additional field to the customer computer records, if I  
12 understood the nature of his questions correctly, so  
13 that you could maintain separate rate caps for  
14 different systems; do you recall that?

15 A I remember the discussion on rate caps, yes.

16 Q Is that a problem?

17 A Well, we haven't really looked at it in  
18 detail, but we do have computer capability, so I know  
19 we can do it, yes.

20 CHAIRMAN BEARD: Actually, Mr. Twomey, I  
21 don't think it was a matter of adding a field because  
22 the field would have to exist in the first place to  
23 have even a uniform rate cap in which to top it off for  
24 billing purposes. So, it would be a matter of simply  
25 changing that field in any given billing system, I

1 think.

2 MR. TWOMEY: Okay.

3 Q (By Mr. Twomey) Mr. Ludsen, on Page 14 of  
4 your testimony, at Line 23, you talk about noting your  
5 dissatisfaction with the notice requirements of this  
6 case?

7 A Yes.

8 Q And indicate that there were some \$100,000 of  
9 expenses associated with what you described as  
10 duplicative notice. Is that correct?

11 A Yes.

12 Q Why did you testify on this particular issue.

13 A Well, I think we sent out, through the course  
14 of this proceeding, I think we're going to be sending  
15 out approximately six notices to the customers. Each  
16 time we have a notice, a mail notice, it is  
17 approximately \$25,000 per notice.

18 The customers at these service hearings and  
19 in several occasions complained about the number of  
20 notices. So if there's some way that we can reduce  
21 that number of notices, I think --

22 COMMISSIONER CLARK: Mr. Ludsen, I was  
23 interested in that point also. Would you run through  
24 the various notices that were required?

25 WITNESS LUDSEN: Yes.

1           COMMISSIONER CLARK: Just start from the  
2 beginning of the rate case.

3           WITNESS LUDSEN: Okay. The first thing that  
4 happens is we have a general notice to the customers  
5 whereby we send out a notice to all our customers  
6 included in the filing, indicating that we have a rate  
7 increase and what the rates would be.

8           COMMISSIONER CLARK: Uh-huh.

9           WITNESS LUDSEN: Then we have an interim  
10 notice, which advises them of the interim rates which  
11 are approved by the Commission.

12          COMMISSIONER CLARK: Uh-huh.

13          WITNESS LUDSEN: Then we have service  
14 hearings notices, mailouts, indicating to the customers  
15 when the service hearings are.

16          COMMISSIONER EASLEY: But that doesn't go to  
17 the full customer base, does it?

18          WITNESS LUDSEN: It goes to one notice to  
19 each customer at different times, depending on when the  
20 service hearing is.

21          COMMISSIONER EASLEY: Okay. But you're not  
22 counting 25,000 for that mailing then?

23          WITNESS LUDSEN: That's one mailing at 25,000  
24 for everybody.

25          COMMISSIONER EASLEY: Oh, okay. I see what

1 you're saying. All right.

2 WITNESS LUDSEN: In our previous case last  
3 year, we were required to send out all the notices to  
4 all the customers, but there is a savings this time  
5 because we didn't have to do that.

6 Then there's the newspaper ad that has to be  
7 put in the newspaper for each of the service hearings.

8 Then we have a notice that we can send out  
9 again for the evidentiary hearing.

10 And then we have our final rate notice that  
11 has to go out after the Commission makes their  
12 decision.

13 COMMISSIONER CLARK: Let me ask you this:  
14 What do you suggest as a way of minimizing that cost  
15 but still providing the customers with adequate  
16 information about when these hearings are?

17 WITNESS LUDSEN: Well, I think, you know,  
18 probably the one notice that could be cut back,  
19 perhaps, would be the evidentiary notice, or --

20 COMMISSIONER CLARK: Now, couldn't that be  
21 included in the notice of service hearing? Couldn't  
22 you say the service hearing is -- and by the way, the  
23 evidentiary hearings are set for such and such in  
24 Tallahassee?

