

BEFORE THE
DIVISION OF ADMINISTRATIVE HEARINGS

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DIVISION OF ADMINISTRATIVE HEARINGS
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ROBERT J. CROUCH,)
Petitioner,)
vs.)
PUBLIC SERVICE COMMISSION,)
Respondent.)

DOAH CASE NO. 03-3139SED



PROCEEDINGS: HEARING

BEFORE: S. SCOTT STEPHENS
Administrative Law Judge
Division of Administrative Hearings

DATE: Wednesday, November 13, 2003

TIME: Commenced at 10:00 a.m.
Concluded at 11:15 a.m.

PLACE: The DeSoto Building
1230 Apalachee Parkway
Tallahassee, Florida 32399-3060

REPORTED BY: JANE FAUROT, RPR
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P R O C E E D I N G S

1
2 THE COURT: Good morning. My name is Scott Stephens,
3 the judge assigned to hear this issue. This case is Robert
4 Crouch versus Public Service Commission. The case number is
5 03-3139. We have a notice of hearing in the file for a
6 previous day, and then we had a motion for continuance of the
7 hearing, and we rescheduled it for today.

8 Is everybody satisfied that the notice has been
9 satisfactory?

10 Sir, could you please state your name for the record?

11 MR. CROUCH: My name is Robert Joseph Crouch. I'm
12 the participant in this case, and I did get the notice and I
13 agree.

14 THE COURT: Okay. And you are electing today to
15 proceed without an attorney or other representation?

16 MR. CROUCH: That's correct.

17 THE COURT: Okay. And for the Public Service
18 Commission?

19 MR. MATTIMORE: Judge, my name is Michael Mattimore
20 of the firm of Allen, Norton & Blue, 906 North Monroe Street,
21 and I am here with Christiana Moore, who is my co-counsel for
22 the Public Service Commission. And with us also is Marshall
23 Willis, who is the representative of the agency today.

24 THE COURT: Very good. Thank you. Okay. We are
25 ready to proceed, I guess.

1 Mr. Crouch, would you like to take a couple of
2 minutes and just explain to me what your case is about, and
3 then we will give the Public Service Commission a few minutes
4 to explain, and then we will start taking the evidence.

5 MR. CROUCH: I would be happy to, sir. I want to
6 thank you for allowing me to present my appeal. I must ask
7 your patience. As you stated, I am not a lawyer. I am a
8 professional engineer. And I ask that you forgive any legal
9 protocol which I may violate during this hearing. I have, in
10 previous jobs, appeared before DOAH hearings as a witness a
11 number of times, so I am vaguely familiar with the proceedings
12 here.

13 I want to start by listing three factors which I
14 believe are relevant to this case. Number one, when the
15 government makes a personnel action, such as a reclassification
16 from Career Service to SES mandatory, it is usually not for the
17 benefit of the people being reclassified. The position I
18 filled in 1984 as Utility Systems Communications Engineer
19 Supervisor, was advertised as Career Service, which meant job
20 security. And, number three, reclassification of these
21 positions not only eliminated job security, it gave the various
22 agency personnel departments the ability to reclassify numerous
23 positions which had questionable justification for
24 reclassification. First off, a position called supervisory,
25 which in actually was not supervisory. And, secondly,

1 positions which were identified for reasons known only to the
2 people responsible for the selections.

3 I do not intend to discuss personalities today.
4 Rather, I want to discuss positions, descriptions, and
5 responsibilities actually in effect at the time of the Service
6 First reclassification. And foremost, I want to discuss the
7 elimination of job security.

8 When Service First legislation was first published,
9 Career Service employees who conduct the following with one
10 exception were to transition to Select Exempt service status.
11 The first category was supervisory employees. Employees who
12 spend the majority of their time communicating with,
13 motivating, training, and evaluating employees, planning and
14 directing employees, and who have the authority to hire,
15 transfer, suspend, layoff, recall, promote, discharge, assign,
16 reward, or discipline subordinate employees, or effectively
17 recommend such action, including all employees serving as
18 supervisors, administrators and directors.

19 In brief, this case is reduced to a simple question.
20 Was Position 00168 actually a supervisory position? I submit
21 that contrary to the position title, Utility Systems
22 Communications Engineer Supervisor, the duties and
23 responsibilities assigned to the position have been eroded and
24 reduced over the past ten years effectively removing any
25 supervisory responsibilities.

1 I had asked in the initial pleading to have several
2 witnesses. At this time I have decided to withhold these
3 witnesses until a later date when another trial is scheduled in
4 this matter.

5 The engineering bureau chief position was
6 reclassified from SES back to Career Service during Governor
7 Childs' administration when it was determined by the Public
8 Service Commission that the responsibilities of the position
9 did not meet the level of responsibility to be SES. Now, one
10 of the exhibits that the Public Service Commission has listed
11 shows the list of employees who had been SES and who were
12 downgraded to Career Service in '91. I was one of those
13 people. The position was further downgraded from bureau chief
14 to supervisor of an engineering section assigned to a bureau.

15 Over the following years the supervisory
16 responsibilities and authority assigned to and/or allowed to
17 that position were further eroded. Engineering positions were
18 taken away and unqualified nonengineering personnel were
19 transferred into the section without the prior knowledge of or
20 consent of the supervisor.

21 And, finally, the responsibility for hiring of a
22 person to fill the last vacancy was assumed by the bureau
23 chief. Investigation into alleged complaints against
24 engineering personnel was also assumed by the bureau chief.
25 The engineering supervisor had become a working manager and

1 trainer with no supervisory responsibilities.

2 In brief, the Public Service Commission had
3 determined that the position of engineering bureau chief did
4 not meet the requirements for SES. The position was
5 reclassified to Career Service. The position was then
6 downgraded from bureau chief to engineering section supervisor,
7 and the authority and responsibilities were further eroded
8 leaving no supervisory responsibilities. The section manager
9 did not, in any way, meet the level of responsibility to be
10 reclassified back to SES on July 1st, 2001.

11 The position was picked for reclassification based
12 upon an old title, and no consideration was given to the actual
13 job description or responsibilities currently assigned to that
14 position. As one additional footnote, the position has not
15 been filled since the occupant was forced to resign on November
16 30th, 2001. There is no engineering section manager or
17 supervisor almost two years later, further supporting the
18 argument that the position was not SES, should not have been
19 reclassified from Career Service to SES.

20 My request is that a finding that this position
21 should not have been reclassified and that all actions after
22 July 1st, 2001 regarding the position and the person assigned
23 to that position be considered null and void. Thank you, sir.

24 THE COURT: Mr. Mattimore.

25 MR. MATTIMORE: Thank you, Judge. Just very briefly

1 I would like to first state that I think that when Mr. Crouch
2 says that this is a simple issue and a narrow issue as to
3 whether or not the position that he held in June of 2001 was a
4 supervisory position, I think he is correct. I think that is
5 the issue pure and simple. That is the only thing we really
6 have to answer today.

7 One point that I would like to make so that we are
8 not misdirected is that when an action was taken with regard to
9 this position in 1991, it would have been taken on the basis of
10 the definition of the Select Exempt Service as it appeared in
11 the statutes in 1991. What occurred subsequent to that in
12 2001, ten years later, is that the definition of the Select
13 Exempt Service was changed by the Florida Legislature. And the
14 classification of this particular position into the Select
15 Exempt Service is based on that 2001 change. So whatever
16 happened in 1991 is under old statutory language and really is
17 not relevant.

18 What is relevant is once the Legislature changed the
19 definition of the Select Exempt Service in 2001 effective July
20 1, 2001, was this position a supervisor. We assert that this
21 position was a supervisor. That throughout this entire period
22 before 1991, after 1991, and clearly in June of 2000 this
23 person had the ability to -- and the obligation to train, to
24 direct, to assign, to evaluate, to approve leave, to
25 effectively recommend and participate in hiring decisions,

1 discipline decisions that occurred of those employees that were
2 under his direction and supervision. This person is a
3 supervisor as defined in the Selected Exempt Service and the
4 position was appropriately placed in that classification on
5 July 1st, 2001. That is our position.

6 THE COURT: Let me ask you just a question to clarify
7 that. Are you relying on a specific change in the statute as
8 of 2001?

9 MR. MATTIMORE: Yes.

10 THE COURT: Can you point me to exactly the language
11 you are relying on?

12 MR. MATTIMORE: Yes. And actually I think is Section
13 X, and I will do that in a brief to you, sir, to give you the
14 exact language, but it is Section X.

15 THE COURT: Of 110.205, is that correct?

16 MR. MATTIMORE: I didn't think I was that well
17 informed. But it was -- it is Section X of 110.205.

18 THE COURT: Okay. Mr. Crouch, have you seen that
19 section that he is referring to?

20 MR. CROUCH: Yes, I have.

21 THE COURT: You have a copy of that with you now?

22 MR. CROUCH: I don't have it with me; but, yes, I
23 have seen it.

24 THE COURT: Okay. Then, Mr. Crouch, it is time for
25 you to put on any witnesses that you might have, or any

1 evidence that you might have, or to testify yourself if that is
2 your choice.

3 MR. CROUCH: Well, I did have some cross-examination
4 for the witnesses that were supposed to be here. I
5 understand -- first off, the two witnesses that I had listed I
6 have elected not to present them in this case. There is a
7 further trial coming later up on that they will be appearing
8 in.

9 THE COURT: I'm sorry, I'm confused by that. Is it
10 pending before the Division of Administrative Hearings?

11 (Simultaneous conversation.)

12 THE COURT: Please let me finish so that the reporter
13 can get everything clearly taken down. It is not fair to her
14 to have us both talk at once. Is it not pending before the
15 Division of Administrative Hearings?

16 MR. CROUCH: No, sir.

17 THE COURT: That's all I need to know. What then
18 would be your choice as to how to proceed right now?

19 MR. CROUCH: I would like -- since Paul Nichols was
20 listed as a witness, he is not here today, he was the personnel
21 man. They have a substitute for Paul Nichols, and I have a
22 couple of questions for her. I don't know whether it is
23 appropriate to present -- to have their witnesses up for
24 cross-examination or not.

25 THE COURT: Is the person you are referring to

1 somebody who is here today who is testifying on behalf of the
2 agency?

3 MR. CROUCH: Yes.

4 THE COURT: And you would like to call that person
5 and ask them some questions right now?

6 MR. CROUCH: Yes, sir.

7 THE COURT: That will be fine. Go right ahead.

8 MR. MATTIMORE: If I may, Your Honor. We only
9 intend -- I mean, we listed a person as a potential witness,
10 Mr. Nichols, but we decided not to use him. He is not here.

11 THE COURT: He doesn't want to call Mr. Nichols. Who
12 is it that you want to call, the name of the individual?

13 MR. CROUCH: I'm trying to think of her name. Judy
14 Keel.

15 MR. MATTIMORE: And I guess she is an observer.

16 THE COURT: Well, if she is here and he wants to call
17 her, I'm going to let him do that.

18 MR. MATTIMORE: Okay. But I would just like to point
19 out she is not on his witness list.

20 THE COURT: Are you going to raise that objection at
21 this point?

22 MR. MATTIMORE: Yes. Because, I mean --

23 THE COURT: Was she on your witness list?

24 MR. MATTIMORE: No.

25 MR. CROUCH: But Paul Nichols was.

1 THE COURT: But, see, this lady is not Paul Nichols.
2 Normally we hold you to the witness list. Is there some reason
3 why we should make a special exception to the general rule of
4 holding you to the people that are on your witness list?

5 MR. CROUCH: I have already talked to Judy, and she
6 does not have the records available to substantiate what I was
7 going to say anyhow. If possible, I would like to make a
8 statement then, subject to check.

9 THE COURT: You are entitled, sir, to testify on your
10 own behalf. I will let you do that.

11 MR. CROUCH: On the list --

12 THE COURT: I'm sorry, are you starting your
13 testimony now?

14 MR. CROUCH: If I may.

15 THE COURT: Usually you come over here and sit in the
16 chair and we swear you in first. So if you would like to do it
17 from there, that is fine, unless counsel has an objection.

18 MR. MATTIMORE: No, but --

19 THE COURT: We are going to swear the witness in
20 first.

21 MR. MATTIMORE: Whatever is most comfortable for the
22 court.

23 THE COURT: Very good. You need to raise your hand,
24 sir.

25 MR. CROUCH: Okay.

1 (Witness sworn.)

2 ROBERT J. CROUCH

3 was called as a witness, and having been duly sworn, testified
4 as follows:

5 DIRECT STATEMENT

6 THE COURT: Okay. Please proceed. Even though
7 nobody is asking you questions, you can go ahead and you can
8 give your testimony.

9 MR. CROUCH: Okay, sir. One of the questions -- one
10 of the documents that the Public Service Commission had
11 introduced was a list of the people who had been reclassified
12 in '91. On that list was a lady by the name of Pat Lee. Pat
13 Lee was reclassified back to SES in July of 2001. And what I
14 want to do is introduce the fallacy in the system.

15 Pat Lee at the time was also a utility systems
16 communications engineer supervisor by title. Subject to check,
17 Pat Lee was not an engineer. Her degree was in math. She was
18 not a supervisor. She had nobody to supervise. But according
19 to the redefinition under the Service First, she was serving as
20 a supervisor, so they reclassified her back to SES. She didn't
21 supervise anybody, she was not an engineer. In fact, they
22 changed her title recently to senior accountant or something
23 like that. I don't even remember what the new title is. Still
24 she supervises nobody. But the personnel of the Public Service
25 Commission elected to reclassify her also because she was,

1 quote, serving as a supervisor.

2 And I use that as just one example of the fact that
3 many people, not just in the Public Service Commission, but as
4 Mr. Mattimore will verify, there are several hundred people
5 challenging whether they were rightly or wrongly reclassified.
6 I submit that in my case I was not allowed to be a supervisor
7 for the last several years, that I had been, according to the
8 Public Service Commission, before downgraded from SES to Career
9 Service. Hiring was taken away from me, people were moved into
10 my section who were not qualified, further eroding the
11 responsibilities that I had. And reclassifying in July 1st of
12 2001 should not have been done in my case. And I guess
13 basically that is my sum and substance of my position.

14 I did have some questions for witnesses that they
15 were going to present, but like you said, Paul Nichols is not
16 here today. I cannot ask him to clarify what I just told you.

17 THE COURT: Let me interrupt for a second. You will
18 have a chance to ask questions of any of the witnesses that
19 they do present. That is going to happen next. We will
20 protect your right to do that. The other thing -- you are
21 finished with your testimony?

22 MR. CROUCH: I am finished with my testimony.

23 THE COURT: What I would like you to do now is with
24 respect to the witness that you were hoping to call who was not
25 on the list that we are not going to hear from today --

1 MR. CROUCH: Yes, sir.

2 THE COURT: -- what were you intending to develop
3 through that witness?

4 MR. CROUCH: All right. Ask her to verify the facts
5 that I have submitted about Pat Lee, and the fact that a number
6 of people listed as supervisors may or may not have actually
7 been supervisors in supervisory capacity. I was going to ask
8 Paul Nichols or Judy Keel, in his place, as a member of the
9 personnel staff at the Public Service Commission to verify that
10 fact, and to amplify how they went about selecting people who
11 were reclassified in 2001.

12 THE COURT: Okay. You are entitled, Mr. Mattimore,
13 to cross-examine the testimony, not the proffer.

14 MR. MATTIMORE: Right. And if I may, Your Honor,
15 just for the purpose of the record I would just like to -- and
16 I didn't want to interrupt Mr. Crouch, I know he is pro se and
17 you wanted him to have his opportunity, but our position, of
18 course, would be that whatever happens with Pat Lee or any
19 other employee in his proffer would not be relevant to his
20 particular case. Because whether or not somebody else may or
21 may not have been classified, and why they were classified, is
22 not the issue here today.

23 THE COURT: Are you asking to strike it because it is
24 not relevant, or are you just making that -- or are you making
25 an argument at this point?

1 MR. MATTIMORE: I am just posing it as an objection
2 to whether the proffer -- had we had the witness here, I would
3 have objected to the relevancy.

4 THE COURT: Okay. I am going to allow the testimony
5 to stand, because it may tend to suggest some sort of
6 similarity or disparity of treatment. I think that is what he
7 was intending to show. So we will let the testimony stand,
8 though we will take your objection into consideration when the
9 weight of it is evaluated. But you can -- I'm sorry, go ahead.

10 MR. MATTIMORE: At this time, Your Honor, I would not
11 like to cross-examine Mr. Crouch, but I may call him as a
12 witness in my side of the case.

13 THE COURT: Well, that is acceptable. Do you have
14 any other witnesses or any other evidence you want to present,
15 sir?

16 MR. CROUCH: None whatsoever. That constitutes my
17 case.

18 THE COURT: Okay. Then the ball would be in the
19 court of the Public Service Commission at this point.

20 MR. MATTIMORE: Thank you, Your Honor. I would like
21 to call Marshall Willis.

22 (Witness sworn.)

23 THE COURT: Please have a seat. Thank you.

24 MARSHALL WILLIS
25 was called as a witness, and having been duly sworn, testified

1 as follows:

2 DIRECT EXAMINATION

3 BY MR. MATTIMORE:

4 Q Sir, would you please state your name?

5 A Yes. My name is Marshall Wayne Willis.

6 Q And where are you employed?

7 A With the Florida Public Service Commission, Division
8 of Economic Regulation.

9 Q How long have you been employed at the Public Service
10 Commission?

11 A A little over 27 years.

12 Q Sir, what is your current job title?

13 A I am the Bureau Chief of Rate Filings.

14 Q How long have you been in that capacity?

15 A Let's see. I have been in that capacity for probably
16 two years. Before that it was called Bureau of Economic
17 Regulation, and it really went through a name change only at
18 that point.

19 Q Okay. While you were in this current job and in this
20 job that is essentially the same except for a name change, what
21 would be the scope of your responsibilities?

22 A The scope of my responsibility is to supervise,
23 currently, two sections that are underneath me; and the basic
24 scope of responsibilities are to handle rate case filings that
25 come into the Commission, such as currently mostly water and

1 wastewater filings, but we also are able to handle electric and
2 gas filings that come through.

3 Q Do you know Mr. Crouch?

4 A Yes, I do.

5 Q Have you ever worked with him?

6 A Yes, I have.

7 Q Where did you work with him?

8 A At the Public Service Commission.

9 Q How long did you work with Mr. Crouch?

10 A Mr. Crouch came on board and worked with me probably
11 in the early '90s. It might have been the later '80s, but
12 probably since that time over 20 years just about.

13 Q Were you working with Mr. Crouch in the late '90s and
14 2000 and 2001?

15 A Yes.

16 Q Would you be aware of his duties and responsibilities
17 at the Public Service Commission during that time frame?

18 A Yes, I would.

19 Q Do you recall what Mr. Crouch's title was?

20 A Mr. Crouch was the -- in 2001?

21 Q Yes. 1998, 1999, 2000, and 2001, that time period.

22 A He was an engineering supervisor.

23 Q Did Mr. Crouch report to you?

24 A Yes, he did.

25 MR. MATTIMORE: Your Honor, if I may.

1 THE COURT: Please.

2 MR. MATTIMORE: I would like to mark this Exhibit 1.
3 (Exhibit 1 marked for identification.)

4 BY MR. MATTIMORE:

5 Q Mr. Willis, do you recognize this document?

6 A Yes, I do.

7 Q Can you describe what it is?

8 A Yes. This is the position description for the
9 position that was held by Mr. Crouch as Utility Systems
10 Communication Engineering Supervisor.