25 WITNESS LUDSEN: Yes.



1           COMMISSIONER CLARK: So far we only have one  
2 notice we could have avoided?

3           WITNESS LUDSEN: Right.

4           COMMISSIONER CLARK: Go ahead.

5           WITNESS LUDSEN: But it does get to be a lot  
6 -- you know, the customers did complain about it on a  
7 few occasions about all the paper coming their way.

8           COMMISSIONER CLARK: I think that comes under  
9 the category of "you're damned if you do and damned if  
10 you don't."

11          WITNESS LUDSEN: That's correct.

12          CHAIRMAN BEARD: I might have missed it, but  
13 one of the complaints also relating to that is the  
14 customer has two meters and gets two notices.

15          WITNESS LUDSEN: Two base facility charges?

16          COMMISSIONER EASLEY: Yeah.

17          CHAIRMAN BEARD: They get two notices; they  
18 get two mailings to them telling them about the  
19 hearings.

20          WITNESS LUDSEN: Yes. They're treated as  
21 separate customers. So to make sure we send out a  
22 notice to every customer, you know, they would get two  
23 notices in that case.

24          CHAIRMAN BEARD: There's not a way on your  
25 computer to determine that this is the same person or

1 persons?

2 WITNESS LUDSEN: Not at this stage. Our  
3 computer is -- we are not able to handle that  
4 capability with our computer, and we are looking into a  
5 new CIS system, but that probably won't be installed  
6 for at least another year or so.

7 CHAIRMAN BEARD: But you're able to identify  
8 when one customer is both a water and a gas customer  
9 and put the same bill out on one bill?

10 WITNESS LUDSEN: One bill.

11 CHAIRMAN BEARD: Then I guess I'm confused,  
12 because if you can do it and say, "Hey, this is the  
13 same person that is taking water and taking gas, but I  
14 can't say this is the same person that's taking water  
15 and irrigation," I'm a little confused.

16 WITNESS LUDSEN: There's only so many fields  
17 that we have in our CIS -- current CIS system, which is --

18 COMMISSIONER EASLEY: Can you sort within  
19 those fields?

20 WITNESS LUDSEN: Yes, but we're limited as to  
21 what -- the number of different types of activities we  
22 can put in by the number of fields we have.

23 (Simultaneous conversation)

24 We recognize this is something we need to  
25 change and want to change, but we're trying to -- it's

1 one step at a time and we don't want to rush into  
2 anything either; and it's expensive.

3 COMMISSIONER CLARK: How much is -- what does  
4 the notice cost on a per-customer basis? It's \$100,000  
5 total. How much does that allocate to each customer  
6 for the notice?

7 WITNESS LUDSEN: There's a total of  
8 approximately 90,000 customers that we mail out to.

9 COMMISSIONER CLARK: Okay.

10 CHAIRMAN BEARD: And of those, how many would  
11 you say are dual notice?

12 WITNESS LUDSEN: I wouldn't --

13 CHAIRMAN BEARD: Guesstimate.

14 WITNESS LUDSEN: I wouldn't think there's a  
15 lot. There's not a lot of customers with dual meters  
16 for irrigation --

17 CHAIRMAN BEARD: 10,000.

18 WITNESS LUDSEN: I would say less than that.

19 CHAIRMAN BEARD: 5,000?

20 WITNESS LUDSEN: I would say probably less  
21 than 1,000.

22 CHAIRMAN BEARD: Less than 1,000. So if you  
23 have a dollar a year, it's --

24 WITNESS LUDSEN: It may be less than 500,  
25 too, I just don't know.

1           CHAIRMAN BEARD: I'm just trying to put it in  
2 context of a software package that would let you sort  
3 out by address.

4           WITNESS LUDSEN: It's definitely something we  
5 want to change.

6           CHAIRMAN BEARD: Okay.

7           Q    (By Mr. Twomey) Your testimony, though, is  
8 that you have instituted or you've implemented a new  
9 centralized billing system that, at present, at least,  
10 is incapable of detecting two of these quote/unquote  
11 "customers" at the same address and issuing two bills,  
12 if necessary, within one envelope and using one stamp.  
13 Is that correct?