11 Q It has an effective date of 10/1/97. Would that have
12 been effective through his term of employment at the Public
13 Service Commission?

14 A Yes.

15 Q Reviewing this document, is this an accurate
16 description of Mr. Crouch's job duties at the Public Service
17 Commission?

18 A Yes, it is. I prepared it.

19 Q Did Mr. Crouch spend 50 percent or more of his duties
20 at the Public Service Commission engaged in supervisory
21 responsibilities?

22 A Yes, he did.

23 Q And was that his obligation under this position
24 description?

25 A Yes, it was.

1 MR. MATTIMORE: Your Honor, I would like to move this
2 position description into evidence.

3 THE COURT: Mr. Crouch, realizing that I did hear
4 what your argument was before, what I'm asking you about this
5 piece of paper is do you agree that this piece of paper the
6 gentleman just showed you is what it claims to be, it is the
7 piece of paper that was the position description at the time in
8 question?

9 MR. CROUCH: I do agree it was as the title says
10 Career Service System position description.

11 THE COURT: I understand. We are not arguing about
12 what the paper says now, we're just arguing about whether it is
13 the right piece of paper.

14 MR. CROUCH: I agree.

15 THE COURT: Okay. And you agree with that, so we
16 will accept it in evidence as Exhibit 1.

17 (Exhibit 1 admitted into evidence.)

18 BY MR. MATTIMORE:

19 Q Do you recall some of the people that Mr. Crouch
20 supervised at the Public Service Commission under this position
21 description in 1990 (sic), 2000, and the first half of 2001?

22 A Yes.

23 Q Could you tell me who some of those people were?

24 A Yes. Back in 1998, earlier than that, Mr. Ed Fuchs,
25 Mr. Ted Davis, Gerald Edwards, Mr. Mike Wetherington, Mr. Lee

1 Munroe, and probably Ms. Jeanette Sickel.

2 Q What did those people do that he supervised, what
3 were their jobs?

4 A They held positions that were titled engineering
5 positions under Mr. Crouch, and their responsibility basically
6 was to review rate filings that came into our bureau to be
7 processed for used and useful considerations, quality of
8 service, and many other functions they are required to do to
9 fulfill their duties in these cases.

10 Q These individuals, these employees of the Public
11 Service Commission that you just named, who was responsible for
12 conducting performance evaluations on their work?

13 A Mr. Crouch.

14 Q And when Mr. Crouch performed these evaluations, did
15 you ever change those evaluations or did they stand as the
16 performance evaluation for those employees?

17 A No, I did not change his evaluations.

18 MR. MATTIMORE: If I may.

19 THE COURT: Yes. Mark it as Number 2?

20 MR. MATTIMORE: Please if I could mark this as
21 Exhibit 2.

22 (Exhibit 2 marked for identification.)

23 BY MR. MATTIMORE:

24 Q Mr. Willis, can you identify what this one page
25 document that I have marked as Exhibit 2 is?

1 A Yes. It is an evaluation which is entitled review
2 and performance of Mr. Mike Wetherington, which was one of the
3 engineers under Mr. Crouch that he supervised.

4 Q And can you tell me the period of the review of this
5 employee?

6 A Yes. The period of review was from August 23rd of
7 2001 to November 30th of 2001.

8 Q And was this a performance evaluation that is
9 prepared by Mr. Crouch on Michael Wetherington?

10 A That is correct.

11 MR. MATTIMORE: I would like to move this as Exhibit
12 2 into the record.

13 MR. CROUCH: I have no objection with the caveat that
14 I would like to emphasize that the closing date on this period
15 is November 30th, 2001, which I had to write prior to my forced
16 retirement.

17 THE COURT: Okay. So this is what it claims to be?

18 MR. CROUCH: Yes, sir.

19 THE COURT: It will be accepted as Exhibit 2.

20 (Exhibit 2 admitted into evidence.)

21 MR. MATTIMORE: If I may, Your Honor, to sort of move
22 things along, I have four other performance evaluations that I
23 would like to proffer.

24 THE COURT: And you would build the same foundation
25 and put them in the same way, and the gentleman would probably

1 have the same response to them. Show them to him, and if he is
2 going to object --

3 MR. CROUCH: I have already seen these. I have no
4 objection with the caveat that they were forced upon my
5 termination.

6 THE COURT: The same thing that you mentioned before,
7 yes, sir.

8 MR. MATTIMORE: Then I would like to mark Ms.
9 Sickel's performance evaluation as Exhibit 3.

10 THE COURT: Okay. You want to mark that one
11 separately.

12 MR. MATTIMORE: I would like to mark Mr. Munroe's
13 performance evaluation as Exhibit 4.

14 THE COURT: Mr. Davis' evaluation as Exhibit 5.

15 MR. MATTIMORE: And, finally, Mr. Edward's evaluation
16 as Exhibit 6. Let me make sure I have given you one of each.

17 MR. CROUCH: I had those previously.

18 MR. MATTIMORE: Okay. And, Your Honor, I would like
19 to move those exhibits into evidence.

20 THE COURT: And there is no objection to that, is
21 that correct?

22 MR. CROUCH: No objection.

23 THE COURT: Okay. Those will all be accepted.

24 (Exhibits 3 through 6 marked for identification and
25 admitted into the record.)

1 BY MR. MATTIMORE:

2 Q Mr. Willis, if an employee was found to be
3 unsatisfactory on a performance evaluation, would that have any
4 impact upon their pay?

5 A Yes, it could. It could have an impact through a
6 reduction of the employee's status, such as demotion, which
7 would have an impact on the pay, and it could have an effect on
8 a pay raise if it were unsatisfactory.

9 Q So it could have an adverse or a positive effect upon
10 --

11 A It could also have a positive effect, I'm sorry. It
12 certainly could.

13 Q What about -- would it have any impact upon
14 promotion?

15 A Yes, it would.

16 Q Could you explain that.

17 A Well, if you have a satisfactory above evaluation, it
18 would certainly be a means of a supervisor requesting or
19 recommending promotion of that employee to another level. On
20 the other end, if it is unsatisfactory, an employee certainly
21 could not be promoted.

22 Q For the employees Sickel, Munroe, Davis, Edwards, and
23 Wetherington, who at the Public Service Commission would
24 consider approving any sick leave requests?

25 A Mr. Crouch.

1 Q Who would consider approving annual leave or vacation
2 requests?

3 A Mr. Crouch.

4 Q Who would accept, review, and approve time sheets
5 submitted by these employees?

6 A Mr. Crouch.

7 Q He would verify their time and schedule?

8 A He would verify their and schedule and submit that to
9 the appropriate people.

10 Q And that would result in their pay?

11 A Yes.

12 Q So if they had overtime, or if they had any other
13 kind of pay issue, that would go through him?

14 A That is correct.

15 Q How would travel requests be handled by these
16 employees Sickel, Munroe, Davis, Edwards, or Wetherington, if
17 they had a desire to travel some place, either at work or for
18 training, how would they initiate that process?

19 A Each employee would have to submit a travel request
20 form to Mr. Crouch, and he would have to either approve or deny
21 that. If he denied that, I would not see it as a Bureau Chief.
22 If he approved it, it would come to me, I would sign off if I
23 approved it, and it would go up the chain of command to the
24 director. If it was out-of-state travel, it would have to go
25 up to the executive director of the Commission.

1 Q So a person in Mr. Crouch's position could
2 effectively stop a person from traveling?

3 A Yes.

4 Q Or stop a person from going to a particular training
5 opportunity because it required travel?

6 A Yes.

7 Q Did Mr. Crouch have any role in training these
8 employees?

9 A Yes, he did.

10 Q Could you describe for me what your understanding was
11 of his ability to train employees?

12 A Well, as a supervisor he was required to recommend
13 training for his employees. He was required to recommend
14 training courses that were held within the state or outside the
15 state, such as conferences, like the American Waterworks
16 Association, Florida Rural Water. He was required to put on
17 in-house training through himself, like meter testing programs.
18 There were several things that were organized through him to
19 train his engineers, but mostly it was requesting his engineers
20 to go to courses to get that training.

21 Q Did he have any training component inside the office,
22 would he counsel or train employees while at work?

23 A Well, that is an ongoing requirement as a supervisor,
24 you train your employees. And that is almost like a daily
25 requirement.

1 Q Did Mr. Crouch ever advise you, or did you ever
2 become aware that he was in the process of training Mr.
3 Wetherington to replace him as a supervisor?

4 A Yes.

5 Q Was he training Mr. Wetherington in supervisory
6 functions and capacities?

7 A Under his statement, yes, he would be.

8 Q Are you familiar with an employee by the name of Lee
9 Munroe?

10 A Yes, I am.

11 Q Do you know the circumstances as to how Mr. Munroe
12 was employed at the Public Service Commission?

13 A He was hired by Mr. Crouch.

14 Q Can you tell me how that process worked? Did Mr.
15 Crouch interview him?

16 A Yes, Mr. Crouch interviewed Mr. Munroe. A job
17 obviously was advertised to start with, because there was a
18 vacancy, and Mr. Crouch interviewed all the applicants. He put
19 together the employment package. He made a recommendation to
20 myself, as the Bureau Chief. I agreed with that
21 recommendation, and that recommendation was sent to the
22 director who had the authority to hire him at that point, and
23 the director at that time agreed.

24 Q Would that be in the ordinary course of business as
25 to how someone would be hired under Mr. Crouch's supervision?

1 A Yes.

2 Q Now, from time-to-time at the Public Service
3 Commission are there reorganizations?

4 A Yes, there are.

5 Q And when there are reorganizations, are employees
6 transferred from one supervisor to another at times?

7 A Yes, they are. Yes.

8 Q Now, with the exception of a reorganization in which
9 a person would be transferred into someone's supervision or
10 away from someone's supervision, a position like Mr. Crouch's,
11 would they ordinarily have a role in hiring? If someone was
12 coming off the street, would they have a role in hiring?

13 A Yes, they would.

14 Q Okay. And would they have a role in the interviewing
15 of someone coming off the street?

16 A Yes.

17 Q And would they make a recommendation as to -- or
18 would they hire the person who was the eventual applicant hired
19 for the position?

20 A They would make a recommendation, just like myself.
21 If I was hiring a supervisor, which I have direct control over,
22 I don't have the authority to do the hiring, I have the
23 authority to do the recommending.

24 Q And was Mr. Crouch's or his position's equivalent,
25 were their recommendations effectively followed?

1 A Yes.

2 Q Could Mr. Crouch initiate or recommend the discipline
3 of a subordinate employee?

4 A Yes, he could.

5 Q Would Mr. Crouch or people in his equivalent
6 position, would their recommendation on discipline be typically
7 followed?

8 A Yes, they normally would.

9 Q If an employee is not engaged in misconduct or
10 performance problems, is there a mechanism that is used to try
11 to identify those performance deficiencies and to counsel the
12 employee as to how to improve?

13 A Yes, there is. There is what is called a performance
14 improvement plan. It is part of the evaluation process. If
15 you find an employee who is unsatisfactory due to the
16 evaluation process, you would normally enter into a performance
17 improvement plan which the purpose is to try to steer the
18 employee back towards satisfactory or above evaluation.

19 Q And were Sickel, Munroe, Davis, Edwards,
20 Wetherington, were those individuals who worked at the PSC, and
21 anybody else who may have worked in that section, the
22 engineering section, who would be responsible for executing a
23 PIP, identifying the deficiencies and sitting down with the
24 employee and carrying through those steps?

25 A Mr. Crouch.

1 Q Could Mr. Crouch effectively recommend a promotion?

2 A Yes, he could.

3 Q Did he ever recommend a promotion?

4 A Yes, he did.

5 Q Was his recommendation taken into consideration and
6 followed?

7 A Yes.

8 Q Mr. Crouch, was he ever provided with training
9 specifically directed towards supervisors and supervisory
10 skills?

11 A Yes, he was.

12 Q What kind of cases would Sickel, Munroe, Davis,
13 Edwards, and Wetherington, what would these people -- what kind
14 of cases would they typically handle, what kind of work would
15 they do?

16 A They would participate as part of a team effort in
17 rate case filings, which is a request to increase rates by
18 water or wastewater companies. They would also participate in
19 overearnings proceedings and other types of annual filings that
20 aren't as large as those types of filings.

21 Q How would they obtain their case assignments, how
22 would they know what to do, who assigned them their work?

23 A Mr. Crouch would make those assignments.

24 Q Did he have flexibility as to who would get which
25 assignment in that group?

1 A He did.

2 Q Do you have any knowledge as to how much,
3 approximately, Mr. Crouch was being paid by the Public Service
4 Commission in 19 -- I mean, in 2001?

5 A Yes.

6 Q Approximately what was his base salary?

7 A It was a little over 61,000. About 61,100.

8 Q The people who were reporting to him in the
9 engineering section, those names that I mentioned earlier that
10 you identified, do you know approximately how much money they
11 were making?

12 A Yes.

13 Q What was their typical base pay?

14 A Well, their salary base pay ranged between the
15 mid-30s to the highest being about 51 or 52.

16 Q So Mr. Crouch was appreciably higher in pay than
17 those individuals?

18 A Yes, he was.

19 Q Who was responsible for performing performance
20 evaluations on Mr. Crouch?

21 A I was.

22 Q When you performed performance evaluations on Mr.
23 Crouch, would you rate him on the performance of these other
24 people that we mentioned, Sickel, Munroe, Davis, Wetherington,
25 their performance, was he responsible for their work, also?

1 A Yes.

2 Q And was he responsible for being a good supervisor of
3 those individuals?

4 A Yes, he was.

5 MR. MATTIMORE: I'm sorry, am I at Exhibit 6?

6 THE COURT: Six was the Edward's performance
7 evaluation. Seven is the next open number.

8 MR. MATTIMORE: I would like to mark this as Exhibit
9 7, if I may.

10 (Exhibit 7 marked for identification.)

11 BY MR. MATTIMORE:

12 Q Mr. Willis, do you recognize this document that has
13 been marked Exhibit 7 that is entitled, "Rater's Comments"?

14 A Yes, I do.

15 Q Is that a rating that was provided to Mr. Crouch?

16 A Yes, it was. This is an attachment that you would
17 normally see attached to one of these review and performance
18 plans. It was always my practice to -- since they don't give
19 you very much room -- to talk about a person's performance. My
20 practice was always to attach a rater's comment sheet where I
21 would go into detail about the employee's performance, and that
22 is what this is. It was an attachment to an evaluation dated
23 December 8, 2000.

24 MR. MATTIMORE: Your Honor, I would like to move
25 Exhibit 7 into evidence.

1 MR. CROUCH: I have no objection to that being filed.

2 THE COURT: It will be received.

3 (Exhibit 7 admitted into evidence.)

4 MR. MATTIMORE: I would like to mark this Exhibit 8.

5 (Exhibit 8 marked for identification.)

6 BY MR. MATTIMORE:

7 Q Mr. Willis, can you identify that document, please?

8 A Yes, I can. This is also a rater's comment sheet
9 which was attached to an evaluation dated April 14th, 1998
10 prepared by myself.

11 Q And was that provided to Mr. Crouch?

12 A Yes, it was.

13 MR. MATTIMORE: I would like to move Exhibit 8 into
14 evidence, please.

15 MR. CROUCH: No objection.

16 THE COURT: It will be admitted.

17 (Exhibit 8 admitted into evidence.)

18 MR. MATTIMORE: Your Honor, I would like to mark this
19 next document Exhibit 9.

20 MR. CROUCH: No objection.

21 (Exhibit 9 marked for identification.)

22 BY MR. MATTIMORE:

23 Q Mr. Willis, can you identify that document that we
24 have marked as Exhibit 9, and it states -- I guess it is headed
25 employee comments provided by Robert J. Crouch, December 15th.

1 1998?

2 A Yes, I can. This was a comment sheet provided by Mr.
3 Crouch to me after his evaluation in November of 1998 which, by
4 the way, was attached to his evaluation when it was sent in to
5 personnel. This is in response to my evaluation in 1998.

6 Q So this was received by Mr. Crouch in the course of
7 business in response to your rating?

8 A You're talking about this?

9 Q Yes.

10 A Was it received by Mr. Crouch?

11 Q No. I mean provided to you and received (sic) from
12 Mr. Crouch.

13 A It was provided to me by Mr. Crouch and attached to
14 all the documentation for the evaluation that was sent in to
15 personnel.

16 MR. MATTIMORE: I would like to move this exhibit
17 into evidence, Your Honor.

18 MR. CROUCH: No objection.

19 THE COURT: It will be received.

20 (Exhibit 9 admitted into evidence.)

21 BY MR. MATTIMORE:

22 Q Mr. Willis, do you believe that Mr. Crouch's position
23 was appropriately reclassified into the Selected Exempt Service
24 in June of 2001?

25 A Yes.

1 Q Do you believe that the position at that time spent
2 50 percent or more of its time in active supervision of other
3 employees?

4 A Yes, I do.

5 Q Was it your understanding that that position required
6 Mr. Crouch to communicate, train, direct, assign work of the
7 subordinate employees assigned to him?

8 A Yes.

9 Q And was he rated and held accountable for those
10 activities?

11 A Yes, he was.

12 Q Is it your understanding that Mr. Crouch could
13 effectively recommend disciplinary action against subordinate
14 employees or effectively recommend hiring or promotions?

15 A Yes, he could.

16 Q And did, in fact, he exercise those obligations and
17 responsibilities?

18 A Yes, he did.

19 Q Did Mr. Crouch enter the DROP program?

20 A Yes, he did.

21 Q When did he do that, do you know?

22 A It was 19 -- let me think about this. It was during
23 November 1st of probably 2000, I believe was the time.

24 MR. MATTIMORE: I would like to mark this memo as
25 Exhibit 10, I believe, I am on.

1 THE COURT: You are on Number 10.

2 (Exhibit 10 marked for identification.)

3 MR. CROUCH: No objections.

4 BY MR. MATTIMORE:

5 Q Mr. Willis, can you identify that document?

6 A Yes, I can. It is a copy of an e-mail from Bob
7 Crouch to myself carbon copying Mr. Tim Devlin, who is the
8 director, and Mr. William Talbott, who was the executive
9 director at the time.

10 Q And to your knowledge that is language, e-mail
11 language from Mr. Crouch in Mr. Crouch's own words?

12 A Yes.

13 MR. MATTIMORE: Your Honor, I don't have any other
14 questions of this witness.

15 THE COURT: Mr. Crouch, you will have an opportunity
16 to cross-examine the witness.

17 MR. CROUCH: Thank you, sir.

18 CROSS EXAMINATION

19 BY MR. CROUCH:

20 Q Mr. Willis, you said that I was responsible for the
21 work and evaluated on the work of the subordinates, is that
22 correct?

23 A That's correct.

24 Q Did I hire Mr. Ed Fuchs?

25 A Mr. Ed Fuchs was transferred in from the

1 Communications Division.

2 Q Was that because of reorganization, or he was just
3 transferred in?

4 A He was transferred in, it is my understanding, and I
5 didn't have anything to do with that, so it was kind of hearsay
6 at this point. I believe that was between the Director of
7 Water and Wastewater at that time and the Division of
8 Communications Director.

9 Q In other words, you didn't have anything to do with
10 it, and neither did I?

11 A That is correct, I did not.

12 Q Did Mr. Fuchs have a degree in engineering?

13 A No, he did not.

14 Q Was Ted Davis, did he have a degree in engineering?

15 A No, he did not.

16 Q Was he transferred into my section?

17 A Yes, he was.

18 Q I believe that was part of a reorganization, but he
19 was transferred in without my concurrence?

20 A That was during a reorganization of our Water and
21 Wastewater Division at the time, and that was done by the
22 Director of Water and Wastewater.