14          A    We haven't implemented a new system; we've  
15 enhanced an old system, which is limited capability.

16          Q    Would you agree that sending two notices,  
17 whether they're hearing notices or sending two bills,  
18 to the same household monthly is wasteful?

19          A    It would be preferable not to send two bills,  
20 but we also want to make sure that every customer is --

21           CHAIRMAN BEARD: How many customers would you  
22 estimate you have that are both water and gas?

23           WITNESS LUDSEN: We have a total of -- we  
24 have a total of 90,000 total customers. Gas, we have  
25 approximately 6,000.

1 CHAIRMAN BEARD: So if you had to choose  
2 which one you wanted on the bill for efficiency sake,  
3 it's your assumption that you have far fewer customers  
4 with two water meters than you have customers with  
5 water and gas?

6 WITNESS LUDSEN: Definitely, yes.

7 CHAIRMAN BEARD: Even though one is regulated  
8 and the other isn't?

9 WITNESS LUDSEN: Yes.

10 Q (By Mr. Twomey) Mr. Ludsen, you're  
11 responsible for the Company's position on Issue 62, is  
12 that correct? Do you have a Prehearing Order?

13 Would you look at Issue 62, please?

14 A Yes.

15 Q Okay. Now, I see the issue says "Should the  
16 Commission reduce postage cost to reflect the savings  
17 to perform postage services in-house?" And apparently  
18 your Company's position is that "No, it should not be."  
19 And if I can read part of your position, it says "In  
20 addition, the Company is proposing monthly billing  
21 which will increase annual costs for postage, bills and  
22 envelopes by an estimated \$45,000."

23 Now, is that increased expense related to the  
24 issue we were just speaking to?

25 A No, it's not. It's related to -- it's

1 related to the issue that we're proposing monthly  
2 billing in this rate case. We've got some customers  
3 which have bimonthly billing; some customers quarterly  
4 billings; and we're proposing monthly billings in this  
5 rate case.

6 Q With respect to savings or not savings, that  
7 would be this 40,000?

8 A That would be an offset to the savings that  
9 should have been incurred through in-house presort.

10 Q Okay. So if I understand you correctly, the  
11 centralized billing in the one big family of utilities  
12 versus the "mom and pops" results in a \$45,000  
13 detriment because of this one issue?

14 WITNESS LUDSEN: Well, it's a matter of we  
15 would like to go to monthly billing for several  
16 reasons: Number one, you have a better historical  
17 record of consumption by these customers. If the  
18 Commission ever decides to go to conservation rates,  
19 there will be a good base established for doing that.  
20 You know, if you're going to go conservation rates, you  
21 almost need monthly billing in order to send a price  
22 signal to the customers.

23 We also feel that it's going to enhance  
24 ability to pay for the customers as water and  
25 wastewater rates increase. It will help the customers

1 to have those bills paid on a monthly basis.

2 And we also feel that we have a two-month  
3 deposit right now, and if we -- if a bimonthly customer  
4 did not pay his bill, by the time we cut that customer  
5 off, we have already lost a month's worth of revenues  
6 from that customer, because it takes 90 days to cut  
7 that customer off.

8 So there's several reasons why we feel that a  
9 monthly billing is preferable.

10 Q Okay, sir. If you'd turn to Page 16, Line  
11 24, apparently the -- one of the second listed  
12 recommendations was "The need to secure more personnel,  
13 equipment and materials to make assimilation of  
14 acquisition easier." Do you see that?

15 I'm sorry, do you see that recommendation?

16 A Which line is that?

17 Q Number -- it's on Page 16, it starts at Line  
18 24; it is Recommendation 2. (Pause) I'm sorry, it's  
19 Page 16.

20 A Page 16, Line 22?

21 Q Yes, sir. Line 24, Recommendation No. 2?

22 A Okay.

23 Q And it just addresses the need to secure more  
24 personnel equipment and material to make assimilation  
25 acquisitions easier. And my question to you: Is that

1 one that you resisted initially or one that you  
2 embraced, if you know?

3 A I don't think we resisted it, to the best of  
4 my knowledge. (Pause)

5 The next item is also related to the same  
6 recommendation.

7 Q No. 3?

8 A Yes.

9 Q On Page 18, Line 15, Recommendation 9, "The  
10 need to computerize the preparation of annual reports  
11 to the Commission." Were you out of time -- were you  
12 not filing proper reports? Were you out of time in  
13 filing your reports?

14 A No. I think it was a question that they were  
15 done manually previously and they're computerized now.

16 Q Page 20, Line 8, Recommendation 15, "The need  
17 to reinstitute use of collection letters." Does that  
18 refer to collection letters in the sense of, like,  
19 dunning letters?

20 MR. HOFFMAN: Mr. Chairman, let me object.  
21 This question, like some of the other preceding  
22 questions, involve subject matters which are not at  
23 issue in the Prehearing Order?

24 MR. TWOMEY: Mr. Hoffman -- I mean, Mr.  
25 Chairman, pardon me. This is testimony that is direct



1 testimony that he's filed. Now, I have never seen a  
2 case in which the party is denied the ability to  
3 question a witness on his testimony. Now, I've seen  
4 cases where it's raised that you can't bring in  
5 extraneous things because they're not related to an  
6 issue that the witness might know about, but this is  
7 related specifically to his testimony.

8           COMMISSIONER CLARK: But it's the issue that  
9 dictates whether or not it's permissible to cross  
10 examine. Because if you stipulated out issues, the  
11 fact that it's still in his testimony is immaterial. I  
12 mean, what issue does this go to?

13           MR. TWOMEY: The issue goes to whether all  
14 systems, if there is a problem with bad debt  
15 collection, whether all systems suffer bad debt  
16 problems equally and whether this particular  
17 recommendation, by being implemented, benefited all the  
18 systems equally. And it's the allocation issue.

19           COMMISSIONER CLARK: Is that your next  
20 question? I mean, you just asked -- I don't think  
21 that's the question you asked.

22           COMMISSIONER EASLEY: That's the problem I'm  
23 having, Mr. Twomey. I'm having difficulty knowing  
24 where you're going. And maybe you know the reason  
25 you're asking the question, and maybe it's not coming

1 across up here. Maybe that's the problem.

2 MR. TWOMEY: Where I want to go is I want to  
3 ask him: Are these dun letters that the Staff  
4 recommended that the Utility reinstitute sending to its  
5 customers, and did he do that? And was the necessity  
6 for it equal amongst all systems? And whatever the  
7 expense was, which he's testified that he doesn't know,  
8 did it benefit all customers equally?

9 And I was just trying to lay a predicate,  
10 were these letters dun letters?

11 Q (By Mr. Twomey) Do you know?

12 A Yes, we do send out collection letters.

13 CHAIRMAN BEARD: Are you suggesting that the  
14 Company should take a Staff recommendation in this  
15 instance, or anything, and implement it only in parts  
16 where they see more bad debt in one place and if they  
17 see less bad debt, then don't implement it?

18 MR. TWOMEY: No, sir, not at all. There are,  
19 as you're, of course, aware, there are a large number  
20 of utility systems involved in this case; 127, as I  
21 understand it. Approximately that number.

22 It is possible that there is a number of  
23 systems in affluent subdivisions and so forth that have  
24 no problem whatsoever with payment of their debts and  
25 so forth, and there's no experience of bad debt.

1 Whereas, in other systems it might be a higher  
2 percentage and so forth.

3           Apparently there's been something done that  
4 likely costs money to follow this recommendation. And  
5 I'm just curious whether the expense of it should be  
6 allocated amongst all of them equally.