23 Q That's correct. How about Gerald Edwards, did he
24 have a degree in engineering?

25 A No, he did not.

1 Q Did he have a degree?

2 A He had a two year Associates Degree.

3 Q He was transferred in also, subject to
4 reorganization?

5 A That is correct.

6 Q How about Ms. Jeanette Sickel, was she transferred in
7 as part of reorganization?

8 A Yes, she was.

9 Q What was reorganized?

10 A That was where basically the entire Commission was
11 reorganized at that point.

12 Q Did Ms. Sickel have a degree?

13 A I don't know the answer to that, Mr. Crouch.

14 Q Subject to check, I would like to submit that she did
15 not have any degree, let alone an engineering degree.

16 THE COURT: Well, right now, sir, you have to develop
17 whatever you are going to develop through the witness, and if
18 you want to have another opportunity to testify later, we will
19 take that up.

20 MR. CROUCH: Thank you, sir.

21 BY MR. CROUCH:

22 Q Mr. Wetherington was hired with you participating in
23 the interviewing of him, am I correct?

24 A That's correct. We did a dual interview.

25 Q He was hired, theoretically, to take my place upon my

1 retirement, am I correct?

2 A I don't think you are really correct on that matter.
3 Mr. Wetherington was hired in with the possibility that he
4 might be able to take your place. It was not decided that he
5 would take your place at that time. Mr. Wetherington would
6 have to prove himself to be of supervisory material before he
7 could be promoted into your position when you retired.

8 Q You commented on my base pay in 2001. Is it fair to
9 ask what your base pay was in 2001?

10 A If the court tells me I have to. I think it is
11 irrelevant, though.

12 THE COURT: Go ahead and answer the question.

13 A In 2001, my base pay was probably 68,000.

14 Q Thank you. While I agree that I was able to submit
15 people for promotion, do you know of anybody submitted for or
16 approved for promotion in the four years from '98 to 2001, '97
17 to 2001?

18 A I would have to go back and look through personnel
19 records on that one, Mr. Crouch, to tell you the truth.

20 Q You said that you supervise two sections at this
21 time?

22 A Currently today, yes, I do supervise two sections.

23 Q Prior to July of 2001, there were three sections, am
24 I correct?

25 A Yes, there were.

1 Q There was an engineering section?

2 A Yes, there was.

3 Q What happened to the engineering section?

4 A The engineering section was blended with two other
5 sections during a reorganization of the Commission, and the
6 original or the engineering supervisory position which, by the
7 way, I had advertised to fill and had received applications
8 for, was not hired because the Commission did away with that
9 position as part of the reorganization and down-sizing. So I
10 was not allowed to hire for the position.

11 Q And Mr. Wetherington also has departed the
12 Commission, am I correct?

13 A Yes, he has.

14 Q I entered the DROP program according to you in 2000,
15 November I think it was, of 2000, and I will agree to that
16 date. I'm not sure whether it was October or November. But
17 under the DROP program it was for five years, meaning I could
18 stay until August of 2005, am I correct?

19 A According to the DROP program, that's correct.

20 Q So out of the six people listed, Lee Munroe, Ed
21 Fuchs, Ted Davis, Gerald Edwards, Jeanette Sichel, and Mike
22 Wetherington, I was responsible for hiring Lee Munroe, is that
23 correct?

24 A No, that is not correct.

25 Q Who else was I responsible for hiring?

1 A Mike Wetherington.

2 Q You didn't participant in the interviewing and
3 selection of Mike Wetherington?

4 A I certainly did.

5 Q Thank you. I have no further questions.

6 A I participated -- if you would let me finish.

7 THE COURT: If you want to finish your answer, go
8 ahead.

9 A (Continuing) Yes, I would like to.

10 I participated in the interview with you, but it was
11 your ultimate responsibility to make a recommendation, which I
12 agreed with. Dual interviews certainly aren't something that
13 is uncommon at the Commission. There are many times when you
14 hire an upper level position that you have a dual interview
15 with upper level supervisors.

16 THE COURT: Mr. Couch, since he said something after
17 you said you were done, we're not going to hold you to that.
18 Do you have any other questions?

19 BY MR. CROUCH:

20 Q You agree, then, that Mr. Wetherington was being
21 considered for an upper level position?

22 A Yes, he was. He was being considered for a high
23 level engineering position coming into the Commission. That
24 was the job he was interviewing for.

25 MR. CROUCH: I have no further questions.

1 THE COURT: Any redirect?

2 MR. MATTIMORE: I have no questions.

3 THE COURT: Very good. Do you have another witness?

4 MR. MATTIMORE: I was going to call Mr. Crouch.

5 THE COURT: Mr. Crouch, would you be so kind as to
6 take a seat up here, please. You are still sworn.

7 MR. CROUCH: Am I allowed to take notes?

8 THE COURT: If you would like.

9 ROBERT J. CROUCH

10 was called as a witness on behalf of, and having been duly
11 sworn, testified as follows:

12 DIRECT EXAMINATION

13 BY MR. MATTIMORE:

14 Q Mr. Crouch, do you remember a case called the Keen
15 case or the Keen matter?

16 A Very well.

17 Q Do you recall at any period of time preparing a
18 written response to interrogatories in a legal proceeding,
19 other than this instant one?

20 A Yes.

21 Q Do you recall, sir, in responding to an interrogatory
22 in that case that you identified several people as people that
23 were under your supervision during the Keen case and at other
24 times?

25 A Yes.

1 Q Do you recall that you identified as under your
2 supervision Lee Munroe?

3 A Yes.

4 Q Do you recall also saying that Gerald Edwards was
5 under your supervision?

6 A Yes.

7 Q And that Jeanette Sickle was under your supervision?

8 A Yes.

9 Q And that Robert Davis was under your supervision?

10 A Yes.

11 Q And that a person by the name of Shari Cornelius was
12 under your supervision?

13 A No. Shari Cornelious was not under my supervision.
14 She was a secretary in another section, but was familiar with
15 that case.

16 Q Okay. What about Ed Fuchs, did you ever suggest that
17 you supervised him in this legal pleading?

18 A I don't remember that he had anything to do with the
19 Keen sale. I think he may have been mentioned, but he had
20 already retired at the time of the Keen case, which was in 2000
21 and 2001.

22 Q But do you remember in responding to the
23 interrogatories in the case that you identified Mr. Fuchs as
24 someone you supervised?

25 A Yes, in the past.

1 Q And that John Starling was someone you supervised?

2 A Yes. John Starling had also transferred to another
3 section years earlier, I think about '97.

4 Q Okay. But at one time or another you supervised him?

5 A Yes.

6 Q And John Cramer?

7 A Yes.

8 Q The people that I just named, would you have
9 performed performance evaluations on those employees from time
10 to time?

11 A Yes.

12 Q Did you assign their work?

13 A Yes.

14 Q Did you review their work when it was finished for
15 sufficiency?

16 A Yes.

17 Q If you thought that somebody had done a poor job on a
18 particular assignment, what would you do about that?

19 A I would submit it back to them for further work,
20 further review.

21 Q Would you ever have to -- and I know you mentioned
22 earlier that some of these people may not have been engineers.
23 Sir, are you an engineer?

24 A Yes, I am.

25 Q As an engineer, and these people that are reporting

1 to you not being engineers, would from time to time you have to
2 use your expertise and share that with them so that they could
3 perform better?

4 A Because of the inadequate training and background of
5 most of these individuals, I found my work load drastically
6 increased.

7 Q Because you would have to give them direction on how
8 to do their job?

9 A I had to give them direction. And if I may amplify
10 on this, one of their job descriptions was -- or one of the
11 requirements of an engineer in that section was the ability to
12 testify in hearings.

13 Q Yes, sir.

14 A Since most of these were not qualified, were
15 transferred in against my wishes, they could not testify.
16 Consequently they had to be assigned jobs commensurate with
17 their skills, and I found myself having to pick up the majority
18 of the work load, especially anything having to do with
19 testifying.

20 Q If somebody did -- if one of these individuals did a
21 report and you felt it needed your direction and expertise,
22 what would you do? Would you call them into your office and
23 sit down, would you write all over the report, would you --
24 what was your style in giving this kind of direction?

25 A My style usually was to go into their office or have

1 them come into my office and discuss it.

2 Q Did you have -- would these individuals bring leave
3 requests to you for approval?

4 A Yes.

5 Q Did you ever work with these employees in
6 establishing deadlines for when work was due?

7 A That was automatic with the Commission. I did not
8 have to, because there was what we call a case assignment
9 record, CASR, that set those dates for us.

10 Q Did anybody ever miss any of those deadlines?

11 A Not in my section, no.

12 Q Did you ever have to speak to somebody about the
13 deadlines, or remind them of it, or ask them how they were
14 doing vis-a-vis coming in on time?

15 A At times, yes.

16 Q Did you ever discuss work load with one of these
17 employees? By that I mean did they ever come to you and say,
18 "I'm overworked," or did you ever go to them and say, "You need
19 to do more work, you need be more productive"?

20 A No.

21 Q Did you ever sit with them and establish any kind of
22 objectives, like this is what your work should be, this is how
23 you should improve, this is how you should become more
24 productive? Give them advice as to their productivity?

25 A Yes.

1 Q When you were in the capacity in 2000/2001 with the
2 Public Service Commission, and you were reviewed by your
3 superiors, would they hold you accountable for the quality and
4 quantity of the work of the people that were subordinate to
5 you?

6 A Yes.

7 Q Did you ever request that the human resources
8 department at the Public Service Commission conduct a desk
9 audit on your job?

10 A Not to my knowledge.

11 MR. MATTIMORE: Can I have one second, Your Honor?

12 THE COURT: Surely.

13 MR. MATTIMORE: I have no further questions, Your
14 Honor. I have no other witnesses.

15 THE COURT: You can go back to the other table and
16 sit there for a second, if you would like, because now it is
17 going to be up to you to tell us whether there is anything
18 further that we need to consider today.

19 And that is you already had your chance to put on
20 your main case, so now this is what is called a chance to do a
21 rebuttal. And that means it has got to be something that you
22 didn't know about before that just came up during the Public
23 Service Commission's case and that you want to address. Is
24 there anything like that?

25 MR. CROUCH: I don't think I have any rebuttal at

1 this time.

2 THE COURT: Very good. That will mean the case is
3 submitted, won't it? Do you want to make a closing statement?

4 MR. CROUCH: My closing statement, sir, will be very
5 brief. Basically that in years past, yes, I have been a
6 supervisor. In fact, at one time Mr. Willis and I were
7 co-equals. And during a reorganization, after several of us
8 were reclassified from SES to Career Service in '91, there was
9 a reorganization, he was made the Bureau Chief, and several of
10 us were section supervisors.

11 During the period of time from '92 until 2001, the
12 duties of that job were eroded, were decreased, and undermined
13 to the point that it was impossible for the engineering section
14 to provide the type of recommendations to the Commission that
15 it was required to do. Of the two people involved who had
16 degrees, Lee Munroe, who is still employed by the Commission,
17 who has been transferred, and Mike Wetherington, who had a
18 degree, but elected to leave the Commission because of the
19 activities going on, the remaining four people listed were not
20 qualified to do the job. They were transferred in against my
21 will, and said, here, do something with them. If you don't
22 like what they are doing, you can take action to fire them.
23 Those are the exact words Mr. Willis gave me in the case of
24 Jeanette Sichel. If I didn't like how she was producing, fire
25 her. Before that could be accomplished, Service First came

1 into play and I was forced out.

2 My personal feelings are that the reason for my
3 reclassification were in order to make way to do away with the
4 engineering section. As facts later on showed, the engineering
5 section has been abolished. No longer does the Commission have
6 the benefit of professional engineers as expert witnesses to go
7 on the witness stand to do a thorough examination. As I
8 mentioned earlier, there will be another case where this will
9 be amplified having nothing to do with DOAH, so I will drop it
10 at that point. I feel that I was not allowed to be a
11 supervisor, and that I should not have been reclassified. And
12 I ask that if you find in my favor, that all actions taken
13 after 30 June 2001 under Service First be considered null and
14 void, and that my reclassification to SES be set aside. And
15 that is all I have, sir. I thank you for the opportunity.

16 THE COURT: Thank you. Mr. Mattimore.

17 MR. MATTIMORE: Thank you, Your Honor. If I may, I
18 would like to submit a written argument with a proposed order.

19 THE COURT: You really think that's necessary?

20 MR. MATTIMORE: Well --

21 THE COURT: How long would you like to have to do
22 that?

23 MR. MATTIMORE: I can do it in a very short period of
24 time, but I was going to order the transcript, so I was going
25 have the benefit of that.

1 THE COURT: Give me a time frame and I will let you
2 do you that. Of course we have to give Mr. Crouch plenty of
3 opportunity to see what it is that you are submitting and
4 submit his own written argument, if he so chooses.

5 MR. MATTIMORE: I think it can done quickly. I would
6 only need ten days after the receipt of the transcript.

7 THE COURT: Mr. Crouch, do you have any objection to
8 that?

9 MR. CROUCH: I have no objection.

10 THE COURT: Okay. Let me ask you -- and, Mr. Crouch,
11 if you don't understand this legal technicality, I understand.
12 I'm not asking Mr. Mattimore only because I care only about
13 what he has to say, but because it is an issue that we are
14 treading ground that hasn't been tread before in terms of
15 exactly what our procedural posture is. Is there any doubt in
16 your part that this is a recommended order case rather than a
17 final order case?

18 MR. MATTIMORE: No, I think it is a recommended order
19 case.

20 THE COURT: Okay. That's what I think, as well. If
21 you find any authority that suggests otherwise, if you would be
22 so kind as to mention that in your memorandum.

23 MR. MATTIMORE: I will, sir.

24 THE COURT: Do you understand what I'm saying, sir?
25 What I'm asking about?

1 MR. CROUCH: Say it again.

2 THE COURT: The question is whether I have the
3 authority to make a final order that would then be binding, or
4 whether I have only the responsibility to make what is called a
5 recommended order, which the agency would then be responsible
6 for evaluating and then adopting, or not adopting.

7 MR. CROUCH: If you made a recommended order, let's
8 say, in my favor, that would be submitted to the Public Service
9 Commission, who in turn would decide whether to comply with it
10 or not, am I correct?

11 THE COURT: Well, that is not too far from the truth.
12 That is basically how it works. There is law governing what
13 the Public Service Commission would be required to comply with
14 and what they would be able to disregard, and we are not in a
15 position to go into that now because we don't know what -- we
16 would have to see the final form of it before we know that.
17 But I just wanted you to know the context of what question I
18 was asking counsel, so you didn't feel like we were talking a
19 foreign language.

20 MR. MATTIMORE: Your Honor, I know there are a number
21 of these cases, and I'm not taking the position -- I will ask
22 the same of each of them. But since this is the first case --

23 THE COURT: This is the first one, yes, sir. Twenty
24 days?

25 MR. MATTIMORE: Fine with me.

1 THE COURT: Okay. For the written. If you want to
2 submit anything in writing, then the 20 days will apply to both
3 of you, and we would like to see them both submitted at the
4 same time. And then unless there is something pressing that
5 one of you needs to respond to or argue with that hasn't
6 already been mentioned, we will just consider it submitted at
7 that point. We don't need to have another round after that of
8 responses.

9 Does that sound satisfactory, gentlemen?

10 MR. MATTIMORE: Thank you, Your Honor, yes.

11 THE COURT: Very good. That will bring us to the end
12 of the proceedings for today. We will look forward to -- let's
13 see, 20 days from today would be the 33rd, which is the second
14 of December, is that correct?

15 MR. MATTIMORE: That's what it sounds like to me.

16 THE COURT: Today is the 13th. It would be the 3rd
17 of December, wouldn't it?

18 MR. MATTIMORE: Yes.

19 MR. CROUCH: Thirty days has December.

20 THE COURT: Absolutely. So December 3rd will be the
21 date for the submission of the written arguments and proposed
22 orders, if you have one, and then we will consider the case.

23 MR. CROUCH: Will you submit that to me, also?

24 THE COURT: Oh, you will get a copy. Of course he
25 will send you a copy of anything he sends here. Very good.

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Thank you.

(The hearing concluded at 11:15 a.m.)

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STATE OF FLORIDA)

: CERTIFICATE OF REPORTER

COUNTY OF LEON)

I, JANE FAUROT, RPR, Chief, Office of Hearing Reporter Services, FPSC Division of Commission Clerk and Administrative Services, do hereby certify that the foregoing proceeding was heard at the time and place herein stated.

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

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

DATED THIS 21st day of November, 2003.



JANE FAUROT, RPR
Chief, Office of Hearing Reporter Services
FPSC Division of Commission Clerk and
Administrative Services
(850) 413-6732

Agcy: Ex 1

copy 10-29-97 DR

STATE OF FLORIDA DEPARTMENT OF MANAGEMENT SERVICES

POSITION NUMBER 20168 ORGANIZATIONAL CODE Present Proposed

CAREER SERVICE SYSTEM POSITION DESCRIPTION

PERSONNEL OFFICE USE ONLY table with columns: Class Code, Type of Transaction, Effective Date, Approved By/Date. Includes handwritten entry: 4679, update, 10-1-97, DR 10-1-97, Utility Sys./Comm. Eng. Svr.

Table with 5 columns: 1. Department (FLORIDA PUBLIC SERVICE COMMISSION), 2. Division (Water and Wastewater), 3. Bureau (Economic Regulation), 4. Section/Subsection (Engineering), 5. Class Code (4679), Class Title (Utility Systems/Communications Engineer Supervisor).

6. Percentage of Time - Duties And Responsibilities GENERAL

This is work supervising engineers in the Bureau of Economic Regulation. The primary duty of the employee in this position is to spend the majority of time communicating with, motivating, training and evaluating employees, planning and directing their work; and having the ability to effectively recommend to hire, transfer, suspend, layoff, recall, promote, discharge, assign, reward or discipline subordinate employees.

This work requires supervision of technical professional staff who are involved in the engineering aspects of staff assisted rate cases, original certificate applications, amendment of certificate, transfer of certificate, abandonment, rate increase applications, reverse make-whole proceedings, limited proceeding applications, rule making and research involving the water and wastewater industry. This position and those supervised requires the preparation and presentation of expert testimony at formal hearings before the Commission as well as advise and make recommendations to the Commissioners at the agenda conferences.

60% Supervisory Responsibilities: Responsible for recruiting, interviewing, selecting and training staff in engineering and ratemaking techniques required in the section. Plans workloads, workflows, deadlines, work objectives and time utilization with employees. Determines the number and type of cases assigned to each employee. Motivates employees to improve the quality and quantity of work performed. Directs the work of employees to insure maximum use of time and resources. Reviews all reports and agenda recommendations prepared by all employees in the section. Evaluates employees through established evaluation criteria and responsibilities.

25% Analysis and Research: Coordinates staff workload with other division personnel, other supervisors and bureaus. Confers with company officials, utility customers, other agency personnel, intervenors and others regarding regulatory related matters. Does research and recommends statutes, rules and policies on areas of responsibility. Serves as an expert witness as required in formal hearings and makes recommendations at agenda conferences. Coordinates and supervises studies of plant property, depreciation, inventories and construction, appraising value and physical condition of companies seeking rate changes. Coordinates periodic surveys of water and wastewater utility plant properties to insure the accuracy of records, adequate and efficient operating practice and compliance with prescribed laws, regulations and Commission service standards.