7           And that's the whole notion of this witness'  
8 testimony in the system's case, as I understand it, is  
9 that all of these A&G expenses, and the likewise should  
10 go in a common pool and be allocated out on a  
11 per-customer basis. And that's the issue in the case,  
12 as I understand it.

13           CHAIRMAN BEARD: I'm going to let you ask the  
14 question, but I'm going to follow up with the question  
15 of do you have any idea with the expense associated  
16 with determining, on a system-by-system basis, those  
17 percentages and what that cost would be associated with  
18 that.

19           Ask your question then I'll ask mine.

20           WITNESS LUDSEN: We haven't looked at that,  
21 but, you know, again, you can look at every line item  
22 within a rate case and try to put a micrometer to it to  
23 get some degree of what you've perceived to be accuracy  
24 and really miss the big picture and really not benefit  
25 any particular group of customers any more than you

1 would on a general, overall allocation basis.

2 Q (By Mr. Twomey) Let me ask you this,  
3 Mr. Ludsen: Do you think it's fair for me to ask you  
4 questions on any of the recommendations you've  
5 addressed in your testimony?

6 MR. HOFFMAN: Objection. It's irrelevant.

7 CHAIRMAN BEARD: Just ask him the questions.  
8 I mean, whether he thinks it's fair or not doesn't  
9 matter.

10 COMMISSIONER EASLEY: It sure doesn't.  
11 That's the problem.

12 CHAIRMAN BEARD: That's what you've asked him  
13 so far, so keep asking.

14 Q (By Mr. Twomey) Okay, on Page 21, first line.  
15 Have any of your constituent utility systems suffered  
16 more equal employment opportunity discrimination  
17 lawsuits than others?

18 A We're one utility.

19 Q I'm sorry, I meant your constituent systems.

20 A Systems.

21 COMMISSIONER EASLEY: Mr. Twomey, Mr. Ludsen,  
22 you all do me a favor. We're getting tired and it's  
23 getting late. If you're going to go down these points  
24 in this detail, let's go directly to the question.

25 And when he asks you the question, answer the

1 question he asks you, and maybe we'll get there a  
2 little bit faster than we're going right at the moment.

3 Q (By Mr. Twomey) Have you had any equal  
4 employment opportunity discrimination lawsuits?

5 A I'm not aware of any. We may have had some,  
6 but that would be a human resources function, and I'm  
7 not aware of where they are or --

8 Q Well, then you would not be aware of whether  
9 systems, various systems, suffered more than others?

10 A No.

11 Q Okay. Have you implemented Recommendation 19  
12 and improved the security of your data processing from  
13 thefts and destruction?

14 A Yes, we have.

15 Q Have you, on Page 24, Recommendation 42, have  
16 you implemented a system to prevent your employees or  
17 others from stealing your gasoline?

18 A Yes, we do. We have a management system for  
19 the gas.

20 Q Are you aware of whether or not employee --  
21 or the stealing of gasoline was a bigger problem in one  
22 system than the other?

23 A No, I'm not.

24 Q Okay. Mr. Ludsen, are you aware of what the  
25 average A&G expense per customer was in September of 1988?

1 MR. HOFFMAN: I object to the relevancy of  
2 that question.

3 Q (By Mr. Twomey) Are you aware of how much  
4 A&G expense per customer has increased as a result of  
5 implementing the recommendations you testify to here?

6 MR. HOFFMAN: Objection. That's not at issue  
7 in this case.

8 CHAIRMAN BEARD: Do you know the answer to  
9 the question?

10 A I know what the current A&G is. I guess are  
11 you looking from 1988, is that -- I don't have 1988's  
12 numbers here.

13 Q (By Mr. Twomey) I'm just looking at how much  
14 it increased as a result of implementing these  
15 recommendations which you are testifying to.