15% Management Assistance: Conducts studies, reports on special projects, prepares correspondence, attends meetings and gives presentations in place of the Director/Assistant Director/Chief of Economic Regulation. Also assists in preparing the bureau's/division's biennial budget.

5% Training: Attends schools, workshops, seminars, etc., to keep abreast of current developments and philosophy in regulatory matters and the water and wastewater industry.

5% Perform related work as required.

The requirements of Section 215.422, Florida Statutes, are mandatory in discharging the duties assigned to this position that relate to the timely processing of vendor invoices for payment.

Attach additional sheets if necessary to describe the position

UTILITY SYSTEMS/COMMUNICATIONS ENGINEER SUPERVISOR
POSITION NO. 00168

8. WORK STANDARDS/EXPECTATIONS:

QUALITY OF WORK AND JUDGEMENT

1. Knows enough about expected results to correct something going wrong.
2. Comes up with reliable results.
3. Occasionally submits ideas for improving quality of work.
4. Asks useful questions before starting assignments to make sure of what is expected.
5. Understands what is to be done.
6. Usually redefines main issue to adequately incorporate other issues without getting confused; adequately analyzes details.
7. Can relate concepts to most other concepts primarily involving section assigned.
8. Decisions are logical and based on facts, sound judgment, and analyses of facts.
9. Grasps facts and situations completely.
10. Section accurately prepares agenda recommendations and supporting documentation.

PRODUCED QUANTITY OF WORK

11. Work is turned out on time.
12. Flexible in accommodating and coordinating the demands of the job.
13. Knows what tasks to do next.
14. Uses "slack" periods to maintain quantity in other areas.
15. Chooses priorities correctly.
16. Good productivity in report and letter writing.
17. Section meets internal agenda recommendation due dates or gets prior approval to miss deadline.

ACCEPTING RESPONSIBILITY AND INITIATING ACTION

18. Takes action on all tasks which are due to be completed.
19. Handles unforeseen difficulties on own.
20. Does assignments to the best of his/her ability.
21. Usually accepts additional responsibility graciously.
22. Completes jobs even without specific guidelines and instruction.
23. Recognizes own knowledge or skill weaknesses and compensates for them.
24. Completes assignments well and timely.

UTILITY SYSTEMS/COMMUNICATIONS ENGINEER SUPERVISOR
POSITION NO. 00168

8. WORK STANDARDS/EXPECTATIONS (CONTINUED):

ORGANIZING AND PLANNING WORK

25. Willing and able to plan for almost any assigned job.
26. Plans time for accurate and efficient use.
27. Coordinates plans with other individuals and groups.
28. Generally meets deadlines due to good planning.
29. Initiates plans regarding what needs to be done.
30. CASR's for which the section had responsibility are timely completed so that no CASR is off-schedule for more than 7 days as a result of the section's action or inaction.

DEALING WITH PEOPLE

31. Exercises self-discipline and control.
32. Truthful, frank, and tactful with others.
33. Makes outside contacts and gets the job done.
34. Exercises good self-control; seldom shows temper.
35. Willing to go a little further to help others.
36. Has good liaison with associates/co-workers and is well liked.
37. Pleasant, courteous, and helpful to others.
38. Assistance rendered to others is competent and complete.

RESPONDING TO NEED FOR EXTRA EFFORT

39. Asks questions to gain better understanding of extra tasks.
40. Recognizes when work areas need extra effort and responds as necessary.
41. Contributes extra effort to complete jobs on time.
42. Maintains work quality despite temporary extra tasks.
43. Devotes the time and effort needed for job-related work.
44. Makes plans regarding what needs to be done and usually meets deadlines.
45. Usually assists in other areas/sections.

SHOWING CREATIVITY AND ADAPTING TO DIFFERENT SITUATIONS

46. Sees relationships among factors and comes up with good, workable ideas.
47. Shows creativity in cutting through procedures which are causing obstacles.
48. Perceptive in day-to-day problems.
49. Readily accepts new or different tasks; is flexible in responding.
50. Needs instructions on training but adapts to different situations readily.
51. Knows when someone more qualified can help and seeks person out.
52. When procedures are established or changed, SOP's are developed or revised in less than 30 days but more than 14 days.

UTILITY SYSTEMS/COMMUNICATIONS ENGINEER SUPERVISOR
POSITION NO. 00168

8. WORK STANDARDS/EXPECTATIONS (CONTINUED):

COMMUNICATING ORALLY

53. Talks on the level of those being dealt with.
54. Outgoing, friendly, and sincere in responses to requests for help.
55. Gets point across.
56. Asks questions to get a better understanding of instructions or requests.
57. Approaches and talks with others without offending them.
58. Capable of speaking to most outside groups.
59. Effectively communicates at hearings and customer meetings.
60. Section consistently follows all "agenda grade card" criteria at the agenda conferences.

FOLLOWING POLICY AND PROCEDURES

61. Uses good judgment in interpreting policies and procedures.
62. Recognizes "tough" policies and regulations and adjusts plans accordingly.
63. Recognizes situations in which he/she must digress from usual procedures.
64. Consistently follows policies and procedures.
65. Sometimes questions policies and procedures to obtain a better understanding.
66. Section consistently in place at agenda ready for section's item/issue when called.
67. Section consistently ensures Legal Division has a copy of an agenda draft at least one week before it was due to be filed.
68. Section consistently uses and follows division's agenda item proof slips.

COMMUNICATING IN WRITING

69. Writes guidelines and instructions effectively.
70. Reports are both factual and understandable.
71. Reader can follow thought and come to the intended conclusions.
72. Gets the necessary information before writing reports.
73. Writing is clear, coherent, and well organized.
74. Section agenda drafts, when delivered to bureau chief, consistently contain complete sentences, use proper grammar and paragraphs are complete thoughts.
75. Section agenda drafts, when delivered to bureau chief, consistently clearly state utility's positions and arguments followed by OPC's/Intervenor's.
76. Section agenda drafts, when delivered to bureau chief, consistently contain a clear statement of Commission policy or practice for each issue.

UTILITY SYSTEMS/COMMUNICATIONS ENGINEER SUPERVISOR
POSITION NO. 00168

8. WORK STANDARDS/EXPECTATIONS (CONTINUED):

SUPERVISORY AND LEADERSHIP ABILITY

- 77. Supervisory integrity is unquestionable; gives credit where credit is due.
- 78. Subordinates like and respect him.
- 79. Subordinates are kept posted and always know where they stand.
- 80. Creates an atmosphere that gets good results from subordinates.
- 81. Helps subordinates when problems come up.
- 82. Willingly assumes leadership and does it well.
- 83. Accepts consequences of leadership and is not afraid of it.



FLORIDA PUBLIC SERVICE COMMISSION REVIEW AND PERFORMANCE

1/9/04 Ex 2

Name: Mike Wetherington SSN: 261-92-8078 Position #: 00276

Class Title: Utility Systems/Communications Engineer Class Code: 4678

Division/Bureau/Unit: Economic Regulation/Rate Cases/Engineering

BEGINNING OF THE REVIEW PERIOD

Planning for Period Beginning: 08 / 23 / 01 Ending: 08 / 30 / 01

This is to acknowledge that in planning for my initial or subsequent performance review(s), my supervisor and I have discussed my official position description and work standards/expectations and any documented changes in work standards/expectations for the next review period, as applicable.

Employee's Signature: Michael Wetherington Date: 08 / 23 / 01

Supervisor's Signature: Robert J. Branch Date: 08 / 22 / 01

END OF THE REVIEW PERIOD

(If different) Period Beginning: / / Ending: / /

This is to acknowledge that I have discussed my work performance during this period with my supervisor.

Employee's Signature: Michael Wetherington Date: 11 / 30 / 01
Comments:

Supervisor's Signature: Robert J. Branch P.E. Date: 11 / 30 / 01
Comments:

Mike has continued to learn the commission procedures. He is a thorough, dedicated engineer and will do a great job as a professional engineer with the commission. A real pleasure to work with.

Reviewing Authority's Signature: Marshall W. Jett Date: 11 / 30 / 01
Comments:

Close Out



FLORIDA PUBLIC SERVICE COMMISSION REVIEW AND PERFORMANCE

Agcy ex 3

Name: Jeanette Sickel SSN: 413-68-2849 Position #: 00134
 Class Title: Engineer III Class Code: 4633
 Division/Bureau/Unit: Economic Regulation/Rate Cases/Engineering

BEGINNING OF THE REVIEW PERIOD

Planning for Period Beginning: 0605 / 03 / 01 Ending: 11 / 30 / 01
 This is to acknowledge that in planning for my initial or subsequent performance review(s), my supervisor and I have discussed my official position description and work standards/expectations and any documented changes in work standards/expectations for the next review period, as applicable.
 Employee's Signature: Jeanette Sickel Date: 6 / 01 / 01
 Supervisor's Signature: Robert J. Branch Date: 05 / 29 / 01

END OF THE REVIEW PERIOD

(If different) Period Beginning: / / Ending: / /
 This is to acknowledge that I have discussed my work performance during this period with my supervisor.

Employee's Signature: Jeanette Sickel Date: 11 / 30 / 01
 Comments:

Supervisor's Signature: Robert J. Branch P.E. Date: 11 / 30 / 01
 Comments: Jeanette has continued to improve during this period. She is thorough and dedicated. I have enjoyed working with her. I believe she will make a good investigator.

Reviewing Authority's Signature: Marshall W. Vella Date: 11 / 30 / 01
 Comments: Bob PAT

PLANNING OBJECTIVES
FOR THE
REVIEW AND PERFORMANCE OF

Name: Jeanette Sickel SSN: 413-68-2849 Position #: 00134

Class Title: Engineer III Class Code: 4633

Division/Bureau/Unit: Economic Regulation/Rate Cases/Engineering

Planning Objectives For The Period Beginning: 05/15/91 Ending: 05/14/92

1. For the past year, Jeanette has worked with the other engineers assigned to this section and has learned the process used in investigations for a rate case or for complaints against a regulated utility.
2. Jeanette is now ready to assume more complex cases, perform the inspections with limited supervision, and draft the engineering portion of the staff recommendation.
3. Continue to study and increase knowledge of different treatment processes for both water and wastewater plants.
4. Continue to serve as the focal point for depreciation matters which come before this section.



FLORIDA PUBLIC SERVICE COMMISSION REVIEW AND PERFORMANCE PLANNING

17944

Name: Lee Munroe SSN: 254-78-1861 Position #: 00117
 Class Title: Engineer IV Class Code: 4635
 Division/Bureau/Unit: Economic Regulation/Rate Cases/Engineering

BEGINNING OF THE REVIEW PERIOD

Planning for Period Beginning: 11/30/00 Ending: 11/29/01

This is to acknowledge that in planning for my initial or subsequent performance review(s), my supervisor and I have discussed my official position description and work standards/expectations and any documented changes in work standards/expectations for the next review period, as applicable.

Employee's Signature: Lee R. Munroe Date: 11/29/2000

Supervisor's Signature: Robert J. Branch Date: 11/29/00

END OF THE REVIEW PERIOD

(If different) Period Beginning: / / Ending: / /

This is to acknowledge that I have discussed my work performance during this period with my supervisor.

Employee's Signature: Lee R. Munroe Date: 11/30/2001
 Comments:

Supervisor's Signature: Robert J. Branch P.E. Date: 11/30/01
 Comments:

Lee has performed commendably over the past reporting period, under adverse conditions. He is a dedicated, professional who can be counted upon to do a thorough job. He is a pleasure to work with.

Reviewing Authority's Signature: Marshall W. Walker Date: 11/30/01
 Comments:

PLANNING OBJECTIVES FOR THE REVIEW AND PERFORMANCE OF

Name: Lee Munroe

SSN: 254-78-1861

Position #: 00117

Class Title: Engineer IV Class Code: 4635

Division/Bureau/Unit: Economic Regulation/Rate Cases/Engineering

Planning Objectives For The Period Beginning: 12/01/00 Ending: 11/30/01

- *Strive for accuracy in engineering data provided to accounting staff and in recommendations.*
- *Concentrate on spelling and grammar in written products.*
- *Use spell check and grammar check before submitting anything written.*
- *Work on P.E. Test.*

Annual



FLORIDA PUBLIC SERVICE COMMISSION REVIEW AND PERFORMANCE

Ac 5

Name: Robert T. Davis SSN: 195-34-9379 Position #: 00313

Class Title: Utility Systems/Communications Engineer Class Code: 4678

Division/Bureau/Unit: Economic Regulation/Rate Cases/Engineering

BEGINNING OF THE REVIEW PERIOD

Planning for Period Beginning: 12 / 15 / 00 Ending: 12 / 30 / 01

This is to acknowledge that in planning for my initial or subsequent performance review(s), my supervisor and I have discussed my official position description and work standards/expectations and any documented changes in work standards/expectations for the next review period, as applicable.

Employee's Signature: Robert T. Davis Date: 12 / 14 / 00

Supervisor's Signature: Robert J. Branch Date: 12 / 14 / 00

END OF THE REVIEW PERIOD

(If different) Period Beginning: 1 / 1 Ending: 1 / 1

This is to acknowledge that I have discussed my work performance during this period with my supervisor.

Employee's Signature: Robert T. Davis Date: 11 / 30 / 01

Comments:

Supervisor's Signature: Robert J. Branch P.E. Date: 11 / 30 / 01

Comments: Ted is a dedicated, professional who can be counted upon to do a thorough investigation. He has been a real pleasure to work with.

Reviewing Authority's Signature: Marshall W. Miller Date: 11 / 30 / 01

Comments:



FLORIDA PUBLIC SERVICE COMMISSION REVIEW AND PERFORMANCE PLANNING

19c46

Name: Gerald Edwards SSN: 264-28-7463 Position #: 00122

Class Title: Engineer III Class Code: 4630

Division/Bureau/Unit: Economic Regulation/Rate Cases/Engineering

BEGINNING OF THE REVIEW PERIOD

Planning for Period Beginning: 11/30/00 Ending: 11/29/01

This is to acknowledge that in planning for my initial or subsequent performance review(s), my supervisor and I have discussed my official position description and work standards/expectations and any documented changes in work standards/expectations for the next review period, as applicable.

Employee's Signature: [Signature] Date: 11/29/00

Supervisor's Signature: [Signature] Date: 11/29/00

END OF THE REVIEW PERIOD

(If different) Period Beginning: 1/1 Ending: 1/1

This is to acknowledge that I have discussed my work performance during this period with my supervisor.

Employee's Signature: [Signature] Date: 12/3/01
Comments:

Supervisor's Signature: [Signature] P.E. Date: 11/30/01
Comments: Gerald is a dedicated, professional who has performed
commendably during this period. He is a real pleasure to work with.

Reviewing Authority's Signature: [Signature] Date: 11/30/01
Comments: [Signature]

PLANNING OBJECTIVES
FOR THE
REVIEW AND PERFORMANCE OF

Name: Gerald Edwards SSN: 264-23-7463 Position #: 00122

Class Title: Engineer III Class Code: 4630

Division/Bureau/Unit: Economic Regulation/Rate Cases/Engineering

Planning Objectives For The Period Beginning: 12/01/00 Ending: 11/30/01

- *Get more experience in F+S cases.*
- *Take more engineering courses and quest for degree.*

RATER'S COMMENTS

NAME : Robert Crouch
CLASS TITLE : Util. Sys./Comm. Eng. Supervisor
POSITION NO. : 00168

Bob has done a fair job of handling the workload of his section. The engineering recommendations have normally been turned in on time when it was in the sections control, however I am still concerned over the adequacy of recommendations.

The consistency of the way engineering issues were being handled was a concern of mine in the last review period. I am happy to now say that there has been a showing of good improvement in this area during this rating period.

My remaining concern is still with the content of the drafts and the level of review that has been given to the written drafts forwarded to my desk from Bob's Engineering Section. The analysis contained in recommendations has gotten better since the last rating period but they still continue to frequently not contain a thorough analysis of the issue being addressed. This is still the major area of concern that continues to require improvement.

Bob must continue to put forth a greater effort during this upcoming period to really improve in this area,

Rated by: Marshall W. Walker Date: December 8, 2000

RATER'S COMMENTS

NAME : Robert Crouch
CLASS TITLE : Util. Sys./Comm. Eng. Supervisor
POSITION NO. : 00168

Bob has done a fair job of handling the workload of his section. The engineering recommendations have normally been turned in on time when it was in the sections control, however the recommendations are rarely adequate and usually must come back to me more than once. I am very concerned with the level of review that has been given to the written drafts forwarded to my desk from Bob's Engineering Section. Recommendations continue to not reflect current practice or changes in practice, nor do they rarely contain a thorough analysis of the issue being addressed. I am also concerned with the consistency of the way engineering issues are handled among Bob's engineers. This is the major area of concern that continues to require improvement

I have relayed these concerns to Bob throughout this review period. As this review period closes, I am extremely concerned that I have seen little improvement. I believe that Bob has the ability to correct these concerns. However, Bob must, during the next review period, put a much greater effort into correcting these concerns.

Rated by: Marshall W. Walker Date: November 14, 1998

Employee Comments provided by Robert J. Crouch, December 15, 1998

Agency 9
I will be the first to admit that the recent performance by my engineering section has been less than desired. While some of these deficiencies may be the result of lack of proper supervision, there are, I believe, circumstances which have significantly contributed to the inadequate performance of my section and my supervision of them.

Three of the four personnel assigned to the current engineering section were not selected or hired by me and are not academically or technically qualified to be called engineers. One member has no degree at all while the other two do not have engineering degrees. This prevents me from utilizing them in many technical tasks described in their job descriptions. The recent loss of two legitimate, degreed engineers to higher paying jobs resulted in the permanent loss of one position and the temporary (?) loss of the second position. Not only did I lose two qualified engineers but I was prohibited from hiring qualified replacements. Added to the problem was the recent added workload caused by the transfer of many certification cases to the undermanned engineering section.

When John Starling left the staff recently, it became necessary to distribute his assigned cases to other staff members. John had done the engineering research on the last United Water rate case and had been assigned to the current rate case. We were several weeks into this case when John resigned. I assigned Ed Fuchs to pick up the United Water rate case. When he discovered discrepancies in the data filed by the utility he attempted to do additional discovery and was told by the assigned lawyer that it was too late to do any more formal discovery. This is still a FAA case and Ed has obtained informal answers from the utility explaining some of their discrepancies.

I will strive to do a better job of supervising my staff in the future but as long as I am assigned unqualified personnel and not allowed to hire qualified engineers there may be cases where our expectations are not met. These comments are not intended to degrade the assigned "engineering" staff. They are all doing the best they can. It is not their fault that they have been assigned to positions for which they are not qualified.



Robert J. Crouch, P.E.
Engineering Supervisor

Marshall Willis

From: Bob Crouch
Sent: Tuesday, November 13, 2001 2:56 PM
To: Marshall Willis
Cc: Tim Devlin; William Talbott

Agency 10

On Friday, 11/9, you requested a letter of resignation from me to be placed on your desk today, 11/13...This is to advise you that I have no intention of resigning from my position as engineering supervisor. My intentions are to retire during the summer of 2002 but until that time, I intend to continue doing my job as engineering supervisor. It is curious to note that the case you specifically identified as my latest "lack of supervision" was the engineering issues and draft for Burkim Enterprises which actually had the first draft submitted while I was on vacation...It should also be noted that if you pursue this line of intimidation and harassment it will come to no good for you, or the commission. I respectfully request that you let me do my job with the personnel I have been dealt until such time as my retirement takes affect. I will continue to train Mr. Wetherington to take my place at that time. Bob Crouch, P.E.