16 A No, I do not.

17 Q Presumably, you're testifying to --

18 A I do not have that information.

19 Q Okay.

20 CHAIRMAN BEARD: How would you even -- just  
21 curious. Even if you had '88 and you had '91 or '92,  
22 how do you know that all of that would be associated  
23 with implementing these recommendations as opposed to  
24 inflation?

25 WITNESS LUDSEN: You know, it would be very

1 difficult. You'd have to do a very long, extensive study.

2 CHAIRMAN BEARD: Okay.

3 Q (By Mr. Twomey) On Page 26, Line 5, the  
4 question is: "Did the cost of providing utility service  
5 rises as a result of the postaudit report  
6 modification?"

7 your answer starts out, "Yes, they did." Now  
8 I've heard your earlier response, you know that it did  
9 but you don't know how much.

10 A That's correct.

11 Q Is that correct?

12 But you go on to say that, "Perhaps if we had  
13 not made these required modifications, we would now be  
14 in receivership like the prior owner of our affiliate,  
15 Lehigh." Do you believe that, Mr. Ludsen?

16 A Well, I think with the rapid growth that the  
17 Company was going through during that period, I think  
18 the structure had to change in order to provide the  
19 quality of service that the customers required and to  
20 provide all the necessary functions which are required  
21 in a large organization.

22 Q Is the senior management of Southern States  
23 Utilities and its parent corporation substantially the  
24 same now as it was in September of 1988?

25 A I would say yes.

1 Q Okay. Were they competent, knowledgeable  
2 management in 1988?

3 A Yes.

4 Q Okay. (Pause)

5 COMMISSIONER EASLEY: Why don't you say no?  
6 Liven the whole thing up.

7 COMMISSIONER CLARK: Probably because he was  
8 there. (Laughter)

9 Q (By Mr. Twomey) On Page 27, Mr. Ludsen, Line 1,  
10 you start out by noting that the audit report admonished  
11 you -- that is, your Company -- to do certain things. And  
12 you go on and indicate that, "Since the audit report was  
13 issued, Southern States has spent more than 50 million in  
14 plant improvements and expansions; that Southern States  
15 employs more than 450 employees, that O&M and A&G expenses  
16 on the Southern States now exceed 24.5 million and that  
17 general plant assets of Southern States now exceeds 17.2  
18 million."

19 And my question to you is: Of those figures,  
20 since you're talking about the implementation of the  
21 recommendations of the audit report, do you ascribe any  
22 portion of those amounts you testify to to the  
23 implementations of the recommendation?

24 A I do not, no, know specifically what portions  
25 of those amounts relate to the recommendations. Again,



1 you'd have to go through and do a detailed analysis.  
2 For instance, the 50 million in plant improvements, a  
3 lot of those are related to regulatory requirements  
4 that have come along.

5 Q The current number of meter readers you have,  
6 did you employ all new meter readers or do you retain,  
7 when you acquire a system, do you retain the existing  
8 employees?

9 A Usually, we retain the existing employees.

10 Q Do you, normally levelize salaries or hourly  
11 rates amongst all employees in the system; that is, do  
12 you have a common pay grade to meter readers throughout  
13 the state?

14 A Yes.

15 Q In reaching that common pay level, have you  
16 ever been required to increase certain people's  
17 salaries to a level higher than they were previously?

18 A Yes. We did in Lehigh. We had to raise the  
19 salaries of employees to the minimum of our grades  
20 because their salaries were very low and they had a  
21 high turnover rate.

22 Q So who benefited either individual systemwise  
23 or you're entire Company?

24 A I think the customers certainly benefit  
25 because they are going to have employees who are going

1 to stay with the Company and learn the business and do  
2 a better job in providing quality service.

3 MR. TWOMEY: Thank you.

4 WITNESS LUDSEN: Thank you.

5 CHAIRMAN BEARD: That's it.

6 MR. TWOMEY: Yes, sir.

7 CHAIRMAN BEARD: Okay. Be back here at 6:30.

8 (Thereupon, supper recess was taken at 5:50 p.m.)

9 (Transcript follows in sequence in Volume VI.)

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